
Law on Copyright*
(of August 14, 1993)

TABLE OF CONTENTS**

	<i>Articles</i>
Part I:	Protected Rights
Chapter I:	General Provisions
Section 1:	Intellectual Works 1 - 4
Section 2:	Authors..... 5 - 11
Section 3:	Audiovisual Works 12 - 15
Section 4:	Broadcast Works 16
Section 5:	Computer Programs 17
Chapter II:	Nature of Copyright
Section 1:	Moral and Economic Rights Accruing to the Author 18 - 24
Section 2:	Term of Copyright 25 - 28
Section 3:	Transfer of Copyright on Death 29 - 30
Section 4:	Legal Capacity in Copyright Matters 31 - 33
Section 5:	Copyright in Marriage..... 34 - 35
Chapter III:	Rights Related to Copyright..... 36 - 38
Part II:	Content and Limitations of Exploitation Rights
Chapter I:	Content of Exploitation Rights..... 39 - 42
Chapter II:	Limitations of Exploitation Rights 43 - 49
Part III:	Exploitation of the Work by Third Parties
Chapter I:	General Provisions
Section 1:	Scope and Forms of Assignment of Exploitation Rights 50 - 54
Section 2:	Remuneration of the Assignor..... 55 - 56
Section 3:	Transfer of Assigned Rights..... 57
Section 4:	Right to Revoke the Transfer 58
Section 5:	Rights in Works Created in the Course of Employment Relations or on Commission 59
Section 6:	Consent to Exploitation by Public Announcement..... 60
Section 7:	Collective Administration of Economic Rights..... 61 - 64
Chapter II:	Exploitation Contracts
Section 1:	Performance Contract..... 65 - 70
Section 2:	Publishing Contract..... 71 - 85
Section 3:	Assignment of Press Articles 86 - 89
Part IV:	Rights Neighboring on Copyright
Chapter I:	General Provisions 90 - 91
Chapter II:	Rights of Performers 92 - 94
Chapter III:	Rights of Producers of Phonograms 95 - 100
Chapter IV:	Rights of Broadcasting Organizations..... 101 - 102
Part V:	Registration and Deposit of Intellectual Products 103 - 108
Part VI:	Civil and Administrative Litigation 109 - 118

Part VII:	Criminal Sanctions.....	119 - 124
Part VIII:	Scope of Application of the Law.....	125 - 129
Part IX:	National Directorate of Copyright.....	130 - 137
Part X:	Final Provisions	138 - 141
Part XI:	Transitional Provisions.....	142 - 145

PART I
PROTECTED RIGHTS

Chapter I
General Provisions

Section 1
Intellectual Works

1. The provisions of this Law shall protect the rights of authors in all creative intellectual works, whether literary, scientific or artistic in character and whatever their nature, form of expression, merit or purpose.

The rights recognized by this Law shall be independent of the ownership of the physical medium in which the work is embodied, and shall not be subject to compliance with any formality.

The neighboring rights referred to in Part IV of this Law shall likewise be protected.

2. The following in particular shall be considered included among the intellectual works referred to in the foregoing Article: books, pamphlets and other literary, artistic and scientific writings, including computer programs and the associated technical literature and users' manuals; lectures, addresses, sermons and other works of the same nature; dramatic or dramatico-musical works, choreographic and mimed works the stage movements for which have been set down in writing or otherwise; musical compositions with or without words; cinematographic works and other audiovisual works expressed by any process; works of drawing, painting, architecture, engraving or lithography; works of applied art that are not mere industrial designs; geographical illustrations and maps; plans, three-dimensional works and sketches relating to geography, topography, architecture or science; and, finally, any literary, scientific or artistic product susceptible of disclosure or publication by any means or process.

3. Translations, adaptations, transformations or arrangements of other works, and also anthologies or compilations of various works and data bases shall be considered intellectual works distinct from the original work where, owing to the selection or arrangement of their subject matter, they constitute personal creations.

4. The texts of laws, decrees, official regulations, public treaties, judicial decisions and other official acts shall not be protected by this Law.

The provisions of Article 138 of this Law are reserved.

Section 2
Authors

5. The author of an intellectual work shall have, by virtue of the mere fact of his creative act, a right to the work which shall itself include rights of moral and economic character as specified in this Law.

The rights of moral character shall be inalienable, unattachable, unrenounceable and imprescriptible.

Copyright shall subsist in translations and other works mentioned in Article 3 even where the original works are not themselves already protected by this Law or in the case of the texts referred to in Article 4, but it shall not confer any exclusive right in the said original works or texts.

6. The work shall be considered created, regardless of the disclosure or publication thereof, by the mere fact of the realization of the author's thought, even if the work is unfinished. The work shall be considered disclosed where it has been made accessible to the public by any means or process. Published work shall be understood to mean a work that has been reproduced in a material form and made available to the public in a sufficient number of copies for the latter to take cognizance of it.

7. Without prejudice to the provisions of Article 104, it shall be presumed, in the absence of proof to the contrary, that the author of the work is the person named as such in the customary manner on the work or, as the case may be, the person who is announced as being the author in the communication thereof.

For the purposes of the foregoing provision, the use of a pseudonym or any other sign that leaves the identity of the person presented as the author of the work in no doubt shall be deemed equivalent to the mention of his name.

8. As long as the author does not reveal his identity and prove his authorship, the person who has published the work, or in his absence the person who has had it disclosed, shall be authorized to exercise the rights conferred by this Law as the representative of the author of the anonymous or pseudonymous work. Revelation shall be made in the forms mentioned in the foregoing Article or in the form of a declaration before the Registry of Intellectual Products.

The provisions of this Article shall not be applicable where the pseudonym adopted by the author leaves his civil identity in no doubt.

9. A work to the creation of which two or more natural persons have contributed shall be considered a work of joint authorship.

A new work in which a preexisting work is incorporated without any collaboration on the part of the author of the latter shall be known as a composite work.

10. The copyright in works of joint authorship shall belong jointly to the coauthors.

The coauthors shall exercise their rights by common consent. It shall be presumed, in the absence of proof to the contrary, that each is the authorized agent of the others in relations with third parties.

In the event of disagreement, each of the coauthors may apply to the first instance civil court for the necessary ruling in accordance with the purposes of the joint enterprise.

Where the contribution of each of the coauthors belongs to a different genre, each of them may, unless otherwise agreed, exploit his personal contribution separately insofar as the exploitation of the joint work is not thereby prejudiced.

11. The copyright in a composite work shall belong to the author who made it, provided that the rights of the author of the preexisting work shall be reserved.

Section 3 *Audiovisual Works*

12. Audiovisual work shall be understood to mean any creation expressed as a series of associated images, with or without incorporated sound, which is intended essentially to be shown by means of projection apparatus or any other device for the communication of the images and the sound, whatever the nature or characteristics of the physical medium in which it is embodied.

Authorship of an audiovisual work shall belong to the natural person or persons who bring about the intellectual creation thereof.

In the absence of proof to the contrary, the following shall be presumed coauthors of an audiovisual work produced in collaboration:

1. the director or maker;
2. the author of the plot or of the adaptation;
3. the author of the script or dialogue;
4. the author of the music specially composed for the work.

Unless otherwise agreed between the coauthors, the director or maker shall be invested with the exercise of the moral rights in the audiovisual work, without prejudice to those accruing to the coauthors in relation to their individual contributions, or to those that may be exercised by the producer under Article 15 of this Law.

Where the audiovisual work has been taken from a preexisting work that is still protected, the author of the original work shall be placed on an equal footing with the authors of the new work.

13. If one of the authors refuses to complete his contribution, or is prevented from doing so by circumstances beyond his control, he may not object to the use of the part of his

contribution already made for the purpose of the completion of the work, provided that he shall not be thereby prevented from enjoying authorship of the said contribution and the rights deriving therefrom.

The work shall be considered completed when the first master copy or standard copy has been made by common consent between the director or maker, or under certain circumstances the coauthors, on the one hand, and the producer on the other hand.

Unless otherwise agreed, each of the coauthors may freely dispose of the part of the work constituting his personal contribution for exploitation in a different genre and within the limits laid down in the last paragraph of Article 10 of this Law.

14. The producer of an audiovisual work is the person, whether natural person or legal entity, who takes the initiative and responsibility for the making of the work. Without prejudice to the provisions of Article 104 of this Law, and in the absence of proof to the contrary, that person is the producer who is named as such on the audiovisual work.

The producer may be the author or one of the coauthors of the work, provided that he meets the conditions specified in Article 12 of this Law.

15. It shall be presumed, unless expressly agreed otherwise, that the authors of the audiovisual work have assigned to the producer, without limitation and for the entire duration thereof, the exclusive right to exploit the audiovisual work, as defined in Article 23 and contained in Part II, including their consent to his exercise of the rights referred to in Articles 21 and 24 of this Law, and also to his right to decide on disclosure.

Without prejudice to the rights of the authors, the producer may, unless otherwise provided, exercise in his own name the moral rights in the audiovisual work to the extent necessary for the exploitation thereof.

Section 4 *Broadcast Works*

16. Broadcast work shall be understood to mean the creation produced specifically for transmission by radio or television, without prejudice to the rights of the authors of the preexisting works.

Authorship of a broadcast work shall belong to the natural person or persons who bring about the intellectual creation of the said work.

It shall be presumed, unless expressly agreed otherwise, that the authors of the broadcast work have assigned to the producer, without limitation and for the entire duration thereof, the exclusive right to exploit the broadcast work, as defined in Article 23 and contained in Part II, including their consent to his exercise of the rights referred to in Articles 21 and 24 of this Law, and also to his right to decide on the disclosure of the work.

Without prejudice to the rights of the authors, the producer of the broadcast work may, unless otherwise provided, exercise the moral rights in the work to the extent necessary for the exploitation thereof.

The provisions on audiovisual works shall be applicable, *mutatis mutandis*, to broadcast works.

Section 5 *Computer Programs*

17. Computer program shall be understood to mean the expression, in whatever mode, language, notation or code, of a set of instructions the purpose of which is to make a computer perform a specific task or function, whatever the manner in which it is expressed and the physical medium on which the subject matter has been fixed.

The producer of the computer program shall be the person, whether natural person or legal entity, who takes the initiative and responsibility for the making of the work.

Without prejudice to the provisions of Article 104 of this Law, and in the absence of proof to the contrary, the producer of the computer program shall be the person named as such in the customary manner.

It shall be presumed, unless expressly agreed otherwise, that the authors of the computer program have assigned to the producer, without limitation and for the entire duration thereof, the exclusive right to exploit the work, as defined in Article 23 and contained in Part II, including their consent to his exercise of the rights referred to in Articles 21 and 24 of this Law, and also to his right to decide on the disclosure thereof, and given him permission to exercise the moral rights in the work to the extent necessary for the exploitation thereof.

Chapter II **Nature of Copyright**

Section 1 *Moral and Economic Rights Accruing to the Author*

18. The author shall have the exclusive right to decide on the total or partial disclosure of the work and, where applicable, on the manner of such disclosure, so that no one may, without the author's consent, make known the essential content or the description of the work before he has done so or before the work has been disclosed.

The grant of the usufruct in the copyright, by *inter vivos* instrument or by testamentary provision, shall imply authorization of the usufructuary to disclose the work. Nevertheless, if no specific testamentary provision exists regarding the work, and it forms part of a portion subject to usufruct, the consent of the author's successors in title shall be required for disclosure of the work.

19. Where a given work has been published or disclosed by a person other than the author thereof, the latter shall have the right to be recognized as such, and require that the work give the appropriate information.

20. The author shall have the right, even in relation to the acquirer of the material object embodying the work, to prohibit any modification thereof that might be prejudicial to his honor or reputation.

An author of works of architecture may not object to such alterations as may become necessary in the course of construction or thereafter. However, if the work is of artistic character, the author shall be given preference for the design and execution of the alterations.

In any event, if alterations are made to the architectural work without the author's consent, the latter may repudiate his authorship of the altered work, in which case the owner shall be prohibited from naming the author of the original design thereafter.

21. The author shall have the exclusive right to make or authorize translations and also adaptations, arrangements and other transformations of his work.

22. The author may demand of the owner of the material object that he be granted access thereto in the manner that best suits the interests of both, provided that such access is necessary for the exercise of his moral rights or the exploitation rights.

23. The author shall likewise enjoy the exclusive right to exploit his work in whatever manner he sees fit and to derive profit therefrom. In cases of expropriation of the right for reasons of public policy or general interest, the special provisions governing such matters shall apply.

The right of exploitation shall not be attachable as long as the work is unpublished, but the author's claims on his assignees or on any person who violates his rights may be alienated or distrained. In the event of distraint, the court may limit the effect thereof in order that the author may receive, as a pension, payment of a certain amount or a percentage of the sum against which the measure has been taken.

24. The title of a work, insofar as it is original and actually identifies the work, may not, without the consent of the author, be used to identify another work of the same genre when there is a risk of confusion between the two.

Section 2
Term of Copyright

25. Copyright shall subsist for the lifetime of the author and shall expire after 60 years counted from January 1 of the year following his death, including the copyright in works not disclosed in his lifetime.

26. For works of joint authorship, the 60 years referred to in the foregoing Article shall be counted as from January 1 of the year following that of the death of the last surviving coauthor.

Nevertheless, the right of exploitation in an audiovisual work, a broadcast work or a computer program shall expire after 60 years counted from January 1 of the year following that of the first publication thereof or, failing that, of its completion. This limitation shall not affect the moral rights of each of the coauthors, or the right laid down in the last paragraph of Article 10 of this Law.

27. The copyright in anonymous or pseudonymous works shall expire after 60 years counted from January 1 of the year following that of the first publication thereof. The date of first publication shall be established by any form of proof, including especially the legal deposit of the work.

The said limitation shall not apply in the cases provided for in the sole paragraph of Article 7 or where, within the specified period, the author or his successors in title reveal the former's identity in accordance with Article 8 of this Law.

With regard to anonymous or pseudonymous works published in installments, the period shall begin to run on January 1 of the year following that of the publication of each installment. Nevertheless, if the whole of the work is published within the 20 years following the year of publication of the first installment, the copyright in the whole work shall expire after 60 years counted from January 1 of the year following that of the publication of the last such installment.

28. Even after the copyright has expired, the title of a work may not be used under the circumstances specified in Article 24 of this Law to the detriment of those who disclose the work.

Section 3 *Transfer of Copyright on Death*

29. On the death of the author, his rights in the work shall be transferred in accordance with the provisions of the Civil Code, without prejudice to the provisions of the sole paragraph of Article 34 of this Law.

In the event of conflict between successors in title regarding the exercise of the copyright, the first instance civil court shall take the appropriate action at the request of any of those concerned, and after the others have been heard where possible.

30. The author may, in his will, place his copyright in trust for all or part of the term thereof. Such trust shall be governed by the relevant law, where applicable, without prejudice to the following provisions:

Legal entities and persons competent to negotiate contracts may be appointed trustees. The removal of the trustee for supervening incompetence shall be allowed.

A trust in respect of the portion of the estate reserved by law to the mandatory heirs, or a part thereof, may be established in favor of such heirs even when the conditions of Article 10 of the Law on Trusts are not met. The mandatory heirs must at all times however be entitled to receive the revenue produced, at least at half-yearly intervals, and in any event,

if the trust established in respect of the reserved portion or part thereof lapses before the expiration of the copyright that is the subject of the trust, such copyright shall be transferred to the mandatory heirs of the author or in turn to their heirs.

Article 31 of the Law on Trusts shall apply both to trustees who are natural persons and to the directors of legal entities that are not commercial banks or insurance companies.

Section 4
Legal Capacity in Copyright Matters

31. A minor who has reached the age of 16 years may perform all legal acts in relation to a work created by him on the same terms as a minor having full rights, but the authorization of the competent court shall be required for him to consent to exploitation by means of a public announcement as provided in Article 60 of this Law, or for the assignment of rights free of charge.

32. A minor who has reached the age of 16 years may bring any judicial action deriving from his copyright and from legal acts in relation to the work created by him, subject to the assistance of the persons specified in the sole paragraph of Article 383 of the Civil Code.

33. A person unable to exercise his civil rights owing to a criminal conviction may, through an agent, perform any legal act in relation to the work created by him and bring any judicial action deriving from those legal acts or from his authorship.

Section 5
Copyright in Marriage

34. Notwithstanding any clause to the contrary in the marriage contract, copyright shall belong exclusively to the spouse who is an author or the successor in title of an author. In the case of a joint estate, the spouse who is the owner of the copyright may administer it and dispose of it without the limitations of Article 154 of the Civil Code.

Nevertheless, on the death of the spouse who is an author, and provided that the other spouse survives him or her, the copyright in works created during marriage shall be included in the joint estate for the purpose of the liquidation of such communal property as exists between them. The provisions of this Law regarding the successors in title of the author shall apply to the spouse regarding his or her share in such communal property.

35. Under the communal property regime, the proceeds from the exploitation of an intellectual work, earned during marriage either direct or as the result of assignment of the exploitation rights, shall be considered communal property, but the administration thereof shall accrue solely to the spouse who is an author or the successor in title of an author.

Chapter III

Rights Related to Copyright

36. Editions of the works of others or of texts that represent the result of scientific work shall be protected in the same way as the intellectual works mentioned in Article 1.

The copyright of the author of such a publication or his successor in title shall expire 15 years after the first publication thereof. Nevertheless, it shall expire 15 years after the preparation of the edition if it was not actually published during that period. Such periods shall be counted from January 1 of the year following that of first publication or preparation.

37. The person who discloses an intellectual work that has not been made accessible to the public during the period laid down in Article 25 shall have the exclusive right to exploit the said work. That right shall be governed insofar as may be applicable by the provisions of this Law on the exploitation of intellectual works by the author and his successors in title, *mutatis mutandis*.

The right of the discloser shall expire after 10 years counted from January 1 of the year following that of the disclosure of the work.

38. Photographs and also reproductions and prints obtained by a comparable process shall be protected in the same way as the intellectual works mentioned in Article 1 of this Law. The rights of the photographer and his successors in title shall expire after 60 years following the disclosure of the work. Nevertheless, they shall expire 60 years after having been made if they have not been disclosed during that period. Such periods shall be counted from January 1 of the year following that of disclosure or making, as the case may be.

The right to exploit a photograph taken by a professional photographer may be assigned on the same conditions as a photograph taken in the course of employment relations, as provided in Article 59 of this Law.

Images recorded on audiovisual tape shall be deemed equivalent to photographs insofar as they do not themselves constitute audiovisual works.

PART II

CONTENT AND LIMITATIONS OF EXPLOITATION RIGHTS

Chapter I

Content of Exploitation Rights

39. The right of exploitation of an intellectual work provided for in Article 23 of this Law shall comprise the right of communication to the public and the right of reproduction.

40. Communication to the public shall be understood to mean any act by which the work is made accessible to two or more persons, in particular by means of the following:

1. stage performance, recitation, reading and public enactment of dramatic, dramatico-musical, literary and musical works by any means or process;

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2. public screening or showing of cinematographic and other audiovisual works;
 3. broadcasting of works of any kind by radio or television or any other means serving for the wireless distribution of signs, sounds or images;
 4. transmission of works of any kind to the public by wire, cable, optic fiber or other comparable process;
 5. retransmission of the broadcast or televised work by any of the means specified in the foregoing subparagraphs, effected by a broadcasting organization different from the original one;
 6. reception, in a place accessible to the public and by means of any appropriate apparatus, of a work broadcast by radio or television;
 7. public presentation and display;
 8. public access to computer data bases by telecommunication where such data bases contain or constitute protected works;
 9. dissemination, by any known or future process, of signs, words, sounds or images.

41. Reproduction shall consist in the physical fixing of the work by any method or process that allows it to be made known to the public, or copies to be made of all or part of it, especially by printing, drawing, engraving, photography, modelling or any process belonging to the graphic or three-dimensional arts or mechanical, electronic, phonographic or audiovisual recording, including cinematography.

The right of reproduction shall also cover distribution, which consists in the making available to the public of the original or copies of the work by means of sale or other transfer of ownership, rental or other form of use for a consideration.

Nevertheless, where the authorized marketing of copies takes place by means of sale, the owner of the right of exploitation shall retain the rights of communication to the public and of reproduction, and also the right to authorize or prohibit the hiring of the said copies.

42. Where the Law does not provide otherwise, the communication, reproduction or distribution of all or part of a work without the consent of the author or, where applicable, of his successors in title or assignees shall be unlawful.

The foregoing provision shall include also the communication, reproduction or distribution of the work when it has been translated, adapted, transformed, arranged or copied by any technique or process.

Chapter II

Limitations of Exploitation Rights

43. The following shall be considered lawful communications:

1. those occurring in a domestic environment, provided that there is no profit-making purpose;

2. those made in the general interest in the course of official events and religious ceremonies, provided that the public is allowed to attend them free of charge and that none of the participants in the communication receives specific remuneration for participation in the act;

3. those made for strictly scientific and teaching purposes in educational establishments, provided that there is no gainful intent.

44. The following shall be considered lawful reproductions:

1. the reproduction in one copy of a printed, sound or audiovisual work, except in the case of a computer program, which shall be governed by subparagraph 5 of this Article, provided that the copy is made for the exclusive personal use of the user, and is made by the person concerned with his own facilities;

2. photomechanical reproduction for exclusive personal use, as by photocopying and microfilm, provided that it is confined to small parts of a protected work or works that are out of print, and without prejudice to the equitable remuneration that the companies, institutions and other organizations offering the service to the public have to pay to the owners of the right of reproduction; any use of the reproduced material for other than personal purposes that is made in competition with the author's exclusive right to exploit his work shall be deemed equivalent to unlawful reproduction;

3. reproduction by reprographic means, for the purpose of teaching or the holding of examinations in educational institutions, provided that there are no profit-making purposes and to the extent justified by the purpose, of articles, brief extracts from works or lawfully published short works, on condition that the use is in keeping with proper practice;

4. the making of single copies of works by noncommercial libraries or archives where the originals are in their permanent stocks, for the purpose of preserving the said originals and replacing them in case of need, or to replace, in the permanent stocks of other libraries or archives, copies that have been mislaid, destroyed or rendered unusable, insofar as it is not possible to acquire such a copy in due time and on reasonable terms;

5. the reproduction of a single copy of a computer program exclusively for backup or security purposes;

6. the storage of a computer program in the internal memory of the equipment for the sole purpose of use by the lawful user, and without prejudice to the participation of the owner of the rights where so agreed in the contract for the disposal of the data carrier or in the license for use;

7. the reproduction of a work, to the extent justified by the purpose, for judicial or administrative proceedings;

8. the copying of works of art strictly for the purposes of study;

9. the reproduction of a work of art permanently displayed in a street, square or other public place by means of a technique different from that used for the making of the original; with respect to buildings, the said right shall be limited to the external elevations.

45. The author of a musical work, may, for the score or libretto of the said work, make use of small portions of a literary text or poem of limited length following the publication thereof, provided that the text or poem may not, by its nature, be considered specially written for the stated purpose; the author of the musical work shall however pay the author of the text or poem an equitable share in the proceeds from the exploitation of his work together with the score or libretto.

In all cases where, pursuant to this Article, the stated use is lawful, the reproduction of the text without the musical work shall likewise be lawful:

1. for use by those present in the actual place in which performers execute the musical works;
2. in programs that announce the broadcasting of the musical work;
3. when printed on material for the recording of the sounds of the musical work or on adjoining cards or sheets that are duly identified as such.

46. Provided that the name of the author and the source are clearly stated, the following shall also be lawful:

1. the inclusion of an already published work in an original scientific work with a view to the clarification of the contents thereof, to the extent justified by that purpose; the reproduction of a work of art to that end, however, shall be lawful even when the work has not been published, provided that it is permanently on public display;
2. the quotation of certain parts of an already disclosed work in an original work in which the author has made use of language as a means of expression.

47. Provided that the name of the author and the source are clearly stated, the following shall also be lawful:

1. the dissemination by the press or broadcasting as news of current events, even in their entirety, of speeches addressed to the public and given at public assemblies, meetings or ceremonies or in the course of public debates on matters of public interest before organs of the national, State or municipal authorities;
2. the dissemination by the press or broadcasting of articles of topical interest on economic, social, artistic, political or religious matters that are published in newspapers or magazines, provided that reproduction has not been expressly reserved; dissemination may also take place in the form of press reviews.

Without prejudice to the provisions of this Article, the author shall have the right to publish his speeches and articles, and also the right to group them in a collection.

48. The reproduction of news of the day or miscellaneous facts that have the character of mere press information and are published by the press or broadcast shall be lawful, provided that they do not constitute intellectual works by reason of their form, and without prejudice to the principles governing unfair competition.

49. For the purposes of the reporting of current events by broadcasting or cinematography, it shall be lawful to broadcast or record images and sounds constituting brief fragments of works that may be either seen or heard in the course of the events reported upon.

PART III EXPLOITATION OF THE WORK BY THIRD PARTIES

Chapter I General Provisions

Section 1 Scope and Forms of Assignment of Exploitation Rights

50. The right of exploitation specified in Article 23 and defined in Article 39 of this Law may be assigned free of charge or for a consideration; it shall however revert to the author or to his successors in title when the rights of the assignee expire.

Unless otherwise agreed, any assignment of exploitation rights shall be presumed made for a consideration.

The owner of the right of exploitation may likewise grant third parties non-exclusive and intransferable licenses for use, in exchange for remuneration and subject to the provisions of the contract concerned and also those relating to the assignment of exploitation rights, where applicable.

51. Exploitation rights shall be mutually independent, and therefore the assignment of the right of reproduction shall not imply that of the right of communication to the public, or vice versa.

Unless otherwise agreed, the effects of the assignment of any of the economic rights shall be confined to the forms of exploitation expressly stated in the contract.

Except in the case of expressly agreed assignments made free of charge, it shall be necessary that the contract of assignment specify, subject to the provisions of Section 2 of this Chapter, the remuneration of the author corresponding to the exploitation that occurs in the forms expressly stated in the contract.

52. The assignment of the author's exploitation rights in his future works shall be valid if those works are specified individually or by genre; the assignment shall be effective only for a maximum period of five years counted from the date of the contract, even where the latter has specified a longer period.

53. Except where expressly provided otherwise in the Law, contracts for the assignment of exploitation rights and licenses for use shall be evidenced in writing.

Nevertheless, this formality shall not be necessary for audiovisual works, broadcast works, computer programs and works created in the course of employment relations, as provided in Articles 15, 16, 17 and 59 of this Law.

54. The disposal of the material object in which a work is embodied shall not constitute assignment to the acquirer of the author's exploitation rights.

Nevertheless, unless agreed otherwise, the contract of disposal of the material object embodying a work of art shall confer on the acquirer the right to exhibit the work publicly, either free of charge or for a consideration.

In the event of resale of works of three-dimensional art, either by public auction or through a professional art dealer, the author, and on his death his heirs or legatees shall, for the time referred to in Article 25 of this Law, enjoy the inalienable and unrenounceable right to collect 2% of the resale price from the vendor.

The collection of the remuneration mentioned above shall be entrusted to a collective administration organization.

Section 2

Remuneration of the Assignor

55. In the event of assignment for a consideration of the author's rights in his work, provision shall be made for him to have a proportional share in the proceeds earned by the assignee from the exploitation of the work.

Nevertheless, the remuneration of the author may be in the form of a lump sum in the following cases:

1. if the basis for the calculation of a proportional share cannot be determined practically;
2. if the means of monitoring the application of the share are lacking;
3. if the cost of the calculation and monitoring work are not reasonably proportional to the amount that the remuneration of the author would represent;
4. if the nature or circumstances of exploitation make it impossible to apply the rule of proportional remuneration, either because the author's contribution is not one of the essential elements of the intellectual creation of the work, or because the use of the work is only incidental to the subject matter being exploited.

The same shall apply when the author or his assignee are resident abroad.

It shall also be lawful, at the author's request and by agreement between the contracting parties, to convert the rights deriving from contracts in force into life annuities of fixed amount.

56. With regard to the publication of books, the remuneration of the author may be a lump sum when the works concerned are highly scientific works, anthologies or encyclopedias, prefaces, annotations, introductions or presentations, illustrations of a work, limited de luxe editions, albums for children, popular editions, prayer books and translations, provided in the latter case that the translator so requests.

Section 3
Transfer of Assigned Rights

57. The transfer of exploitation rights by the assignee to a third party by *inter vivos* instrument implies also the transfer to that third party of the assignee's obligations towards the assignor.

Unless otherwise agreed, the transfer may not take place otherwise than with the consent of the assignor, given in writing, except where it is included in the disposal of the assignee's business or part thereof. Nevertheless, if in such a case the transfer is seriously detrimental to the author's interests, he may proceed against the acquirer for rescission of the contract of assignment.

The author's consent to a subsequent transfer shall likewise be given in writing to the assignee.

Section 4
Right to Revoke the Transfer

58. Notwithstanding any provision to the contrary, and even after the publication of the work, the author shall have, in relation to the assignee of his right or, as the case may be, in relation to the said assignee's successors in title, the moral right to revoke the assignment; he may not however exercise that right without indemnifying them for any prejudice sustained thereby.

This right shall lapse on the death of the author.

The court may reduce the amount of any payment that the author may have agreed to make to the assignee for the exercise of the right referred to in the first paragraph of this Article when the said amount has been set prior to the time at which the right concerned was exercised.

The right provided for in this Article shall not be applicable to assignments effected in relation to works created in the course of employment relations as provided in Article 59 of this Law.

Section 5
Rights in Works Created in the Course of Employment Relations
or on Commission

59. It shall be presumed, unless expressly agreed otherwise, that the authors of works created in the course of employment relations or on commission have assigned to the employer or commissioning party, as the case may be, without limitation and for the entire duration thereof, the exclusive right to exploit them as defined in Article 23 and contained in Part II of this Law.

The delivery of the work to the employer or commissioning party, as the case may be, shall imply consent to the disclosure thereof by the latter, to the exercise by him of the rights referred to in Articles 21 and 24 of this Law, and also to his defense of the moral rights to the extent necessary for the exploitation of the work.

The assignment referred to in this Article shall not be effected by implication in the case of lectures or courses given by the teaching staff at universities, secondary schools and other educational establishments.

Section 6
Consent to Exploitation by Public Announcement

60. The author may publicly consent to the exploitation of his work by any person; that authorization may however be revoked on just grounds in the manner in which it was granted or in an equivalent manner.

Revocation shall not be binding on those persons who in good faith had started exploiting the work before it was pronounced. Nevertheless, those persons may not put in hand exploitation that is different in form or extent from that which was in progress at the time of the revocation.

Section 7
Collective Administration of Economic Rights

61. Collective administration organizations that have been or may yet be set up to defend the economic rights recognized by this Law on behalf of their members or those that they represent, or the rights of those affiliated to or represented by foreign organizations of the same kind, in addition to having legal personality, shall require a State license to operate and shall be subject to State supervision as provided in this Law and the Regulations under it.

Administration organizations shall be authorized, in terms deriving from their own statutes and from such contracts as they conclude with foreign organizations, to exercise the rights entrusted to them for administration and to assert them in all kinds of administrative and judicial proceeding.

62. Administration organizations may establish tariffs for the remuneration payable for the assignment of exploitation rights or licenses for use granted in respect of the works, products or productions constituting their repertoire.

The tariffs and amendments thereto shall be published as specified in the Regulations, except as provided in Article 144 of this Law.

If an organization of users or a broadcasting organization considers that the tariff established by an administration organization for the communication to the public of preexisting works, performances or musical productions is excessive, it may have recourse to arbitration by the National Directorate of Copyright within 10 working days following the publication of the tariff, without prejudice to the obligation to abstain from using the repertoire in question.

The provisions of this Article shall be considered without prejudice to such judicial action as the parties may bring before the competent jurisdiction.

63. The administrative authorities that in all cases perform supervisory and inspection functions in relation to activities susceptible of giving rise to remuneration under the foregoing Article shall be obliged to inform administration organizations, at the latter's request and against repayment of expenses, of communications to the public effected within their jurisdiction.

64. Any person who exploits a work, product or production administered by a collective administration organization without having been assigned the corresponding rights or without having been granted the appropriate license for use, shall pay, by way of indemnification, a charge of 50% of the remuneration specified in the tariff, applicable to the entire period during which the exploitation took place, provided that there is no evidence of a more serious prejudice in the specific case.

Chapter II **Exploitation Contracts**

Section 1 *Performance Contract*

65. The performance contract is that by which the author of an intellectual work or his successors in title assign to a natural person or legal entity the right to perform the work on conditions that are specified.

The performance contract may be concluded for a specific period or for a specific number of public performances.

The provisions on the performance contract shall also be applicable, as appropriate, to other forms of communication to the public.

66. Unless exclusive rights are expressly stipulated, the contract shall not confer any exploitation monopoly on the show producer.

The validity of the exclusive rights granted by an author of dramatic works may not exceed five years; any absence or interruption of performances for two consecutive years shall terminate the contract as of right.

67. Unless otherwise provided, the assignment of the right to broadcast a work or communicate it to the public by any other means of wireless distribution of sounds or images shall cover all communications made by the broadcasting organization.

Pursuant to the provisions of Article 51 of this Law, assignment of the right to broadcast shall not imply assignment of the right to fix the sounds or images of the broadcast work. Nevertheless, the broadcasting organization may make such a fixation using its own facilities for the purposes of a single use, through one or more of its stations, within the following six months, for broadcasting to the same circle of users. Such recordings may however be preserved in official archives established for the purpose if they have exceptional documentary character.

The assignment of the right of communication of the work by any wire or wireless means shall not imply assignment of the right to communicate the work so transmitted to the public by means of loudspeakers or screens or any other comparable device for transmitting sound or images.

68. If it has been agreed that the assignor shall be paid proportional remuneration, the show producer shall be obliged to communicate to him or to his representatives the exact program of public performances, which shall be done by noting in daily schedules the works performed and the authors thereof, and to submit an accurate account of payments for admission to them.

69. The show producer shall undertake to ensure that the public performance of the work takes place under technical conditions that guarantee the honor and reputation of the author.

70. Even in cases in which the work is not disclosed, it shall be presumed that the show producer is authorized to make the work known to reviewers and to submit the plot to the press before the performance takes place.

Section 2 *Publishing Contract*

71. The publishing contract is that by which the author of an intellectual work or his successors in title assign, on specified conditions, the right to produce a number of copies of the work, or to have them produced, to a person called the publisher, who in turn shall undertake to ensure publication and distribution of the work on his own account.

In the absence of any express provision, it shall be presumed that the publisher's rights are exclusive.

72. The publishing contract shall specify the minimum number of copies constituting the first edition of the work, except where the publisher has guaranteed the assignor payment of a fixed amount by way of minimum payment.

Those copies that by virtue of a provision of the law or the contract are to be distributed free of charge shall not be counted in the number of copies constituting the edition.

73. Unless otherwise agreed, the contract shall confer on the publisher the right to publish only one edition of the work; if however more than one edition is authorized, the stipulations relating to the first edition shall apply to the others unless otherwise provided in the contract.

74. The assignor shall deliver the work to the publisher under the conditions specified in the contract and in such a way that normal production may take place. Unless otherwise agreed or technically impossible, the assignor shall retain ownership of the object that he delivers to the publisher in compliance with the foregoing obligation; however, the responsibility of the publisher for the safekeeping of the said object shall end one year after the production is completed.

75. The assignor shall assure the publisher of undisturbed and where applicable exclusive enjoyment of the rights assigned for the duration of the contract.

76. The assignor shall likewise, where applicable, be under the obligation and have the right to correct the proofs according to procedures established by custom.

77. For as long as the work is not published, the assignor may make whatever amendments to it he considers appropriate, provided that such amendments do not alter the character and purpose of the work; he shall however pay the increased costs due to the amendments where they exceed the customary limit.

The same right shall belong to the assignor in respect of any further editions that may be provided for in the contract, in which case he may exercise that right, at the request of the publisher, prior to the making of each new edition. In the absence of agreement between the parties, the court may set a period for the assignor to make the amendments to the work and deliver them to the publisher.

78. The publisher may not make any amendment to the work without the written consent of the assignor. He may however correct printing or spelling errors except where the latter have been introduced deliberately.

79. Where the nature of the work requires it to be brought up to date for any further edition that may have been provided for by the parties and the assignor refuses to do so, the publisher may do so in his place, availing himself of expert opinion on the subject; the work of the latter shall however be mentioned and identified in the new edition.

80. The publisher shall produce the copies of the work, or have them produced, in accordance with relevant technical standards and shall market them in the manner customary within the profession.

Unless otherwise agreed, he shall cause to appear on each of the copies the name, pseudonym or distinctive mark of the author and also, in the case of a translation, the name of the translator and the title that the translated work had in the original language.

81. If the assignor is entitled to proportional remuneration, he may demand of the publisher the annual submission of a statement of account, which shall show the date and print-run of the editions produced during the period under review, and the number of copies in stock for distribution.

In the absence of an established practice or agreement to the contrary, the statement shall also mention the copies sold by the publisher and the copies rendered unusable or destroyed by accident or unavoidable circumstances.

82. If, within the period specified or that imposed by the court, the publisher has not produced the copies of the work or had them produced, or has not placed them on sale or, in the event of the edition being out of print, has not reprinted the work in spite of being required to do so, the assignor shall be entitled to seek the termination of the contract, the return to him of the object that he delivered to the publisher under Article 74, and also indemnification for damages where the publisher does not prove that the failure to produce or market copies or the failure to reprint the work was due to extraneous factors for which he cannot be held responsible.

An edition shall be considered out of print if two or more orders for copies addressed to the publisher have not been met within the following six months.

The court may grant the publisher an extension not exceeding half the original term, such extension being subject, where deemed necessary, to the provision of an appropriate guarantee. Termination of the contract may likewise be limited to part of the contents thereof.

83. In the case of fixed-term contracts, the publisher's rights shall lapse as of right on the expiration of the term.

Nevertheless, unless otherwise agreed, the publisher may sell at the normal price, during the three years following the expiration of the term, those copies that are still in stock, except where the assignor prefers to remainder them at a price set by the parties or, in the absence of agreement between them, by the court, in the latter case after experts on the subject have been heard. This right of the publisher shall not affect the assignor's right to have a new edition produced, except where the parties have set a time limit on such action.

84. The death of the author prior to the completion of the work shall terminate the contract as of right.

However, if the author dies or is otherwise rendered incapable of completing the work after having produced and delivered to the publisher a substantial portion thereof that could be published separately, the latter may, at his discretion, consider the contract terminated or consider it fulfilled in respect of the completed and delivered portion subject to a proportional reduction in any remuneration that may have been stipulated, except where the author or his successors in title have expressed their will that the work remain unpublished if it has not

been fully completed. In the latter case, should the author or his successors in title subsequently assign to another person the right of reproduction in the unfinished work, they shall indemnify the publisher for the prejudice caused by the termination of the contract.

85. Bankruptcy of the publisher shall not terminate the contract.

Nevertheless, the assignor may request termination of the publishing contract when the receiver, within the three months following the bankruptcy declaration, does not continue to operate the publisher's business or transfer it to another publisher as provided in Article 57 of this Law.

Section 3 *Assignment of Press Articles*

86. Unless otherwise agreed, the assignment of articles for newspapers or magazines shall confer on the owner of the newspaper or magazine only the right to insert it once, the other rights of exploitation of the assignor being reserved.

87. If the assigned article is to appear under the name or pseudonym of the author, the assignee may not alter it, and, if the owner of the newspaper or magazine does alter it without the assignor's consent, the latter may demand that the article assigned be inserted in its complete and unchanged form, without prejudice to any right he may have to damages.

Where the assigned article is to appear without the author's name, the owner of the newspaper or magazine may make alterations or changes of form to it without the consent of the assignor.

88. If an assigned article is not published and distributed within the period stipulated or, in the absence of such stipulation, within the year following the delivery thereof, the assignor may denounce the contract without prejudice to his right to be paid the agreed remuneration.

89. The provisions of this Section shall apply *mutatis mutandis* to drawings, cartoons, graphics, photographs and other works likely to be published in a newspaper or magazine.

PART IV RIGHTS NEIGHBORING ON COPYRIGHT

Chapter I **General Provisions**

90. The protection afforded for the rights neighboring on copyright shall in no way affect the protection of the copyright in scientific, artistic or literary works. Consequently, none of the provisions contained in this Part may be so construed as detracting from that protection, and in the event of conflict the provisions most favorable to the author shall prevail.

91. The owners of the neighboring rights recognized in this Part may avail themselves of all the provisions concerning authors insofar as they conform to the nature of their own rights, including the actions and proceedings provided for in Part VI and those concerning the limitations on the rights of exploitation provided for in Part II of this Law.

The provisions contained in Articles 15, 16 and 59 of this Law shall likewise be applicable to them.

Chapter II Rights of Performers

92. Performers or their successors in title shall have the exclusive right to authorize or prohibit the fixing, reproduction or communication to the public, by whatever means or process, of their performances. They may not however object to communication when it is effected on the basis of a recording made with their prior consent and published for commercial purposes.

Performers shall likewise have the moral right to have their names or pseudonyms associated with the performance and to oppose any distortion thereof that is liable to prejudice their honor or reputation.

93. Orchestras, vocal ensembles and other groups of performers shall appoint a representative for the purposes of the exercise of the rights recognized by this Law. In the absence of such appointment, representation shall be attributed to the leader of the group.

94. The term of protection granted to performers shall be 60 years, counted from January 1 of the year following the performance in the case of live performances, or following publication where the performance is recorded on a sound or audiovisual medium.

Chapter III Rights of Producers of Phonograms

95. Producers of phonograms shall have the exclusive right to authorize or prohibit the reproduction of their phonograms, and also the importation, distribution to the public, rental or other use, in whatever form and by whatever means, of copies of their phonograms.

96. Producers of phonograms shall have the right to receive remuneration for communication of the phonograms to the public, except as provided in Article 43 of this Law.

97. Producers of phonograms or their successors in title shall collect the remuneration referred to in the foregoing Article, and shall pay to the performers of the works embodied in every phonogram 50% of the net proceeds that the producer receives from the collection and administration organization referred to in Articles 61 to 64 of this Law.

Unless agreed otherwise between them, the payment due to performers shall be shared out in the proportion of two-thirds to the performers and one-third to the performing musicians, including orchestrators and conductors.

98. The remuneration referred to in the foregoing Articles may not exceed a total of 60% of that accruing to the authors of the works embodied in the phonogram.

99. The remuneration provided for in this Chapter shall be collected by the administration organizations set up according to the provisions of Article 61 of this Law. The corresponding amounts shall be handed over to the producers of phonograms after deduction of collection and administration expenses.

100. The protection granted to the producer of phonograms shall be for 60 years counted from January 1 of the year following the first publication of the phonogram.

Chapter IV Rights of Broadcasting Organizations

101. Broadcasting organizations shall have the exclusive right to authorize or prohibit the fixing, reproduction and retransmission of their broadcasts.

102. The protection granted to broadcasting organizations shall be for 60 years counted from January 1 of the year following the broadcast.

PART V REGISTRATION AND DEPOSIT OF INTELLECTUAL PRODUCTS

103. The Registry of Intellectual Products is hereby created and assigned to the National Directorate of Copyright referred to in Part IX of this Law.

Intellectual works, products and productions protected by this Law may be registered at the Registry of Intellectual Products.

The Register entry shall mention, as appropriate, the name of the author, the performer, the producer and, in the case of Article 37 of this Law, the discloser; the date of disclosure or publication and the other information required by the Regulations shall also be entered.

In all matters not provided for in this Law or the Regulations under it, the Registry of Intellectual Products shall apply the relevant provisions of the Law on Public Registration.

104. Registration shall attest, in the absence of proof to the contrary, the existence of the work, product or production and the fact of its disclosure or publication. It shall be presumed, in the absence of proof to the contrary, that the persons named in the Register entry are the owners of the rights attributed to them in the capacity specified.

105. It shall likewise be possible to register, according to the formalities laid down in the Law and Regulations, *inter vivos* instruments that totally or partly transfer the rights recognized by this Law or establish rights of usufruct in relation to them, and also instruments effecting allocations or company documents relating to such rights.

The declaration referred to in Article 8 of this Law shall also be registered.

The registration fees for entries relating to works, products and productions, and also those relating to assignments and other forms of granted rights and other documents referred to in this Part, shall be calculated according to the provisions of the Law on Public Registration.

106. Authors, performers, producers or disclosers of the works and products protected by this Law or their successors in title may deposit at the Registry two originals or copies of the work, product or production in the manner and form laid down by the Regulations.

The Registry of Intellectual Products shall deliver one of the originals or copies deposited to the Autonomous National Library and Library Services Institute. Such delivery shall not affect the deposit obligation provided for in the Law which specifies the sending of works to the National Library and other similar institutions.

Photographs shall be excluded from the deposit obligation, but they may be deposited for the purposes of entry in the Register established by Article 103 of this Law.

107. Failure to effect registration or deposit as provided in the foregoing Articles shall not prejudice the acquisition and exercise of the rights established by this Law.

108. Without prejudice to the registration formalities provided for in the Civil Code, collective organizations for the administration of economic rights shall have their articles of incorporation and statutes entered in the Register of Intellectual Products, and also their tariffs, internal regulations, collection and distribution rules, mutual representation contracts with foreign entities and other documents specified by the Regulations.

PART VI CIVIL AND ADMINISTRATIVE LITIGATION

109. The owner of any of the exploitation rights provided for in this Law who has reason to fear infringement of his rights or the continuation or recurrence of an infringement that has already occurred, may request the court to declare his rights and prohibit the other person from engaging in infringing acts, without prejudice to any action for moral and material damages that he may bring against the infringer.

In order to make the prohibition effective, the court may give warning in its ruling of a fine payable if an infringement should occur. The court shall impose the sanction at the request of the aggrieved party. The fine shall not exceed the equivalent of 20 times the minimum urban wage set by the National Executive in accordance with the Law on the Organization of Labor, and it shall be convertible into detention in the proportion of 500 bolivars to one day of detention.

In the event of a second offense, the fine imposed may be doubled.

110. The owner of one of the exploitation rights provided for in this Law who has been prejudiced in the exercise thereof may request the court to order the destruction or withdrawal of the originals or copies unlawfully reproduced and of the equipment used for the reproduction, insofar as the latter cannot, by their nature, be used for the reproduction or

communication of other material, without prejudice, where appropriate, to the right to bring action for damages caused to the owner of any one of the exploitation rights mentioned.

If part of the equipment concerned can be used for the reproduction or communication of other material, the person concerned may demand that the part in question be separated at his expense to save it from destruction or removal. If the original, copy or equipment whose removal or destruction is sought is of particular artistic or scientific merit, it may not be destroyed, and the court may order *ex officio* that it be handed over to a public museum.

In any event, the injured party may request that the originals, copies or equipment whose destruction has been ordered be awarded to him. The court shall determine the value of the award, which shall be deducted from the estimated amount of compensation for damages caused.

The measures referred to in this Article shall be without effect on those who have, in good faith and for their personal use, acquired an unlawfully reproduced original or copy.

111. For the purposes of the exercise of the actions provided for in the foregoing Articles, the court may order judicial inspections and expert studies, and also any other form of proof provided for in the Code of Civil Procedure.

The court may order the sequestration of everything that constitutes a violation of the exploitation right.

The court may likewise order the seizure of the revenue accruing to the owner of the disputed right of exploitation.

Sequestration and seizure shall be ordered only if the request is accompanied by proof constituting a serious presumption of the alleged infringement, or if such presumption emerges from the production of any of the proof mentioned in the first paragraph of this Article.

112. In the event of a dispute between the parties, the proof and measures provided for in the foregoing Article shall be ordered by the court hearing the case. However, should the urgency of the matter so dictate, they may be ordered by the parish or municipal court of the place in which they are to be carried out, regardless of the amounts involved. In such a case the party proceeded against may protest against the said amount to the court hearing the case, without the production of the proof or the application of the measure being thereby prevented.

If there is no dispute between the parties, the proof and the measures shall be decreed by the parish or municipal court of the place in which they are to be implemented if the urgency thereof dictates, without the owner, possessor, person in charge, administrator or occupant of the place in which they are to be implemented being able to oppose such production or implementation. The same court shall lift the measures at the request of the party proceeded against on the expiration of 30 consecutive days after they were ordered if he has not been served notice of the initiation of the main proceedings.

The proof and measures shall be produced and implemented by the court that decrees them, by the commissioned judge or by the police authority requested by the court to do so,

with the intervention where necessary of one or more experts designated in the decree concerned or by order of the commissioned judge.

113. At the request of the party concerned, the court may order that the text of the ruling be published at the expense of the defeated party in one or more newspapers specified by the court.

114. The provisions of this Part shall likewise apply, insofar as they are relevant, to the protection of the moral rights provided for in this Law.

115. For the defense of the right of authorship in the work, product or production, the measures provided for in Article 110 of this Law shall not be decreed unless the violation of rights cannot be remedied satisfactorily by additions or deletions in the lawfully reproduced copies, or by other publicity methods, where the originals or copies have been reproduced with the consent of the owner of the rights concerned.

116. For the defense of the rights concerning the integrity of the work, product or production, the removal or destruction of the distorted, mutilated or otherwise altered original shall not be decreed except where it is impossible to restore it to its original form at the expense of the party interested in avoiding removal or destruction, and provided that the said original was produced with the consent of the owner of the right concerned.

117. The provisions of this Part shall apply as appropriate to the defense of the rights in the title of a work.

118. The owner of a right of communication to the public may, either himself or through the administration organization responsible for the corresponding repertoire, apply to the mayor of the municipality, the authority competent for the supervision of shows or the person responsible for the inspection of the relevant form of communication to the public, for a prohibition on the communication in question, to be served on the person who does not, in writing, prove his status as assignee or licensee authorized to use the rights in question.

The authority shall prohibit communication if the person responsible therefor does not give evidence of the assignment or license, as provided in Articles 42 and 53 of this Law, without prejudice to the right of the party concerned to apply to the judicial authority for the taking of such final measures as are within its competence.

PART VII CRIMINAL SANCTIONS

119. Insofar as the circumstances do not constitute a more serious offense provided for in the Criminal Code or other laws, any person shall be punished with imprisonment for a term of six to 18 months who, intentionally and without being entitled to do so, makes use of the title of a work in violation of Article 24 of this Law, or communicates, in violation of Article 40 of this Law, in the original or a developed form, in their entirety or in part, intellectual works, editions of the works of others or of texts, or photographs or products obtained by a process equivalent to photography, or images recorded on cinematographic film, being equivalent to photography, or who distributes, in violation of the first or second

paragraph of Article 41, copies of intellectual works protected by this Law, including copies of phonograms, or retransmits, in violation of Article 101, a broadcast without the consent of the owner of the rights concerned.

120. Any person shall be punished with imprisonment for a term of one to four years who, intentionally and without being entitled to do so, reproduces, in violation of the first paragraph of Article 41 of this Law, in the original or a developed form, in their entirety or in part, intellectual works, editions of the works of others or texts, or photographs or products obtained by a process equivalent to photography, or images recorded on cinematographic film, being equivalent to photography, or who introduces into the country, stocks, distributes, sells or otherwise brings into circulation unlawful reproductions of the intellectual works or products protected by this Law.

121. Any person shall be liable to the same penalty as in the foregoing Article who, intentionally and without being entitled to do so, reproduces or copies by any means the performance of a performer, a phonogram or a broadcast, in its entirety or in part, without the express consent of the owner of the rights concerned, his successors in title or licensees, or who introduces into the country, stocks, distributes, sells or otherwise brings into circulation such reproductions or copies.

122. The penalties provided for in the foregoing Articles shall be increased by one-half where the offenses concerned are committed in relation to a work, product or production not intended for disclosure, or by appropriation of authorship, or by distortion, mutilation or other alteration of the work, product or production in a manner liable to prejudice the honor or reputation of one of the persons protected by the Law.

123. The judicial investigation of the circumstances referred to in the foregoing Article shall be initiated only on a complaint by the party concerned.

124. The court may, to the extent provided by Article 113 of this Law, order the publication in the press of the adverse or favorable judgment at the expense of the offender or of the plaintiff, as the case may be.

PART VIII SCOPE OF APPLICATION OF THE LAW

125. Except as provided in Article 127, intellectual works and editions of the works of others or of texts shall be governed by this Law where the author of the work or edition or at least one of the coauthors is Venezuelan or resident in the Republic or where, whatever the nationality or residence of the author, they have been published in the Republic for the first time or within the 30 days following their first publication.

Works of art permanently incorporated in a building located in the Republic shall be considered equivalent to works published therein.

126. Intellectual works and editions of the works of others or of texts by foreign authors not covered by the foregoing Article shall be protected in accordance with the international treaties to which the Republic has acceded or will accede in the future.

In the absence of an applicable treaty, the works and editions mentioned shall enjoy the protection provided for in this Law insofar as the State to which the author belongs grants equivalent protection to Venezuelan authors. The court shall be responsible for verifying the reciprocity requirement *ex officio*, but the party concerned may prove it by means of certification from two attorneys practising in the country concerned. The certification shall be submitted in duly authenticated form and shall not exclude other forms of proof.

127. In addition to the rules of application contained in the foregoing Articles, the provisions of this Law shall be applicable to cinematographic works, other audiovisual works and those produced by a process equivalent to cinematography, computer programs, photographs and products obtained by a process equivalent to photography or assimilated thereto and disclosures of posthumous works made after the lapse of the copyright where those works, products or disclosures have been made or published in the Republic for the first time or within the 30 days following their first publication.

128. Artistic performances, phonographic productions and broadcasts protected under Part IV shall be subject to this Law insofar as the owner of the rights concerned, or any one of the owners, is Venezuelan or resident in the Republic, or where, whatever the nationality or residence of the owner, the products or productions have been made or published in the Republic for the first time or within the 30 days following their first publication.

The principle embodied in Article 126 of this Law shall be applicable to foreign productions and to other neighboring rights referred to in Part IV of this Law.

129. Stateless persons and refugees shall, for the purposes of this Part, be assimilated to nationals of the State in which they have their residence.

PART IX NATIONAL DIRECTORATE OF COPYRIGHT

130. For the exercise of the functions of registration, supervision and inspection within the Administration and such other functions as are contemplated in this Law, the National Directorate of Copyright is hereby created and assigned to the Ministry to which the Law on the Organization of the Central Administration accords competence in that respect. The Directorate shall have the following functions:

1. complying and ensuring compliance with the provisions of this Law and the Regulations under it;
2. keeping the Register of Intellectual Products as provided in Part V of this Law;
3. deciding on the requirements that have to be met by the registration and deposit of works, products and productions, except in cases expressly provided for in the Regulations;
4. authorizing the operation of organizations for the administration of economic rights in accordance with the provisions of the Regulations, and exercising the supervision thereof;

5. supervising the persons, whether natural persons or legal entities, who make use of protected works, products and productions insofar as they give rise to the enjoyment and exercise of the rights provided for in this Law;

6. serving as arbitrator, where so requested by those concerned, in disputes arising between owners of rights, between collective administration organizations, between such organizations and their members and between the administration organizations or owners of rights and the users of the works, products or productions protected by this Law;

7. imposing the sanctions provided for in this Part;

8. operating the Information Center on the works, products and productions, both national and foreign, that are used on the territory of the Republic;

9. such other functions as are specified in this Law or the Regulations under it.

131. In cases of arbitration submitted to the National Directorate of Copyright, the shortened procedure provided for in the Code of Civil Procedure shall be applied.

132. The National Directorate of Copyright may impose sanctions on collective administration organizations that infringe their own statutes or rules, or are implicated in situations that affect the interests of those that they represent, without prejudice to such criminal sanctions or civil actions as may be appropriate.

133. The sanctions referred to in the foregoing Article may be:

1. private, written warning;

2. public warning, disseminated in a printed communication medium with a national readership, at the expense of the infringer;

3. a fine, which shall be neither less than two nor greater than 10 times the amount equivalent to the minimum urban wage, set by the National Executive in accordance with the Law on the Organization of Labor, depending on the seriousness of the offense;

4. suspension of the operating license for a period of up to one year, depending on the seriousness of the offense;

5. revocation of the operating license in particularly serious cases, and as provided in the Regulations.

134. Infringements of this Law or the Regulations under it that do not constitute offenses shall be punished by the National Directorate of Copyright, after the offender has been heard, with a fine calculated according to subparagraph 3 of the foregoing Article. To that end the presumed offender shall be notified and called upon to produce proof in his defense within a period of 15 days. In the event of recurrence, understood to be the repetition of an act of the same nature within a period of one year, a fine of twice the amount may be imposed.

135. From the decisions of the National Directorate of Copyright an appeal shall lie to the Ministry to which the said Directorate is assigned, within the periods and according to the procedure laid down in the Law on the Organization of Administrative Procedures.

136. The amounts of fines imposed under this Part and the repayment of costs in the case of a public warning shall accrue to the assets of the Ministry to which the said Directorate is assigned, with the privileges and prerogatives provided for in the Law on the Organization of National Public Finance.

137. The titular head of the National Directorate of Copyright shall be designated by the Ministry to which the said Directorate is assigned.

PART X FINAL PROVISIONS

138. For the publication of a collection of Venezuelan laws or of public treaties entered into by the Republic or of national court rulings, it shall be necessary to obtain the permission of the Ministry of Internal Relations, the Ministry of External Relations or the court concerned, as appropriate.

The permission shall be given after the work has been reviewed and compared with the originals of the relevant laws, treaties or rulings at the expense of the party concerned.

In the absence of such permission, the authority competent to grant it shall declare that the work is not authorized and is of no official value.

139. Legal matters relating to copyright and other rights protected by this Law shall be within the jurisdiction of the first instance civil courts and the first instance criminal courts, as the case may be, except in cases where this Law places them under the jurisdiction of parish or municipal courts.

140. The Board of Judicature shall remain entitled to assign to one or more of the first instance civil courts and to one or more of the first instance criminal courts of the Federal District, as the case may be, jurisdiction for the entire territory of the Republic in matters concerning copyright and other rights protected by this Law that are not within the jurisdiction of the parish or municipal courts, including in the case where otherwise, by virtue of the provisions of Article 3.1 of the Code of Criminal Judicature, the civil action cannot be conducted jointly with the criminal action.

141. The Law Relating to Copyright of November 29, 1962, and all provisions on the subject that are contrary to this Law are hereby repealed.

PART XI TRANSITIONAL PROVISIONS

142. The rights in the works protected under the provisions of the previous Law shall enjoy the longest terms of protection laid down under this Law.

143. The rights in works that did not benefit from protection under the Intellectual Property Law of July 13, 1928, for want of registration and passed into the private domain under Article 113 of the Law Relating to Copyright of November 29, 1962, shall likewise automatically enjoy the protection granted by this Law, without prejudice to rights acquired by third parties prior to the entry into force thereof.

144. Until such time as the Regulations referred to in Article 61 of this Law have been enacted, organizations representing authors and the owners of neighboring rights that exist as administration organizations on the entry into force of this Law may continue to carry on their activities and exercise the functions provided for in Articles 62 to 64 and other provisions of this Law. For the purposes of Articles 62 and 64, they shall make known to the public the tariffs of the remuneration payable, using at least one of the printed communication media with a national readership for the purpose.

The National Directorate of Copyright, once it has started to operate, shall set a period for the aforementioned organizations, which shall not exceed 90 days, for the registration at the Registry of Intellectual Products of the documents referred to in Article 108 of this Law.

When the Regulations have been enacted, those organizations shall apply to the National Directorate of Copyright within three months following the publication thereof for the authorization required by Article 61 of this Law in order to continue to operate, and without prejudice to the provisions laid down in the Regulations for the consideration and grant of final authorization.

145. A period of six months, counted from the publication of this Law, is granted for the National Executive, through the Ministry having competence in the matter, to initiate the operations of the National Directorate of Copyright.

Until such time as the National Directorate of Copyright has started to operate, the Registry of Intellectual Products shall continue to keep subordinate registrations in accordance with the Law on Public Registration.

* *Spanish title:* Ley sobre el Derecho de Autor.

Entry into force: October 15, 1993.

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Note: Translation by the International Bureau of WIPO.

** Added by the International Bureau of WIPO.