

LAW NO. 08/L-205**ON COPYRIGHT AND RELATED RIGHTS**

The Assembly of the 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
Purpose**

1. This law aims to define, regulate and protect copyright, respectively the rights of authors in relation to their literary, scientific and artistic works. This Law shall also protect and regulate rights related to copyright, namely, the rights of performers, producers of phonograms, producers of films, broadcasting organizations, rights on previously unpublished works, rights of publishers, rights of press publishers concerning online uses (hereinafter: related rights) and sui generis rights of makers of databases.

2. This Law is in full compliance with the following EU Directives:

2.1. Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission.

2.2. Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society;

2.3. Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art;

2.4. Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases;

2.5. Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property;

2.6. Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights;

2.7. Directive 2009/24/EU of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs;

2.8. Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights (OJ L 265, 11/10/2011, p. 1 – 5);

2.9. Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works;

2.10. Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC;

2.11. Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market;

2.12. Directive (EU) 2017/1564 of the European Parliament and of the Council of 13 September 2017 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society;

2.13. Regulation (EU) 2017/1563 of the European Parliament and of the Council of 13 September 2017 on the cross-border exchange between the Union and third countries of accessible format copies of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled;

2.14. Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC.

Article 2

Scope

The provisions of this law are mandatory for all public institutions, relevant institutions responsible for intellectual property, authors as well as other legal and natural persons, including those who exercise public authorizations according to the laws of the Republic of Kosovo and have legal obligations to copyright.

Article 3

Definitions

1. Terms used in this law shall have the following meaning:

1.1. Performers - are actors, singers, musicians, dancers, and other persons who act, sing, deliver, declaim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore, as well as theatre directors, conductors of an orchestra, choir conductors, sound editors, circus and varieties artists;

1.2. Phonogram - shall mean the fixation of the sounds of a performance or of other sounds, or of a representation of sounds, other than in the form of a fixation incorporated in a cinematographic or other audio-visual work;

1.3. Phonogram producer - is the physical person who or the legal entity which takes the initiative and has the responsibility for the making of the phonogram;

1.4. Film - means the first fixation of a cinematographic or audio-visual work or moving images, whether or not accompanied by sound;

1.5. Audio-visual work - according to this Law shall include cinematographic, TV and animated works, short video-music pictures, advertising works, documentaries and other audio-visual works presented in a sequence of images with or without the accompanying sound, susceptible of being made visible and, where accompanied by sound, susceptible of being made audible by means of an appropriate device, regardless the physical carrier where they are fixated;

1.6. Fixation - is capturing a work or object of related rights in some material form including storage in an electronic (computer) memory in a sufficiently stable form, in a way that on this basis the work or object of related rights may be perceived, reproduced or communicated to the public;

1.7. Film producer - shall designate any natural or legal person who initiates and bears responsibility for the realization of a first fixation of a series of images with or without sound;

1.8. Computer program - is a set of instructions expressed in words, codes, schemes or in any other form, which is capable, when incorporated in a machine-readable medium, of causing a "computer" - an electronic or similar device having information-processing capabilities - to perform or to achieve a particular task or result. According to this Law, the term "computer programs" whatever may be the mode or form of their expression shall include both source code and object code forms, and both operational systems and application programs, as well as their preparatory design material;

1.9. Collective work - means a work in the collection of the existing works of author or other materials which by selection, adjustment and coordination of their content represent original intellectual creation such as: encyclopaedia, dictionary, other similar collections, newspapers, reviews and other periodicals anthologies, collections of quotes, poetry or works on prose, collection of folkloric expressions, documents and court decisions;

1.10. Database - shall mean the collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means;

1.11. Extraction - shall mean the permanent or temporary transfer of all or a substantial part of the contents of a database to another medium by any means or in any form;

1.12. Re-utilization - shall mean any form of making available to the public all or a substantial part of the contents of a database by the distribution of copies, by renting, by on-line or other forms of transmission;

1.13. Maker of a database - shall mean the natural person or legal entity who may enjoy sui generis protection of databases if there has been, on his part, qualitatively and/or quantitatively a substantial investment in either the obtaining, verification or presentation of the contents of a database;

1.14. Reproduction - means the making of one or more copies of a work or object of related rights either directly or indirectly, and either temporarily or permanently, in any form whatsoever, including an audio or video recording, and the temporary or permanent storage of a work or object of related rights in an electronic medium;

1.15. Distribution - means the lawful making available to the public of originals or copies of works or objects of related rights by sale or other transfer of property;

1.16. Rental - means making available to the public of originals or copies of works or objects of related rights for a limited period of time and for direct or indirect economic or commercial advantage;

1.17. Public lending - means making available of originals or copies of works or objects of related rights for a limited period of time and not for direct or indirect economic or commercial advantage when it is made through establishments which are accessible to the public;

1.18. Public performance - means the presentation of works, live or by technical means, in a place where members of the public are present or that is accessible to the public;

1.19. Broadcasting Organisation - a radio and/or television organization that broadcasts works and objects of related rights;

1.20. Broadcasting - means the transmission by wire or by wireless means for reception by the public of sounds or of images and sounds or of the representations thereof; on the understanding:

1.20.1. that such a transmission of encrypted signals is "broadcasting" where the means for decrypting are provided to the public by the broadcasting organization or by someone else with its consent;

1.20.2. that "broadcasting by satellite" means the act of introducing, under the control and responsibility of the broadcasting organization, programme-carrying signals intended for reception by the public into an uninterrupted chain of communication leading to the satellite and down towards the earth.

1.21. Satellite - any satellite operating on frequency bands which, under telecommunications law, are reserved for the broadcast of signals for reception by the public or which are reserved for closed, point-to-point communication. In the latter case, however, the circumstances in which individual reception of the signals takes place must be comparable to those which apply in the first case;

1.22. Cable retransmission - the simultaneous, unaltered and unabridged retransmission by a cable or microwave system for reception by the public of an initial transmission, regardless of how the operator of a cable retransmission service obtains the programme - carrying signals from the broadcasting organisation for the purpose of retransmission;

1.23. Retransmission - means any simultaneous, unaltered and unabridged retransmission, other than cable retransmission, intended for reception by the public, of an initial transmission of television or radio programmes intended for reception by the public, where such initial transmission is by wire or over the air including that by satellite, but is not by online transmission, provided that:

1.23.1. the retransmission is carried out by a party other than the broadcasting organisation which made the initial transmission or under whose control and responsibility that initial transmission was made, regardless of how the party carrying out the retransmission obtains the programme-carrying signals from the broadcasting organisation for the purpose of retransmission; a

1.23.2. where the retransmission is over an internet access service, it is carried out in a managed environment.

1.24. Managed environment - an environment in which an operator of a retransmission service provides a secure retransmission to authorised users;

1.25. Interactive making available to the public - means the making available to the public of works or objects of related rights, by wire or wireless means, in such a way that the members of the public may access them from a place and a time individually chosen by them;

1.26. Communication to the public:

1.26.1. in respect of copyright, means any transmission of a work to the public the members of which are located in a place or places other than from where the transmission is originated, provided that such an act is not an act of broadcasting, rebroadcasting, cable retransmission or interactive making available to the public;

1.26.2. in respect of the rights of performers and producers of phonograms, in addition to the acts mentioned under sub-paragraph 1.26.1 of this Article, also means presentation of a phonogram by technical means in a place where members of the public are present or that is accessible to the public.

1.27. Public - shall mean a group consisting of a substantial number of persons outside the normal circle of a family and its closest social acquaintances. It is not decisive whether the group is actually gathered in one place; it is irrelevant whether the members of the public capable of receiving the works or objects of related rights may receive them at the same place or at difference places, and at the same time or at different times;

1.28. Collective management organisation - means any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement to manage copyright or rights related to copyright on behalf of more than one rightholder, for the collective benefit of those rightholders, as its sole or main purpose, and which fulfils one or both of the following criteria:

1.28.1. it is owned or controlled by its members;

1.28.2. it is organised on a not-for-profit basis.

1.29. Commercial scale - shall mean 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;

1.30. Publication - shall mean the making available of copies of a work or object of related rights to the public with the consent of the author or the owner of related rights, respectively, provided that the availability of such copies has been such as to satisfy the reasonable requirement of the public, having regard to the nature of the work or the object of related rights, respectively;

1.31. Office - shall mean the Office on the Copyright and the related rights established in accordance with the provisions of this Law;

1.32. Reprographic reproduction - means facsimile reproduction of a work in the same format, enlarged or reduced, by means of photocopying or with the aid of other similar technologies, except those of publishing; and reproduction in an electronic or in any other machine-readable form;

1.33. Direct injection - a technical process by which a broadcasting organisation transmits its programme-carrying signals to an organisation other than a broadcasting organisation, in such a way that the programme-carrying signals are not accessible to the public during that transmission;

1.34. Ancillary online service - an online service consisting in the provision to the public, by or under the control and responsibility of a broadcasting organisation, of television or radio programmes simultaneously with or for a defined period of time after their broadcast by the broadcasting organisation, as well as of any material which is ancillary to such broadcast;

1.35. Research organisation - a university, including its libraries, a research institute or any other entity, the primary goal of which is to conduct scientific research or to carry out educational activities involving also the conduct of scientific research:

1.35.1. on a not-for-profit basis or by reinvesting all the profits in its scientific research;
or

1.35.2. pursuant to a public interest mission recognized by the State.

1.36. Orphan work - means a work or a phonogram, in case none of the holders of the rights in that work or phonogram are identified, or even if one or more of them are identified, but none of them can be found notwithstanding that full and reasonable search has been made for the rights holders and registered in accordance with this law:

1.36.1. works published in the form of books, journals, newspapers, magazines or other writings;

1.36.2. cinematographic or audio-visual works and phonograms;

1.36.3. cinematographic or audio-visual works and phonograms produced by public-service broadcasting organisations up to and including 31 December 2002 and contained in their archives, which are protected by copyright or related rights and which are first published in the Republic of Kosovo or, in the absence of publication, first broadcast in the Republic of Kosovo;

1.36.4. works and other protected subject-matter that are embedded or incorporated in, or constitute an integral part of, the above mentioned works or phonograms. If these works are not published or broadcast, they can be used by the beneficiaries of orphan works only if: they have been made publicly accessible by anyone of the beneficiaries of orphan works (even in the form of a lending) with the consent of the rightholders, and it is reasonable to assume that the rightholders would not oppose the permitted uses referred to in Article 51 of this Law. This paragraph shall apply to works and phonograms which have been deposited with those organisations before 29 October 2014 contained in the collections (holdings) of publicly accessible libraries, educational institutions, museums, archives and institutions in the field of cinematic and audio heritage, if the holdings have already been published, the rightholder of which could not be established or traced despite a diligent search.

1.37. Text and data mining- any automated analytical technique aimed at analysing text and data in digital form in order to generate information which includes but is not limited to patterns, trends and correlations;

1.38. Cultural heritage institution - a publicly accessible library or museum, an archive or a film or audio heritage institution;

1.39. Press publication - a collection composed mainly of literary works of a journalistic nature, but which can also include other works or other subject matter, and which:

1.39.1. constitutes an individual item within a periodical or regularly updated publication under a single title, such as a newspaper or a general or special interest magazine;

1.39.2. has the purpose of providing the general public with information related to news or other topics;

1.39.3. is published in any media under the initiative, editorial responsibility and control of a service provider. Periodicals that are published for scientific or academic purposes,

such as scientific journals, are not press publications for the purposes of this Law.

1.40. Information society service or online service provider - any natural or legal person providing an information society service which means any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services;

1.41. Online content-sharing service provider - a provider of an information society service of which the main or one of the main purposes is to store and give the public access to a large amount of copyright-protected works or other protected subject matter uploaded by its users, which it organises and promotes for profit-making purposes. Providers of services, such as not-for-profit online encyclopaedias, not-for-profit educational and scientific repositories, open source software-developing and-sharing platforms, providers of electronic communications services, online marketplaces, business-to-business cloud services and cloud services that allow users to upload content for their own use, are not "online content-sharing service providers" within the meaning of this Law;

1.42. Original work of art - means any work of fine art, such as pictures, collages, paintings, drawings, engravings, prints, lithographs, and sculptures, such works of applied arts as tapestries, ceramics and glassware and photographic works, provided they are made by the author himself or are copies considered to be original works of art. Copies of works of art shall be considered to be original works if they have been made in limited number by the author himself or under his authority. Copies of works of art which are numbered, signed or otherwise duly authorized by the author, shall be considered to be such copies;

1.43. Independent management entity - means any organisation which is authorised by law or by way of assignment, licence or any other contractual arrangement to manage copyright or rights related to copyright on behalf of more than one rightholder, for the collective benefit of those rightholders, as its sole or main purpose, and which is:

1.43.1. neither owned nor controlled, directly or indirectly, wholly or in part, by rightholders;

1.43.2. organised on a for-profit basis.

1.44. Rightholder - means any person or entity, other than a collective management organisation, that holds a copyright or related right or, under an agreement for the exploitation of rights or by law, is entitled to a share of the rights revenue;

1.45. Member - means a rightholder or an entity representing rightholders, including other collective management organisations and associations of rightholders, fulfilling the membership requirements of the collective management organisation and admitted by it;

1.46. Statute - means the memorandum and articles of association, the statute, the rules or documents of constitution of a collective management organisation;

1.47. General assembly of members - means the body in the collective management organisation wherein members participate and exercise their voting rights, regardless of the legal form of the organisation;

1.48. Rights revenue - means income collected by a collective management organisation on behalf of rightholders, whether deriving from an exclusive right, a right to remuneration or a right to compensation;

1.49. Management fees - means the amounts charged, deducted or offset by a collective management organisation from rights revenue or from any income arising from the investment

of rights revenue in order to cover the costs of its management of copyright or related rights;

1.50. Representation agreement - means any agreement between collective management organisations whereby one collective management organisation mandates another collective management organisation to manage the rights it represents, including an agreement concluded under Articles 114 and 115 of this Law;

1.51. User - means any person or entity that is carrying out acts subject to the authorisation of rightholders, remuneration of rightholders or payment of compensation to rightholders and is not acting in the capacity of a consumer;

1.52. Repertoire - means the works in respect of which a collective management organisation manages rights;

1.53. Licencing – for purposes of the is law shall mean:

1.53.1. the right that the organizations for collective management gives to the user for the use of copyright and related rights;

1.53.2. granting the permission to organizations for collective management by the relevant Minister of Culture, for collective management of copyright and related rights;

1.54. Licencing of rights -for purposes of this Law shall mean permission to use or permission to perform an action with the protected object/subject matter that would otherwise be prohibited;

1.55. Multi-territorial licence - means a licence which covers the territory of more than one State;

1.56. Sufficient quantities - means such quantity as to satisfy the reasonable requirements of the public for copies of the sound recording;

1.57. Persons with a visual impairment or reading disability - means persons who are unable, as a result of a physical or mental impairment or of a perceptual disability, to read literary works, even with the assistance of a visual aid, to substantially the same degree as persons without such an impairment or disability;

1.58. A beneficiary means, notwithstanding any other disability - a person who:

1.58.1. is blind;

1.58.2. has a visual impairment which cannot be improved so as to give the person visual function substantially equivalent to that of a person who has no such impairment, and who is, as a result, unable to read printed works to substantially the same degree as a person without such an impairment;

1.58.3. has a perceptual or reading disability and is, as a result, unable to read printed works to substantially the same degree as a person without such disability; or

1.58.4. is otherwise unable, due to a physical disability, to hold or manipulate a book or to focus or move their eyes to the extent that would be normally acceptable for reading.

1.59. Accessible format copy - means a copy of a work or other subject matter in an alternative manner or form that gives a beneficiary person access to the work or other subject matter, including allowing such person to have access as feasibly and comfortably as a person without any of the impairments or disabilities;

1.60. Authorised entity - means an entity that is authorised or recognised by Kosovo Republic to provide education, instructional training, adaptive reading or information access to persons with a visual impairment or reading disability on a non-profit basis. It also includes a public institution or non-profit organisation that provides the same services to beneficiary persons as one of its primary activities, institutional obligations or as part of its public-interest missions;

1.61. Technological measures - means any technology, device or component that is designed to prevent or restrict acts in the normal course of its operation in respect of works or objects of related right, which are not authorized by the owner of rights;

1.62. Rights management information - means any information, provided by the author or other owner of right, identifying the work or an object related rights, the author or other owner of right, or information on the conditions of the use of the work or object of protection, as well as any numbers and codes representing such information;

Article 4

The relation between copyright and related rights

1. Protection defined by this Law for related rights shall leave intact and shall in no way affect the protection of copyright.

2. Protection of copyright and the various categories of related rights shall also be independent from each other in the sense that, where the same physical person or legal entity is the owner of more than one kind of rights - copyright and any related right, unless otherwise provided in this Law shall enjoy and may exercise those rights separately and independently from each other.

3. The provisions of this law shall be applied similarly or appropriately to related rights, regarding:

3.1. the elements of the author's work;

3.2 the joint authorship and authorship on collective and composite works;

3.3. the presumptions of authorship;

3.4. works created under employment;

3.5. the unwaivable right to equitable remuneration after having transferred their rental rights to a producer;

3.6. assignment and licensing of economic right;

3.7. the author's remuneration, the right of revision of a disproportionate remuneration, the transparency obligation and the unilateral termination of a copyright contract;

3.8. fair compensation in respect of reproductions on paper or any similar medium, effected by the use of any kind of photographic technique or by some other process having similar effects, with the exception of sheet music and in respect of reproductions on any medium made by a natural person for private use and for ends that are neither directly nor indirectly commercial, on condition;

3.9. the relation between the copyright and the transfer of the ownership of the physical carrier into which the work has been incorporated, whether in the original form or in any form of copy;

3.10. the limitations of copyright;

3.11. 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;

3.12. the exhaustion of distribution right 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.

CHAPTER II COPYRIGHT

SUBCHAPTER I SUBJECT MATTER OF COPYRIGHT PROTECTION

Article 5 Protected Works

1. "Works" shall mean any production in the field of literature, art or science that is original in the sense that it is the author's own intellectual creation; no other criteria shall be applicable for such a production to be qualified as a work.

2. Protection by copyright shall extend to any works, whatever may be the mode or form of their expression, objective, importance or aesthetic value, in particular such as:

2.1. literary works (expressed in writing or orally);

2.2. written works such as texts in books, brochures and other texts in scientific and professional field as well as computer programs;

2.3. dramatic and dramatic-musical works;

2.4. musical works, with or without words;

2.5. choreographic works and entertainment in dumb show;

2.6. cinematographic works and other audio-visual works (hereinafter together: "audio-visual works");

2.7. works of fine arts such as: paintings, drawings, sculptures, installations, public art and others as well as works of applied arts;

2.8. works of architecture;

2.9. photographic works, including works expressed by any process analogous to photography;

2.10. maps, plans, sketches and three-dimensional works relating to geography, topography, architecture and other science.

3. Any part or other element of a work (including its title, or a character expressed in it) that in itself represents intellectual creation shall also be protected as such by copyright. 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.

4. Without prejudice to the protection of copyright in the original works, those derivative works and collections that are based on one or more pre-existing works and/or any other materials, shall also be protected by copyright as works; in particular:

- 4.1. translations, adaptations, annotations, musical arrangements and other similar transformations of works or expressions of folklore, provided that they are the results of intellectual creation (derivative works);
- 4.2. collections of works, such as encyclopaedias and anthologies, as well as compilations of other materials or data irrespective of whether or not they are protected, including databases, provided that they, by reason of selection or arrangement of their contents, are the results of intellectual creation.
5. The copyright protection of databases shall not extend to the contents of databases and shall be without prejudice to any rights subsisting in those contents themselves.
6. The copyright protection of databases shall not apply to computer programs used in the making or operation of databases accessible by electronic means.

Article 6
Creations and other objects not protected by copyright

1. Copyright protection shall not extend to official texts of a legislative, administrative and judicial nature, and the official translations of such texts.
2. Copyright protection shall not extend to:
- 2.1. ideas, procedures, methods of operation or mathematical concepts as such (but only to their original expressions);
- 2.2. expressions of folklore;
- 2.3. news of the day, mere facts and data as such (but only to their original presentation); different information that have the character of ordinary media reports can be reproduced only after at least twelve (12) hours have elapsed from their publication.

SUBCHAPTER II
AUTHORSHIP AND OWNERSHIP OF COPYRIGHT

Article 7
Authorship

The author is the physical person who has created the work.

Article 8
Presumptions of authorship

1. In absence of proof to the contrary, the person whose name appears on a work in the usual manner shall be deemed to be the author thereof.
2. Where a work is published in anonymous form or under a pseudonym in a way that does not make it possible to identify the author, the publisher whose name appears on the work shall, in the absence of proof to the contrary, be deemed to represent the author, and in this capacity he or it shall be entitled to protect and enforce the author's rights. The provisions of this paragraph shall cease to apply when the author reveals his identity and establishes his claim to authorship of his work.
3. The natural person or legal entity whose name appears on an audio-visual work in the usual manner shall, in the absence of proof to the contrary, be presumed to be the producers of the work.

Article 9

Copyright in works of co-authorship

1. Copyright in a work which is the result of joint creative efforts of two or more authors shall belong jointly to such authors (co-authors) regardless of whether the work constitutes an indivisible whole or is composed of independent parts.
2. The relations between the co-authors shall be covered by a contract. In the absence of such a contract, the co-authors shall enjoy jointly the copyright in the work, and the corresponding remuneration shall be divided between them, proportionately to their contributions, provided that they can be determined. Where the contributions of the co-authors cannot be determined, the remuneration shall be divided in equal shares.
3. Unless otherwise provided in an agreement between the co-authors, they shall exercise the copyright in the work of co-authorship jointly. However, if the contribution of a co-author may also be used independently from the other parts of the work, in respect of that part of the work, unless otherwise provided in an agreement between the co-authors, such a co-author may also exercise copyright alone in respect of his part. Nevertheless, for the inclusion of such an independently usable part of a work of co-authorship into another work, the authorization of the other co-authors shall also be needed.
4. A joint author may waive his share of the exploitation rights. He shall make a declaration of waiver to the other joint authors. Upon his declaration his share shall accrue to the other joint authors.

Article 10

Copyright in derivative works

1. Translators and the authors of other derivative works shall enjoy copyright in the translations, adaptations, arrangements or other transformations made by them.
2. A translation or other derivative work may only be created if the author of the original work authorizes it. The copyright of a translator or the author of other derivative work shall not prejudice the rights of the author of the original work that has been translated, adapted, arranged or otherwise transformed.

Article 11

Copyright in collections and compilations

1. The authors of collections or compilations mentioned in Article 5, sub-paragraph 4.2. of this law shall enjoy copyright in the said works.
2. A work protected by copyright may only be included into a collection or compilation if the author thereof or other holder of copyright therein authorizes it. The copyright of the compiler shall not prejudice the rights of the authors of each work included in the collection or composition.
3. The protection of copyright in collections and compilations shall not extend to their contents. The authors and the owners of other rights provided in this Law whose works or other protected productions are included in a collection or compilation shall have the right to exercise their copyright or related rights in such works or other productions, respectively, independently of the collection or compilation.

Article 12

Copyright in collective works

1. The natural person at whose initiative and under whose direction a collective work has been created (such as encyclopedias, dictionaries, other similar collections, newspapers, reviews and

other periodicals) and under whose name it is published shall enjoy copyright as the successor in title of the creative contributors to the work as if it was the author of the work. Such a person shall have the right to indicate his or its name or designation and to require that it be indicated, in connection with any public use of the collective works.

2. In the application of this article, "collective work" means a work created as a result of a number of different contributions which merge in the entirety of the work in a way that their identification is impossible or highly impracticable.

3. Unless otherwise agreed in contract between the authors and the physical person mentioned in paragraph 1. of this Article, the authors of those works included in a collective work that may be identified as their creations shall maintain their rights in their own works provided for in this Law and may exploit them independently of the collective work as a whole.

4. Regardless the provision of paragraph 3. 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.

Article 13 **Copyright in works created under employment**

1. Where a work is created by an employee in the execution of his employment duties following the instructions given by his employer, unless otherwise provided by contract, the employer shall be entitled to exercise the economic rights in the work so created, for a period of ten (10) years, from the completion of the work.

2. Paragraph 1. of this Article shall only apply where the work is used within the field of the employer's normal activities foreseen at the time of the agreement concerning the author's duties.

3. 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.

4. 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.

5. 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 is in evident disproportion with the incomings and savings realized due to the use of the work.

6. The employed author shall maintain copyright in respect of any work not created in the execution of his employment duties as well as of any use of a work created under his employment duties that is not covered by the employer's normal activities mentioned in paragraph 2. of this Article.

7. In the case of collective works, paragraphs 2. to 6. of this Article shall not apply.

8. Where a computer program or a database is created by an employee in the execution of his duties or following the instructions given by his employer, the employer exclusively shall be entitled to exercise all economic rights in the program so created, unless otherwise provided by contract.

Article 14 **Copyright in audio-visual works**

1. The following persons shall be recognized as co-authors of an audio-visual work:

- 1.1. the principal director;
 - 1.2. the author of the scenario (scriptwriter);
 - 1.3. the author of the dialogue;
 - 1.4. the composer of any musical work (with or without words) created specifically for the audio-visual work;
 - 1.5 other possible authors who make creative contributions to the audio-visual work.
2. The author of a pre-existing work that has been incorporated in an audio-visual work shall also be deemed a co-author of such audio-visual work.
3. Unless otherwise laid down by contract, the conclusion by an author of a contract for creating an audio-visual work shall imply assignment, in exchange of an unwaivable right of equitable remuneration, by the joint authors to the producer of such work of the following exclusive rights of exploitation: the rights of reproduction, distribution, public lending, public performance, broadcasting, communication to the public, interactive making available to the public and the rights of subtitling and dubbing.
4. Notwithstanding the provisions of paragraph 3. of this Article, when the authors transfer their right of rental to the producers of audio-visual works, they shall retain an unwaivable right to equitable remuneration for each rental. The authors of musical works included in an audio-visual work, shall also maintain a right to equitable remuneration for public performance, broadcasting and communication to the public. These unwaivable rights to remuneration may only be exercised through collective management organization.
5. The master copy of a film (negatives, original recording) shall not be destroyed without the consent of the author and the other holders of economic rights in the film.
6. The producer shall be entitled to indicate his or its name or designation and to require that it be indicated in respect of any public use of the work.

SUBCHAPTER III CONDITIONS FOR COPYRIGHT PROTECTION

Article 15 Automatic copyright protection without any formality

Authors shall enjoy copyright in their works by the sole fact of having created the work. For the existence and application of copyright no registration of the work or any other formality shall be required.

Article 16 Eligibility for copyright protection

1. Copyright protection shall extend to:
 - 1.1. authors who are nationals of, or have their habitual residence in, the Republic of Kosovo;
 - 1.2. authors of works published for the first time in the Republic of Kosovo irrespective of their nationality or habitual residence;
 - 1.3. authors of audio-visual works, the producer of which has his or its habitual residence or

headquarters in the Republic of Kosovo;

1.4. authors of works of architecture erected in the Republic of Kosovo or of other artistic works incorporated in a building or other structure located in the Republic of Kosovo.

2. A work shall also be deemed published for the first time in the Republic of Kosovo if it has been published in the Republic of Kosovo within thirty (30) days of the date of its first publication in another country.

Article 17

Relationship between copyright and ownership of physical objects

Copyright shall subsist independently of any right of ownership in the physical object in which a work is expressed.

SUBCHAPTER IV MORAL RIGHTS

Article 18

Right of disclosure

1. The author shall have the right to decide when and how he wishes to disclose his work to the public.
2. Before the disclosure of the work, any information on its contents may be provided to the public only with the author's consent.
3. In the case of work that has become known after the author's death, in the absence of any proof to the contrary, it shall be presumed that the author had the intention to disclose his work to the public.

Article 19

Right to claim authorship and to be named

1. Independently of the author's economic rights, and even after the assignment or licensing of the said rights, the author shall have the right to claim authorship of his work.
2. The right to claim authorship shall include the right of the author to be named, to the extent that it is possible, on the copies of, or in connection with any public use of his work in accordance with the nature of the work and its use.
3. The author shall be entitled to demand that his work is published and used anonymously or under a pseudonym.

Article 20

Right of integrity

Independently of the author's economic rights, and even after the assignment or licensing of the said rights, the author shall have the right to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, his work.

Article 21

Right of withdrawal

1. On basis of a sound reason, such as the changes of his views or the circumstances, the author shall have the right to prohibit the continued use of his work already disclosed (right of withdrawal).

However, he shall be obliged to pay any damage caused to by this to a licensee.

2. The right of withdrawal shall not apply in the case of a work created under an employment contract or for a commission, neither in the case of an audio-visual work or a computer program. In the case of such works, the author may only demand that his name is not indicated on the copies of, or in connection with any use, of the work.

3. Where the author, after exercising his right of withdrawal, authorizes the use of the same work or a work substantially similar to the same work, he shall be obligated to offer the option to the licensee who had the right to use the work before the exercise of the right of withdrawal to renew the licensing contract on the basis of the same terms or substantially similar terms, respectively, as agreed upon originally.

4. The provisions of this Article shall not apply for computer programs, audio-visual works and database.

Article 22 **Exercise of moral rights**

1. The moral rights of the author shall not be transferable by assignment or license.

2. However, the consent by an author for performing an act which otherwise may violate his right of integrity shall be regarded as a way of exercising that right, and it shall bind him.

SUBCHAPTER V **EXCLUSIVE ECONOMIC RIGHTS OF AUTHORS**

Article 23 **Exclusive economic rights**

1. Unless otherwise provided in this law, the author shall have in particular the following exclusive rights to authorize or prohibit the use of his work:

1.1. right of reproduction;

1.2. right of distribution;

1.3. right of rental;

1.4. right of public performance;

1.5. right of broadcasting;

1.6. right of communication to the public;

1.7. right of retransmission;

1.8. right of cable retransmission;

1.9. right of public communication by loudspeaker or any other analogous instrument transmitting by signs, sounds or images, the broadcast of the work;

1.10. right of interactive making available to the public;

1.11. right of translation;

- 1.12. right of adaptation (right to make a derivative work).
2. As provided in Article 31 of this Law, the authors, in certain cases, shall also have an exclusive right of authorization or prohibition of lending, while in other cases they shall only have a mere right to equitable remuneration for lending.
3. The exclusive rental right provided in sub-paragraph 1.3. of this Article shall not be applied in relation to architectural works and to works of applied art.

Article 24

Exhaustion of the right of distribution

1. The right of distribution provided for in Article 23 sub-paragraph 1.2. of this Law shall be exhausted with the first sale or other first transfer of property of the original or the copies of the work in the territory of the Republic of Kosovo.
2. The rental and lending rights are not exhausted by the first sale or other first transfer of property of the original or the copies of the work.

Article 25

Unwaivable right to remuneration of authors maintained after the transfer of their exclusive right of rental

Where an author has assigned or licensed his rental right provided for in Article 23 sub-paragraph 1.3. of this Law concerning an audio-visual work or a phonogram to the producer of the audio-visual work or the phonogram, respectively, the author shall retain a right to an equitable remuneration for the rental. This right cannot be waived and may only be exercised through a collective management organization.

Article 26

Communication to the public by satellite

1. The act of communication of a work to the public by satellite occurs solely in the Kosovo where, under the control and responsibility of the broadcasting organization, the programme-carrying signals are introduced from the territory of Kosovo into an uninterrupted chain of communication leading to the satellite and down towards the earth.
2. Where an act of communication to the public by satellite occurs in another State which does not provide the level of protection provided for under this law:

2.1. if the programme-carrying signals are transmitted to the satellite from an uplink situation situated in another country, that act of communication to the public by satellite shall be deemed to have occurred in that other country and the rights shall be exercisable against the person operating the uplink station;

2.2. if there is no use of an uplink station situated in another state but a broadcasting organization established in Kosovo has commissioned the act of communication to the public by satellite that act shall be deemed to have occurred in Kosovo and the rights shall be exercisable against the broadcasting organization.

Article 27

Exercise of the rights of retransmission and of cable retransmission

1. The right of retransmission provided for in Article 23, sub-paragraph 1.7. of this Law and the right of cable retransmission provided for in Article 23, sub-paragraph 1.8. of this Law may only be exercised through a collective management organization. The amount of remuneration for the

authorization granted by the collective management organization shall be established on the basis of any payment that the members of the public have to pay to the operators of retransmission services and to the cable network operators for their corresponding services.

2. For the establishment of the amount of remuneration and other conditions, and the settlement of possible disputes between the parties concerned, Articles 122 and 123 of this Law shall apply.

3. The remuneration mentioned in paragraph 1. of this Article:

3.1. shall be collected by a collective management organization entrusted with this function by a common agreement of the representatives of the interested owners of rights, and in the absence of agreement, the collective management organization to be determined by the Office;

3.2. after the deduction of the actual cost of management, unless otherwise provided in an agreement between the representatives of the interested owners of rights three (3) month before the end any calendar year, shall be distributed in the following manner:

3.2.1 in case of television programs retransmitted by cable, sixty percent (60%) to authors or other holders of copyright in audio-visual works, thirty (30%) to performers of audio-visual works, five percent (5%) for performers whose performances are fixed on phonograms, and five percent (5%) to producers of phonograms;

3.2.2. in case of radio programs retransmitted by cable, thirty percent (30%) to authors or other holders of copyright in musical works, ten percent (10%) to authors or other holders of copyright in literary works, thirty percent (30%) to performers and thirty percent (30%) to producers of phonograms.

4. The collective management organization mentioned in paragraph 3., sub-paragraph 3.1. of this Article, after the deduction of the corresponding costs, shall transfer the shares of remuneration mentioned in paragraph 3., sub-paragraph 3.2. of this Article due to the categories of owners of rights not represented by it to the collective management organizations or other representative bodies of the owners of rights concerned.

Article 28

Transmission of programmes through direct injection

1. When a broadcasting organisation transmits by direct injection its programme-carrying signals to a signal distributor, without the broadcasting organisation itself simultaneously transmitting those programme-carrying signals directly to the public, and the signal distributor transmits those programme-carrying signals to the public, the broadcasting organisation and the signal distributor shall be deemed to be participating in a single act of communication to the public in respect of which they shall obtain authorisation from right holders.

2. When a broadcasting organisation transmits its television or radio programme signals containing the author's work directly to the public, and thus performs the initial transmission action, and at the same time transmits those signals to other broadcasting organisations through the technical procedure of direct signal flow, transmissions performed by other broadcasting organisations are considered a separate act of communicating to the public by retransmission while the initial act of transmission is considered to be broadcasting.

Article 29

Ancillary Online Services of a Broadcasting Organisation

1. The ancillary online service is provided by the broadcasting organisation to the users together with the broadcasting service in a clear and subordinate relationship with the broadcast program,

whereby the users can access the ancillary online service separately from the broadcasting service and unconditionally in relation to it.

2. Granting access to copyright works included in a television or radio programme or works not related to any broadcast programme of the broadcasting organisation, such as access to certain musical or audio-visual works or music albums or video content by means of a video-on-demand service, shall not be considered as an ancillary online service.

Article 30

Application of the country of origin principle to ancillary online services

1. The acts of communication to the public of works and other protected subject matter, by wire or wireless means, and of making available to the public of works or other protected subject matter, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, occurring when providing to the public:

1.1. radio programmes;

1.2. television programmes which are:

1.2.1. news and current affairs programmes; or

1.2.2. fully financed own productions of the broadcasting organisation, in an ancillary online service by or under the control and responsibility of a broadcasting organisation, as well as the acts of reproduction of such works or other protected subject matter which are necessary for the provision of, the access to or the use of such online service for the same programmes shall, for the purposes of exercising copyright and related rights relevant for those acts, be deemed to occur solely in the State in which the broadcasting organisation has its principal establishment. Paragraph 1., subparagraph 1.2. of this Article shall not apply to the broadcasts of sports events and works and other protected subject matter included in them.

2. When setting the amount of the payment to be made for the rights to which the country of origin principle, as set out in paragraph 1. of this Article, applies, the parties take into account all aspects of the ancillary online service, such as features of the service, including the duration of online availability of the programmes provided in that service, the audience, and the language versions provided. Subparagraph 1.1. of this Article, shall not preclude calculation of the amount of the payment on the basis of the broadcasting organisation's revenues.

3. The country of origin principle set out in paragraph 1. of this Article shall be without prejudice to the contractual freedom of the rightholders and broadcasting organisations to agree to limit the exploitation of such rights.

SUBCHAPTER VI CERTAIN OTHER ECONOMIC RIGHTS

Article 31

Right of public lending

1. Authors of audio-visual works, works embodied in phonograms, databases and computer programs shall have the exclusive right of authorizing or prohibiting the public lending of their works.

2. Authors of literary works and musical works in the form of sheet music shall have a right to equitable remuneration for the public lending of their works. This right shall be exercised through a collective management organization.

3. The exclusive right provided in paragraph 1. of this Article and the right to equitable remuneration provided for in paragraph 2. of this Article shall not be applied in case of lending by libraries of educational and specialized research institutions and in relation to architectural works and to works of applied art.

Article 32 **Resale right (droit de suite)**

1. Subsequent to the first transfer of ownership of an original work of art by its author, the author shall have an inalienable and unwaivable right to receive a royalty based on the sale price obtained for any acts of resale. This right shall apply to all acts of resale involving as sellers, buyers or intermediaries' art market professionals, such as salesrooms, art galleries and, in general, any dealers in works of art. The right to receive such royalty may only be exercised through a collective management organization.

2. The royalty shall be set at the following rates, ensuring that the total amount of compensation is not higher than twelve thousand five hundred (12.500) euro:

2.1. four (4%) per cent for the portion of the sale price above two thousand (2.000) euro up to the amount of fifty thousand (50 000) euro;

2.2. three (3%) per cent for the portion of the sale price equivalent to from fifty thousand euro one cent (50 000.01) euro to two hundred thousand (200.000) euro;

2.3. one (1%) per cent for the portion of the sale price equivalent to from two hundred thousand euro and one cent (200 000.01) to three hundred fifty thousand (350000) euro;

2.4. zero point five (0.5%) per cent for the portion of the sale price equivalent to from three hundred fifty thousand euro and one cent (350 000.01) to five hundred thousand (500 000) euro;

2.5. zero point twenty-five (0.25%) per cent for the portion of the sale price above the amount equivalent to five hundred thousand (500 000) euro.

3. The sale prices mentioned in paragraph 2. of this Article shall be net of tax. No royalty shall be payable where the sale price is lower than two thousand (2.000) euro.

4. The royalty shall be paid to the collective management organization by the dealer of works of art. If more than one dealer in works of art are involved in the transaction of the transfer of the ownership, they shall have joint and several liabilities for the royalty payment. In such a case, unless the dealers in works of art agree otherwise, the seller is obliged to pay the royalty. If none of the dealers in works of art involved in the transaction participates in the transfer as a seller, the royalty shall be paid by the buyer, unless otherwise agreed.

5. The dealer in works of art shall be required to pay the royalty quarterly, by the twentieth day of the month following the calendar quarter concerned. When paying the royalty, the following information shall be communicated: the name of the author, unless it proves to be impossible, as well as the title, the sale price of the work of art and the amount of the royalty. The collective management organization shall transfer the royalty to the author of the work of art or his successor in title.

6. For a period of three (3) years after the resale, the collective management organization may require from the dealer in works of art to furnish any information that may be necessary in order to collect the royalty.

7. The provisions of paragraphs 1. to 6. of this Article shall apply to:

7.1. author who is national of, or has his habitual residence in, the Republic of Kosovo or in any of the member states of the European Union or his successor in title;

7.2. nationals of any of the countries outside the European Union, on condition that the legislation in the country of which the author or his successor in title is a national provides for a right to royalty also to the nationals of the Republic of Kosovo.

SUBCHAPTER VII COPYRIGHT IN CERTAIN CATEGORIES OF WORKS

Article 33

Copyright in works of fine art and other' rights in their connection

1. The author of a work of fine art shall have the right to require the owner of the work to allow him the possibility of reproducing his work (right of access). However, the owner of the work may not be required to deliver the work to the author to that end and the access shall be effected without nuisance or with minimum possible nuisance to the owner.

2. Any public use of a work of fine art presenting a portrait of a physical person shall only be permitted with the consent of the represented person or his heirs.

Article 34

Copyright in photographic works

1. The transfer of the property of the negative or other similar embodiment of a photographic work on the basis of which copies may be made thereof, unless otherwise provided in a contract, shall result to the assignment of the economic rights in the work other than the right of resale.

2. A physical person portrayed in a photographic work that he/she commissioned, unless otherwise provided in a contract, may perform any acts covered by economic rights without the authorization of the author.

Article 35

Right of exhibition

1. The right of exhibition is the right to display in public the original or the copies of an unpublished artistic work or an unpublished photographic work.

2. The owner of the work can temporarily submit the original of work in accordance with paragraph 1. of this Article, on condition that the author provide sufficient financial guaranty or enters into a contract for securing the amount of the market value of the original.

3. The author shall ensure that the way of exhibition of the work results to the minimum possible nuisance to the owner. In case of damage of the original or the copy or work, the author holds the objective responsibility even if he is not culpable of the damage.

Article 36

Copyright in works of applied art and works of architecture

1. Copyright protection granted by this Law for works of applied art shall extend to the outside form of the objects concerned expressed by such features as lines, contours, shapes, textures, etc. The protection shall extend to both two- and three-dimensional objects.

2. Copyright protection granted by this Law for works of architecture shall extend to buildings and other similar architectural construction as well as to their plans.

3. The right of adaptation of a work of applied art or a work of architecture provided for in Article 23, sub-paragraph 1.12. of this Law shall not extend to those kinds of alterations which do not result in the modification of the outside form of the work.

4. The rental right shall not be applicable to works of architecture in three-dimensional form and works of applied art.

SUBCHAPTER VIII COPYRIGHT CONTRACTS

Article 37 Assignment and licensing of economic right

1. The exclusive economic rights and, unless otherwise provided in this Law, the rights to remuneration of authors, may be assigned by the authors or other owners of copyright by means of a copyright contract. As a result of such assignment, the assignee shall be the new owner of copyright.

2. In respect of the exclusive economic rights of authors, also licenses may be granted either in the form of an exclusive license or in the form of a non-exclusive license. If in a license contract, it is not stipulated that it is exclusive, the license shall be deemed to be non-exclusive.

3. Under an exclusive license, only the licensee may use the work within the limits laid down in the contract. Within those limits, he or it shall also have the right to authorise or prohibit the use of the work by other persons.

4. Under a non-exclusive license, the licensee, within the limits laid down in the contract, may use the work in the same way as other persons who have obtained authorisation to use it. He shall not have the right to authorise or prohibit the use of the work by other persons, unless otherwise provided in contract.

5. Where an author has transferred or licensed a right to a publisher, such a transfer or licence, shall entitle the publisher to a share of the compensation for the use of the work made under an exception or limitation to the transferred or licensed right.

Article 38 Contents and interpretation of copyright contracts

1. A copyright contract, with the exception the use of works in newspapers and other periodical publications, shall be concluded in written form and shall set out the nature and extent of uses of the work covered by it, the period of its validity, the territory for which it applies, the amount of remuneration or the basis for determining such amount for the use of the work, the conditions and time limits for payment of the remuneration.

2. If, in a copyright contract, the territory for which it applies is not stipulated, it shall only be applicable for uses in the territory of the Republic of Kosovo.

3. If, in a copyright contract, the term of its validity is not stipulated, it shall be deemed to have been concluded for three (3) years as from the date of its conclusion if it concerns use of a work in its original form, and for five (5) years if it concerns use of a work in an adapted or otherwise modified form or in translation.

4. If the contract does not specify sufficiently clearly the nature and extent of the use of the work for which authorization is granted, it shall be interpreted to only cover that kind of nature and that extent of use of the work that is indispensable for the objective of the contract identifiable on the basis of its contents.

5. In general, where any aspect of the contract is ambiguous, the ambiguity should be resolved by accepting that kind of interpretation of the contract which is the more favorable one from the viewpoint of the author.

Article 39 **Limits of validity of contractual clauses**

1. No clause of a copyright contract shall be valid whereby the author assigns his copyright in, or authorizes the use of, an indefinite number or unidentified scope of works he is to create in the future. However, in respect of the authorization of collective management organizations to manage copyright or related rights, Article 87 paragraph 2. of this Law applies.

2. No clause of a licensing contract shall be valid whereby the author authorizes any manner of use of his work that is still unknown at the time of the conclusion of the contract. However, the method of the use evolving following the conclusion of the contract is not to be considered a manner of use still unknown at the time of the conclusion of the contract:

2.1. where what is merely involved is that a manner of use known earlier becomes be possible to be applied more efficiently or in a better quality; or

2.2. where the new manner of use replaces a manner of use of the work known at the time of the conclusion of the contract from the viewpoint of its nature and extent.

3. Any clauses in a copyright contract that are contrary to the provisions of this Law shall be deemed null and void, and the conditions set out in this Law shall apply in place thereof.

Article 40 **Application of copyright contracts**

1. The assignee or licensee shall be obliged to make a statement on the acceptance of a work delivered to him under a contract relating to a work to be created in the future within the time limit provided in the contract, and, in the absence of such time limit, within two (2) months from the date of the delivery of the work to him. Where no statement is made by the assignee or licensee within such a time limit, the work shall be considered as accepted.

2. The assignee or licensee may return the work to the author for corrections to be made in it with reference to justified grounds by setting reasonable deadline. If the author refuses to make corrections without reasonable grounds or fails to make the corrections by the deadline set, the assignee or licensee may rescind from the contract without payment of remuneration.

3. If the author authorizes the use of his work, he is obliged to perform on it the alterations not affecting its essence but indispensable for the use foreseen in the contract. Should he refuse or be unable to meet this obligation, the assignee or licensee may perform the alterations without his consent.

4. The author may unilaterally terminate the copyright contract if:

4.1. the licensee fails to commence the use of the work within the period determined in the contract or – in the absence of a stipulated period – within the period to be reasonably expected in the given situation; or

4.2. the licensee uses the work in an obviously inappropriate manner from the viewpoint of the nature and extent of the use of the work foreseen in the contract.

5. The author may not in advance waive his right of termination referred to in paragraph 4. of this Article. Such waiver may be excluded by contract only for a five (5) years' period following the

conclusion of the contract or the delivery of the work if this occurs at a later date than is that of the conclusion of the contract.

6. Instead of termination of the contract referred to in paragraph 4. of this Article, the author may terminate the exclusivity of the license with a simultaneous proportional reduction of the fee to be paid to him for the use.

7. For implementation of the copyright contract, the relevant provisions of the Law on Obligational Relationships apply, unless otherwise provided by this Law.

Article 41 **Author's remuneration**

1. The fee payable to the author by the other contracting party to legal agreements relating to the transfer of all or part of the economic right, the granting of the exploitation or for the exploitation license shall be obligatorily determined as a percentage, agreed freely between the parties. The computation of the percentage shall be based on gross revenues without exception or the gross expenditure or on the combined gross revenues and expenditure realized from the activity of the other contracting party in the course of the exploitation of the work.

2. By way of derogation, in the following circumstances, the fee may be agreed as a lump sum:

2.1. when it is practically impossible to establish the basis for the calculation of a percentage fee or when there are no means of monitoring the implementation of a percentage arrangement;

2.2. when the expenditure required for the calculation and the monitoring is likely to be out of reasonable proportion to the fee to be collected;

2.3. when the nature or the conditions of the exploitation make the implementation of a percentage impossible, notably when the author's contribution is not an essential element in the intellectual creation as a whole, or when the use of the work is secondary in relation to the object of the exploitation.

3. The obligatory percentage arrangement of the fee prescribed in paragraph 1. of this Article, shall be implemented in all circumstances provided that this Law does not stipulate otherwise, and provided that it does not concern works created by employees in the execution of the employment contract, computer programs or advertisement in any form.

4. 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 42 **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 or licensed.

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

Article 43

Transparency obligation

1. Authors shall receive on a regular basis, at least once a year, and taking into account the specificities of each sector, up to date, relevant and comprehensive information on the exploitation of their works from the parties to whom they have licensed or transferred their rights, or their successors in title, in particular as regards modes of exploitation, all revenues generated and remuneration due.

2. Where the rights referred to in paragraph 1. of this Article have subsequently been licensed, authors or their representatives shall, at their request, receive from sub-licensee additional information, in the event that their first contractual counterpart does not hold all the information that would be necessary for the purposes of paragraph 1. of this Article:

2.1. where that additional information is requested, the first contractual counterpart of authors shall provide information on the identity of those sub-licensees. Any request to sub-licensees pursuant to this subparagraph is made directly or indirectly through the contractual counterpart of the author.

3. The obligation set out in paragraph 1. of this Article shall be proportionate and effective in ensuring a high level of transparency in every sector. In duly justified cases where the administrative burden resulting from the obligation set out in paragraph 1. of this Article would become disproportionate in the light of the revenues generated by the exploitation of the work or performance, the obligation is limited to the types and level of information that can reasonably be expected in such cases.

4. For agreements subject to or based on collective bargaining agreements, the transparency rules of the relevant collective bargaining agreement are applicable, on condition that those rules meet the criteria provided for in paragraphs 1. to 3. of this Article.

5. The obligation laid down in paragraph 1. of this Article shall not apply in respect of agreements concluded by Collective Management Organisations and independent management entities or by other entities subject to transparency obligation under this Law.

Article 44

Common provisions

1. Any contractual provision that prevents compliance with Articles 41, 42 and 43 of this Law shall be void.

2. Articles 40 paragraph 4. and Articles 41 to 43 of this Law do not apply to authors of a computer program.

SUBCHAPTER IX

EXCEPTIONS AND LIMITATIONS

Article 45

General criteria for the application of exceptions and limitations

The exceptions and limitations provided for in this chapter may only be applied if they do not conflict with a normal exploitation of works, and if they do not unreasonably prejudice the legitimate interests of authors or other holders of copyright.

Article 46

Temporary acts of reproduction

1. Temporary acts of reproduction shall be permitted without the consent of the author or other owner of copyright and without the payment of remuneration, provided that they correspond to all of

the following criteria:

- 1.1. they are transient or incidental;
- 1.2. they are integral and essential part of a technological process;
- 1.3. their sole purpose is to enable a transmission in a network between third parties by an intermediary; or a lawful use of a work;
- 1.4. they have no independent economic significance.

Article 47

Reproduction of works for personal and private use

1. The reproduction of a lawfully published work shall be permitted without the consent of the author, but against the payment of an equitable remuneration, as provided for in paragraphs 3. to 11. of this Article, if it is made by a natural person for his own exclusive personal and private use and for purposes that are neither directly nor indirectly commercial. This right to remuneration may only be exercised through a collective management organization. For such copying by reprographic reproduction, Article 48, paragraphs 2. to 10. of this Law shall apply. Notwithstanding with the exceptions mentioned in this paragraph, the reproduction of the work written in the full volume of the book is not allowed.

2. Paragraph 1. of this Article shall not apply in respect of:

- 2.1. electronic databases;
- 2.2. computer programs, except in the cases covered by Article 58 of this Law;
- 2.3. audio-visual works during their public performance;
- 2.4. any works on the basis of a copy or from a source about which the person who makes the copy knows, or under the given circumstances, he has a reason to know, that it is illegal.

3. The equitable remuneration mentioned in paragraph 1. of this Article shall be paid by those natural persons who or legal entities which manufacturer or import any equipment and mediums that may be used for reproduction of audio-visual works and phonograms.

4. No equitable remuneration shall be paid in respect of recording equipment and carriers mentioned in paragraph 3. of this Article:

- 4.1. where they are exported;
- 4.2. where they are designed, produced or adapted in a way that normally they are not for use for personal and private copying as provided in paragraph 1. of this Article;
- 4.3. where they are imported by a natural person for his own exclusive use.

5. The equitable remuneration mentioned in paragraph 1. of this Article:

- 5.1. shall be paid by the manufacturers or importers of the recording equipment or carriers mentioned in paragraph 3. of this Article to the collective management organization mentioned in sub-paragraph 10.1. of this Article, before putting into circulation (that is, before including into the chain of distribution immediately after manufacturing or importation) of such equipment or carriers;

- 5.2. shall be sufficient not only for the compensation of authors whose works may be reproduced in the way mentioned in paragraph 1. of this Article, but also for the compensation of performers and producers of audio-visual works and phonograms whose performances, audio-visual works and phonograms, respectively, may be reproduced in the way mentioned in paragraph 1. of this Article;
- 5.3. shall be determined by taking into account the application or non-application of technological measures by the owners' rights in audio-visual works and phonograms.
6. For the determination of the scope regarding the equipment and the carriers, in relation to which paragraph 3. of this Article applies and the amount of remuneration to be paid and other conditions of its payment, paragraph 3. of this Article and paragraphs 6. to 12. of Article 102 of this Law apply, meaning that the interested parties that will try to agree on these issues, are the organization of collective management mentioned in sub-paragraph 10.1. of this Article, on the one side, and the representatives of those natural and legal persons who are required to pay the fair remuneration, from other side.
7. The manufacturers and importers, when they put into circulation the equipment or carriers mentioned in paragraph 3. of this Article:
- 7.1. shall inform the collective management organization mentioned in sub-paragraph 10.1. of this Article about the payment of the equitable remuneration, and shall make available to it the necessary documents indicating the number of pieces of equipment and/or carriers manufactured or imported and the identity of the distributors through whom or which they have put the equipment or carriers into circulation;
- 7.2. shall hand over to the distributors through whom or which they put the recording equipment and/or carriers into circulation all the necessary documents proving the fact that equitable remuneration has been paid to the collective management organization.
8. The distributors at any point of the distribution chain, including resale units who or which are in possession of equipment or carriers mentioned in paragraph 3. of this Article for commercial purposes, shall be able to prove, on the basis of valid documents, that the equitable remuneration mentioned in paragraph 1. of this Article has been paid for the equipment or carriers concerned. The distributors, at the request of the collective management organization mentioned in sub-paragraph 10.1 of this Article, shall be obligated to make any relevant documents available and to reveal the identity and the contact data of the manufacturer or importer or any physical person or legal entity in the distribution chain from whom or which they have received the equipment or carriers.
9. The distributors who or which are unable to present to the collective management organization mentioned in sub-paragraph 10.1. of this Article the necessary documents and/or contact data mentioned in paragraph 8. of this Article that are necessary to verify whether or not the equitable remuneration has duly been paid, shall be jointly and severally liable to pay the equitable remuneration.
10. Unless otherwise provided in an agreement between the representatives of the various categories of owners of rights mentioned in sub-paragraph 5.2. of this Article, the equitable remuneration:
- 10.1. shall be collected for all categories of owners of rights by a collective management organization entrusted with this function by a common agreement of the representatives of the interested categories of owners of rights and, in the absence of agreement, the collective management organization to be determined by the Office;
- 10.2. after the deduction of the actual cost of management, shall be distributed in the following manner:

10.2.1. with respect to reproduction of audio-visual works, one third (1/3) to authors of such works, one third (1/3) to performers of such works, and one third (1/3) to producers of such works;

10.2.2. with respect to reproduction of phonograms, one third (1/3) to authors whose works are fixed on phonograms, one third (1/3) to performers whose performances are fixed on phonograms, and one third (1/3) to producers of phonograms, about whom or which it may be presumed that their works, performances and phonograms, respectively, have been reproduced in the way mentioned in paragraph 1. of this Article. The shares mentioned in sub-paragraphs 10.2.1. and 10.2.2. of this Article due to the owners of rights not represented by the collective management organization mentioned in sub-paragraph 10.1. of this Article shall be transferred to the collective management organizations representing such owners of rights.

11. The shares of the equitable remuneration mentioned in sub-paragraph 10.2.1. and 10.2.2. of this Article shall be distributed between the authors and other owners of copyright, performers and producers of audio-visual works and phonograms, respectively, by the collective management organizations in respect of whose works, performances and phonograms, respectively, may be assumed that have been reproduced by virtue of paragraph 1. of this Article.

Article 48 **Reprographic reproduction**

1. It shall be permitted without the consent of the author or other owners of copyright and without payment of remuneration to make reprographic reproduction:

1.1. of a lawfully published work if the reproduction, in one copy, is made by a library or an archive service, which are not for direct or indirect economic or commercial advantage, and if its purpose is to replace copies that have been lost, destroyed or have become unusable or to make a copy available to other libraries or similar archive services in order to replace in their own collections works that have been lost, destroyed or have become unusable, where it is impossible to obtain copies of the work through usual commercial channels;

1.2. of articles and other succinct works or of short extracts of literary works (except for computer programs) and isolated parts of books of a limited extent that have been lawfully published, provided that such reproduction, in a copy, is made by a library or archive that is not for direct or indirect economic or commercial advantage, to meet the needs of physical persons who are to use the copy so obtained for the purpose of private study or non-commercial research;

1.3. of isolated articles and other succinct works or of short extracts of literary works (except for computer programs) and isolated part of books of a limited extent that have been lawfully published, provided that such reproduction is made by a teaching establishment, which are not for direct or indirect economic or commercial advantage, in a number copies needed for illustration in classrooms.

2. Where reprographic reproduction of works and parts of works mentioned in paragraph 1. of this Article is made by physical persons or legal entities other than those mentioned in paragraph 1. of this Article, it shall be permitted without the consent of the author or other holder of copyright but subject to the payment of equitable remuneration to make reprographic reproduction of such a work or part of a work. The right to remuneration may only be exercised through a collective management organization.

3. The equitable remuneration mentioned in paragraph 2. of this Article shall be paid:

3.1. by the natural persons who or legal entities which manufacture or import equipment

(photocopying machines, scanners, etc.) used for reprographic reproduction equipment remuneration); and

3.2. by any physical persons who or legal entities which operate equipment for reprographic reproduction at a place open to the public (operator remuneration).

4. The equipment remuneration mentioned in paragraph 2. of this Article:

4.1. shall be paid by the manufacturers or importers of the equipment mentioned in subparagraph 3.1. of this Article to the collective management organization mentioned in paragraph 2. of this Article before putting into circulation that is, before including into the chain of distribution immediately after manufacturing or importation of such equipment;

4.2. also taking into account the operator remuneration, shall be sufficient for the compensation of authors and publishers of works about whom or which it may be presumed that there works and publications, respectively, have been reproduced by virtue of paragraph 2. of this Article.

5. For the determination of the scope of the equipment for which paragraph 2. of this Article applies, and the amount of payment that must be paid, and the conditions that require payment, paragraph 3. of this Article and 6. to 12. of Article 102 of this Law, the parties understand that interested parties who try to determine the amount of the reward are the organization of the collective management and mentioned in paragraph 2. of this Article on the one side, and the representatives of those physical and juridical persons who are forced to pay the reward, on the other side.

6. The manufacturers and importers, when they put into circulation equipment mentioned in subparagraph 3.1. of this Article:

6.1. shall inform the collective management organization mentioned in paragraph 2. of this Article about the payment of the equitable remuneration, and shall make available to it the necessary documents indicating the number of pieces of equipment manufactured or imported and the identity of the distributors through whom or which they have put into circulation;

6.2. shall hand over to the distributors through whom or which they put the equipment all the necessary documents proving the fact that the equitable remuneration has been paid to the collective management organization.

7. The manufacturers and importers or the distributors, when they sell, rent or otherwise transfer the property or possession of an equipment mentioned in subparagraph 3.1 of this Article, to any operator of such an equipment, shall hand over to the operators the documents mentioned in subparagraph 6.2. of this Article.

8. The distributors at any point of the distribution chain, including resale units (shops, magazines, etc.) as well as the operators, who or which are in possession of equipment mentioned in subparagraph 3.1. of this Article, shall be able to prove, on the basis of valid documents, that the equitable remuneration mentioned in paragraph 2. of this Article has been paid for the equipment. The distributors or operators, at the request of the collective management organization, shall be obligated to make any relevant documents available and to reveal the identity and the contact data of the manufacturer or importer or any physical person or legal entity in the distribution chain from whom or which they received the equipment.

9. The distributors or operators who or which are unable to present to the collective management organization mentioned in paragraph 2. of this Article the necessary documents and/or contact data mentioned in paragraph 8. of this Article that are necessary to verify that the equitable remuneration has duly been paid shall be liable jointly and severally to pay the equitable remuneration.

10. Unless otherwise provided in an agreement between the representatives of authors and

publishers, the equitable remuneration collected by the collective management organization, after the deduction of the actual cost of management, shall be due in equal shares fifty percent (50%) to the authors about whose works, and fifty percent (50%) to publishers about whose publications may be presumed that they have been reproduced by virtue of paragraph 2. of this Article.

Article 49 **Other exceptions and limitations**

1. It shall be permitted without the consent of the author or other holder of copyright and without payment of remuneration:

1.1. short quotations in another work for purposes such as criticism or review, provided that they relate to a work or other subject-matter which has already been lawfully made available to the public, provided that, unless this turns out to be impossible, the source, including the author's name, is indicated, and that their use is in accordance with fair practice, and to the extent required by the specific purpose;

1.2. use of works by way of illustration in publications, broadcast or sound or visual recordings for teaching or scientific research at all levels, as long as the source, including the author's name, is indicated, unless this turns out to be impossible, and to the extent justified by the non-commercial purpose to be achieved;

1.3. use of published works for public performance in school celebrations on condition that the performers are not compensated for such interpretation;

1.4. the digital use of works and other subject matter, on condition that such use:

1.4.1. takes place under the responsibility of an educational establishment, on its premises or at other venues, or through a secure electronic environment accessible only by the educational establishment's pupils or students and teaching staff;

1.4.2. is accompanied by the indication of the source, including the author's name, unless this turns out to be impossible.

1.5. reproduction and distribution by the press, broadcasting, communication to the public or interactive making available to the public of published articles on current economic, political or religious topics or of broadcast works or other subject matter of the same character, in cases where this is not expressly reserved, and as long as the source, including the author's name, is indicated;

1.6. use of works or other subject-matter in connection with the reporting of current events, to the extent justified by the informatory purpose and as long as the source, including the author's name, is indicated, unless this turns out to be impossible;

1.7. use of political speeches as well as extracts of public lectures or similar works or subject-matter to the extent justified by the informatory purpose and provided that the source, including the author's name, is indicated, except where this turns out to be impossible;

1.8. use for the purposes of public security or to ensure the proper performance and reporting of parliamentary, administrative or judiciary proceedings;

1.9. ephemeral recordings of works made by broadcasting organizations by means of their own facilities and for their own broadcasts on the understanding that such recordings shall be erased or destroyed after twelve (12) months, with the exception of those that have exceptional documentary character, which may be preserved in official State archives;

- 1.10. use, for the benefit of people with a disability, which are directly related to the disability and of a non-commercial nature, to the extent required by the specific disability;
 - 1.11. use during religious celebrations or official celebrations organized by a public authority;
 - 1.12. use of works, such as works of architecture or sculpture, made to be located permanently in public places;
 - 1.13. use for the purpose of advertising the public exhibition or sale of artistic works, to the extent necessary to promote the event, excluding any other commercial use;
 - 1.14. use for the purpose of caricature, parody or pastiche;
 - 1.15. use in connection with the demonstration or repair of equipment;
 - 1.16. use of an artistic work in the form of a building or a drawing or plan of a building for the purposes of reconstructing the building;
 - 1.17. use by communication or interactive making available to the public, for the purpose of research or private study, to individual members of the public by dedicated terminals on the premises of establishments which are accessible to the public, of works and other subject-matter not subject to purchase or licensing terms which are contained in their collections;
 - 1.18. to reproduce one additional copy from a copy of any works or other subject matter that are permanently in their collections, in any format or medium, for purposes of preservation of such works or other subject matter and to the extent necessary for such preservation, for non-profit-making libraries and cultural heritage institutions. Any contractual provision contrary to this exception shall be void.
2. It shall be permitted without the consent of the author or other holder of copyright, but against the payment of equitable remuneration the reproduction of broadcasts made by social institutions pursuing non-commercial purposes, such as hospitals or prisons.
3. Any contractual provision contrary to the exceptions provided for in paragraph 1., sub-paragraphs 1.4. and 1.18. of this Article shall be void.

Article 50

Text and Data mining for the purposes of scientific research

1. Reproductions and extractions made by research organisations and cultural heritage institutions that have lawful access to the work do not infringe copyright in the work where they are made in order to carry out, for the purposes of scientific research, text and data mining of works or other subject matter.
2. Copies of works or other subject matter made in compliance with paragraph 1. of this Article shall be stored with an appropriate level of security and may be retained for the purposes of scientific research, including for the verification of research results.
3. Rightholders shall be allowed to apply measures to ensure the security and integrity of the networks and databases where the works or other subject matter are hosted. Such measures shall not go beyond what is necessary to achieve that objective.
4. Rightholders, research organisations and cultural heritage institutions shall define commonly agreed best practices concerning the application of the obligation and of the measures referred to in paragraphs 2. and 3. of this Article respectively.

Article 51

Text and Data mining

1. Reproductions and extractions of lawfully accessible works and other subject matter for the purposes of text and data mining shall be allowed.
2. Reproductions and extractions made pursuant to paragraph 1. of this Article may be retained for as long as is necessary for the purposes of text and data mining.
3. The exception or limitation provided for in paragraph 1. of this Article shall apply on condition that the use of works and other subject matter referred to in that paragraph has not been expressly reserved by their rightholders in an appropriate manner, such as machine-readable means in the case of content made publicly available online.
4. This Article shall not affect the application of Article 50 of this Law.
5. Any contractual provision contrary to the exceptions provided for in Articles 50 and 51 of this Law shall be void.

Article 52

Permitted uses of orphan works

1. Organisations referred to in paragraph 5. of this Article can use orphan works contained in their collections in the following ways:
 - 1.1. by making the orphan work available to the public;
 - 1.2. by acts of reproduction, for the purposes of digitisation, making available to the public, indexing, cataloguing, preservation or restoration.
2. The Organisations referred to in paragraph 5. of this Article shall use an orphan work in accordance with paragraph 1. of this Article only in order to achieve aims related to their public-interest missions, in particular the preservation of, the restoration of, and the provision of cultural and educational access to, works and phonograms contained in their collection.
3. The organisations referred to in paragraph 5. of this Article may generate revenues in the course of such uses, for the exclusive purpose of covering their costs of digitising orphan works and making them available to the public.
4. The Organisations referred to in paragraph 5. of this Article shall indicate the name of identified authors and other right holders in any use of an orphan work.
5. The organisations that may use orphan works are publicly accessible libraries, educational establishments and museums, as well as by archives, film or audio heritage institutions and public-service broadcasting organisations, established in the Republic of Kosovo, in order to achieve aims related to their public-interest missions.
6. The protection under this Law is without prejudice to the freedom of contract of such organisations in the pursuit of their public-interest missions, particularly in respect of public-private partnership agreements.
7. The status as orphan work will end in the case that a copyright holder subsequently becomes known or is located. In such case, the organisations referred to in paragraph 5. of this Article will be required to immediately cease using the work and will be under a duty to pay reasonable compensation to the copyright holder for any use made of the work, according to paragraph 11. of this Article.

8. Where there is more than one right holder in a work or phonogram, and not all of them have been identified or, even if identified, but are not located after a diligent search has been carried out and recorded in accordance with Article 53 of this Law, the work or phonogram may be used in accordance with this Law provided that the right holders that have been identified and located have, in relation to the rights they hold, authorized the organisations referred to paragraph 5. of this Article to carry out the acts of reproduction and making available to the public covered.

9. Paragraph 8. of this Article shall apply *mutatis mutandis* to the right holders that have not been identified and located in the works referred to in this paragraph.

10 Paragraph 8. of this Article shall be without prejudice to the rights in the work or phonogram of right holders that have been identified and located.

11. The compensation shall amount to half of the remuneration that is, usually or according to law, paid for the kind of use that has been made by the beneficiary of orphan works and the payment of such compensation shall be made within two (2) months from the end of orphan work status of a work. If the parties do not reach an agreement, the terms, the period, and the level of compensation shall be determined by a decision of the Minister of Culture of the Republic of Kosovo.

Article 53 Diligent search

1. For the purposes of establishing whether a work or phonogram is an orphan work, the organisations referred to in Article 52, paragraph 5. of this Law, shall ensure that a diligent search is carried out in good faith in respect of each work or other protected subject-matter, by consulting the appropriate sources for the category of works and other protected subject-matter in question. The diligent search shall be carried out prior to the use of the work or phonogram.

2. If there is evidence to suggest that relevant information on right holders is to be found in other countries, sources of information available in those other countries shall also be consulted.

3. The organisations referred to in Article 52, paragraph 5. of this Law, shall maintain records of their diligent searches and shall submit to the Office respectively the following information:

3.1. the results of the diligent searches that the organisations have carried out and which have led to the conclusion that a work or a phonogram is considered an orphan work;

3.2. the use that the organisations make of orphan works in accordance with this Law;

3.3. any change, pursuant to Article 52 paragraph 7. of this Law, of the orphan work status, of works or phonograms that the organisations use;

3.4. the relevant contact information of the organisation concerned.

Article 54 Sources of Diligent Search

1. The sources that shall be consulted in order to carry out the diligent search referred in Article 53 of this Law for relevant category of works include the following:

1.1. for published books:

1.1.1. legal deposit, library catalogues and authority files maintained by libraries and other institutions;

1.1.2. the publishers' and authors' associations in Republic of Kosovo;

1.1.3. existing databases and registries, WATCH (Writers, Artists and their Copyright Holders), the ISBN (International Standard Book Number) and databases listing books in print;

1.1.4. the databases of the relevant collecting societies, in particular reproduction rights organizations;

1.1.5. sources that integrate multiple databases and registries, including VIAF (Virtual International Authority Files) and ARROW (Accessible Registries of Rights Information and Orphan Works).

1.2. for newspapers, magazines, journals and periodicals:

1.2.1. the ISSN (International Standard Serial Number) for periodical publications;

1.2.2. indexes and catalogues from library holdings and collections; legal deposit, in particular national and special bibliographies;

1.2.3. databases and documentation maintained by the publishers' associations and the authors' and journalists' associations in the Republic of Kosovo;

1.2.4. the databases and documentation of relevant collecting societies including reproduction rights organizations.

1.3. for visual works, including fine art, photography, illustration, design, architecture, sketches of the latter works and other such works that are contained in books, journals, newspapers and magazines or other works:

1.3.1. the sources referred to in subparagraph 1.1. and 1.2. of this Article;

1.3.2. the databases and documentation of the relevant collecting societies, in particular for visual arts, and including reproduction rights organizations;

1.3.3. the databases of picture agencies, where applicable.

1.4. for audio-visual works and phonograms:

1.4.1. legal deposit;

1.4.2. databases and documentation maintained by the producers' associations in Republic of Kosovo;

1.4.3. databases and documentation of film and phonograms of audio heritage institutions and national libraries;

1.4.4. databases with relevant standards and identifiers such as ISAN (International Standard Audio-visual Number) for audio-visual material, ISWC (International Standard Music Work Code) for phonograms;

1.4.5. the databases and documentation of the relevant collecting societies, in particular for authors, performers, phonogram producers and audio-visual producers;

1.4.6. credits and other information appearing on the work's packaging or the subject matter's of related rights;

1.4.7. databases and documentation of other relevant associations representing a specific category of right holders.

Article 55

Use of out-of-commerce works and other subject matter by cultural heritage institutions

1. It shall be permissible, without the consent of the author, for cultural heritage institutions to make available, for non-commercial purposes, out-of-commerce works or other subject matter that are permanently in their collections, on condition that:

1.1. the name of the author or any other identifiable rightholder is indicated, unless this turns out to be impossible;

1.2. such works or other subject matter are made available on non-commercial websites.

2. The exception or limitation provided for in paragraph 1. of this Article only applies to types of works or other subject matter for which no collective management organisation exists that is, on the basis of its mandates, sufficiently representative of rightholders in the relevant type of works or other subject matter.

3. A work or other subject matter shall be deemed to be out of commerce when it can be presumed in good faith that the whole work or other subject matter is not available to the public through customary channels of commerce, after a reasonable effort has been made to determine whether it is available to the public.

4. This Article shall not apply to sets of out-of-commerce works or other subject matter if, on the basis of the reasonable effort referred to in paragraph 3. of this Article, there is evidence that such sets predominantly consist of:

4.1. works or other subject matter, other than cinematographic or audio-visual works, first published or, in the absence of publication, first broadcast in a third country;

4.2. cinematographic or audio-visual works, of which the producers have their headquarters or habitual residence in a third country; or

4.3. works or other subject matter of third country nationals, where after a reasonable effort no third country could be determined pursuant to sub-paragraphs 4.1. and 4.2. of this Article.

5. By way of derogation from sub-paragraph 4.1. of this Article, this Article shall apply where the collective management organisation is sufficiently representative of rightholders of the relevant third country.

Article 56

Publicity measures

1. Information from cultural heritage institutions, collective management organisations or relevant public authorities, for the purposes of the identification of the out-of-commerce works or other subject matter, covered by a licence granted in accordance with Article 86 paragraph 1. of this Law, or used under the exception or limitation provided for in Article 55 paragraph 1. of this Law, as well as information about the options available to rightholders as referred to in Article 86 paragraph 3. of this Law, and, as soon as it is available and where relevant, information on the parties to the licence and the uses, is made permanently, easily and effectively accessible on a public single online portal from at least six (6) months before the works or other subject matter are distributed, communicated to the public or made available to the public in accordance with the licence or under the exception or limitation.

2. If necessary for the general awareness of rightholders, additional appropriate publicity measures are taken regarding the ability of collective management organisations to license works or other subject matter in accordance with Article 55 of this Law, the licences granted, the uses under the exception or limitation provided for in Article 55 paragraph 1. of this Law and the options available to rightholders as referred to in Article 86 paragraph 3. of this Law:

2.1. if there is evidence, such as the origin of the works or other subject matter, to suggest that the awareness of rightholders could be more efficiently raised in third countries, such publicity measures shall also cover those third countries.

Article 57

Permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of blind and visually impaired persons or with reading disabilities

1. It shall be permissible, with no authorization of the author and without remuneration, to carry out any act that is necessary to enable:

1.1. a beneficiary person or a person acting on their behalf, to make an accessible format copy of a work, to which the beneficiary person has lawful access, and which is intended for their own exclusive use;

1.2. an authorised entity to make an accessible format copy of a work, to which it has lawful access, or to communicate, make available, distribute or lend this copy to a beneficiary person or another authorised entity on a non-profit basis for the purpose of exclusive use by a beneficiary person. This authorisation also encompasses illustrations of all kinds which are contained within literary or musical works.

2. A copy of a work or other protected subject matter, which in an alternative way or form enables a person who is blind or visually impaired or has reading disabilities access to the work or other subject matter, shall respect the integrity of the work or other subject matter, with due consideration given to the changes required to make the work or other subject matter accessible in the alternative format.

3. The exception provided for in paragraph 1. of this Article cannot be overridden by contract.

4. An authorised entity carrying out the acts referred to in paragraph 1. of this Article establishes and follows its own practices to ensure that it:

4.1. distributes, communicates and makes available accessible format copies only to persons with a visual impairment or reading disability or other authorised entities;

4.2. takes appropriate steps to discourage the unauthorised reproduction, distribution, communication to the public or making available to the public of accessible format copies;

4.3. demonstrates due care in, and maintains records of, its handling of works or other subject matter and of accessible format copies thereof;

4.4. publishes and updates, on its website if appropriate, or through other online or offline channels, information on how it complies with the obligations laid down in sub-paragraphs 4.1. to 4.3. of this Article;

4.5. the practices referred to in subparagraph 4.1. of this Article are established and followed in full respect of the rules applicable to the processing of personal data of persons with a visual impairment or reading disability.

5. Authorised entities established in Kosovo carrying out the acts referred to in paragraph 1. of this Article provides the following information in an accessible way, on request, to beneficiary persons, other authorised entities or rightholders:

5.1. the list of works or other subject matter for which it has accessible format copies and the available formats;

5.2. the name and contact details of beneficiary persons or another authorised entity with which it has engaged in the exchange of accessible format copies, according to paragraph 2. of this Article.

6. Authorised entities must communicate to the Office: their names and contact details and provide in an accessible way, on request, to beneficiary persons, other authorised entities or rightholders the list of works or other subject matter for which it has accessible format copies and the available formats, as well as the name and contact details of the authorised entities with which it has engaged in the exchange of accessible format copies.

7. The exception applies to all kind of works, including databases and computer programs and in relation to authors as well as related rights holders.

Article 58

Use of computer programs and databases; decompilation of computer programs

1. In the absence of specific contractual provisions, no acts shall require the authorization by the author or other owner of copyright where it is necessary for the use of a computer program by the lawful acquirer thereof, in accordance with its intended purpose, including for error correction.

2. No acts shall require the authorization by the author or other owner of copyright where it is necessary for the use of a database by the lawful acquirer thereof, in accordance with its intended purpose. Where the lawful acquirer is authorized to use only part of the database, this provision shall apply only to that part.

3. The making of a back-up copy by a person having a right to use a computer program may not be prevented by contract insofar as it is necessary for that use.

4. A person having a right to use a copy of a computer program shall be entitled, without the authorization of the author or other holder of copyright, to observe, study or test the functioning of the program in order to determine the ideas which underlie any element of the program if he does so while performing any of the acts of loading, running, transmitting or storing the program which he is entitled to do.

5. The authorization of the author or other holder of copyrights shall not be required where the reproduction of the code and translation of its form are indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, provided that the following conditions are met:

5.1. these acts are performed by the licensee or by another person having a right to use a copy of a program, or on their behalf by a person authorized to do so;

5.2. the information necessary to achieve interoperability has not previously been readily available to the persons referred to in sub-paragraph 5.1. of this Article;

5.3. these acts are confined to the parts of the original program which are necessary to achieve interoperability.

6. The provisions of paragraph 5. of this Article shall not permit the information obtained through its

application:

- 6.1. to be used for purposes other than to achieve the interoperability of the independently created computer program;
 - 6.2. to be given to others, except where necessary for the interoperability of the independently created computer program; or
 - 6.3. to be used for the development, production or marketing of a computer program substantially similar in its expression, or for any other act which infringes copyright.
7. Any contractual provisions contrary to paragraphs 2. to 6. of this Article shall be null and void.

SUBCHAPTER X LIABILITY OF ONLINE SERVICE PROVIDERS AND CERTAIN USES OF PROTECTED CONTENT BY ONLINE SERVICES

Article 59

Conditions for exemption of online service providers from liability for infringements of copyright

1. An online service provider shall only be exempted from the liability for infringements of copyright or related rights committed by the users of its service if it, as soon as it obtains information on the basis of which it knows or has reasons to know that its services are used for hosting any material infringing copyright or related rights, acts promptly to remove such a material from its system or to disable access to it.
2. The notice mentioned in paragraph 1. of this Article shall contain the following information:
 - 2.1. the subject of the infringement and the indication of the facts providing reasonable basis to believe that infringement has taken place;
 - 2.2. the data needed to identify the unlawful material;
 - 2.3. the name, address of residence or head office, phone number and electronic mail address of the owner of rights.
3. Where a notice is sent through a representative of the owner of rights, a copy of the authorisation of the representative, along with the information mentioned in subparagraph 2.3. of this Article concerning the representative, shall also be attached to the notice.

Article 60

Removing or disabling access to infringing material and counter-notice

1. The online service provider shall remove, or disable access to, the infringing material identified in the notice within twenty-four (24) hours of receiving the notice and should promptly inform about this the owner of rights and the user of its service.
2. The user of the service may send a counter-notice to the online service provider to demand the re-inclusion of the material in the system of the service provider or re-establishing access to it, respectively. Such counter-notice shall contain the following information:
 - 2.1. identification of the material removed or made inaccessible;
 - 2.2. the network address where the material had been available;

2.3. indication of the reasons for which, in view of the user of the service, the material concerned does not infringe the right of the owner of rights specified in the notice;

2.4. information mentioned in sub-paragraph 2.3. of this Article concerning the user of the service.

3. Where the user of the service does not send a counter-notice or where the counter-notice does not fulfil the requirements mentioned in paragraph 2. of this Article, the service provider shall maintain the effect of the removal of, or disabling access to, the material concerned.

4. In case of a counter-notice, the online service provider shall inform about it and its contents the owner of rights within three (3) days of the receipt of the counter-notice. Where the owner of rights, within ten (10) days of the receipt of such information, does not present a document to the online service provider proving that he has initiated a civil procedure or has announced the case for the initiation of a criminal procedure due to the alleged infringement, the online service provider shall fulfil the demand of the user of the service presented in the counter-notice. Where the owner of rights presents a document mentioned in the preceding sentence, the online service provider shall maintain the effect of the removal of, or disabling access to, the material concerned until an interim or final decision of the court.

5. The owner of rights shall be obligated to inform the online service provider within three (3) days of any interim or final decision in substance of the case, and the online service provider, depending on the contents of the decision, shall either maintain the effect of the removal, or disabling access to, the material concerned or, within forty-eight (48) hours, shall re-include, or re-establish access to, it.

Article 61

Exemption of liability of the online service provider

The online service provider shall not be liable for the removal of, or disabling access to, any material in accordance with the provisions of this Law.

Article 62

Liability for unjustified removal or disabling of material

Where the removal of, or disabling access to, the material concerned turns out to be unjustified due to absence of infringement, the owner of rights shall be liable, in accordance with the rules of civil liability, for any damage caused to the user of the service.

Article 63

Use of protected content by online content-sharing service providers

1. An online content-sharing service provider performs an act of communication to the public or an act of making available to the public for the purposes of this Law when it gives the public access to copyright-protected works or other protected subject matter uploaded by its users. An online content-sharing service provider shall therefore obtain an authorisation from the rightholders by concluding a licensing agreement, in order to communicate to the public or make available to the public works or other subject matter.

2. Where an online content-sharing service provider obtains an authorisation, by concluding a licensing agreement, that authorisation shall also cover acts carried out by users of the services falling within the scope of the right of communication to the public and the right of making available to the public of works and other subject-matter when they are not acting on a commercial basis or where their activity does not generate significant revenues.

3. If no authorisation is granted, online content-sharing service providers shall be liable for unauthorised acts of communication to the public, including making available to the public, of

copyright-protected works and other subject matter, unless the service providers demonstrate that they have:

- 3.1. made best efforts to obtain an authorization;
 - 3.2. made, in accordance with high industry standards of professional diligence, best efforts to ensure the unavailability of specific works and other subject matter for which the rightholders have provided the service providers with the relevant and necessary information; and in any event;
 - 3.3. acted expeditiously, upon receiving a sufficiently substantiated notice from the rightholders, to disable access to, or to remove from their websites, the notified works or other subject matter, and made best efforts to prevent their future uploads in accordance with subparagraph 3.2. of this Article.
4. In determining whether the service provider has complied with its obligations under paragraph 3. of this Article, and in light of the principle of proportionality, the following elements, among others, shall be taken into account:
- 4.1. the type, the audience and the size of the service and the type of works or other subject matter uploaded by the users of the service;
 - 4.2. the availability of suitable and effective means and their cost for service providers.
5. In respect of new online content-sharing service providers the services of which have been available to the public in Kosovo for less than three (3) years and which have an annual turnover below ten (10) million euros, the conditions under the liability regime set out in paragraph 3. of this Article are limited to compliance with sub-paragraph 1. of paragraph 3. of this Article and to acting expeditiously, upon receiving a sufficiently substantiated notice, to disable access to the notified works or other subject matter or to remove those works or other subject matter from their websites:
- 5.1. where the average number of monthly unique visitors of such service providers exceeds five (5) million, calculated on the basis of the previous calendar year, they shall also demonstrate that they have made best efforts to prevent further uploads of the notified works and other subject matter for which the rightholders have provided relevant and necessary information.
6. The cooperation between online content-sharing service providers and rightholders shall not result in the prevention of the availability of works or other subject matter uploaded by users, which do not infringe copyright and related rights, including where such works or other subject matter are covered by an exception or limitation.
7. In case of counter-notice by the users of the service provided by the internet service providers, the rules defined in Article 60 of this Law *mutatis mutandis* shall apply.
8. Online content-sharing service providers shall inform their users in their terms and conditions that they can use works and other subject matter under exceptions or limitations to copyright and related rights provided for in this Law.
9. The application of this Article shall not lead to any general monitoring obligation. Online content-sharing service providers shall provide rightholders, at their request, with adequate information on the functioning of their practices with regard to the cooperation referred to in paragraph 3. of this Article and, where licensing agreements are concluded between service providers and rightholders, information on the use of content covered by the agreements.
10. Where rightholders request to have access to their specific works or other subject matter

disabled or to have those works or other subject matter removed, they shall duly justify the reasons for their requests. The online content-sharing service providers shall make available to the users of their services the possibility of a counter-notice to the online content-sharing service provider to demand the re-inclusion of the material in the system of the online content-sharing service provider or re-establishing access to it, respectively. Counter-notices shall be processed without undue delay and decisions to disable Access to or remove uploaded content shall be subject to human review. If the final decision by online content-sharing service providers in relation to content that is blocked is to keep the content unavailable, users may initiate a mediation procedure as provided for in Article 122, sub-paragraph 1.5. of this Law.

11. Provisions under this article shall in no way affect legitimate uses, such as uses under exceptions or limitations provided for in the law and shall not lead to any identification of individual users nor to the processing of personal data.

SUBCHAPTER XI DURATION OF PROTECTION OF COPYRIGHT

Article 64 Duration of protection of moral rights

1. The right of disclosure, the right to claim authorship and to be named and the right of integrity moral rights of authors provided under Articles 18, 19 and 20 of this Law shall be protected without any time limit. After the death of the author, the protection of these rights shall be assumed by the physical person or legal entity entrusted with this by the author in his will; in the absence of such person or legal entity, by the heirs of the authors, and also in the absence of heirs, by any organizations assuming the defense of authors' rights.

2. The right of withdrawal provided under Article 21 of this Law shall be protected only during the life of the author.

Article 65 Terms of protection of economic rights

1. The exclusive economic rights and the rights to remuneration provided for in this Law for works (hereinafter: the economic rights), shall be protected throughout the lifetime of the author and for seventy (70) years after his death computed from January 1 of the year following that of his death.

2. The economic rights in a work of co-authorship, shall be protected until the death of the last surviving joint author and, after his death, for seventy (70) years computed from January 1 of the year following that of his death.

3. The economic rights in an audio-visual work shall be protected for seventy (70) years computed from January 1 of the year following the year of the death of the last of the following co-authors to survive:

3.1. the principal director;

3.2. the author of the scenario;

3.3. the author of the dialogue;

3.4. the composer of the music specifically created for use in the audio-visual work.

4. The economic rights in an anonymous or pseudonymous work shall be protected for seventy (70) years computed from January 1 of the year following that of its lawful making the work available to

the public. Where such a work is not made lawfully available to the public within seventy (70) years of its creation, the copyright protection shall terminate. However, when a pseudonym adopted by the author leaves no doubt as to his identity, the provisions of paragraph 1. of this Article shall apply. The provisions of paragraph 1. of this Article shall apply also where the author of an anonymous or pseudonymous work reveals his identity or if his identity becomes obvious during that period of time.

5. For the term of protection of the economic rights in collective works, the provisions of paragraph 4. of this Article shall apply. However, where the authors of contributions to the collective work may be identified, in respect of those contributions, the provisions of paragraph 1. or 2. of this Article apply, respectively.

6. Where a work is published in volumes, parts, installments, issues or episodes and the term of protection runs from the time when the work was lawfully made available to the public, the terms of protection provided for in paragraphs 1. to 5. of this Article shall run for each such item separately.

7. If the term of protection of the economic rights of a work in its country of origin is longer than the term of protection provided for in this Law, the provisions of this Law shall apply; if it is shorter, the term of protection provided for in the country of origin shall apply (comparison of terms).

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

9. Upon the expiry of the term of protection of the economic rights, the works shall fall into the public domain. Works in the public domain may be used freely subject to the respect for the moral rights of authors as provided for in Article 64, paragraph 1. of this law and to the rights provided for in Article 66 and 67 of this Law.

10. When the term of protection of a work of visual art has expired, any material resulting from an act of reproduction of that work is not subject to copyright or related rights, unless the material resulting from that act of reproduction is original in the sense that it is the author's own intellectual creation.

Article 66

Rights in works fallen into the public domain

1. Any person who, after the expiry of the protection of the economic rights of authors shall benefit from a protection equivalent to the economic rights of authors when:

1.1. for the first time lawfully publishes or lawfully broadcasts, communicates to the public or interactively makes available to the public a previously unpublished work;

1.2. publishes a critical and scientific publication of a work.

2. The term of protection, in the case of the rights mentioned in sub-paragraph 1.1. of this Article, shall be twenty-five (25) years from the time when the work was first published or lawfully broadcast, communicated to the public or interactively made available to the public, and, in the case of the rights mentioned in sub-paragraph 1.2. of this Article, shall be thirty (30) years from the time when the publication was first lawfully published.

Article 67

Works of visual art in the public domain

When the term of protection of a work of visual art has expired, any material resulting from an act of reproduction of that work is not subject to copyright or related rights, unless the material resulting from that act of reproduction is original in the sense that it is the author's own intellectual creation.

CHAPTER III RELATED RIGHTS

SUBCHAPTER I GENERAL PROVISIONS

Article 68

No formality as a condition of protection; presumption of related rights protection

1. The acquisition, enjoyment and exercise of related rights shall not be subject to compliance with any formality. In the absence of proof to the contrary, the physical person or legal entity whose name appears on a fixation of a performance, a phonogram, a first fixation of a film, a fixation of a broadcast or a database, or in connection with the use of such objects of related rights, in the usual manner, shall be deemed to be the performer, producer of the phonogram, producer of the first fixation of the film, broadcaster or producers of the database, respectively.

2. In order to indicate their rights, producers of phonograms and performers may place a notice on each copy of a phonogram or on each phonogram sleeve, to be comprised of the following three elements:

- 2.1. a circled capital letter P: (P);
- 2.2. the name (designation) of the holder of the exclusive related rights;
- 2.3. the year of first publication of the phonogram.

SUBCHAPTER II RIGHTS OF PERFORMERS

Article 69

Moral rights of performers

The provisions of Articles 19, 20 and 22 of this Law on the right to claim authorship and to be named, the right of integrity and the exercise of moral rights shall be applied *mutatis mutandis* for the moral rights of performers.

Article 70

Exclusive rights of performers

1. Performers shall have exclusive rights to authorize or prohibit the following acts:

- 1.1. fixation of their unfixed performances;
- 1.2. reproduction of the fixations of their performances;
- 1.3. distribution of the fixations of their performances;
- 1.4. rental of the fixations of their performances;
- 1.5. lending of the fixations of their performances;
- 1.6. broadcasting of their performances, except for the cases where a performance has been previously fixed or broadcast;
- 1.7. communication to the public of their performances, except for the cases where a

- performance has been previously fixed or broadcast;
- 1.8. retransmission of their performances;
- 1.9. cable retransmission of their performances;
- 1.10. interactive making available of the fixations of their performances.
2. In the case of a collective performance, authorization for the acts mentioned in paragraph 1. of this Article may be granted by the representative of the performers participating in such a performance.
3. The conclusion of a contract on the inclusion of a performance in an audio-visual work, unless otherwise provided in this Law or in a contract, shall imply the assignment of the performer's rights mentioned in paragraph 1. of this Article.
4. For each transferred property right according to paragraph 3. of this Article, the performer has the right on equitable remuneration from the film producer. This equitable remuneration mentioned shall be collected by the collective management organization entrusted with this function by a common agreement of the representatives of the interested owners of rights and, in the absence of agreement, the collective management organization to be determined by the Office.
5. A performer cannot waive the right referred to in paragraph 4. of this Article.

Article 71

Assignment of performer's property rights in a sound recording

1. If, fifty (50) years after the phonogram was lawfully published or, failing such publication, fifty (50) years after it was lawfully communicated to the public, the phonogram producer does not offer copies of the phonogram for sale in sufficient quantity or does not make it available to the public, by wire or wireless means, in such a way that members of the public may access it from a place and at a time individually chosen by them, the performer may terminate the contract by which the performer has transferred or assigned his rights in the fixation of his performance to a phonogram producer.
2. The right to terminate the contract on transfer or assignment may be exercised if the producer, within a year from the notification by the performer of his intention to terminate the contract on transfer or assignment, fails to carry out both of the acts of exploitation referred to in the paragraph 1. of this Article. If at the end of the period of twelve (12) months beginning with the date of notice, the producer has not met the above mentioned conditions, the agreement is terminated and the rights in the sound recording expire with immediate effect. This right to terminate the contract may not be waived by the performer.
3. Where a phonogram contains the fixation of the performances of a plurality of performers, they may terminate their contracts on transfer or assignment. If the contract on transfer or assignment is terminated pursuant to this paragraph, the rights of the phonogram producer in the phonogram shall expire.
4. Where a contract on transfer or assignment gives the performer a right to claim a non-recurring remuneration, the performer shall have the right to obtain an annual supplementary remuneration from the phonogram producer for each full year immediately following the 50th year after the phonogram was lawfully published or, failing such publication, the 50th year after it was lawfully communicated to the public. The right to obtain such annual supplementary remuneration may not be waived by the performer.
5. The overall amount to be set aside by a phonogram producer for payment of the annual supplementary remuneration referred to in paragraph 3. of this Article shall correspond to twenty percent (20%) of the revenue which the phonogram producer has derived, during the year preceding

that for which the said remuneration is paid, from the reproduction, distribution and making available to the public of the phonogram in question, following the 50th year after it was lawfully published or, failing such publication, the 50th year after it was lawfully communicated to the public.

6. Phonogram producers are required on request to provide to performers who are entitled to the annual supplementary remuneration referred to paragraph 4. of this Article any information which may be necessary in order to secure payment of that remuneration.

7. Where a performer is entitled to recurring payments, neither advance payments nor any contractually defined deductions shall be deducted from the payments made to the performer following the 50th year after the phonogram was lawfully published or, failing such publication, the 50th year after it was lawfully communicated to the public

SUBCHAPTER III RIGHTS OF PRODUCERS OF PHONOGRAMS

Article 72 Exclusive rights of producers of phonograms

1. Producers of phonograms shall have exclusive rights to authorize or prohibit the following acts:

- 1.1. reproduction of their phonograms;
- 1.2. distribution of their phonograms;
- 1.3. rental and public lending of their phonograms;
- 1.4. retransmission of their phonograms;
- 1.5. cable retransmission of their phonograms;
- 1.6. interactive making available of their phonograms.

Article 73 Right to single remuneration for use phonograms published for commercial purposes

1. In case of broadcasting or communication to the public of a phonogram published for commercial purposes, the performers whose performances are fixed on such phonograms and the producers of phonograms shall have a single right to an equitable remuneration.

2. The right to equitable remuneration mentioned in paragraph 1. of this Article may only be exercised through a collective management organization according to paragraph 4. of this Article.

3. For the establishment of the amount of remuneration and other conditions of the payment of the equitable remuneration mentioned in paragraph 1. of this Article, and the settlement of possible disputes between the parties concerned, Articles 122 and 123 of this Law shall apply, on the understanding, that the parties concerned which shall try to establish the amount of the remuneration are the collective management organization mentioned in paragraph 4. of this Article, on the one hand, and the representatives of those physical persons and legal entities who or which perform acts mentioned in paragraph 1. of this Article, on the other hand. For the establishment of the amount of remuneration and other conditions of the payment, Article 102 of this law shall apply.

4. Unless otherwise provided in an agreement between the representatives of the interested performers and producers of phonograms:

4.1. the equitable remuneration mentioned in paragraph 1. of this Article shall be collected by the collective management organization entrusted with this function by a common agreement of the representatives of the interested owners of rights and, in the absence of agreement, the collective management organization to be determined by the Office;

4.2. after the deduction of the actual cost of management, in the absence of agreement between the performers and the producers of phonograms, shall be distributed in equal shares – 50%-50% – between those performers and producers of phonograms about whose performances and phonograms, respectively, may be presumed that they have been used as mentioned in paragraph 1. of this Article.

5. The manner of determination by the Office of the collective management organization which will collect the equitable remuneration mentioned in paragraph 1. of this Article shall be regulated by a sub-legal act approved by the Minister of Culture.

SUBCHAPTER IV RIGHTS OF FILM PRODUCERS

Article 74 Rights of film producers

1. Producers of films shall have the exclusive right to authorize or prohibit the following acts in respect of the original or copies of their films:

- 1.1. reproduction of their films;
- 1.2. distribution of their films,
- 1.3. rental and public lending of copies of their films;
- 1.4. the interactive making available to the public of their films.

2. Where the first fixation of a film also qualifies as an audio-visual work and the producer of the film, in its quality as the producer of the audio-visual work, is the owner of copyright in the audio-visual work, his or its related rights as the producer of the film and the copyright of which he or it is the owner shall be applied in parallel and independently from each other.

SUBCHAPTER V RIGHTS OF BROADCASTING ORGANIZATIONS

Article 75 Rights of broadcasting organizations

1. Broadcasting organizations shall enjoy the exclusive right to authorize or to prohibit the following acts in respect of:

- 1.1. fixation of their broadcasts;
- 1.2. reproduction of the fixations of their broadcasts;
- 1.3. distribution of the fixations of their broadcasts;
- 1.4. retransmission of their broadcasts;

- 1.5. cable retransmission of their broadcasts;
 - 1.6. communication of their broadcasts to the public in places to the admission to which a charge is made;
 - 1.7. interactive making available to the public of the fixations of their broadcast.
2. Radio or television organizations shall not have the right provided for in sub-paragraph 1.5. of this Article, when they merely retransmit by cable the broadcasts of a radio or television organization.

SUBCHAPTER VI RIGHTS IN PUBLICATIONS

Article 76 Protection of press publications concerning online uses

1. Publishers of press publications established in Kosovo have the exclusive right to authorise or prohibit:
- 1.1. direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part;
 - 1.2. or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them;
 - 1.3. for the online use of their press publications by information society service providers.
2. The rights provided for in subparagraph 1.1. of this Article shall not apply to private or non-commercial uses of press publications by individual users. The protection granted under subparagraph 1.1. of this Article shall not apply to acts of hyperlinking. The rights provided for in subparagraph 1.1. of this Article shall not apply in respect of the use of individual words or very short extracts of a press publication.
3. The rights provided for in paragraph 1. of this Article shall not be invoked against those authors and other rightholders and, in particular, shall not deprive them of their right to exploit their works and other subject matter independently from the press publication in which they are incorporated.
4. When a work or other subject matter is incorporated in a press publication on the basis of a non-exclusive licence, the rights provided for in paragraph 1. of this Article shall not be invoked to prohibit the use by other authorised users. The rights provided for in paragraph 1. of this Article shall not be invoked to prohibit the use of works or other subject matter for which protection has expired.
5. Authors of works incorporated in a press publication receive an appropriate share of the revenues that press publishers receive for the use of their press publications by information society service providers. This share shall be defined by a specific agreement following negotiations in good faith between professional organisations of the press publishers and professional organisations of the authors or their respective collecting societies

SUBCHAPTER VII DURATION OF RELATED RIGHTS

Article 77 Term of protection of related rights

1. The provisions of Article 64 paragraph 1. of this Law on the duration of protection of the moral rights of authors shall be applied, *mutatis mutandis*, to the moral rights of performers.
2. The term of protection of the economic rights of performers shall be fifty (50) years after the date of their performances. However, if a fixation of a performance is not a phonogram and is lawfully published or lawfully broadcast, communicated to the public or interactively made available to the public within fifty (50) years from the date of a performance, the term is fifty (50) years from the date of the first such publication, broadcasting, communication to the public or interactive making available to the public, whichever is the earlier. If a fixation of a performance in a phonogram is lawfully published or lawfully broadcast, communicated to the public or interactively made available to the public within this period, the term is seventy (70) years from the date of the first such publication, broadcasting, communication to the public or interactive making available to the public, whichever is the earlier.
3. The term of protection of the rights of producers of phonograms shall expire fifty (50) years after the fixation of the phonogram is made. However, if the phonogram has been lawfully published within this period, the said rights shall expire seventy (70) years from the date of the first lawful publication. If no lawful publication has taken place within the period mentioned in the first sentence, and if the phonogram has been lawfully communicated to the public within this period, the said rights shall expire seventy (70) years from the date of the first lawful communication to the public. If the term of protection had expired on December 22nd, 2002, then the rights of producers of phonograms are not protected.
4. The term of protection of the rights of producers of films shall expire fifty (50) years after the fixation is made. However, if the film is lawfully published or lawfully broadcast, communicated to the public or interactively made available during this period, the rights shall expire from the date of the first such publication or the first such broadcasting, communication to the public or interactive making available to the public, whichever is the earlier.
5. The term of protection of the rights of broadcasting organizations shall expiry fifty (50) years after the first transmission of a broadcast.
6. The term of protection of rights of publishers in press publications provided for in Article 76 paragraph 1. of this Law shall expire two (2) years after the press publication is published. That term shall be calculated from 1 January of the year following the date on which that press publication is published. This paragraph shall not apply to press publications first published before 6 June 2019.
7. The term of protection provided in paragraphs 2. to 6. of this Article shall be calculated from January 1 of the year following the year in which the event serving as a basis of its calculation took place.
8. Article 65 paragraph 7. of this Law on the comparison of terms shall apply, *mutandis mutandis*, to the terms of protection of related rights.

CHAPTER IV SUI GENERIS PROTECTION OF THE RIGHTS OF MAKERS OF DATABASES

Article 78 Object of Protection

A maker of a database that shows that there has been qualitatively and/or quantitatively a substantial investment in either the obtaining, verification or presentation of the contents shall have a right to prevent extraction and/or re-utilization of the whole or of a substantial part, evaluated qualitatively and/or quantitatively, of the contents of that database.

Article 79 Independence of protection

1. The right provided for in Article 78 of this Law shall apply irrespective of the eligibility of that database for protection by copyright or by other rights, which means, inter alia, that, where a database is protected by copyright and the maker of the database is the owner of copyright in the database, his or its sui generis right provide for in Article 78 of this Law and the copyright of which he or it is the owner shall be applied in parallel and independently from each other.

2. The right provided for in Article 78 of this law shall apply irrespective of the eligibility of the contents of the database for protection by copyright or by other rights, and the protection of databases under that right shall be without prejudice to the rights existing in respect of their contents.

Article 80 Repeated and systematic acts concerning insubstantial parts of databases

The repeated and systematic extraction and/or reutilization of insubstantial parts of the contents of a database implying acts which conflict with a fair exploitation of the database or which unreasonably prejudice the legitimate interests of the producer of the database shall not be permitted.

Article 81 Rights and obligations of lawful users of databases

1. The producer of a database which is made available to the public in whatever manner may not prevent a lawful user of the database from extracting and/or re-utilizing insubstantial parts of its contents, evaluated qualitatively and/or quantitatively, for any purposes whatsoever. Where the lawful user is authorized to extract and/or re-utilize only part of the database, this paragraph shall apply only to that part. Any provision contrary to this paragraph shall be null and void.

2. A lawful user of a database which is made available to the public in whatever manner may not perform acts which conflict with normal exploitation of the database or unreasonably prejudice the legitimate interests of the producer of the database.

3. A lawful user of a database which is made available to the public in any manner may not cause prejudice to the holder of a copyright or related rights in respect of the works or other objects of protection contained in the database.

Article 82 Exceptions to the rights of producers of databases

1. Lawful users of a database which is made available to the public in whatever manner may, without the authorization of its producer, extract or re-utilize a substantial part of its contents:

1.1. in the case of extraction for private purposes of the contents of a non-electronic database;

1.2. in the case of extraction for the purposes of illustration for teaching or scientific research, provided that the source is indicated and to the extent justified by the non-commercial purpose to be achieved;

1.3. in the case of extraction and/or re-utilization for the purposes of public security or an administrative or judicial procedure.

Article 83

Term of protection of the right of producers of databases

1. The right provided for in Article 78 of this law shall be protected from the date of completion of the making of the database until the expiry of fifteen (15) years calculated from January 1 of the year following the date of completion.

2. In the case of a database which is made available to the public in whatever manner before the expiry of the period provided for in paragraph 1. of this Article, the term of protection of the right of the producer of the database shall expire fifteen (15) years calculated from January 1 of the year following the date when the database was first made available to the public.

3. Any substantial change, evaluated qualitatively or quantitatively, to the contents of a database, including any substantial change resulting from the accumulation of successive additions, deletions or alterations, which would result in the database being considered to be a substantially new investment, evaluated qualitatively or quantitatively, shall qualify the database resulting from that investment for its own term of protection.

Article 84

Beneficiaries of protection of the rights of producers of databases

The right provided for in Article 78 of this Law shall apply to databases whose producers or owners of rights are nationals of the Republic of Kosovo or who have their habitual residence in the territory of the Republic of Kosovo, or the works that were published for the first time in the territory of the Republic of Kosovo.

CHAPTER V

COLLECTIVE MANAGEMENT OF COPYRIGHT AND RELATED RIGHTS

SUB-CHAPTER I

GENERAL PROVISIONS

Article 85

Functions, Rights and Obligations of Collective Management Organisations

1. Collective management organizations shall have, on behalf of the owners of rights and on the basis of the powers given to them, the following functions:

1.1. to negotiate with users, the amount of remuneration for, and other conditions, of the use of works or objects of related rights in respect of which they have mandate to manage rights;

1.2. to issue to users licenses for the use of works or objects of related rights, in respect of which they have been given mandate for managing rights;

1.3. to collect remuneration stipulated by the licenses in accordance with sub-paragraph 1.2. of this Article or that are due on the basis of a mere right to remuneration managed by them;

1.4. to distribute and pay out in due time the remuneration collected by them as equitably and

- as much in proportion with the value and actual use of works and objects of related rights concerned as possible;
- 1.5. to represent the owners of rights whose rights they manage in judicial or administrative procedures and perform any other legal acts necessary for the protection and enforcement of the rights managed by them;
- 1.6. to perform any other activity pursuant to the powers received from the owners of rights.
2. Collective management organizations shall be entitled to require users of works and objects of related rights to provide them, under reasonable conditions, with programs and other documents specifying the works and objects of related rights in respect of which any use covered by a right collectively managed takes place as well as any information necessary for the calculation, collection and distribution of remuneration.
3. Collective management organizations shall have the obligation, in the interests of the holders of copyright and related rights:
- 3.1. to use the remuneration obtained exclusively for distribution and payment to the owners of copyright and related rights; on the understanding, however, that they shall be entitled to deduct from the amount of the remuneration collected the amount necessary to cover the actual costs incurred in connection with the collective management of rights and any amount intended for a special fund set up by the organization to the extent that it has been authorized by the owners of rights either directly or – in the case of foreign owners of rights – by the collective management organizations representing them;
- 3.2. to distribute, after deduction of the amounts referred to in sub-paragraph 3.1 of this Article, the remuneration collected and effect its regular payment, as much in proportion to the actual use of works and objects of related rights;
- 3.3. simultaneously with the payment of the remuneration, to render accounts to the owners of copyright and related rights of the use of their rights.
4. In the case of extended collective management, those owners of copyright or related rights who are neither members of the collective management organization nor have entrusted it with the management of their rights otherwise, and who have not withdrawn their rights from the repertoire of the organization in accordance with Article 86, paragraph 3. of this Law, shall be entitled to the same remuneration as the members of the organization and those who otherwise have entrusted it with the management of their rights.
5. Collective management organization shall be entitled to dispose of the amounts of remuneration collected from users that have not been claimed within three (3) years from the end of the year in which they have been collected, either by adding them to the amounts to be distributed or by allocating them to other purposes for the benefit of the owners of copyright and related rights.

Article 86

Mandatory and extended collective management

1. In accordance with the corresponding provisions of this law, the following rights may only be exercised through a collective management organization accredited for this purpose by the Office:
- 1.1. the right to equitable remuneration for private copying of works and objects of related rights as provided for in Article 47, paragraph 1. of this Law;
- 1.2. the right to equitable remuneration for reprographic reproduction as provided for in Article 48, paragraph 2. of this Law;

1.3. the right to equitable remuneration of authors and performers preserved after the transfer of their exclusive right of rental to producers of phonograms or audio-visual works as provided for in Article 25 of this Law;

1.4. the right to remuneration for lending as provided in Article 31 paragraph 2. of this law;

1.5. the right of the author to receive a royalty based on the sale price obtained for any acts of resale, subsequent to the first transfer of ownership of an original work of art by its author as provided for in Article 32, paragraph 1. of this Law;

1.6. the right of performers and producers of phonograms to a single equitable remuneration for broadcasting and communication to the public of phonograms published for commercial purposes as provided for in Article 73 of this Law;

1.7. the right of retransmission of works and objects of related rights as provided for in Article 23, sub-paragraph 1.7. of this Law, except in respect of broadcasting organisations' own transmission, irrespective of whether the rights concerned are their own or have been assigned to them by other right holders;

1.8. the right of cable retransmission of works and objects of related rights as provided for in Article 23, sub-paragraph 1.8. of this Law, except in respect of broadcasting organisations own transmission, irrespective of whether the rights concerned are their own or have been assigned to them by other right holders;

1.9. the right to obtain an annual supplementary remuneration as provided for in Article 71 paragraph 4. of this Law.

2. In the case of the following rights, the effect of a license for uses granted by a collective management organization on behalf of those owners of rights who are its members, or who otherwise have entrusted it with the management of their rights, shall be extended also to those owners of rights who are neither its members, nor have entrusted it otherwise with the management of their rights, provided that the owners of rights concerned have not withdrawn their rights from the repertoire of the collective management organization on the basis of paragraph 3. of this Article:

2.1. the right of public performance, broadcasting - except for broadcasting by satellite where it is not simultaneous with a terrestrial broadcasting by the same broadcasting organization – communication to the public, public communication by loudspeaker or any other instruments transmitting by sounds of broadcast works, and interactive making available to the public in respect of non-dramatic musical works and excerpts from dramatico-musical works;

2.2. the right of recording musical works on phonograms in those cases where the authors have already authorized such recording for a producer of phonograms;

2.3. the right to equitable remuneration of authors and performers preserved after the transfer of their exclusive rights to producers of audio-visual works as provided for in Article 14 paragraph 3. and 4. and Article 70 paragraph 4. of this Law;

2.4. the right of performers of interactive making available to the public of their performances fixed on phonograms

2.5. the right of reproduction, distribution, communication to the public or making available to the public of out-of-commerce works or other subject matter that are permanently in the collection of cultural heritage institutions by means of a non-exclusive licence for non-commercial purposes with the cultural heritage institution;

2.6. the right of making available to the public and the right of reproduction, for the purposes of

digitisation, making available to the public, indexing, cataloguing, preservation or restoration of orphan works, that are in the collections of publicly accessible libraries, educational establishments and museums, as well as archives, film or audio heritage institutions and public-service broadcasting organisations, established in the Republic of Kosovo;

2.7. the right of communication to the public and the right of making available to the public of works and other subject-matter used by online content-sharing providers when they are not acting on a commercial basis or where their activity does not generate significant revenues (extended collective management).

3. In the case of extended collective management provided for in paragraph 2. of this Article, all rightholders may, at any time, easily and effectively, exclude their works or other subject matter from the licensing mechanism. They shall notify in writing the collective management organization not later than six (6) months before the end of each calendar year that they withdraw their rights from the collective management system. Such withdrawal shall take effect on January 1 of the year after which such a notification is made.

4. A collective management organization, in accordance with its mandates from rightholders, may conclude an extended collective license, irrespective of whether all rightholders covered by the licence have mandated the collective management organisation, on condition that:

4.1. the collective management organisation is, on the basis of its mandates, sufficiently representative of rightholders in the relevant type of works or other subject matter and of the rights that are the subject of the licence;

4.2. all rightholders are guaranteed equal treatment in relation to the terms of the licence;

4.3. information about the ability of the collective management organisation to license works or other subject matter, about the licensing taking place in accordance with this Article and about the options available to rightholders as referred to in paragraph 3. of this Article, is made available to the public, through an easily and effectively accessible to the public single online portal from at least six (6) months before the works or other subject matter are used under the licence set out in paragraph 2. of this Article.

5. Regular dialogue between representative users and rightholders organisations, including collective management organisations, and any other relevant stakeholder organisations, on a sector-specific basis, to foster the relevance and usability of the licensing mechanisms set out in paragraph 2. of this Article and to ensure that the safeguards for rightholders referred to in this Article are effective shall take place.

SUBCHAPTER II AUTHORISATION TO CONDUCT COLLECTIVE MANAGEMENT

Article 87 Establishment of collective management organizations

1. Authors, performers, producers of phonograms and other owners of copyright and related rights may establish organizations for collective management of their economic rights (hereinafter: collective management organizations).

2. Unless the collective management of copyright or related rights directly follows on a provision of this Law, a collective management organization is established voluntarily by the owners of rights on the basis of transferring their rights to the organization in accordance with the statutes of the organization for the purpose of their collective management. In case of any doubts, it shall be presumed that an owner of rights transfers his rights for such a purpose both in respect of his

existing works and any works that he creates during the validity of his agreement with the collective management organization.

3. Collective management organizations shall carry out their activities in accordance with the provisions of this Law and other relevant laws of the Republic of Kosovo, on the basis of their own statutes, and within the limits of the mandate they receive from the owners of copyright or related rights.

Article 88 **Accreditation of collective management organisations**

1. An organization may function as a collective management organization if it:

1.1. has the status of a non-profit making organization;

1.2. is licensed as a collective management organization by the Minister at the proposal of the Office.

2. The Office shall propose to the Minister to grant accreditation to an organization to function as a collective management organization if it fulfils the following criteria:

2.1. its membership, or the circle of those owners of rights who otherwise have entrusted it with management of rights, extends to a substantial part of owners of rights, and any owner of rights in the same category may join it in accordance with its statutes;

2.2. it has entered into reciprocal representation agreements with organizations representing foreign owners of rights in the same category, or at least it makes all the necessary efforts to conclude such agreements;

2.3. it has the capacity to manage the economic right concerned, including appropriate staff and technical equipment;

2.4. it has at its disposal adequate mechanisms for the collection, distribution and payment of remuneration;

2.5. it guarantees equal treatment both to owners of rights and to users;

2.6. its activities do not extend to any commercial or other profit-making purposes;

2.7. its statute and other regulations are in accordance with the provisions of this Law and other relevant laws of the Republic of Kosovo.

3. An organization that submits a request for accreditation to the Office shall make available all information and all relevant documents that are necessary for the Office to propose to the Minister to make a decision on the request.

4. The fact of the accreditation of an association as collective management organization, along with the indication of the rights and categories of owners of rights to which the collective management extends, shall be published in the official website of the Ministry.

5. When more than one organization submits requests for licensing to carry out collective management of the same category of rights, of the same category of rights owners, the organization that best meets the conditions mentioned in paragraph 2. of this Article shall be licensed.

6. Accreditation may be refused only if:

- 6.1. the statute of the collective management organization does not comply with the provisions of this Law;
- 6.2. there is a reason to believe that a person entitled by law or the statutes to represent the collective management organization does not possess the trustworthiness needed for the exercise of his/her functions; or
- 6.3. it is unlikely, in view of the economic basis of the collective management organization, that the rights entrusted to it will be effectively administered.
7. When the license of an organization, such as a collective management organization, is refused, the organization can file a lawsuit against the decision in court.
8. The respective Ministry on Culture, by sub-legal act, shall define the procedure and other conditions that shall be fulfilled in accordance with this law for accreditation, refusal of accreditation and of withdrawing the accreditation from the Organisation of Collective Management.

SUBCHAPTER III REPRESENTATION OF RIGHTHOLDERS, MEMBERSHIP AND ORGANIZATION OF COLLECTIVE MANAGEMENT ORGANISATIONS

Article 89

Operational standards of collective management organisations

1. Collective management organisations shall carry out all the tasks within the scope of their activities in such a manner as to ensure the achievement of the maximum possible level of effectiveness, good business practice, economic efficiency and transparency.
2. Collective management organisations act in the best interests of the rightholders whose rights they represent and that they do not impose on them any obligations which are not objectively necessary for the protection of their rights and interests or for the effective management of their rights. 'Management fees' means the amounts charged, deducted or offset by a collective management organisation from rights revenue or from any income arising from the investment of rights revenue in order to cover the costs of its management of copyright or related rights.
3. Exceptionally, by the Statute of a collective management organisation, the organization may stipulate that a particular portion of such funds shall be allocated for cultural purposes and for the improvement of the pension, health and social status of its members. The amount of funds allocated for such purposes shall not exceed ten percent (10%) of the net income of the collective management organisation.
4. Collective management organisations shall adhere to the international and generally accepted rules, standards and principles which apply to collective rights management in practice, in particular to those which relate to professional support service, determination of remuneration rate for the use of works, documentation and the international exchange thereof, as well as to the calculation and distribution of remunerations to the domestic and foreign authors.

Article 90

Rights of the rightholders

1. Rightholders shall have the right to authorise a collective management organisation of their choice to manage the rights, categories of rights or types of works and other subject-matter of their choice. Unless the collective management organisation has objectively justified reasons to refuse management, it shall be obliged to manage such rights, categories of rights or types of works and other subject-matter, provided that their management falls within the scope of its activity.

2. Rightholders shall have the right to grant licences for non-commercial uses of any rights, categories of rights or types of works and other subject-matter that they may choose.

3. Rightholders shall have the right to terminate the authorisation to manage rights, categories of rights or types of works and other subject-matter granted by them to a collective management organisation or to withdraw from a collective management organisation any of the rights, categories of rights or types of works and other subject-matter of their choice, upon serving reasonable notice not exceeding six (6) months. The collective management organisation may decide that such termination or withdrawal is to take effect only at the end of the financial year.

4. If there are amounts due to a rightholder for acts of exploitation which occurred before the termination of the authorisation or the withdrawal of rights took effect, or under a licence granted before such termination or withdrawal took effect, the rightholder shall retain his rights under this Law.

5. A collective management organisation shall not restrict the exercise of rights provided for under paragraphs 3. and 4. of this Article by requiring, as a condition for the exercise of those rights, that the management of rights or categories of rights or types of works and other subject-matter which are subject to the termination or the withdrawal be entrusted to another collective management organisation.

6. In cases where a rightholder authorises a collective management organisation to manage his rights, he shall give consent specifically for each right or category of rights or type of works and other subject-matter which he authorises the collective management organisation to manage. Any such consent shall be evidenced in documentary form.

7. A collective management organisation shall inform rightholders of their rights under paragraphs 1. to 6. of this Article, as well as of any conditions attached to the right set out in paragraph 2. of this Article, before obtaining their consent to its managing any right or category of rights or type of works and other subject-matter.

Article 91

Membership rules of collective management organisations

1. A collective management organisation shall accept rightholders and entities representing rightholders, including other collective management organisations and associations of rightholders, as members if they fulfil the membership requirements, which shall be based on objective, transparent and non-discriminatory criteria. Those membership requirements shall be included in the statute or membership terms of the collective management organisation and shall be made publicly available. In cases where a collective management organisation refuses to accept a request for membership, it shall provide the rightholder with a clear explanation of the reasons for its decision.

2. The statute of a collective management organisation shall provide for appropriate and effective mechanisms for the participation of its members in the organisation's decision-making process. The representation of the different categories of members in the decision-making process shall be fair and balanced.

3. A collective management organisation shall allow its members to communicate with it by electronic means, including for the purposes of exercising members' rights.

4. A collective management organisation shall keep records of its members and shall regularly update those records.

5. At least thirty percent (30%) of members of the collective management organisation may ask from one or more independent auditors to conduct auditing of collective management organisation's activity.

Article 92**Rights of rightholders who are not members of the collective management organization**

Collective management organisations shall comply with the rules laid down under this Law in respect of rightholders who have a direct legal relationship by law or by way of assignment, licence or any other contractual arrangement with them but are not their members.

Article 93**General assembly of members of the collective management organization**

1. A general assembly of members shall be convened at least once a year.
2. The general assembly of members shall decide on any amendments to the statute and to the membership terms of the collective management organisation, where those terms are not regulated by the statute.
3. The general assembly of members shall decide on the appointment or dismissal of the directors, review their general performance and approve their remuneration and other benefits such as monetary and non-monetary benefits, pension awards and entitlements, rights to other awards and rights to severance pay. Directors are any member of the management board and the supervisory board:
 - 3.1. in a collective management organisation with a dual board system, the general assembly of members shall not decide on the appointment or dismissal of members of the management board or approve their remuneration and other benefits where the power to take such decisions is delegated to the supervisory board.
4. The general assembly of members shall decide at least on the following issues:
 - 4.1. the general policy on the distribution of amounts due to rightholders;
 - 4.2. the general policy on the use of non-distributable amounts;
 - 4.3. the general investment policy with regard to rights revenue and to any income arising from the investment of rights revenue;
 - 4.4. the general policy on deductions from rights revenue and from any income arising from the investment of rights revenue;
 - 4.5. the use of non-distributable amounts;
 - 4.6. the risk management policy;
 - 4.7. the approval of any acquisition, sale or hypothecation of immovable property;
 - 4.8. the approval of mergers and alliances, the setting-up of subsidiaries, and the acquisition of other entities or shares or rights in other entities;
 - 4.9. the approval of taking out loans, granting loans or providing security for loans.
5. The general assembly of members shall control the activities of the collective management organisation by, at least, deciding on the appointment and removal of the auditor and approving the annual transparency report. The general assembly of members may delegate the powers listed in sub-paragraphs 4.5., 4.6., 4.7. and 4.8. of paragraph 4. of this Article, by a resolution or by a provision in the statute, to the body exercising the supervisory function.

6. All members of the collective management organisation shall have the right to participate in, and the right to vote at, the general assembly of members. Restrictions on the right of the members of the collective management organisation to participate in, and to exercise voting rights at, the general assembly of members, are allowed on the basis of one or both of the following criteria:

6.1. duration of membership;

6.2. amounts received or due to a member.

7. Provided that such criteria are determined and applied in a manner that is fair and proportionate. The criteria laid down in paragraph 6. of this Article shall be included in the statute or the membership terms of the collective management organisation and shall be made publicly available.

8. Every member of a collective management organisation shall have the right to appoint any other person or entity as a proxy holder to participate in, and vote at, the general assembly of members on his behalf, provided that such appointment does not result in a conflict of interest which might occur, for example, where the appointing member and the proxy holder belong to different categories of rightholders within the collective management organisation.

9. Each proxy shall be valid for a single general assembly of members. The proxy holder shall enjoy the same rights in the general assembly of members as those to which the appointing member would be entitled. The proxy holder shall cast votes in accordance with the instructions issued by the appointing member.

Article 94

Supervisory council of collective management organization

1. In addition to the general assembly of members, each collective management organization establishes a supervisory board for ensuring current control of collective management organization activities, exercise of powers delegated by a general assembly meeting, monitoring of its activities as foreseen by the statute of collective management organization.

2. Representatives of different categories of right holders, who are collective management organization's members, shall be represented in a fair and balanced way in the supervisory board. Third parties who are not members of collective management organization can be part of the supervisory board, provided that their professional experience enables them to fulfill the supervising functions.

3. The supervisory board reports to the general assembly of collective management organization's members at least once a year.

4. In addition to a report on supervisory board's activities, its representatives annually report to the general assembly of collective management organization's members on absence or presence of possible conflicts of interests that hinder them from further carrying out their duties.

5. Members of the collective management organization or organization on whose behalf they manage rights under a representation agreement have right to file a written request for Mediation to the Supervisory board, particularly in relation to authorization to manage rights and termination or withdrawal of rights, membership terms, the collection of amounts due to right holders, deductions and distributions.

6. Collective management organization are obliged to respond in writing to complaints by members or by collective management organisations on whose behalf they manage rights under a representation agreement. Where the collective management organisation rejects a complaint, it shall give reasons.

7. The Supervisory Board shall promptly discuss the manner in which the mediation shall be conducted and provide the parties with a written note informing them of the manner in which the mediation shall be conducted. In conducting the mediation, the Supervisory Board shall be guided by the wishes of the parties and shall treat them with fairness and impartiality. Each party shall act in good faith throughout the mediation.

8. The Supervisory Board may demand reports from the President, the Director General and the Heads of Sections. The Supervisory Board is obliged to examine the annual report, the budget, the balance sheet and the income and expenditure account, before any decision.

9. Mediation proceedings shall terminate after the occurrence of the earliest of:

9.1. the signing by the parties of a settlement agreement;

9.2. the notification in writing made to the Supervisory Board by any party, at any time after it has received the Supervisory Board's note referred to in paragraph 6. of this Article, that such party has decided no longer to pursue the mediation;

9.3. the notification in writing by the Supervisory Board to the parties that, in the Supervisory Board's opinion, the mediation will not resolve the dispute between the parties;

9.4. the notification in writing by the Supervisory Board to the parties that any time limit set for the Proceedings, including any extension thereof, has expired.

10. If, as a result, no agreement can be achieved between the parties, a court has to make a decision.

Article 95

Obligations of the persons who manage the business of the collective management organization

1. Persons who manage its business do so in a sound, prudent and appropriate manner, using sound administrative and accounting procedures and internal control mechanisms.

2. Collective management organisations shall put in place and apply procedures to avoid conflicts of interest, and where such conflicts cannot be avoided, to identify, manage, monitor and disclose actual or potential conflicts of interest in such a way as to prevent them from adversely affecting the collective interests of the rightholders whom the organisation represents.

3. The procedures referred to in paragraph 1. of this Article shall include an annual individual statement by each of the persons referred to in paragraph 1. of this Article to the general assembly of members, containing the following information:

3.1. any interests in the collective management organisation;

3.2. any remuneration received in the preceding financial year from the collective management organisation, including in the form of pension schemes, benefits in kind and other types of benefits;

3.3. any amounts received in the preceding financial year as a rightholder from the collective management organisation;

3.4. a declaration concerning any actual or potential conflict between any personal interests and those of the collective management organisation or between any obligations owed to the collective management organisation and any duty owed to any other natural or legal person.

SUB-CHAPTER IV MANAGEMENT OF RIGHTS REVENUE

Article 96 Collection and use of rights revenue

1. A collective management organisation shall be diligent in the collection and management of rights revenue.
2. A collective management organisation shall keep separate in its accounts:
 - 2.1. rights revenue and any income arising from the investment of rights revenue;
 - 2.2. any own assets it may have and income arising from such assets, from management fees or from other activities.
3. A collective management organisation shall not be permitted to use rights revenue or any income arising from the investment of rights revenue for purposes other than distribution to rightholders, except where it is allowed to deduct or offset its management fees in compliance with a decision taken in accordance with sub-paragraph 4.4. of Article 93 of this Law or to use the rights revenue or any income arising from the investment of rights revenue in compliance with a decision taken in accordance with paragraph 4. Article 93 of this Law.
4. Where a collective management organisation invests rights revenue or any income arising from the investment of rights revenue, it shall do so in the best interests of the rightholders whose rights it represents, in accordance with the general investment and risk management policy referred to in sub-paragraphs 4.3. and 4.5. of Article 93 of this Law and having regard to the following rules:
 - 4.1. where there is any potential conflict of interest, the collective management organisation shall ensure that the investment is made in the sole interest of those rightholders;
 - 4.2. the assets shall be invested in order to ensure the security, quality, liquidity and profitability of the portfolio as a whole;
 - 4.3. the assets shall be properly diversified in order to avoid excessive reliance on any particular asset and accumulations of risks in the portfolio as a whole.

Article 97 Deductions

1. The collective management organisation is required to provide the rightholder with information on management fees and other deductions from the rights revenue and from any income arising from the investment of rights revenue, before obtaining his consent to its managing his rights.
2. Deductions shall be reasonable in relation to the services provided by the collective management organisation to rightholders, including, where appropriate, the services referred to in paragraph 4. of this Article, and shall be established on the basis of objective criteria.
3. Management fees shall not exceed the justified and documented costs incurred by the collective management organisation in managing copyright and related rights. The requirements applicable to the use and the transparency of the use of amounts deducted or offset in respect of management fees apply to any other deductions made in order to cover the costs of managing copyright and related rights.
4. Where a collective management organisation provides social, cultural or educational services funded through deductions from rights revenue or from any income arising from the investment of

rights revenue, such services shall be provided on the basis of fair criteria, in particular as regards access to, and the extent of, those services.

Article 98

Rules related to the distribution of amounts due to rightholders

1. Each collective organization shall regularly, diligently and accurately distribute the entire revenue derived from its activity to the rightholders who concluded with it the contract referred to in Article 91 paragraph 1. of this Law, as well as to those who manage their rights in the Republic of Kosovo on the basis of the contract concluded between that collective organization and a foreign collective organization, in accordance with the annual plan adopted by the General Assembly of the collective organization.

2. By the Statute of the collective organization shall be specified the basic principles and rules of the distribution of revenue, ensuring that the distribution is proportional, appropriate and fair, and effectively prevent any arbitrariness.

3. Collective management organisations or their members who are entities representing rightholders shall distribute and pay those amounts to rightholders as soon as possible but no later than nine (9) months from the end of the financial year in which the rights revenue was collected, unless objective reasons relating in particular to reporting by users, identification of rights, rightholders or matching of information on works and other subject-matter with rightholders prevent the collective management organisation or, where applicable, its members from meeting that deadline.

4. Where the amounts due to rightholders cannot be distributed within the deadline set in paragraph 3. of this Article because the relevant rightholders cannot be identified or located and the exception to that deadline does not apply, those amounts shall be kept separate in the accounts of the collective management organisation.

5. The collective management organisation shall take all necessary measures, consistent with paragraphs 2. and 3. of this Article, to identify and locate the rightholders. In particular, at the latest three (3) months after the expiry of the deadline set in paragraph 3. of this Article, the collective management organisation shall make available information on works and other subject-matter for which one or more rightholders have not been identified or located to:

5.1. the rightholders that it represents or the entities representing rightholders, where such entities are members of the collective management organisation;

5.2. all collective management organisations with which it has concluded representation agreements;

5.3. the information referred to in sub-paragraph 5.1. of this Article shall include, where available, the following:

5.3.1. the title of the work or other subject-matter;

5.3.2. the name of the rightholder;

5.3.3. the name of the relevant publisher or producer;

5.3.4. any other relevant information available which could assist in identifying the rightholder.

5.4. the collective management organisation shall also verify the records referred to in Article 91 paragraph 4. of this Law and other readily available records. If the abovementioned measures fail to produce results, the collective management organisation shall make that

information available to the public at the latest one (1) year after the expiry of the three (3) month period.

6. Where the amounts due to rightholders cannot be distributed after three (3) years from the end of the financial year in which the collection of the rights revenue occurred, and provided that the collective management organisation has taken all necessary measures to identify and locate the rightholders referred to in paragraph 3. of this Article, those amounts shall be deemed non-distributable.

7. The general assembly of members of a collective management organisation shall decide on the use of the non-distributable amounts in accordance with sub-paragraph 4.2. of Article 93 of this Law, without prejudice to the right of rightholders to claim such amounts from the collective management organization.

SUBCHAPTER V MANAGEMENT OF RIGHTS ON BEHALF OF OTHER COLLECTIVE MANAGEMENT ORGANISATIONS

Article 99

Rights managed under representation agreements

A collective management organisation shall not discriminate against any rightholder whose rights it manages under a representation agreement, in particular with respect to applicable tariffs, management fees, and the conditions for the collection of the rights revenue and distribution of amounts due to rightholders.

Article 100

Deductions and payments in representation agreements

1. A collective management organisation shall not make deductions, other than in respect of management fees, from the rights revenue derived from the rights it manages on the basis of a representation agreement, or from any income arising from the investment of that rights revenue, unless the other collective management organisation that is party to the representation agreement expressly consents to such deductions.

2. The collective management organisation shall regularly, diligently and accurately distribute and pay amounts due to other collective management organisations.

3. The collective management organisation shall carry out such distribution and payments to the other collective management organisation as soon as possible but no later than nine (9) months from the end of the financial year in which the rights revenue was collected, unless objective reasons relating in particular to reporting by users, identification of rights, rightholders or matching of information on works and other subject-matter with rightholders prevent the collective management organisation from meeting that deadline:

3.1. the other collective management organisation, or, where it has as members entities representing rightholders, those members, shall distribute and pay the amounts due to rightholders as soon as possible but no later than six (6) months from receipt of those amounts, unless objective reasons relating in particular to reporting by users, identification of rights, rightholders or matching of information on works and other subject-matter with rightholders prevent the collective management organisation or, where applicable, its members from meeting that deadline.

SUBCHAPTER VI RELATIONS WITH USERS OF RIGHTS

Article 101 Licensing by collective management organization

1. Collective management organisations and users conduct negotiations for the licensing of rights in good faith. Collective management organisations and users shall provide each other with all necessary information.
2. Licensing terms shall be based on objective and non-discriminatory criteria. When licensing rights, collective management organisations shall not be required to use, as a precedent for other online services, licensing terms agreed with a user where the user is providing a new type of online service which has been available to the public in the Republic of Kosovo for less than three (3) years.
3. Collective management organisations shall reply without undue delay to requests from users, indicating, inter alia, the information needed in order for the collective management organisation to offer a licence. Upon receipt of all relevant information, the collective management organisation shall, without undue delay, either offer a licence or provide the user with a reasoned statement explaining why it does not intend to license a particular service.
4. A collective management organisation shall allow users to communicate with it by electronic means, including, where appropriate, for the purpose of reporting on the use of the licence.

Article 102 Establishment of tariffs, amounts of remuneration and related licensing conditions

1. Rightholders shall receive appropriate remuneration for the use of their rights as specified in Article 41 of this Law. Tariffs for exclusive rights and rights to remuneration shall be reasonable in relation to, inter alia, the economic value of the use of the rights in trade, taking into account the nature and scope of the use of the work and other subject-matter, as well as in relation to the economic value of the service provided by the collective management organisation. Collective management organisations shall inform the user concerned of the criteria used for the setting of those tariffs.
2. When establishing the tariffs, in particular the following criteria shall be taken into account:
 - 2.1. the income that may be obtained as a result of the use of a work or object of related rights;
 - 2.2. the capacity of the place where works or objects of related rights are used;
 - 2.3. the size of the public to which the works or objects of related rights are made available;
 - 2.4. the geographical location of the use of works or objects of related rights that may have impact on the intensity of uses and/or the financial resources of users;
 - 2.5. where the income does not reflect the nature of the use of the works or objects of related rights, the costs emerging with their use or the impact on their normal exploitation by the owners of rights;
 - 2.6. importance of the use of works or objects of related rights for the relevant activities of the users;
 - 2.7. the proportion between protected and non-protected works or objects of related rights used;

- 2.8. comparability of the proposed tariffs with the tariffs of similar collective organizations in other countries, in particular those which are more or less similar to the Republic of Kosovo from the viewpoint of their economic situation and standards of living.
3. Within six (6) months, and in the case of tariffs for retransmission and cable retransmission, nine (9) months before the beginning of every calendar year, the collective management organization shall submit to the Office draft tariffs of remuneration to be paid by users of the works or other productions in respect of which it carries out collective management of rights or by those who are otherwise obligated to pay remuneration for rights collectively managed by the organization.
4. The tariffs applied for the use of works or objects of related rights by broadcasting organizations and online content providers should be differentiated in accordance with the nature of the incomes of such organizations and content providers, in the sense that they should be lower in case of incomes derived from subsidies to cover operational costs, higher in case of incomes from subscription services and particularly higher in case of incomes received from advertisers and commercial sponsors. Where no source of income of online service providers may be identified, the tariff is to be established as a lump sum taking into account the size of the public to which the works or objects of related rights are made available and the impact of such a use on the normal exploitation of works or objects of related rights by the owners of rights.
5. The tariffs applied for retransmission and cable retransmission shall also reflect the number of households connected to the cable systems and the number and nature of programs retransmitted.
6. Within the period mentioned in paragraph 1. of this Article, the collective management organization shall either publish the draft tariffs on its electronically accessible information system (hereinafter: website) or shall request that, at the costs of the organization, the Office publish them on its website. When the tariffs are published on the website of the collective management organization, the Office shall publish on its website a notice on the electronic availability of the tariffs.
7. If within thirty (30) days from the publication of the tariffs, no representative organization or other jointly empowered representative of the interested users or other physical persons or legal entities obligated to pay remuneration (hereinafter: the users' representative) informs the collective management organization and the Office that it does not accept the tariffs, it shall be regarded that the tariffs are adopted for the following calendar year.
8. Where the users' representative, within the deadline mentioned in paragraph 7. of this Article, informs the collective management organization and the Office that it or he does not accept the tariffs, the adoption of the tariffs shall be suspended for maximum sixty (60), and in the case of tariffs for retransmission and cable retransmission, for maximum one hundred twenty (120) days counted from the end of the deadline mentioned in paragraph 6. of this Article. During the sixty (60) or one hundred twenty (120) days, respectively, the collective management organization and the users' representative shall undertake good faith negotiations in order to reach agreement on the tariffs, for which they may request mediation service as provided in Article 122 of this Law. Parties may initiate mediation only within the deadline mentioned in this paragraph. In case of an agreement reached between the collective management organization and the users' representative within the sixty (60) days or one hundred twenty (120) days deadline, respectively, they inform about this the Office, and it shall be regarded that the tariffs are adopted for the following calendar year.
9. Where the collective management organization and the users' representative are not able to reach agreement within the deadline mentioned in paragraph 8. of this Article, and no mediation has taken place or, although mediation has taken place, no settlement proposal has been submitted by the mediators, the users' representative may initiate, within ten (10) days, an arbitration procedure as provided in Article 123 of this Law or bring an action before the competent court. The expression of opposition may only be regarded as valid if the party concerned simultaneously initiates an arbitration procedure or brings an action before the competent court. If the ten (10) days deadline expires without initiation of an arbitration or a court procedure, the tariffs shall be regarded as

adopted for the following year.

10. Where the tariffs are adopted either on the basis of the preceding paragraphs or as a result of the arbitration procedure or possible court procedure, the tariffs shall be published in the official gazette at the costs of the collective management organization.

11. Where the tariffs are not adopted before the beginning of the following calendar year, as long as they are not adopted, the previously adopted tariffs shall apply. Where there is no previously adopted tariffs, the users or other physical persons or legal entities who or which are obligated to pay remuneration, as long as the new tariffs are not adopted, shall pay sixty percent (60%) of the amount of the draft tariffs to the collective management organization.

12. Where, under the finally adopted arbitration award or court decision, the amount of the tariffs is established at a level lower than the sixty percent (60%) of the amount of the draft tariffs, the collective management organization shall pay back the difference to those from whom it has collected the remuneration under paragraph 11. of this Article.

Article 103 **User's obligations**

Users shall provide a collective management organisation, within an agreed or pre-established time and in an agreed or pre-established format, with such relevant information at their disposal on the use of the rights represented by the collective management organisation as is necessary for the collection of rights revenue and for the distribution and payment of amounts due to rightholders. When deciding on the format for the provision of such information, collective management organisations and users shall take into account, as far as possible, voluntary industry standards.

SUBCHAPTER VII **TRANSPARENCY AND REPORTING**

Article 104 **Information provided to rightholders on the management of their rights**

1. A collective management organisation makes available, not less than once a year, to each rightholder to whom it has attributed rights revenue or made payments in the period to which the information relates, at least the following information:

- 1.1. any contact details which the rightholder has authorised the collective management organisation to use in order to identify and locate the rightholder;
- 1.2. the rights revenue attributed to the rightholder;
- 1.3. the amounts paid by the collective management organisation to the rightholder per category of rights managed and per type of use;
- 1.4. the period during which the use took place for which amounts were attributed and paid to the rightholder, unless objective reasons relating to reporting by users prevent the collective management organisation from providing this information;
- 1.5. deductions made in respect of management fees;
- 1.6. deductions made for any purpose other than in respect of management fees, including those that may be required by national law for the provision of any social, cultural or educational services;

1.7. any rights revenue attributed to the rightholder which is outstanding for any period.

2. Where a collective management organisation attributes rights revenue and has as members entities which are responsible for the distribution of rights revenue to rightholders, the collective management organisation shall provide the information listed in paragraph 1. of this Article to those entities, provided that they do not have that information in their possession. These entities shall make at least the information listed in paragraph 1. of this Article available, not less than once a year, to each rightholder to whom they have attributed rights revenue or made payments in the period to which the information relates.

Article 105

Information provided to other collective management organisations on the management of rights under representation agreements

1. A collective management organisation makes at least the following information available, not less than once a year and by electronic means, to collective management organisations on whose behalf it manages rights under a representation agreement, for the period to which the information relates:

1.1. the rights revenue attributed, the amounts paid by the collective management organisation per category of rights managed, and per type of use, for the rights it manages under the representation agreement, and any rights revenue attributed which is outstanding for any period;

1.2. deductions made in respect of management fees;

1.3. deductions made for any purpose other than in respect of management fees as referred to in Article 100 of this Law;

1.4. information on any licences granted or refused with regard to works and other subject-matter covered by the representation agreement;

1.5. resolutions adopted by the general assembly of members in so far as those resolutions are relevant to the management of the rights under the representation agreement.

Article 106

Information provided to rightholders, other collective management organisations and users on request

1. In response to a duly justified request, a collective management organisation makes at least the following information available by electronic means and without undue delay to any collective management organisation on whose behalf it manages rights under a representation agreement or to any rightholder or to any user:

1.1. the works or other subject-matter it represents, the rights it manages, directly or under representation agreements, and the territories covered; or

1.2. where, due to the scope of activity of the collective management organisation, such works or other subject-matter cannot be determined, the types of works or of other subject-matter it represents, the rights it manages and the territories covered.

Article 107

Disclosure of information to the public

1. A collective management organisation shall make public at least the following information:

1.1. its statute;

- 1.2. its membership terms and the terms of termination of authorisation to manage rights, if these are not included in the statute;
 - 1.3. standard licensing contracts and standard applicable tariffs, including discounts;
 - 1.4. the list of the persons who manage the organisation;
 - 1.5. its general policy on distribution of amounts due to rightholders;
 - 1.6. its general policy on management fees;
 - 1.7. its general policy on deductions, other than in respect of management fees, from rights revenue and from any income arising from the investment of rights revenue, including deductions for the purposes of social, cultural and educational services;
 - 1.8. a list of the representation agreements it has entered into, and the names of the collective management organisations with which those representation agreements have been concluded;
 - 1.9. the general policy on the use of non-distributable amounts;
 - 1.10. the complaint handling and dispute resolution procedures available in accordance with Articles 94 and 102 of this Law.
2. The collective management organisation shall publish, and keep up to date, on its public website the information referred to in paragraph 1. of this Article.

Article 108 **Annual transparency report**

1. A collective management organization shall draw up and make public an annual transparency report, including the special report referred to in paragraph 3. of this Article, for each financial year no later than eight (8) months following the end of that financial year. The collective management organisation shall publish on its website the annual transparency report, which shall remain available to the public on that website for at least five (5) years.
2. The annual transparency report shall contain at least the following information:
 - 2.1. financial statements comprising a balance-sheet or a statement of assets and liabilities, an income and expenditure account for the financial year and a cash-flow statement;
 - 2.2. a report on the activities in the financial year;
 - 2.3. information on refusals to grant a licence pursuant to Article 101 paragraph 3. of this law;
 - 2.4. a description of the legal and governance structure of the collective management organisation;
 - 2.5. information on any entities directly or indirectly owned or controlled, wholly or in part, by the collective management organisation;
 - 2.6. information on the total amount of remuneration paid to the persons referred in Article 94 paragraph 4. of this Law and for the persons that manage the organisation in the previous year, and on other benefits granted to them;
 - 2.7. the following financial information:

2.7.1. financial information on rights revenue, per category of rights managed and per type of use (e.g. broadcasting, online, public performance), including information on the income arising from the investment of rights revenue and the use of such income (whether it is distributed to rightholders or other collective management organisations, or otherwise used);

2.7.2. financial information on the cost of rights management and other services provided by the collective management organisation to rightholders, with a comprehensive description of at least the following items:

2.7.2.1. all operating and financial costs, with a breakdown per category of rights managed and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs;

2.7.2.2. operating and financial costs, with a breakdown per category of rights managed and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs, only with regard to the management of rights, including management fees deducted from or offset against rights revenue or any income arising from the investment of rights revenue;

2.7.2.3. operating and financial costs with regard to services other than the management of rights, but including social, cultural and educational services;

2.7.2.4. resources used to cover costs;

2.7.2.5. deductions made from rights revenues, with a breakdown per category of rights managed and per type of use and the purpose of the deduction, such as costs relating to the management of rights or to social, cultural or educational services;

2.7.2.6. the percentages that the cost of the rights management and other services provided by the collective management organisation to rightholders represents compared to the rights revenue in the relevant financial year, per category of rights managed, and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs.

2.7.3. financial information on amounts due to rightholders, with a comprehensive description of at least the following items:

2.7.3.1. the total amount attributed to rightholders, with a breakdown per category of rights managed and type of use;

2.7.3.2. the total amount paid to rightholders, with a breakdown per category of rights managed and type of use;

2.7.3.3. the frequency of payments, with a breakdown per category of rights managed and per type of use;

2.7.3.4. the total amount collected but not yet attributed to rightholders, with a breakdown per category of rights managed and type of use, and indicating the financial year in which those amounts were collected;

2.7.3.5. the total amount attributed to but not yet distributed to rightholders, with

a breakdown per category of rights managed and type of use, and indicating the financial year in which those amounts were collected;

2.7.3.6. where a collective management organisation has not carried out the distribution and payments within the deadline set in the present Law, the reasons for the delay;

2.7.3.7. the total non-distributable amounts, along with an explanation of the use to which those amounts have been put.

2.7.4. information on relationships with other collective management organisations, with a description of at least the following items:

2.7.4.1. amounts received from other collective management organisations and amounts paid to other collective management organisations, with a breakdown per category of rights, per type of use and per organisation;

2.7.4.2. management fees and other deductions from the rights revenue due to other collective management organisations, with a breakdown per category of rights, per type of use and per organisation;

2.7.4.3. management fees and other deductions from the amounts paid by other collective management organisations, with a breakdown per category of rights and per organisation;

2.7.4.4. amounts distributed directly to rightholders originating from other collective management organisations, with a breakdown per category of rights and per organisation.

2.8. a special report on the use of any amounts deducted for the purposes of social, cultural and educational services.

3. A special report described in sub-paragraph 2.8. of this Article shall address the use of the amounts deducted for the purposes of social, cultural and educational services and shall contain at least the following information:

3.1. the amounts deducted for the purposes of social, cultural and educational services in the financial year, with a breakdown per type of purpose and, for each type of purpose, with a breakdown per category of rights managed and per type of use;

3.2. an explanation of the use of those amounts, with a breakdown per type of purpose including the costs of managing amounts deducted to fund social, cultural and educational services and of the separate amounts used for social, cultural and educational services.

4. The accounting information included in the annual transparency report shall be audited by one or more persons empowered by law to audit accounts. The audit report, including any qualifications thereto, shall be reproduced in full in the annual transparency report. For the purposes of this paragraph, accounting information shall comprise the financial statements referred to in sub-paragraph 2.1 of this Article and any financial information referred to in sub-paragraph 2.7. and 2.8. of this Article.

SUBCHAPTER VIII
MULTI-TERRITORIAL LICENSING OF ONLINE RIGHTS IN MUSICAL WORKS BY
COLLECTIVE MANAGEMENT ORGANISATIONS

Article 109
Capacity to process multi-territorial licenses

1. A collective management organisation which grants multi-territorial licences for online rights in musical works shall have sufficient capacity to process electronically, in an efficient and transparent manner, data needed for the administration of such licences, including for the purposes of identifying the repertoire and monitoring its use, invoicing users, collecting rights revenue and distributing amounts due to rightholders.

2. For the purposes of paragraph 1. of this Article, a collective management organisation shall comply, at least, with the following conditions:

2.1. to have the ability to identify accurately the musical works, wholly or in part, which the collective management organisation is authorised to represent;

2.2. to have the ability to identify accurately, wholly or in part, with respect to each relevant territory, the rights and their corresponding rightholders for each musical work or share therein which the collective management organisation is authorised to represent;

2.3. to make use of unique identifiers in order to identify rightholders and musical works, taking into account, as far as possible, voluntary industry standards and practices developed at international level;

2.4. to make use of adequate means in order to identify and resolve in a timely and effective manner inconsistencies in data held by other collective management organisations granting multi-territorial licences for online rights in musical works.

Article 110
Transparency of multi-territorial repertoire information

1. A collective management organisation which grants multi-territorial licences for online rights in musical works provides to online service providers, to rightholders whose rights it represents and to other collective management organisations, by electronic means, in response to a duly justified request, up-to-date information allowing the identification of the online music repertoire it represents. This shall include:

1.1. the musical works represented;

1.2. the rights represented wholly or in part;

1.3. the territories covered.

2. The collective management organisation may take reasonable measures, where necessary, to protect the accuracy and integrity of the data, to control their reuse and to protect commercially sensitive information.

Article 111
Accuracy of multi-territorial repertoire information

1. A collective management organisation which grants multi-territorial licences for online rights in musical works shall have in place arrangements to enable rightholders, other collective management organisations and online service providers to request a correction of the data referred to in the list

of conditions under Article 109 paragraph 2. of this law or the information provided under Article 110 of this law, where such rightholders, collective management organisations and online service providers, on the basis of reasonable evidence, believe that the data or the information are inaccurate in respect of their online rights in musical works. Where the claims are sufficiently substantiated, the collective management organisation shall ensure that the data or the information are corrected without undue delay.

2. The collective management organisation shall provide rightholders whose musical works are included in its own music repertoire and rightholders who have entrusted the management of their online rights in musical works to it in accordance with Article 116 of this Law with the means of submitting to it in electronic form information concerning their musical works, their rights in those works and the territories in respect of which the rightholders authorise the organisation. When doing so, the collective management organisation and the rightholders shall take into account, as far as possible, voluntary industry standards or practices regarding the exchange of data developed at international level, allowing rightholders to specify the musical work, wholly or in part, the online rights, wholly or in part, and the territories in respect of which they authorise the organisation.

3. Where a collective management organisation mandates another collective management organisation to grant multi-territorial licences for the online rights in musical works under Articles 114 and 115 of this law, the mandated collective management organisation shall also apply paragraph 2. of this Article with respect to the rightholders whose musical works are included in the repertoire of the mandating collective management organisation, unless the collective management organisations agree otherwise.

Article 112

Accurate and timely reporting and invoicing

1. A collective management organisation shall monitor the use of online rights in musical works which it represents, wholly or in part, by online service providers to which it has granted a multi-territorial licence for those rights.

2. The collective management organisation shall offer online service providers the possibility of reporting by electronic means the actual use of online rights in musical works and online service providers shall accurately report the actual use of those works. The collective management organisation shall offer the use of a least one method of reporting which takes into account voluntary industry standards or practices developed at international or Union level for the electronic exchange of such data. The collective management organisation may refuse to accept reporting by the online service provider in a proprietary format if the organisation allows for reporting using an industry standard for the electronic exchange of data.

3. The collective management organisation shall invoice the online service provider by electronic means. The collective management organisation shall offer the use of a least one format which takes into account voluntary industry standards or practices developed at international or Union level. The invoice shall identify the works and rights which are licensed, wholly or in part, on the basis of the data referred to in the list of conditions under Article 109 paragraph 2. of this law, and the corresponding actual uses, to the extent that this is possible on the basis of the information provided by the online service provider and the format used to provide that information. The online service provider may not refuse to accept the invoice because of its format if the collective management organisation is using an industry standard.

4. The collective management organisation shall invoice the online service provider accurately and without delay after the actual use of the online rights in that musical work is reported, except where this is not possible for reasons attributable to the online service provider.

5. The collective management organisation shall have in place adequate arrangements enabling the online service provider to challenge the accuracy of the invoice, including when the online service

provider receives invoices from one or more collective management organisations for the same online rights in the same musical work.

Article 113

Accurate and timely payment to rightholders

1. Without prejudice to paragraph 3. of this Article, a collective management organisation which grants multi-territorial licences for online rights in musical works shall distribute amounts due to rightholders accruing from such licences accurately and without delay after the actual use of the work is reported, except where this is not possible for reasons attributable to the online service provider.

2. Without prejudice to paragraph 3. of this Article, the collective management organisation shall provide at least the following information to rightholders together with each payment it makes under paragraph 1. of this Article:

2.1. the period during which the uses took place for which amounts are due to rightholders and the territories in which the uses took place;

2.2. the amounts collected, deductions made and amounts distributed by the collective management organisation for each online right in any musical work which rightholders have authorised the collective management organisation, wholly or in part, to represent;

2.3. the amounts collected for rightholders, deductions made, and amounts distributed by the collective management organisation in respect of each online service provider.

3. Where a collective management organisation mandates another collective management organisation to grant multi-territorial licences for the online rights in musical works under Articles 114 and 115 of this law, the mandated collective management organisation shall distribute the amounts referred to in paragraph 1. of this Article accurately and without delay, and shall provide the information referred to in paragraph 2. of this Article to the mandating collective management organisation. The mandating collective management organisation shall be responsible for the subsequent distribution of such amounts and the provision of such information to rightholders, unless the collective management organisations agree otherwise.

Article 114

Agreements between collective management organisations for multi-territorial licensing

1. Any representation agreement between collective management organisations whereby a collective management organisation mandates another collective management organisation to grant multi-territorial licences for the online rights in musical works in its own music repertoire shall be of a non-exclusive nature. The mandated collective management organisation shall manage those online rights on a non-discriminatory basis.

2. The mandating collective management organisation shall inform its members of the main terms of the agreement, including its duration and the costs of the services provided by the mandated collective management organisation.

3. The mandated collective management organisation shall inform the mandating collective management organisation of the main terms according to which the latter's online rights are to be licensed, including the nature of the exploitation, all provisions which relate to or affect the licence fee, the duration of the licence, the accounting periods and the territories covered.

Article 115

Obligation to represent another collective management organisation for multi-territorial licensing

1. Where a collective management organisation which does not grant or offer to grant multi-territorial licences for the online rights in musical works in its own repertoire, it may request another collective management organisation to enter into a representation agreement to represent those rights, the requested collective management organisation is required to agree to such a request if it is already granting or offering to grant multi-territorial licences for the same category of online rights in musical works in the repertoire of one or more other collective management organisations.
2. The requested collective management organisation shall respond to the requesting collective management organisation in writing and without undue delay.
3. Without prejudice to paragraphs 5 and 6. of this Article, the requested collective management organisation shall manage the represented repertoire of the requesting collective management organisation on the same conditions as those which it applies to the management of its own repertoire.
4. The requested collective management organisation shall include the represented repertoire of the requesting collective management organisation in all offers it addresses to online service providers.
5. The management fee for the service provided by the requested collective management organisation to the requesting organisation shall not exceed the costs reasonably incurred by the requested collective management organisation.
6. The requesting collective management organisation shall make available to the requested collective management organisation information relating to its own music repertoire required for the provision of multi-territorial licences for online rights in musical works. Where information is insufficient or provided in a form that does not allow the requested collective management organisation to meet the requirements of this Chapter, the requested collective management organisation shall be entitled to charge for the costs reasonably incurred in meeting such requirements or to exclude those works for which information is insufficient or cannot be used.

Article 116

Access to multi-territorial licensing

Where a collective management organisation does not grant or offer to grant multi-territorial licences for online rights in musical works or does not allow another collective management organisation to represent those rights for such purpose, rightholders who have authorised that collective management organisation to represent their online rights in musical works can withdraw from that collective management organisation the online rights in musical works for the purposes of multi-territorial licensing in respect of all territories without having to withdraw the online rights in musical works for the purposes of mono-territorial licensing, so as to grant multi-territorial licences for their online rights in musical works themselves or through any other party they authorise or through any collective management organisation complying with the provisions of this subchapter.

Article 117

Derogation for online music rights required for radio and television programmes

The requirements under this subchapter shall not apply to collective management organisations when they grant, on the basis of the voluntary aggregation of the required rights, in compliance with the competition rules, a multi-territorial licence for the online rights in musical works required by a broadcaster to communicate or make available to the public its radio or television programmes simultaneously with or after their initial broadcast as well as any online material, including previews, produced by or for the broadcaster which is ancillary to the initial broadcast of its radio or television

programme.

SUBCHAPTER IX SUPERVISION OF COLLECTIVE MANAGEMENT ORGANISATIONS

Article 118

Supervision of the activities of collective management organizations

1. The supervision of the activities of collective management organizations shall be carried out by the Office.
2. For the purposes of such supervision, collective management organizations shall be submitted to the Office:
 - 2.1. their statutes and regulations, as well as any amendments thereof;
 - 2.2. their contracts concluded with foreign collective management organizations;
 - 2.3. information on the persons empowered to represent them;
 - 2.4. decisions of their highest governing bodies;
 - 2.5. their annual transparency report and balance;
 - 2.6. reports of both internal and external auditing of their activities;
 - 2.7. any other documents indispensable to verify the compliance of the activities of the organizations with this Law and other relevant laws of the Republic of Kosovo or their own statutes.
3. The Office shall review the activities of collective management organizations once a year. However, the Office may also carry out a specific review between two regular annual reviews, if it obtains information - from the members of the organization, from other owners of rights, from users or from any other relevant sources - on the basis of which reasonable doubts may emerge whether the activities of the organization are in accordance with the provisions of this Law and other relevant laws of the Republic of Kosovo or its own statutes.
4. The Office may order the collective management organizations to perform an auditing on any specific issue defined by the Office, but no more than once a year, on collective management organisations' expenses.
5. The Office shall prepare a report of the results of each review as mentioned in paragraph 3. of this Article which may also include measures provided for in paragraph 6. of this Article. The highest governing body of the collective management organization shall be obligated to include the report on the agenda of its next session, to discuss it, and to inform the Office about outcome of the discussion and any measures taken.
6. Where the Office finds that the activities of a collective management organization are not in accordance with the provisions of this Law and other relevant laws of the Republic of Kosovo, or of its own statute, it may call upon the organization to bring its activities in accordance with those provisions determining a reasonable deadline for this. Where the organization does not fulfill this obligation, the Office, depending on the circumstances, proposes to the Minister to revoke/remove the license granted to the collective management organization.

7. When the license as a collective management organization has been revoked/removed, this fact shall be published on the official website of the Ministry of Culture. When the license of a collective management organization is revoked, the organization can file a lawsuit against the decision in court.

CHAPTER VI TECHNOLOGICAL MEASURES AND RIGHTS ON MANAGEMENT INFORMATION

Article 119 Protection of technological measures

1 The following acts shall be forbidden, independently of whether or not as a result of them any infringement of copyright, related rights or other rights protected by this Law may also take place:

1.1. the circumvention any effective technological measures by a person who carries out the act of circumvention in the knowledge, or with reasonable grounds to know, that he or she is pursuing that objective;

1.2. the manufacture, importation, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of devices, products or components or the provision of services which:

1.2.1. are promoted, advertised or marketed for the purpose of circumvention of, or

1.2.2. have only a limited commercially significant purpose or use other than to circumvent, or

1.2.3. are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of, any effective technological measures.

2. Technological measures shall be deemed "effective" where the use of a protected work or object of related rights is controlled by the owner of rights through application of an access control or protection process, such as encryption, scrambling or other transformation of the work or object of related rights or a copy control mechanism, which, in the normal course of its operation, achieves the protection objective.

3. Notwithstanding the legal protection provided for in paragraph 1. of this Article, in the absence of voluntary measures taken by the owners of rights, including agreements between them and other parties concerned, the beneficiaries of the exceptions and limitations provided for in Articles 47, 48 paragraph 2., and Article 49 sub-paragraph 1.2., 1.8., 1.9. and 1.10. of this law and paragraph 2. of this Article and Article 57 paragraph 1. of this Law, or their representative organizations, may initiate a mediation or an arbitration procedure to ensure that owners of rights make available to them the means of benefiting from that exception or limitation, to the extent necessary to benefit from that exception or limitation, where they have legal access to the protected work or objects of related rights or other rights provided for by this Law.

4. Where a mediation or arbitration procedure has been initiated by an organization representing beneficiaries of exceptions or limitations, the mediation settlement or the arbitration award or the court decision, respectively, adopted in the dispute shall be applicable in respect of all members of the organization.

5. The technological measures applied voluntarily by the owners of rights, including those applied in implementation of voluntary agreements, or those applied as a result of the mediation or arbitration procedure mentioned in paragraph 3. of this Article or a court decision, shall also enjoy legal protection provided for in this article.

6. The provisions of paragraphs 3. and 4. of this Article shall not apply to works or objects of related rights or other rights provided for in this Law made available on agreed contractual terms in the form of interactive making available to the public.

Article 120 **Rights management information**

1. The following acts shall be forbidden to be knowingly performed by any person without authority:

1.1. the removal or alteration of any electronic rights management information;

1.2. the distribution, importation for distribution, broadcasting, communication or making available to the public of works or objects of related rights or other rights provided for in this Law from which electronic rights-management information has been removed or altered without authority, if such a person knows, or has reasonable grounds to know, that by so doing he is inducing, enabling, facilitating or concealing an infringement of any copyright, related rights or other rights provided for in this Law.

CHAPTER VII **MANDATE OF COPYRIGHT OFFICE**

Article 121 **Status and tasks of the Office**

1. The Office for copyright and related rights operates within the respective Ministry on Culture and has a program/subprogram, where the funds for financing the Office are provided by the budget of the Republic of Kosovo and other alternative financing in accordance with the legislation in force. The Office is led by the director, and has the following duties:

1.1. developing and within its competence applying - adequate strategy and policy for the protection, exercise and enforcement of copyright, related rights and other rights protected by this Law in accordance with the international obligations, national legislation and the corresponding national interests of the Republic of Kosovo;

1.2. in order to fulfill its task mentioned in sub-paragraph 1.1. of this Article, collecting necessary information, carrying out studies, and consultations with governmental bodies, institutions, as well as with the representatives of the interested owners of rights and users;

1.3. submitting to the Government and/or other governmental bodies proposals where certain measures necessary for the applications of the strategy and policy mentioned in sub-paragraph 1.1. of this Article would go beyond its competence;

1.4. preparing draft laws and regulations concerning the protection, exercise and enforcement of copyright, related rights and other rights protected by this Law;

1.5. representing the Republic of Kosovo at international and regional organizations dealing with copyright, related rights and other rights protected by this Law;

1.6. establishing and maintaining mutually advantageous cooperation with governmental offices, agencies and research institutions and other organizations of other countries dealing with copyright, related rights and other rights protected by this Law, in accordance with the intergovernmental policy of the Republic of Kosovo;

1.7. in cooperation with the competent judicial, administrative and customs authorities and where necessary initiating proceedings for the application enforcement measures actively

- participating in the fight against infringements of rights and, in particular, piracy;
- 1.8. leads and coordinates the Task Force against Piracy;
- 1.9. proposes to the relevant Minister for Culture, the licensing of collective management organizations, the Office supervises the activities of collective management organizations;
- 1.10. promoting awareness of governmental bodies, judicial, administrative and other institutions, owners of rights and users as well as the general public, concerning the importance and the political, legal and practical aspects of the protection, exercise and enforcement of copyright, related rights and other rights protected by this Law, through preparing and distributing information materials, organizing awareness campaigns, and maintaining active relationship with the press and media;
- 1.11. receiving from collective management organisations, rightholders, users, and other interested parties notifications for that purpose of activities or circumstances which, in their opinion, constitute a breach of the provisions of this law.
2. The organization and operation of the Office are determined by internal regulations for the Internal Organization and Systematization of Job Positions of the relevant ministry of culture.
3. The establishment, operation and composition of Task Force against Piracy as a coordinating body, shall be determined by sub-legal act proposed by the relevant Ministry of Culture and approved by the Government of Kosovo.

Article 122

Mediation

1. Rightholders or Collective management organisations and users or representatives of users may initiate mediation procedure in a dispute concerning:
- 1.1. conclusion of an inclusive agreement;
- 1.2. conclusion of an agreement for retransmission and cable retransmission;
- 1.3. implementation by their beneficiaries of certain exceptions to and limitations of copyright and related rights in case of application of technological protection measures;
- 1.4. licensing of rights when seeking to conclude an agreement for the purpose of making available audio-visual works on video-on-demand services;
- 1.5. use of protected content by online content-sharing service providers;
- 1.6. transparency obligations;
- 1.7. revision of a disproportionate author's and performer's remuneration.
2. For the purposes of implementing the provisions Subchapter VIII of Chapter V of this Law the following disputes relating to a collective management organisation which grants multi-territorial licences for online rights in copyright musical works, with a residence or a place of establishment in the Republic of Kosovo, can be submitted by the parties in dispute to mediation:
- 2.1. disputes with an actual or potential online service provider regarding the application of Articles 101, 110, 111 and 112 of this Law;
- 2.2. disputes with one or more right holders regarding the application of Articles from 110 to

117 of this Law;

2.3. disputes with another collective management organisations regarding the application of Articles from 110 to 115 of this Law.

3. The parties shall jointly choose the mediators from the list of mediators appointed by the Minister of Culture. The mediators shall be selected in a way that their independence and impartiality are beyond any reasonable doubt. Where a party has any doubts in respect of the independence or impartiality of a mediator, it may request the selection of another mediator.

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

5. The mediator may submit proposal to parties concerning the settlement of the dispute. It shall be assumed that the parties accept the proposal for the settlement of the dispute if none of them expresses its opposition, within a period of seven (7) days from the delivery of the proposal. Notice of the proposal and of any opposition thereto shall be served on the parties concerned in accordance with the applicable rules concerning the service of legal documents.

6. Confidentiality shall be ensured during the mediation procedures.

7. The parties shall cover their own costs and they shall cover in equal shares the fees of the mediators and any costs that may emerge in connection with procedural measures made by the mediators.

8. The details of the mediation proceedings shall be regulated by the provisions of Law on Mediation of Kosovo, unless provided otherwise by this Law.

9. The selection procedure, the level of education of mediators, and other conditions that shall fulfil the mediators will be determined by a sub-legal act issued by the minister of culture.

Article 123 Arbitration

1. The parties shall jointly choose the arbitrators from the list of arbitrators drawn up by the Minister of Culture every two (2) years. The arbitrators shall be selected in a way that their independence and impartiality are beyond any reasonable doubt and shall have appropriate expertise in the field of copyright and related rights. Where a party has any doubts in respect of the independence or impartiality of a mediator, it may request the selection of another arbitrator.

2. The details of the arbitration proceedings - including the fees to be paid for its procedures – shall be regulated by the provisions of the laws on Arbitration of Kosovo, unless provided otherwise by this Law.

3. The selection procedure, the level of education of arbitrators, and other conditions that shall fulfil the mediators will be determined by a sub-legal act issued by the minister of culture.

CHAPTER VIII ENFORCEMENT OF RIGHTS, CIVIL PROCEDURES AND SANCTIONS

Article 124 Civil Sanctions

1. In any case of infringement or threat of infringement of copyright or related rights, the author or the rightholder may claim the recognition of this right, the discontinuation of the infringement and

its omission in the future. The discontinuation of the infringement may include, at the request of the applicant:

- 1.1. recall from the channels of commerce of goods that they have found to be infringing rights under this law and, in appropriate cases, with regard to materials and implements principally used in the creation or manufacture of those goods;
 - 1.2. definitive removal from the channels of commerce; or
 - 1.3. destruction.
2. A person who by intent or negligence infringes copyright or a related right of another person shall indemnify that person for the moral damage caused, and be liable for the payment of damages of not less than twice the legally required or normally payable remuneration for the form of exploitation which the infringing party has effected without license.
3. Infringement of copyright of a computer program is considered:
- 3.1. any act of putting into circulation a copy of a computer program knowing, or having reason to believe, that it is an infringing copy;
 - 3.2. the possession, for commercial purposes, of a copy of a computer program knowing, or having reason to believe, that it is an infringing copy;
 - 3.3. any act of putting into circulation, or the possession for commercial purposes of, any means the sole intended purpose of which is to facilitate the unauthorised removal or circumvention of any technical device which may have been applied to protect a computer program.
4. The civil penalties of this article are also applied in case of infringement of intellectual property of the author of a database and of the sui generis right of the maker of a database.
5. The procedures and the liability provided for in this section shall be regulated by the provisions of this section and for what has not provided for by this section by the provisions of the law on obligations and the law on civil procedure.
6. The proceeding for infringement of Copyright and related rights shall be accelerated. The Court shall open the first hearing session no later than within three (3) months from the day the claim was received.

Article 125

Persons entitled to apply for the application of the measures, procedures and remedies

1. Legal holders of the rights recognized and guaranteed under this law shall enjoy the right to ask from the courts to uphold their respective rights, to recognize the committed infringement and the respective remedy.
2. The rights referred to in paragraph 1. of this article shall also be enjoyed by:
 - 2.1. individuals who have been authorized or licensed by the rightholder to use the rights protected under this law, in accordance with the authorization granted to them for this purpose;
 - 2.2. collective rights-management organizations. Regardless of whether its authorization rests on a transfer of rights or on power of attorney, a collecting management organisation shall in all circumstances be entitled to initiate judicial or extrajudicial action in its own name and to exercise in full legitimacy all the rights transferred to it, or for which it holds power of

attorney;

2.3. professional protection bodies and representative associations which have been authorized to represent the rightholders.

Article 126 **Evidence**

1. On application by a party which has presented reasonably available evidence sufficient to support its claims, and has, in substantiating those claims, specified evidence which lies in the control of the opposing party, the Court may order that such evidence be presented by the opposing party, subject to the protection of confidential information. A reasonable sample of a substantial number of copies of a work or any other protected object is considered by the competent judicial authorities to constitute reasonable evidence.

2. Under the same conditions, in the case of an infringement committed on a commercial scale the Court may order, where appropriate, on application by a party, the communication of banking, financial or commercial documents under the control of the opposing party, subject to the protection of confidential information.

Article 127 **Measures for preserving evidence**

1. The rightholders or their representatives referred to in Article 127 of this Law who have presented reasonably available evidence sufficient to support their claims, may ask the court, even to prior taking actions on the case, to take measures for securing evidence or finding of the factual situation, where there is a risk of infringement of the rights provided by this law, as well as when there is risk of destruction of the elements of proof. Those measures shall be taken, if necessary without the other party having been heard, in particular where any delay is likely to cause irreparable harm to the rightholder or where there is a demonstrable risk of evidence being destroyed.

2. Where measures to preserve evidence are adopted without the other party having been heard, the parties affected shall be given notice, without delay after the execution of the measures at the latest. A review, including a right to be heard, shall take place upon request of the parties affected with a view to deciding, within a reasonable period after the notification of the measures, whether the measures shall be modified, revoked or confirmed.

3. Measures referred to in paragraph 1. of this Article may include a detailed description, with or without the taking of examples or the physical seizure of the infringing goods, and, where appropriate, of the materials and instruments used to produce and/or distribute such goods, as well as the relevant documents. Such measures shall be taken in accordance with the provisions of the Code of Civil Procedures.

4. The measures ordered by the Court to secure evidence or the factual state of the offence shall be applied by the judicial officer. The rightholders or representatives thereof, whose rights have presumably been infringed or are at risk of infringement, shall be entitled to participate in the application of the measures to secure the proof or the in situ factual observation.

5. The measures to preserve evidence may be subject to the lodging by the applicant of adequate security or an equivalent assurance intended to ensure compensation for any prejudice suffered by the defendant.

6. The measures to preserve evidence are revoked or otherwise cease to have effect, upon request of the defendant, without prejudice to the damages which may be claimed, if the applicant does not institute, within a reasonable period, proceedings leading to a decision on the merits of the case before the competent judicial authority, the period to be determined by the judicial authority ordering

the measures or, in the absence of such determination, within a period not exceeding twenty (20) working days or thirty-one (31) calendar days, whichever is the longer.

7. Where the measures to preserve evidence are revoked, or where they lapse due to any act or omission by the applicant, or where it is subsequently found that there has been no infringement or threat of infringement of copyright, object of related rights or rights protected with this Law, the judicial authorities shall have the authority to order the applicant, upon request of the defendant, to provide the defendant appropriate compensation for any injury caused by those measures.

8. A separate appeal may be made against the decision of the court, by which the request to secure the evidence is accepted or rejected.

9. Proceedings for preservation of evidence shall be implemented within seven (7) days after the claim was filed.

Article 128 **Right of information**

1. In the context of proceedings concerning an infringement of copyright or of a related right and in response to a justified and proportionate request of the claimant, the competent judicial authorities may order that information on the origin and distribution networks of the goods or services which infringe a right in accordance with this Law be provided by the infringer and/or any other person who:

- 1.1. was found in possession of the infringing goods on a commercial scale;
- 1.2. was found to be using the infringing services on a commercial scale;
- 1.3. was found to be providing on a commercial scale services used in infringing activities;
- 1.4. was indicated by the person referred to in sub-paragraphs 1.1. and 1.2. of this Article; and
- 1.5. as being involved in the production, manufacture or distribution of the goods or the provision of the services.

2. The information referred to in paragraph 1. of this Article shall, as appropriate, comprise:

- 2.1. the names and addresses of the producers, manufacturers, distributors, suppliers and other previous holders of the goods or services, as well as the intended wholesalers and retailers;
- 2.2. information on the quantities produced, manufactured, delivered, received or ordered, as well as the price obtained for the goods or services in question.

3. Paragraphs 1. and 2. of this Article shall not apply if:

- 3.1. different provisions grant the right holder the right to receive fuller information;
- 3.2. different rules govern the use in civil or criminal proceedings of the information communicated pursuant to this Article;
- 3.3. the Court on the basis of available information has reason to assume that the right of information is misused:
 - 3.3.1. providing the request information would force the person referred to in paragraph 1. of this Article to admit to his/her own participation or that of his/her close relatives in

an infringement of copyright or of a related right;

3.3.2. disclosure of the information is not allowed pursuant to rules governing the protection of confidentiality of information sources or the processing of personal data.

Article 129 **Provisional and precautionary measures**

1. The Court may, at the request of the applicant:

1.1. issue against the alleged infringer an interlocutory injunction intended to prevent any imminent infringement of an intellectual property right, or to forbid, on a provisional basis, the continuation of the alleged infringements of that right, or to make such continuation subject to the lodging of guarantees intended to ensure the compensation of the rightholder; an interlocutory injunction may also be issued, under the same conditions, against an intermediary whose services are being used by a third party to infringe a right provided for in this Law;

1.2. order the seizure or delivery up of the goods suspected of infringing a right provided for in this Law so as to prevent their entry into or movement within the channels of commerce;

1.3. order where appropriate, in case of non-compliance with an injunction a recurring penalty payment, with a view to ensuring compliance.

2. In the case of an infringement committed on a commercial scale, if the injured party demonstrates circumstances likely to endanger the recovery of damages, the Court may order the precautionary seizure of the movable and immovable property of the alleged infringer, including the blocking of his/her bank accounts and other assets. To that end, the competent authorities may order the communication of bank, financial or commercial documents, or appropriate access to the relevant information.

3. The Court shall, in respect of the measures referred to in paragraphs 1. and 2. of this Article, have the authority to require the applicant to provide any reasonably available evidence in order to satisfy themselves with a sufficient degree of certainty that the applicant is the right holder and that the applicant's right is being infringed, or that such infringement is imminent.

4. The provisional measures referred to in paragraphs 1. and 2. of this Article may, in appropriate cases, be taken without the defendant having been heard, in particular where any delay would cause irreparable harm to the right holder. In that event, the parties shall be so informed without delay after the execution of the measures at the latest. A review, including a right to be heard, shall take place upon request of the defendant with a view to deciding, within a reasonable time after notification of the measures, whether those measures shall be modified, revoked or confirmed.

5. The provisional measures referred to in paragraphs 1. and 2. of this Article are revoked or otherwise cease to have effect, upon request of the defendant, if the applicant does not institute, within a reasonable period, proceedings leading to a decision on the merits of the case before the competent judicial authority, the period to be determined by the judicial authority ordering the measures or, in the absence of such determination, within a period not exceeding twenty (20) working days or thirty-one (31) calendar days, whichever is the longer.

6. The Court may make the provisional measures referred to in paragraphs 1. and 2. of this Article subject to the lodging by the applicant of adequate security or an equivalent assurance intended to ensure compensation for any prejudice suffered by the defendant where the provisional measures are revoked or where they lapse due to any act or omission by the applicant, or where it is subsequently found that there has been no infringement or threat of infringement of a right provided for in this Law, the judicial authorities shall have the authority to order the applicant, upon

request of the defendant, to provide the defendant appropriate compensation for any injury caused by those measures.

7. Against the decision of the court which issued the provisional and precautionary measures may be made a separate appeal for the change or removal of the measures. The appeal does not suspend the execution of the decision.

8. The guarantee given in conformity with paragraph 6. of this Article is returned to the plaintiff, in case the other party does not bring a lawsuit for the compensation of the damage suffered due to such a cause within fifteen (15) days from the date where has become irrevocable the decision of the Court, that declared that has not been any infringement.

9. Proceedings for preservation of evidence shall be implemented within seven (7) days after the claim was filed.

Article 130 **Corrective Measures**

1. Without prejudice to any damages due to the rightholder by reason of the infringement, and without compensation of any sort, the Court may order, at the request of the applicant, that appropriate measures be taken with regard to goods that they have found to be infringing copyright or a related right and, in appropriate cases, with regard to materials and implements principally used in the creation or manufacture of those goods. Such measures shall include:

- 1.1. recall from the channels of commerce;
- 1.2. definitive removal from the channels of commerce; or
- 1.3. destruction.

2. The court shall order the execution of the measures referred to in paragraph 1. of this Article at the expenses of the infringer, except for the case where he has a grounded reason that he/she cannot afford such expenses.

3. Measures referred to in paragraph 1. of this Article may also be proposed by the prosecutor, where the case is under criminal proceedings.

4. In ordering the measures referred to in paragraph 1. of this Article, the court shall take into account the principle of proportionality compared to the severity of the infringement of the rights protected under the law and shall consider also the interest of third parties which are affected by such measures.

Article 131 **Injunctions**

1. Where a judicial decision on the merits is taken finding an infringement of a copyright or of a related right, the Court may issue against the infringer an injunction aimed at prohibiting the continuation of the infringement.

2. The Court may order where appropriate, in case of non-compliance with an injunction a recurring penalty payment, with a view to ensuring compliance.

3. Right holders may apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or a related right.

Article 132
Compensation for damage

1. The Court on application of the injured party, order the infringer who knowingly, or with reasonable grounds to know, engaged in an infringing activity, to pay the right holder damages appropriate to the actual prejudice suffered as a result of the infringement.

2. When the Court determines indemnification:

2.1. shall take into account all appropriate aspects, such as the negative economic consequences, including lost profits, which the injured party has suffered, any unfair profits made by the infringer and, in appropriate cases, elements other than economic factors, such as the moral prejudice caused to the right holder by the infringement; or

2.2. as an alternative to sub-paragraph 2.1. of this Article, may, in appropriate cases, set the damages as a lump sum on the basis of elements such as twice the amount of royalties or fees which would have been due if the infringer had requested authorization to use the intellectual property right in question. 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. Where the infringer did not knowingly, or with reasonable grounds to know, engage in infringing activity, the court may order the recovery of profits or the payment of damages, which may be pre-established.

4. A law suit for the infringement of rights may be filed in Court within three (3) years from the date when the plaintiff became aware of the infringement and of the identity of the infringer

Article 133
Legal costs of the procedure

Reasonable and proportionate legal costs and other expenses incurred by the successful party shall, as a general rule, be borne by the unsuccessful party, unless equity does not allow this.

Article 134
Publication of Judicial Measures

The court may order, at the request of the applicant and at the expense of the infringer appropriate measures for the dissemination of the information concerning the decision including the publication of such decision, in whole or in part, in the mass media, in the same circumstances, the court may order supplementary publication measures, in accordance with the special requirements of the case, including high publicity.

Article 135
Codes of Conduct

Competent State bodies or licensed organizations based on the law shall draft and approve codes of conduct and conformity standards, with the purpose to guarantee oversight of the rights provided under this law, in particular, with regard to the use of such codes that allow identification of producers fixed in an optical disc. The Office shall publish and distribute such codes in its official website.

CHAPTER IX ADMINISTRATIVE SANCTIONS AND OBLIGATIONS

Article 136 Fines

1. A fine of not less than five thousand (5,000) to twenty thousand (20,000) euros shall be imposed on the legal person, while a fine of not less than one thousand (1,000) to two thousand (2,000) euros shall be imposed on the responsible person, if within the scope of his activity or in business with others has used a copyrighted work or a subject matter of related rights without authorization.

2. An individual business shall be imposed a fine of no less than five hundred (500) to three thousand (3,000) euros, if within the scope of its activity or in business with others has used a copyrighted work or a subject matter of related rights without authorization.

3. A fine of five thousand (5,000) to twenty thousand (20,000) euros shall be imposed on any legal entity for an offense, if within the scope of its activity or in business cooperation:

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

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

4. A fine of five hundred (500) to three thousand (3,000) euros shall be imposed on any individual business for an offense, if within the scope of its activity or in business cooperation:

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

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

5. By a fine of one thousand (1,000) to two thousand (2,000) Euro shall be punished the person who commits the offense defined in paragraph 3. of this Article.

6. A fine of no less than five thousand (5,000) to twenty thousand (20,000) Euro, shall be imposed on any legal entity for an offense while for the same reason, a fine of not less than five hundred (500) euros to three thousand (3,000) thousand euros shall be imposed on any individual business:

6.1. that does not submit to the competent collective management organisation, 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;

6.2. that does not submit to the competent collective management organisation, 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.

7. A fine of not less than one thousand (1,000) to two thousand (2,000) euros shall be imposed on the responsible person of the legal entity that commits the offense from paragraph 5. of this Article.

8. By a fine of no less than five thousand (5,000) to twenty thousand (20,000) Euro shall be punished for an offense a collective management organisation, if it:

8.1. does not keep or negligently operates records and accountancy;

8.2. does not to distribute to right holder the income, realized from royalties collected from the users of protected matter;

- 8.3. does not follow the request for inspection of its activity through independent auditors;
- 8.4. does not fulfil its obligations to the office or does not take measures ordered by the Office for the correction of its work.
9. By a fine of no less than one thousand (1,000) to two thousand (2,000) EUR shall be punishable a responsible person of the collective management organisation who commits an offense mentioned in paragraph 1. of this Article.
10. The relevant market inspectorate has the authority to supervise the protection of copyright and related rights in the market.
11. The request for initiation of the procedure for misdemeanour may be submitted by the inspection body, the police.
12. The fines defined in this article are imposed by the competent court for misdemeanours.
13. The materials and tools used to commit the offense from paragraphs 1. to 9. of this Article shall be confiscated.

Article 137

Broadcasting and Rebroadcasting of audio-visual program content

1. Broadcasting organisations licensed by the Independent Media Commission (hereinafter IMC) as well as cable operators and other operators that regardless of technology they use offer audio-visual content are obliged to broadcast and rebroadcast programs based on valid copyright agreements.
2. Agreements related to the rebroadcast of audio-visual programs are valid only after they have been registered by collective management organizations licensed by the Ministry of Culture, in accordance with Article 88 of this law.
3. All complaints related to the violation of copyright and related rights, during the transmission and retransmission of programs, will be processed by the IMC.
4. Non-fulfillment of obligations and responsibilities by broadcasting organizations and other entities mentioned in paragraph 1. of this article, for the transmission and retransmission of programs, determined by this law, will be reviewed by the IMC in accordance with the provisions of the Law on the Independent Media Commission.

CHAPTER X PROTECTION OF FOREIGNERS

Article 138 National Treatment

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 the right only when factual reciprocity exists.

Article 139

Foreign 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 published in Kosovo within thirty (30) days after being published in another country.
2. If the work is the result of joint creative efforts of two or more 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 140

Performers

1. Protection under this law enjoy foreign performers:
 - 1.1. who have permanent residence 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 fixated performance on a phonogram, is included on a broadcasting emission that enjoys the protection under this Law.
2. If the performance is the result of joint creative efforts of two or more performers, all of them enjoy protection under this law, even when only one of them meets the conditions from paragraph 1. of this Article.

Article 141

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 published 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 right provided for in Article 78 of this Law shall also apply to companies and firms formed in accordance with the law of the Republic of Kosovo and having their registered office, central administration or principal place of business within the territory of the Republic of Kosovo. However, where such a company or firm has only its registered office in the territory of the Republic of Kosovo, its operations also must be genuinely linked on an ongoing basis with the economy of the Republic of Kosovo.
6. Agreements extending the right provided for in Article 78 of this Law to databases made in third countries and falling outside the provisions of paragraph 5. of this Article shall be protected on the

basis of an international treaty to which the Republic of Kosovo will become a party. The term of any protection extended to databases made in other countries shall not exceed that provided for in Article 78 of this law.

Article 142
Persons without citizenship or refugees

1. Authors or right holders of copyright and 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 143
Factual reciprocity

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

CHAPTER XI
TRANSITIONAL AND FINAL PROVISIONS

Article 144
Transitional provisions

1. Regulation No. 20/2018 on the right to special and reprographic compensation applies until the approval of new tariffs in this area.
2. Normative acts of organizations for the collective management of rights apply even after the entry into force of this law and must be harmonized with the provisions of the same, within a period of twelve (12) months from the entry into force of this law.
3. Protection under this law as regards copyright shall also be available in respect of databases created prior to 1 January 1998 which on that date fulfill the requirements laid down in this law as regards copyright protection of databases. The protection provided for in this paragraph shall be without prejudice to any acts concluded and rights acquired before 1 January 1998.
4. Protection pursuant to the provisions of this Law as regards the right provided for in Article 78 of this law shall also be available in respect of databases the making of which was completed not more than fifteen (15) years prior to 1 January 1998 and which on that date fulfil the requirements laid down in Article 78 of this Law. The protection provided for in this paragraph shall be without prejudice to any acts concluded and rights acquired before 1 January 1998.
5. In the case of a database the making of which was completed not more than fifteen (15) years prior to 1 January 1998, the term of protection by the right provided for in Article 78 of this Law shall expire fifteen (15) years from 1 January following that date.
6. With the accession of the Republic of Kosovo to the European Union the exhaustion of right of distribution, referred to in the Article 23 sub-paragraph 1.2. 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.

7. The provisions of Chapter on Multi-territorial licensing of online rights in musical works by collective management organisations shall enter into force with the accession of the Republic of Kosovo to the European Union.

8. When Marrakesh treaty is signed or when Kosovo Republic becomes member of the EU, an authorised entity established in Kosovo Republic may carry out the acts referred to under Article 49 paragraph 2. of this Law for a person with a visual impairment or reading disability or another authorised entity established in any Member State of the EU or any contracting party of Marrakech Treaty adopted on June 27th, 2013. Likewise, a person with a visual impairment or reading disability or an authorised entity established in their territory may obtain or may have access to an accessible format copy from an authorised entity established in any Member State.

9. Agreements on the exercise of copyright and related rights relevant for the acts of communication to the public of works or other protected subject matter, by wire or wireless means, and the making available to the public of works or other protected subject matter, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, occurring in the course of provision of an ancillary online service as well as for the acts of reproduction which are necessary for the provision of, the access to or the use of such online service which are in force on 7 June 2021 shall be subject to Article 29 of this Law as from 7 June 2023 if they expire after that date. Authorisations obtained for the acts of communication to the public falling under Article 28 of this law which are in force on 7 June 2021 shall be subject to Article 28 of this Law as from 7 June 2025 if they expire after that date.

Article 145 **Bylaws**

The by-laws defined in Article 88 paragraph 8. and in Article 122 paragraph 9. of this Law as well as Article 123 paragraph 3. of this Law shall be issued within a period of one year from the day of entry into force of this Law, as well as from Article 121 paragraph 2. of this Law.

Article 146 **Abrogation provisions**

Upon entry into force of this Law, the following laws shall be abolished: Law No. 04/L-065 on Copyright and Related Rights (Official Gazette of the Republic of Kosova/No.27/30 November 2011, Pristina); Law No. 05/L-047 on Amending and Supplementing the Law No.04/L-065 on Copyright and Related Rights (Official Gazette of the Republic of Kosova /No. 37/03 November 2016, Pristina); Law No. 06/L-120 on Amending and Supplementing the Law No. 04/L-065 on Copyright and Related Rights, Amended and Supplemented by the Law No.05/L-047 (Official Gazette of the Republic of Kosovo/ No.13/04 July 2019, Prishtina), as well as all other by-laws which contradict this law.

Article 147
Entry into force

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

Law No. 08/L-205
21 September 2023

Promulgated by Decree No. DL-163/2023 dated 09.10.2023 President of the Republic of Kosovo Vjosa Osmani-Sadriu