

# THE LAW OF THE REPUBLIC OF TAJIKISTAN

## ON THE COPYRIGHT LAW AND RELATED RIGHTS

(the Law of the Republic of Tajikistan as in force from August 1, 2003, [N 27](#), from March 3, 2006 [№162](#))

### SECTION I. GENERAL PROVISIONS

#### Article 1. Subject of Regulation

This Law shall regulate relationships arising in connection with the creation and use of the scientific, literary and artistic works (copyright), phonograms, performances and programs of broadcasting or cable distribution organizations (related rights).

#### Article 2. Legislation of the Republic of Tajikistan on the Copyright and Related Rights

The legislation of the Republic of Tajikistan on the copyright and related rights is based on the Constitution of the Republic of Tajikistan and comprises this Law, other laws, legislative and other normative acts adopted in accordance with this Law, as well as international agreements recognized by Tajikistan.

#### Article 3. Basic Definitions Used in this Law

The following definitions shall be used in this Law:

- 1) Author – a physical person, whose creativity brought about the creation of a work;
- 2) audiovisual creation – a work comprising fixed series of interconnected images (with or without accompanying sound) for visual and aural (when with accompanying sound) perception using relevant technical devices; audiovisual works include cinematographic and all works expressed by means comparable to cinematography: television movies, video films, fixed projections, slide shows, etc., regardless of the manner, in which they are initially or subsequently fixed;
- 3) database – block of data in machine readable or other form, which, by selection or layout, represents the result of intellectual art. The concept of database does not apply to software for computers, which can help in accessing database materials (the Law of RT No. 27 as in force on August 1, 2003);
- 4) Reproduction of a work – production of one or more copies of a work or of a part of a work in any material form, including in the form of audio or video record;  
Reproduction shall also mean recording of a work for permanent or temporary storage in machine-readable form, as well as input in internal or external computers;
- 5) phonogram – any exclusive audio record of performance or other sounds, or their imaging, apart from audio record included in audiovisual work (the Law of RT No. 162 as in force from March 3, 2006);

6) reproduction of a phonogram – production of one or more copies of phonogram or its part on any material media, including permanent or temporary storage in the computer memory or other computer devices (the Law of RT No. 162 as in force from March 3, 2006);

7) record – fixing of sounds and/or depiction or their images with technical aids in any material form that allows repeated comprehension, reproduction or communication (the Law of RT No. 162 as in force from March 3, 2006);

8) producer of audiovisual work – a physical person or a legal entity, who took the initiative of and responsibility for production of such work; in the absence of proof, a person named in the customary manner on an audiovisual work, shall be recognized as the producer of that work;

9) phonogram producer – a physical person or a legal entity, who took the initiative of and the responsibility for the first sound record of any performance or of other sounds, or imaging sounds; in the absence of proof, the person named in the customary manner on the phonogram or on the sleeve or inlay card, shall be considered the producer of the phonogram (the Law of RT No. 162 as in force from March 3, 2006);

10) exclusive right – the right that belongs to the author (authors), who created a work, when no other person can use the work without a relevant permit/license, except for the established by the Law;

11) execution – presentation of a creation, sound record, work, production through live playing, singing, dancing with some technical facilities (TV broadcasting, cable TV, etc.); projection of audiovisual images in consecutive order (with or without sound);

12) performer – an actor, a musician, a dancer, or any other person who performs, sings, declaims, plays on a musical instrument or otherwise presents a literary or artistic work (including a variety turn, circus act, or puppet show), or expression of folklore, as well as the producer of show and orchestra conductor (the Law of RT No. 162 as in force from March 3, 2006);

13) holder of copyright and related rights:

- author or executor lodged with copyright or related rights;
- a physical person, other than the author, or a legal entity when initially such a physical person or a legal entity are lodged with the property rights;
- a physical person or a legal entity, to whom the property rights were lodged or transferred in succession of inheritance or succession in title;

14) publication (release) – issue of publication of works or phonogram with the consent of the author or other possessor of copyright and related rights in the quantity sufficient for satisfaction of public demand; publication shall also mean providing legal access to the work or phonogram through electronic media;

15) over-the-air transmission – communication of works, sound records, performances, transmission of on-air broadcasting or cable casting for public information (including demonstration or performance) through their transmission via radio or TV (with the exception of cable TV). During the transmission of a work, sound record, performance, transmission of on-air broadcasting or cable casting through the satellite and transmission of signals from satellite, through which works, sound

records, performances, broadcastings via on-air or cable casting can be communicated to public regardless of actual reception by public;

16) transmission of on-air broadcasting or cable casting – broadcasting arranged by the organization of on-air or cable casting, as well as on request at its expense by another organization;

17) demonstration of a creation (work) – demonstration of the original or copy of creation directly or on screen with a film, transparency, television image or through other technical means, as well as demonstration of separate images of audiovisual creation without consequence.

18) software for computers – aggregate instructions expressed in words, codes, symbols, signs, diagrams or in other form, which can be used in computer or other computer devices in order to reach a result. This concept covering both operational and application system expressed in the source code or compiled code, including preparatory materials and audiovisual imaging received in the result of software development shall not apply to the concept “database”;

19) public demonstration (performance) – any demonstration of the original or copy of works, performance, execution of broadcasting directly, either on screen with a film, slide, image, or other devices or processes, in a place or places, where the performance can not be perceived without the need to do communication, and where presence can be possible of persons who don't belong to a usual family of the author or closest family acquaintances, regardless of their presence in one or different places and at different times;

20) public presentation of audiovisual work – demonstration of certain images of audiovisual works out of consequence;

21) reproduction (reprographic reproduction) – facsimile reproduction in any size and in one or more original copies, or copies of written or other graphic works through photocopying or with other technical aids, other than publication; reprographic reproduction shall not include storage or reproduction of these copies in electronic (including digital), optical or other machine readable form;

22) rental – making an original or copies of a work or phonogram available for direct or indirect commercial profit;

23) communicate – show, perform, broadcast or engage in any other act (with the exception of distribution of copies of the work or phonogram) whereby the works, phonograms, performances or programs of broadcasting or cable distribution organizations are made available or visible, whether or not they are actually perceived by the public;

24) communicate to the public by cable – communicate works, phonograms, performances or programs of broadcasting or cable distribution organizations to the public by cable, wire, optic fiber, or comparable means;

25) communicate to public for interactive use – communicating works or objects of related rights to public in such a way that public can access them from any location and at any time on their own choice;

26) information on managing rights – any information provided by possessors of rights, which identifies a work or other object protected by this Law, author or any other possessor of rights, or information on the terms of use of the work or any other object, and any figures and codes containing such information, at that any such elements of information are specified in the copy of a work or any other object protected by this Law, or arise in connection with a message or communication of such a work or object for public;

27) technical means for protection of copyright and related rights – any effective technical devices and their components controlling access to the works or objects of related rights preventing or limiting actions regarding works or objects of related rights, which are allowed by possessors of any right protected by this Law;

28) reflection of a sound or an image – digital form of reflecting a sound or an image with relevant technical devices (the Law of RT No. 162 as in force from March 3, 2006).

## SECTION II. COPYRIGHT

### Article 4. Coverage of Copyright

Pursuant to this Law the copyright shall extend to:

- 1) works, authors of which are the citizens of the Republic of Tajikistan;
- 2) works for the first time published in the territory of the Republic of Tajikistan (including works for the first time published in the Republic of Tajikistan 30 days after the date of first publication in other states) (the Law of RT No. 27 from August 1, 2003) or unpublished, in objective form in the territory of the Republic of Tajikistan, regardless of the citizenship of permanent place of residence of their authors;
- 3) works protected in the territory of the Republic of Tajikistan pursuant to the international legal acts recognized by the Republic of Tajikistan. In this case works of possessors of rights from foreign states, who are participants of international legal acts recognized by the Republic of Tajikistan, shall enjoy protection in Tajikistan, which the Republic of Tajikistan shall provide to its citizens (national regime) (the Law of RT No. 162 as in force from March 3, 2006).

**In accordance with international agreements recognized by Tajikistan provision of protection of a work within the territory of Tajikistan shall be carried out with regard to works, which did not become the public domain in the country of origin of a work as a result of expiration of term of validity of a copyright in such a country and which did not become the public domain in the Republic of Tajikistan as a result of the expiration of a term of validity of a copyright previously provided. However, the term of validity of a copyright within the territory of Tajikistan cannot exceed the term of validity of a copyright established in the country of origin of a work.**

## Article 5. Subjects to Copyright. General Provisions

Copyright shall extend to scientific, literary and artistic works being the result of creative activity, regardless of the purpose and merit, and of the manner of expression thereof. Works must be expressed in any objective form:

- 1) written (manuscript, typewritten text, musical score, etc.;
- 2) oral (public recitation, public performance, etc.) ;
- 3) sound or visual record (mechanical, magnetic, digital, optical, etc.)
- 4) figurative form (drawing, sketch, painting, plan, industrial design, still picture from a cinematographic or television or video film, photograph, etc.);
- 5) three-dimensional form (sculpture, model, mock-up, structure, etc.);
- 6) other forms that allow perception of works.

Copyright shall not cover ideas, methods, processes, systems, approaches, concepts, principles, discoveries, facts.

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he copyright in a work is independent of the ownership of the material object, in which the work is expressed.

Transfer of the ownership of the material object shall not in itself entail transfer of any copyright in the work embodied in that object.

## Article 6. Works Subject to Copyright

Copyright subjects shall be:

- 1) verbal works (speeches, lectures, reports, etc.)
- 2) literary works (literary-artistic, scientific, instructional, political essays, etc., including all types of software, including application software and operational systems, which can be expressed in any language and any form, including reference text and compiled code) (the Law of RT No. 162 as in force from March 3, 2006);
- 3) dramatic and dramatic-musical works, works with scenario;
- 4) choreographic works and pantomime;
- 5) musical works with or without accompanying text;
- 6) audiovisual works;
- 7) works of painting, sculpture, ornamental art and crafts, graphic and design works, cartoon strips and other works of figurative art;
- 8) works of architecture, urban planning, and park and garden design;
- 9) photographic works and works obtained by processes analogous to photography;

10) geographical, geological and other maps, plans and sketches, and plastic works related to geography, topography and other sciences;

11) derived works (translations, adaptations, annotations, research reports, resume, reviews, staging, and other adaptations of scientific, literary and artistic works;

12) collections (encyclopedias, anthologies, databases) and other composite works, which represent the result of creative work and come within the criteria named in the Article 5 of this Law;

**13) parts of a work (including its name, characters and other elements) which meet the requirements of paragraph 1 of Article 5 and which may be used independently.**

Derived works and composite works shall be protected by the copyright law whether or not the works, on which used as basis or which they include, are protected by the copyright.

#### Article 7. Works not Covered by Copyright

The following shall not be covered by copyright:

1) official documents (laws, court decisions, other texts of legislative, administrative or judicial nature) and official translations thereof;

2) state emblems and official signs (flags, coat of arms, hymn, decoration, national currency and other state symbols) the Law of RT No. 27 as in force from August 1, 2003);

3) communications concerning events and fact of informational nature;

4) works of folklore.

#### Article 8. Subjects to Copyright

Authors shall be subjects to copyright.

A person named in publication of the work indicated as the author on the copy of the published work, on the manuscript or on the original work of art shall be considered the author.

#### Article 9. Emergence of Copyright. Presumption of Authorship

Copyright on scientific, literary and artistic work shall emerge by virtue of the fact of its creation. The origin and exercise of copyright shall not require either registration, special registration of the work, or any other act of formality.

In order to have his rights recognized, the possessor of exclusive copyright shall have the right to use a copyright protection sign put on every copy of the work and comprise the following three elements:

- 1) a circled Latin letter C: ©;
- 2) the name (the title) of the possessor of exclusive copyright;
- 3) the year of first appearance of the work.

In the absence of proof to the contrary, the person, whose name is indicated on the original or on the copy of the work, shall be deemed the author thereof.

When a publication of a work is anonymous or pseudonymous (unless the author's pseudonym doesn't cause any doubt), the publisher, whose name or title are indicated on the work, in the absence of proof to the contrary, shall be presumed to represent the author and, in that capacity, shall be empowered to defend and exercise the author's rights. This provision shall remain in force until such time as the author of the work reveals his identity and claims copyright of the work.

Possessors of copyright or persons having some exclusive copyright to a work, for acquisition of a copyright certificate to a published or unpublished work, on a fact or a date of publication of the work or on contracts regarding the copyright to a work, at any time during the protection of copyright, can register the work according to the procedure determined by the body authorized by the Government of the Republic of Tajikistan in the area of copyright and related rights protection (hereinafter – authorized body).

A person possessing a material object reflecting a work cannot impede registration of a work by person, who possesses a copyright.

#### Article 10. Co-authorship

A copyright in a work that is the product of joint creative work of two or more persons (co-authorship) shall belong jointly to the co-authors, whether or not such a work constitutes an indivisible whole or is composed of parts, each with a relevance of its own.

A part of a work shall be deemed to have a relevance of its own if it can be exploited independently of other parts of the same work.

Unless otherwise agreed between the co-authors, each co-author shall retain his/her own property and non-property right on the part of the work he/she created with a relevance of its own.

**Persons, who solely provided the author with technical, organizational, financial or other assistance, since it is not creative activity, shall not be recognized as co-authors.**

Relationships between co-authors may be subject to an agreement between them. In the absence of such an agreement the copyright in a work shall be implemented by all authors jointly and remuneration shall be allocated in equal parts.

If a work of co-authors constitutes one indivisible whole, none of the co-authors shall be entitled to prohibit exploitation of the work without a valid reason.

**Unless otherwise provided for in the agreement made by and between the co-authors, any of co-authors shall have the right to take measures associated with protection of rights to the work of co-authors provided for in this Law and other normative and legal acts in his/her name, even without obtaining permission of other co-authors. The co-author who takes such measures shall inform the other co-authors.**

#### Article 11. Copyright of Compilers of Composite Books and other Composite Works

The author of a composite book and other composite work (compiler) shall enjoy copyright in the selection or arrangement of subject matter that represent the result of creative work (compilation). The compiler shall enjoy copyright subject to respect of the rights of the authors of each work included in the composite work. Authors of works included in the composite book shall enjoy the right to exploit their works independently of the composite work unless the author's contract provides otherwise.

Copyright in composite books that are not subject to someone's copyright, such as: laws, court decisions, other official documents, historical acts and monuments, other works not protected by copyright, shall belong to compilers of composite works, unless the works included in the composite book were subjected to independent processing or systematization.

Copyright of compilers shall not impede other persons to perform independent selection or placement of the same materials for creation of their composite works.

The exclusive right to exploit encyclopedias, encyclopedic dictionaries, periodical and run-on scientific publications, newspapers, magazines, and other periodical publications shall belong to the publisher thereof. The publisher shall have the right to mention his/her name or to demand such mention whenever the said publications are exploited. Unless otherwise is provided by the author agreement, the authors of the works included in such works shall retain the exclusive right to exploit their works independently of the publication of the whole work.

#### Article 12. Copyright of Translators and Authors of Other Derived Works.

Translators and other authors of derived works shall enjoy copyright in translations, adaptations, arrangements or any other transformations.

The translator and the author of any other derived work shall enjoy the copyright in the work they created, subject to the rights of the author of the work that they translated, adapted, arranged or otherwise transformed.

The copyright of translators and authors of other derived works shall not restrict other persons in making their own translations and transformations of the same works.

#### Article 13. Copyright in Audiovisual Works

The following shall be recognized as authors of audiovisual works:

director of production;

the author of scenario;

the author of musical work (with or without words) that has specially created for this audiovisual work (composer).



Entering a contract for the making of an audiovisual work shall entail assignment by the authors of this work of the exclusive rights for reproduction, dissemination, public performance, communication by cable, broadcasting, or any other public communication of the work, as well as producing subtitles and duplicating of audiovisual work text to the producer of the audiovisual work, unless otherwise provided in the contract.

The said rights shall be valid throughout the validity of the copyright in audiovisual works. The producer of audiovisual work shall have the right to mention his/her name or title at any exploitation of this work, or demand to mention his/her name/title.

In the case of public performance of audiovisual work, the author of a musical work (with or without words) shall reserve the right to remuneration for the public performance of his/her musical work. Authors of works constituting part of audiovisual work as earlier existing (author of a novel, based on which scenario was written, etc.), or created during making audiovisual work (photography director, artistic director, etc.) shall each enjoy copyright in his/her work.

#### Article 14. Copyright in a Service Related Work

Personal non-property rights shall belong to the author of a work created due to performance of official duties or official tasks (service related work) (the Law of RT No. 27 as in force from August 1, 2003).

Exclusive rights to exploit service-related work shall belong to the person, with whom the author is bound by employment contract (employer), unless otherwise provided in the contract between the said person and the author.

If, within three years after the transfer of a work to the person, who ordered the work, such a person does not exploit the work, all the rights to use the work shall transfer to the author.

The size of remuneration for each form of use of service related work and procedure of payment shall be specified in the contract between the author and the employer.

The employer shall have the right to indicate his/her name at any exploitation of a service related work, or require mention of his/her name. Provisions of the part six of the Article 11 of this Law shall not apply to creation due to official duties or office tasks of the employers issuing encyclopedias, encyclopedic dictionaries, periodic and continued compilations of scientific works, newspapers, magazines, and other periodicals stipulated thereof.

#### Article 15. Personal Non-Property Rights of Authors

The author shall enjoy the following non-property rights related to his/her work:

- 1) the right to be recognized as the author of the work he/she created (copyright);
- 2) the right to exploit or to permit exploitation thereof mentioning the name of the author, pseudonym, or without mentioning any name, i.e., anonymously (the right on name);
- 3) the right to disclose or allow disclosure of a work in any form (the right to disclose), including the right to cancel;
- 4) The right to protect works, including the title thereof, against any distortion or other trespass that can prejudice credit and merit of the author (the right to protection of the author's reputation);

5) The right to inviolability of the work.

The author shall have the right to forgo an earlier decision on disclosure of a work (the right to withdraw) provided that the user is compensated for the damage caused by such a decision. If a work was already disclosed, the author shall be obliged to make the said withdrawal known to public. At that, the author shall withdraw copies already in circulation at his/her own expense. The provisions of the part two of this Article shall not apply to the creation of service related works.

Personal non-property rights shall belong to the author regardless of his/her property rights and shall retain when the exclusive right to exploit the work is assigned.

#### Article 16. Property Rights of Authors

The author shall enjoy exclusive rights to use his/her works in any form and by any means, i.e., perform or authorize the following actions:

- 1) reproduction of works (the right of reproduction);
- 2) disseminate copies of works by any means: sell, rent, etc. (the right to disseminate);
- 3) import copies of works with the purpose of dissemination, including copies produced with the permission of the possessor of exclusive copyright (the right to import);
- 4) presentation of works in public (the right of public presentation);
- 5) performance of works in public (the right of performance in public);
- 6) communicate works (including demonstration, performance or broadcasting) for public information via broadcasting and/or following broadcasting (the right of broadcasting);
- 7) communicate works (including demonstration, performance or broadcasting) for public information via cable, wires or with other analogous means (the right of public communication via cable);
- 8) translation of works (the right to translate);
- 9) adaptation, arrangement or other transformation of works (the right of adaptation);
- 10) communicate to public for interactive use (the right of public communication) (the Law of RT No. 162 as in force from March 3, 2006).

The exclusive right of the author to use designer, architecture, urban planning and garden design projects shall also extend to practical implementation of such projects. Authors of the approved architectural projects shall have the right to require that the client provides the right to participate in implementation of his/her project during development of documentation for construction and during construction of a building or structure, unless otherwise provided in the agreement.

Where copies of lawfully published works are put into circulation by means of sale, their further dissemination shall not require consent of the author or other possessor of copyright, or payment of remuneration to the author, but with the compulsory indication of the author's name. At that, regarding audiovisual works, computer software, databases, musical works in the form of musical notation, and works in the form of phonogram, authors and other copyright possessors shall retain the right to rent originals or copies of such works regardless of accessory of the property right on originals or copies for rent.

Authors shall be entitled for awards for every form of exploitation of their works (the right of remuneration). The amount and procedure of calculation of remuneration for every form of exploitation of works by other persons shall be defined in the copyright agreement, as well as in

contracts entered into by organizations in charge of managing authors' joint property rights with users (the Law of RT as in force from March 3, 2006).

The rights stipulated in the first and second parts of this Article shall be subject to limitations specified in the Articles 19-21, 24, and 39 of this Law given that such limitation do not cause unjustifiable damage to normal use of works and do not cause unjustifiable infringement of authors' legitimate interests.

#### Article 17. Term of Copyright

Copyright shall have effect throughout the lifetime of the author, shall be inherited and have effect for 50 years after the author's death, except as provided in this Article.

The author's right to claim authorship, the right on name and the right to protection of reputation shall be protection without any limitation in time.

According to legal procedures, the author shall have the right to appoint a person authorized to protect copyright, the right on name, and the right to protection of reputation after death. Such a person shall fulfill his/her mandate throughout life.

Where no such person is appointed, protection of the copyright, the right on name, the right to protection of reputation shall be ensured by the author's heirs, or by an authorized agency in the absence of heirs or when the heirs' copyright lapsed.

Copyright in a work created by joint authorship shall have effect for the whole life of authors and fifty years after the death of the author, who survived other co-authors.

Copyright in a work published anonymously or under a pseudonym, shall have effect for fifty years following the date of the lawful disclosure thereof. If, in the course of that period, the author of anonymous or pseudonymous work reveals his/her identity, or if that identity is no longer in doubt, provisions of the part one of this Article shall apply.

Copyright in a work published for the first time during thirty years after the death of the author shall have effect for fifty years following the lawful publication of the work.

Any period under this Article shall be calculated as from January 1 of the year following the year, in which the legal act occurred that marks the starting point of the period.

When protection is provided for a work pursuant to the international legal acts recognized by the Republic of Tajikistan, term of copyright protection cannot exceed the term set in the country of origin of the work (the Law of RT No. 162 as in force from March 3, 2006).

#### Статья 18. Copyright Post-Expiration Effects

Expiry of the effective term of copyright in a work shall mean the falling of such a work to public domain.

Works that were never protected in the territory of the Republic of Tajikistan shall also be considered as fallen under the public domain.

Works fallen under the public domain can be freely used by any person without any payment or royalty. At that, the copyright, the right on name, and the right to protection of reputation envisaged in the Article 15 of this Law shall be observed.

The Government of the Republic of Tajikistan shall have the right to specify royalty for the use of works that fall under the public domain in the territory of the Republic of Tajikistan, which shall be transferred to the professional funds of authors, as well as to organizations administering property rights of authors on collective basis. The size of such royalty cannot exceed one percent of the profit received for the use of such works (the Law of RT No. 162 from March 3, 2006).

#### Article 19. Reproduction of Works for Personal Purposes without Consent of Authors and Payment of Royalty

Reproduction of other authors' lawfully published works without consent of the author or other copyright possessor without payment of royalty for personal purposes shall be allowed given that no damage is caused to normal exploitation of the work and legal interests of the author are not violated, except as provided by the Article 39 of this Law.

Provision of this Article shall not apply in the following cases:

- 1) reproduction of the architectural works in the form of buildings and analogous structures;
- 2) reproduction of database or its material parts;
- 3) reproduction of computer software, with the exception of cases stipulated in the Article 24 of this Law;
- 4) reproduction of books (full reproduction) and musical notation;
- 5) any unauthorized reproduction communicated to public for interactive use (the Law of RT No. 162 as in force from March 3, 2006).

#### Article 20. Exploitation of Works without Authors' Consent and without Payment of Royalty but with Compulsory Indication of the Author's Name and Source of Borrowing

The following shall be allowed without consent of the author or any other copyright possessor and without payment of royalty but with compulsory indication of the name of the author, whose work is exploited, as well as the source of borrowing:

- 1) Quotation from legally published works in the volume justified by the quotation purpose, including reproduction of extracts from newspaper and magazine articles in the form of press reviews in the original and in the translation for scientific, research, polemic, criticism, and information purposes;
- 2) Use of legally published works and extracts as illustration in publications, in radio and television broadcasting, audio and video records for training in the volume justified by the purpose;
- 3) Reproduction in press, broadcasting or cable casting for public information of articles on current economic, political and religious issues, or broadcasted works of the same nature legally published in newspapers or magazines when such reproduction, broadcasting or cable casting were not specifically prohibited by the author;

- 4) Reproduction in press, broadcasting or cable casting for public information of publicly delivered speeches, appeals, reports and other analogous works in the volume justified by information purpose. At that, the author shall retain the right of publication of such works in composite books;
- 5) Reproduction or communication for public information of works, which become visual or audible in the course of such events by the means of photography, broadcasting, or cable casting in the volume justified by information purposes. At that, the author shall retain the right for publication of such works in composite books.
- 6) Reproduction of legally published works without deriving a profit by means of point system or other special ways for the blind, except for the works especially created for such reproduction;
- 7) Reproduction of one copy without derivation of profit of:
  - a) legally published work by libraries and archives for restoration, replacement of lost or damaged copies, providing of copies to other libraries that lost works from their funds for certain reasons, if receiving such copies is not possible by other ways;
  - b) some articles and small works legally published in composite books, newspapers and other periodical publications, short extracts from legally published paper works (with or without illustrations) by libraries and archives at the request of physical persons for education and research purposes;
  - c) some articles and small works legally published in composite books, newspapers and other periodical publications, short extracts from legally published paper works (with or without illustrations) by educational establishments for auditorium sessions.

#### Article 21. Use of Works without Consent of Authors and without Payment of Royalty

The following shall be allowed without consent of the author or other copyright possessor and without payment of royalty:

- 1) reproduction, broadcasting or cable casting for public information of architecture, photography, fine arts works, which are permanently located in places for free access, except for cases when imitation of a work is the main object of such reproductions, broadcasting or cable casting for public information, or when imitation of a work is used for commercial purposes;
- 2) public performance of musical works during official and religious ceremonies, as well as funerals in the volume justified by the nature of such ceremonies;
- 3) reproduction of works for judicial proceedings in the volume justified by this purpose;
- 4) production by the broadcasting organization of short-term use records, regarding which this organization received the right of broadcasting, provided that such a record shall be made by the broadcasting organization with its own equipment and for its own broadcast. At that, the organization shall be obliged to destroy such a record within six months after its production, unless a longer term was agreed with the author of the recorded work. Such a record can be retained without consent of the author in official archives when such a record is of exclusive nature.

## Article 22. The Right of Access to Fine Arts Works. Resale Royalty

The author of the fine arts work shall have the right to demand that the owner of the work to allow exercising the right to reproduce his/her own work (the right of access). At that the owner of the work shall not be bound to deliver the work to the author. Transfer of ownership of a fine arts work (for value of free of charge) from the author to any other person shall mean first sale of such a work.

For each public resale of fine arts work (through an auction, fine arts gallery, art show, shop, etc.) the author shall have the right to receive remuneration in the size of 5% from resale price from the seller (resale royalty). Such a right shall be inalienable and transferable only to the authors' legal heirs throughout the duration of copyright.

## Article 23. Protection of Interests of Persons Represented in Works

Publication, reproduction and dissemination of fine arts works, in which other persons are represented, shall be allowed upon consent of such persons, and upon consent of first priority heirs after such persons' death. Such consent shall not be required when a person represented in a work posed for remuneration on contractual basis.

## Article 24. Free Reproduction of Software and Databases. Decompiling Computer Software.

A person lawfully in possession of a copy of computer software or database shall have the following rights without permission of the author or any other owner of exclusive rights and without payment of additional remuneration:

Introduce amendments in the computer software or database solely for the purpose to ensure their operation on the users' technical facilities, perform any action regarding operation of the software or database according to their intended purpose, including inputting and storage in computer memory, which shall be allowed regarding one computer or one network user, unless otherwise provided by the agreement with the author;

Producing a copy of computer software or database provided that the copy is intended only for archiving and replacement of a legally acquired copy when the original software or database was lost, destroyed or became unusable. At that, a copy of computer software or database must be destroyed should possession of a copy of software or database cease to be lawful.

A person lawfully in possession of a copy of computer software, without consent of the author or any other possessor of exclusive rights, and without payment of additional remuneration, shall have the right to reproduce or convert the object code into a source code (decompile computer software), or have such acts performed by other persons, if they are essential to ensure interactive capabilities of computer software independently developed by such a person with other software compatible with the software so decompiled, in which case the following conditions have to be observed:

- 1) persons concerned must not previously have had access through other sources to information necessary to ensure interactive capability;
- 2) the above actions shall be performed only with regard to the parts of decompiled computer software essential to the achievement of interactive capability;

3) information obtained in the result of decompiling can be used only to achieve interactive capability of independently developed computer software with other programs; it cannot be passed to other persons, except where necessary to ensure interactive capability of the independently developed computer software with other programs, and it cannot be used for the development of computer software of a type essentially comparable to the decompiled computer software, or for performance of any other actions prejudicial to copyright.

Applying the provisions of this Article shall neither incur undue damage to normal use of computer software or database or shall not prejudice, without valid grounds, legitimate interests of the author or other possessors of exclusive rights in the computer software or database.

#### Article 25. Author's Contract. Assignment of Property Rights

Property rights stipulated in the Article 16 of this Law can be conceded or assigned in full or in part only regarding the author's contract, unless otherwise provided in the Articles 19-21, 24 and 39 of this Law.

Property rights can be assigned on exclusive or non-exclusive basis (exclusive and non-exclusive license).

Author's contract on assignment of exclusive rights shall allow using the work in a specified way and within the limits set by the contract only by a person, who was assigned such rights, and shall entitle such a person to restrict such use of work by other persons (exclusive license).

The right to restrict the use of work by other persons can be exercised by the author of the work provided that a person assigned with exclusive rights does not protect such a right.

Author's contract on assignment of non-exclusive rights shall allow the user to use the work equally with the possessor of exclusive rights, who assigned such rights and/or other persons, who are allowed to use such a work in the same manner (non-exclusive rights).

The rights assigned based on author's contract shall be considered non-exclusive, unless otherwise provided by the contract.

#### Article 26. Conditions of the Author's Contract

The author's contract shall envisage the following: modes of exploitation of the work (specific rights assigned based on this agreement); the term and the territory, for which the rights are assigned; the size of remuneration and/or procedure for definition of the size of remuneration for each mode of exploitation of works; procedures and terms of payment.

If the author's contract does not stipulate the term of assignment of the rights, the contract can be terminated upon expiry of 5 years following its conclusion, subject to advance notice of six months.

If the author's contract does not specify the territory, for which the rights are assigned, the effect of the rights assigned based on the contract shall be limited by the territory of the Republic of Tajikistan.

All the rights to exploit the work that are not expressly assigned based on the author's contract shall be deemed not to have been assigned.

Exploitation rights that were not known at the time of signing the contract shall not be the subject of the author's contract. Remuneration shall be defined in the author's contract as a percentage of profit for relevant mode of exploitation of the work, or, if this is not feasible, set it as a fixed amount due to the nature of work or peculiarities of exploitation, or otherwise, however not lower than the minimal size of royalty.

Minimum rates of remuneration shall be set by the Government of the Republic of Tajikistan and indexed at the same time with the indexation of minimal salaries.

When, in the author's contract for publication or other reproduction of works, remuneration is defined as a lump sum, the contract shall specify the maximum run of copies of the work.

Rights assigned based on the author's contract can be assigned to other persons only in cases and in volumes expressly stipulated in the author's contract. All rights of exploitation that were not assigned based on author's contract, shall be reserved by the author.

The rights to use works that the author cannot create in the future shall not be subject of the author's contract. Provisions of the author's contract imposing limits on the author regarding the future creation of works on a particular topic or in a particular field shall be deemed invalid.

Clause of the author's contract contradicting provisions of this Law, shall be deemed invalid.

#### Article 27. The Form of the Author's Contract

The author's contract shall be in written form. Author's contracts can be verbal, if these are contracts on the use of works in periodical press.

Contracts for sale of copies and ensuring public access to computer software shall be deemed signed in writing provided that its conditions (conditions for the use of computer software) are set in a relevant way on the computer software copies.

#### Article 28. Commission Contract    Статья 28. Авторский договор заказа

Under a commission contract, the author shall undertake to create a work pursuant to the conditions of the contract to hand it over to the commissioning party.

The size, procedure and terms of advance payment shall be set in the contract upon the agreement of parties.

If the author did not provide the work stipulated in the agreement, he/she shall be obliged to cover the real damage caused to the commissioning party.

#### Article 29. Responsibility under the Author's Contract

The party, who fails to fulfill obligations or does not fulfill obligations properly, shall be obliged to compensate losses caused to the other party, including lost profit, pursuant to the author's contract.



## SECTION III. RELATED RIGHTS

### Article 30. Scope of Related Rights

Provisions of this Law on protection of performer's rights shall apply to:

- 1) performers – citizens of the Republic of Tajikistan;
- 2) performers, who are not citizens of the Republic of Tajikistan, but whose first performance:
  - a) took place in the territory of the Republic of Tajikistan;
  - b) performance recorded on a phonogram protected in accordance with this Law;
  - c) performance not recorded on a phonogram, but included in broadcasting or cable casting, protected in accordance with this Law.

Provisions of this Law on protection of rights of phonogram producers shall cover the following:

- 1) when the phonogram producer is the citizen of the Republic of Tajikistan or a legal entity with official place of residence in the territory of the Republic of Tajikistan;
- 2) phonograms, producer of which is not a citizen of the Republic of Tajikistan or a legal entity with official place of residence in the territory of the Republic of Tajikistan, but first publication took place in the territory of the Republic of Tajikistan during 30 days following the date of their first publication in any other state.

Provisions of this Law on protection of rights of broadcasting and cable casting organizations shall apply to transmission of broadcasting or cable casting organizations, which are officially located in the territory of the Republic of Tajikistan and which broadcast via transmitters located in the territory of the Republic of Tajikistan.

Provisions of this Law shall also apply to performers, phonograms, broadcasting and cable casting communication, protection of which in the territory of the Republic of Tajikistan is ensured pursuant to the international agreements, to which the Republic of Tajikistan is a party.

**Provision within the territory of Tajikistan of protection of objects of related rights in accordance with the international agreements recognized by Tajikistan shall be implemented with respect to objects of related rights, which did not become public domain in their country of origin as a result of expiration of term of validity of related rights in such a country and which did not become public domain in the Republic of Tajikistan as a result of expiration of term of validity of related rights previously provided. However, the term of validity of related rights within the territory of Tajikistan may not exceed the term of validity of related rights set in the country of origin of objects of related rights.**

### Article 31. Object of Related Rights

Related rights shall apply to production, performances, phonograms, broadcasting and cable casting organizations regardless of their intention, content and merit, as well as the way and forms of expression.

## Article 32. Subjects of Related Rights

The following shall be subjects of related rights: performers, producers of phonograms, broadcasting or cable casting organizations.

Phonogram producers, broadcasting or cable casting producers shall exercise their rights stipulated in this Law within the ambit of rights provided based on contracts with performers and authors of works recorded in phonogram or transmitted via broadcasting or cable casting.

Authorization to exploit performances obtained from the director-producer of performance shall not release a person from the obligation to obtain authorization from other performers, who took part in the performance, as well as from the author of the work performed.

Performer shall exercise the rights stipulated in this Law provided that the rights of the author of the work performed are observed.

The performer, phonogram producer, broadcasting or cable casting organizations, can register the work according to the procedures defined by the authorized body in order to obtain certificate on registration of related rights at any time during the protection period (the Law of RT No. 27 as in force from August 1, 2003).

## Article 33. Sign of Protection of Related Rights

Origin and exercise of related rights shall not be subject to compliance with any formality. In order to inform of their rights, phonogram producers and performers shall have the right to use the sign of related rights protection, which is placed on each copy of phonogram and/or each case and shall comprise three elements:

- 1) circled Latin letter "P": (P);
- 2) the name (title) of the owner of the exclusive related rights;
- 3) the year of the first phonogram publication.

## Article 34. The Rights of the Performer

Except as provided by this Law, the performer shall be granted the following exclusive rights regarding the performance:

- 1) the right on name;
- 2) the right to protection of performance against any distortion or other offence that can prejudice honor and dignity of the performer;
- 3) the right to exploit performance in any form, including the right to receive remuneration for every form of exploitation of a performance.

The exclusive right to exploit performances shall mean the right to perform or authorize performance of the following actions:

- 1) broadcasting or cable casting for public communication of performance, if the performance used for such transmission were not broadcasted or performed using a record previously;
- 2) recording of hitherto unrecorded performances;
- 3) reproduction of recording of a performance;
- 4) broadcasting or cable casting of the recording of a performance if originally this recording was made for non-commercial purposes;

- 5) rental of a phonogram published for commercial purposes, including performance with the participation of the performer. These rights shall be transferred to the phonogram producer at signing a contract for recording or production of a phonogram, at that, the performer shall reserve the right to remuneration for the rental of copies of such a phonogram.
- 6) dissemination of originals of copies of performance recorded in a phonogram via sale or other assignment of property rights. If the original or copies of legally published phonogram are put in circulation via sale or other assignment of property rights, their further dissemination shall be allowed without the performer's consent and without remuneration;
- 7) communication of a performance recorded in a phonogram to the public for interactive use;
- 8) placing recorded performance in digital environment in such a way that it becomes accessible online to any user at their own choice (the Law of RT No. 162 from March 3, 2006).

The exclusive right of the performer stipulated by the paragraph 3 of the part two of this Article shall not apply in the following cases:

- 1) the original recording of the performance was made with consent of the performer;
- 2) reproduction of the performance shall be made for the same purposes as the recording of a performance, for which consent of the performer was received;
- 3) reproduction of the performance is made for the same purposes as the recording that was made in accordance with the provisions of the Article 41 of this Law.

Authorizations indicated in this Article shall be granted by the performer, and in the case of group performance – by the head of such a group through signing a written agreement with the user.

Authorizations referred to in the paragraphs 1-3 of the second part of this Article for the further transmission of performances, recordings for transmission and reproduction of such records by broadcasting and cable casting organizations shall not be required, if they are expressly envisaged in the agreement between the performer and the broadcasting or cable casting organizations. Signing of a contract between the performer and the producer of audiovisual works for creation of audiovisual works shall entail provision by the performer of rights stipulated in the paragraphs 1-4 of the second part of this Article.

Provision of such rights by the performer shall be restricted by the use of audiovisual work, and, if not otherwise provided by the contract, shall not include the rights of separate use of the sound or the pictures embodied in the audiovisual work.

Exclusive rights of the performer stipulated in this Article can be assigned to other persons on contractual basis.

#### Article 35. The Rights of the Phonogram Producer

Except as provided in this Law, phonogram producers shall enjoy exclusive rights on the use of their phonograms in any form, including the right to receive remuneration for each type of the use of phonograms.

Exclusive right to exploit phonograms shall mean the right to perform or authorize the following actions:

- 1) reproduction of a phonogram;
- 2) adaptation or other transformation of phonograms;
- 3) dissemination of copies of phonograms, i.e., sale, rent, etc.;

- 4) import of copies of phonograms for the purpose of dissemination, including copies produced with the permission of the phonogram producer;
- 5) communication of the phonogram to public for interactive use;
- 6) placement of phonograms in digital environment so that they are accessible online to public at a time individually chosen (the Law of RT No. 162 as in force from March 3, 2006).

Where copies of legally published phonograms are put for civil circulation via sale, their subsequent dissemination shall be allowed without consent of phonogram producer and without remuneration. At that, notwithstanding the property right of phonogram producers on copies of phonograms shall be reserved for dissemination of copies of phonograms via renting.

Exclusive rights of the phonogram producers stipulated by this Article can be assigned based on contract to other persons.

#### Article 36. The Rights of Broadcasting Organizations

Except as provided in this Law, broadcasting organizations shall enjoy the exclusive right regarding their programs to exploit the program in any form and grant authorization to use it, including the right to receive remuneration for such authorization.

The exclusive right to authorize use of their programs shall mean authorization to perform the following actions:

- 1) simultaneous broadcasting of programs by another broadcasting organization;
- 2) communication of a program to public via cable;
- 3) recording of program;
- 4) reproduction of the recording of the program;
- 5) communication of programs for public in places, where entry fees are charged;
- 6) dissemination to public of a record of a program or copies of records, which with the permission of broadcasting organizations were put in civil circulation via sale or other transfer of property rights. These rights, excluding the right to rent, shall be ceased regarding the recording of a program or copies of recordings of the program, which, with permission of broadcasting organization, were put in civil circulation through sale or other transfer of property rights. The right to rent shall be reserved to the broadcasting organization for recording of programs or copies regardless of the property right (the Law of RT No. 162 from March 3, 2006).

The exclusive right of the broadcasting organization stipulated in the paragraph 4 of the second part of this Article shall not apply when:

- a program was recorded with the consent of the broadcasting organization;
- a program is reproduced for the same purpose as the recording in accordance with the Article 41 of this Law.

#### Article 37. The Rights of Cable Casting Organizations

Except as provided by this Law, cablecasting organizations shall have the exclusive right to use programs in any form and authorize use of programs, including the right to receive remuneration for such authorization.

The exclusive right to authorize the use of programs shall mean the right of the broadcasting organization to authorize the following actions:

- 1) simultaneous cable communication of its programs to public to another cable casting organization;
- 2) broadcasting of programs;
- 3) recording of programs;
- 4) reproduction of recorded programs;
- 5) communication of programs to public in places, where fees are charged;
- 6) dissemination to public of program records or copies through sale, rent, or other assignment of property rights. These rights, excluding the right to rent, shall be terminated regarding the program recording or copies, which, with permission of cable casting organization, were put in civil circulation through sale or other form of transfer of property rights. The right to rent shall be reserved for the cable casting organization for recording programs or copies regardless of the property right (the Law of RT No. 162 as in force from March 3, 2006).

The exclusive right of the cable casting organization stipulated in the paragraph 4 of the second part of this Article shall not apply to the cases when:

- a program was recorded with consent of the cable casting organization;
- a program is reproduced for the same purpose as the it was recorded in accordance with the provisions of the Article 41 of this Law.

#### Article 38. Use of Works and Objects of Related Rights by Other Persons

Except as provided in the Articles 19-21, 24, 39-41 of this Law, the use of works and objects of related right by other persons shall be allowed just with consent of the possessor of exclusive rights on the work and with payment of remuneration.

#### Article 39. Reproduction of Works and Phonograms for Personal Purposes

Notwithstanding the provisions of the Articles 34 and 35 of this Law, reproduction of audiovisual work of phonogram exclusively for personal purpose shall be allowed without consent of the author or other possessor of copyright, performer and producer of phonograms, but with payment of remuneration.

Remuneration for reproduction indicated in this Article shall be paid by producers and importers of equipment (audio and video recorders, etc.) and material devices (audio and video tapes, laser disks, compact disks, etc.) used for such reproduction.

Collection and allocation of such remuneration shall be performed by one of the organizations in charge of the authors' property rights, producers of phonograms and performers on collective basis, in accordance with the agreement between these organizations, pursuant to the Article 43 of this Law.

Unless otherwise provided by this contract, the above remuneration shall be allocated based on the following proportion: 40% to the authors, 30% to performers, and 30% to phonogram producers.

The size of remuneration and terms of payment shall be defined in the contract between the indicated producers and importers on the one hand, and organizations administering authors'

property rights, producers of phonograms and performers on collective basis, on the other hand, and when the parties do not achieve such an agreement – by the authorized body. Remuneration shall not be paid regarding equipment and material devices indicated in this Article, which are not subject to export, as well as regarding professional equipment not intended for the use at home.

#### Article 40. Use of Published Phonograms for Commercial Purposes without Consent of Phonogram Producers and Performers

Notwithstanding the provisions of the Articles 34 and 35 of this Law, the following shall be allowed without consent of the producer of phonogram published for commercial purposes and the performer, whose performance is recorded in a phonogram, against payment of remuneration:

- 1) public performance of phonograms;
- 2) broadcasting of phonograms;
- 3) communication of phonograms to public by cable casting.

Collection, distribution and payment of remuneration provided for in this Article shall be effected by one of the organizations for the collective administration of the rights of producers of phonograms and performers (Article 43 of this Law) under an agreement between these organizations. Unless otherwise provided in the said agreement such remuneration shall be distributed equally between the phonogram producer and the performer.

The size of remuneration and conditions of payment shall be set by the agreement between the user of phonogram or associations of such users, on the one hand, and organizations managing the property rights of phonogram producers and performers, on the other hand, or, when the parties fail to agree, by the authorized body.

The size of remuneration shall be set for each form of the use of phonogram.

Users of phonograms must submit programs to the organization indicated in this Article containing detailed information and documents necessary for collection and distribution of remuneration.

#### Article 41. Limits on the Rights of Performers, Phonogram Producers, and Broadcasting and Cable Casting Organizations

Notwithstanding the provisions of the Articles 34-37 and 40 of this Law, it shall be allowed, without consent of the performer, phonogram producer, and broadcasting and cable casting organizations, without payment of remuneration, to use performance, broadcasting, cable casting and their recording thereof, as well as to reproduce phonograms:

- 1) for the inclusion of short extracts from the performance, phonogram, broadcasting or cable casting in the current events;
- 2) for the sole purpose of education or scientific research;
- 3) for quoting in the form of short extracts from performance, phonogram, broadcasting or cable casting provided that such quotation is made for information purposes. At that, any use by organization of broadcasting or cable casting of copies of phonograms published for commercial purposes, for broadcasting or cable casting shall be possible only given that provisions of the Article 40 of this Law are observed;

4) in other cases provided for in the provisions of the Articles 19-21 of this Law regarding limitation of property rights of authors of literary, scientific, and artistic works.

Notwithstanding the provisions of the Articles 34-37 and 40 of this Law, it shall be allowed, without consent of the performer, phonogram producer, broadcasting or cable casting organizations, to use broadcasting or cable casting and recording, as well as to reproduce phonograms for personal purposes.

At that, phonogram reproduction shall be allowed against payment of remuneration in accordance with the Article 39 of this Law.

Provisions of the Articles 34-37 of this Law shall not apply regarding authorization of the performer, phonogram producer, broadcasting organization to make ephemeral recording of a performance or a program, to reproduce such recordings and phonograms published for commercial purposes, if ephemeral recordings or reproduction is performed by broadcasting organization using its own equipment and for the purposes of its own transmission, based on following conditions:

- 1) broadcasting organization has obtained prior authorization to broadcast performance of a program, regarding with ephemeral recording is made or reproduced;
- 2) the ephemeral recording is destroyed within the period applied to the ephemeral recording of literary, scientific, and artistic works made by broadcasting organizations according to the provisions of the paragraph 4 of the Article 21 of this Law; however a single copy can be kept in official archives if it is of purely documentary character.

Limitations stipulated in this Article shall be applied without prejudice to normal use of phonogram, performance, broadcasting or cable casting of recordings, as well as literary, scientific, and artistic works included, and without prejudice to the legitimate interests of the performer, phonogram producer, broadcasting or cable casting organizations, and authors of the said works.

#### Article 42. Term of Validity of Related Rights

The rights of the performer provided for in this Law shall be valid during fifty years after the first performance.

The performer's rights on name and protection of performance against distortion or any other derogation stipulated in the Article 34 of this Law shall be protected without limitation in time, but shall not be inherited.

The rights of phonogram producer stipulated in this Law shall be valid during fifty years after the first publication of the phonogram, or during fifty years following the first recording, if the phonogram was not published in the course of that period.

The rights stipulated in this Law regarding organization of broadcasting shall be valid during fifty years following the first broadcasting by such an organization.

The rights of cable casting organizations stipulated in this Law shall be valid during fifty years following the first cable casting by such organization.

Any period under this Article shall be calculated as from January 1 of the year following the year, when a legal act occurred that marks the starting point of the period.

The right to authorize the use of performance, phonogram, broadcasting or cable casting, and the right to remuneration shall pass to the heirs (in the case of legal entities – to successors in title) of the performer, phonogram producer, broadcasting or cable casting organizations within the remaining terms indicated in this Article.

#### PART IV. COLLECTIVE ADMINISTRATION OF PROPERTY RIGHTS

##### Article 43. Main Goals of the Collective Administration of Property Rights

Organizations in charge of collective administration of property rights of the indicated persons (hereinafter – collective administration organizations) can be established for the purpose to ensure property rights of authors, performers, producers of phonograms, and other possessors of copyright and related rights when their individual implementation is hampered by practical difficulties.

Such organizations shall be created as public non-profit organizations and shall operate within the mandate received from possessors of copyright and related rights.

Establishment of either separate organizations on various rights and categories of possessors of rights, or one organization at the same time administering copyright and related rights shall be allowed.

**Organizations of collective administration of property right of authors shall meet the following requirements:**

- **Name of an organization shall include a phrase "organization of collective administration of property rights of the authors";**
- **Carrying out collective administration of property rights of the authors shall be indicated as the main type of activity;**
- **Goals and objectives of the organization of collective administration of property rights of the authors shall meet requirements of Articles 43-46 of this Law.**

##### Article 44. Mandate of Collective Administration Organizations

Mandate for collective administration of property rights shall be transferred directly by possessors of copyright and related rights voluntarily based on written contracts, as well as based on relevant contracts with foreign organizations administering similar rights. Such contracts shall not be author's contracts, and provisions of the Articles 25-29 of this Law shall not apply to such contracts.

Any author, or his/her heir or any other owner of copyright or related rights protected pursuant to this Law, shall have the right to assign, based on the agreement, implementation of his/her property rights to collective administration organization, which is obliged to take over implementation of these rights if it is related to its charter purpose.

Collective administration organizations shall not be entitled to engage in the exploitation of the works and subjects of related rights provided for collective administration.

Collective administration organizations shall provide licenses to users for the relevant use of works and related rights subjects. Conditions of such licenses shall be identical for all users of the same category. Organizations shall not be entitled to issue licenses to users without sufficient grounds.



Such licenses shall authorize the use of all works and subjects of related rights by specified ways and shall be provided on behalf of all possessors of copyright and related rights, including those that have not transferred mandates to the organization in accordance with this Article.

All possible property claims of possessors of copyright and related rights to users regarding the use of their works and objects of related rights based on licenses shall be regulated by the collective administration organizations providing such licenses.

Collective administration organizations shall have the right to retain unclaimed remuneration, including it in the allocated amounts or using for other purposes in the interests of possessors of copyright and related rights represented by such organizations upon expiry of three years from the receipt in the organizations' accounts.

#### Article 45. Functions of Collective Administration Organizations

Collective administration organizations must, on behalf of possessors of copyright or related rights and on the basis, who they represent, and based on mandates entrusted to it, perform the following functions:

- 1) negotiate with the users the size of remuneration and other conditions, based on which licenses are issued;
- 2) issue licenses to users for the use of rights administered by such organizations;
- 3) agree with the users on the amount of remuneration, when such organizations are in charge of collecting such remuneration without issuing a license (part three of the Article 39, parts two and three of the Article 40 of this Law);
- 4) collect remuneration stipulated by licenses and/or remuneration stipulated in the paragraph 3 of this Article;
- 5) allocate and pay remuneration collected as provided in the paragraph 4 of this Article to possessors of copyright and related rights they represent;
- 6) perform any legal acts required for the protection of rights administered by such organizations;
- 7) perform any other activities pursuant to the mandates received from possessors of copyright and related rights.

#### Article 46. Obligations of Collective Administration Organizations

Collective administration organizations shall operate in the interests of possessors of copyright and related rights represented by such organizations. To this effect, organizations must perform the following duties:

- 1) at the same time with payment of remuneration, organizations shall provide the possessors of copyright and related rights with reports containing information on the use of their rights;
- 2) use the remuneration collected in accordance with the paragraph 4 of the Article 45 of this Law exclusively for the allocation and payment to possessors of copyright and related rights. Organizations shall have the right to deduct amounts to cover their actual costs on collection, allocation and payment of such remuneration, as well as the amounts contributed to special funds created by these organizations with consent and in the interest of possessors of copyright and related rights represented by them, from the remuneration;
- 3) allocate and regularly pay collected amounts of remuneration, after deduction of amounts indicated in the paragraph 2 of this Article. Possessors of copyright and related rights, who did not authorize organizations to collect remuneration stipulated in the paragraph 3 of the Article 45 of this Law, shall have the right to demand that the organizations pay remuneration due to them in

accordance with the allocation made, as well as to exclude their works and objects of related rights from licenses issued by these organizations to users.

## SECTION V. PROTECTION OF COPYRIGHT AND RELATED RIGHTS

Article 47. Violation of Copyright and Related Rights. Counterfeit Copies of Works and Phonograms.

The following shall be considered violation of copyright and related rights:

- 1) reproduction, dissemination and other use of objects of copyright or of related rights without permit of possessor of rights;
- 2) dissemination, production, import, with the purpose of dissemination, of devices or provision of services that allow avoiding or conduce avoiding any technical means intended for the protection of copyright and related rights;
- 3) removal or changing any information on administration of rights without the permit of possessors of rights (the Law of RT No. 162 as in force from March 3, 2006).

Copies of works and phonograms, production or dissemination of which entail violation of copyright and related rights, shall be considered counterfeit.

Import to the Republic of Tajikistan of copies of works or phonograms protected in the Republic of Tajikistan pursuant to this Law without permission of the possessor of rights from a state, where such works and phonograms were not protected or are no longer protected, shall be considered violation of copyright and related rights (the Law of RT No. 27 as in force from August 1, 2003). Persons guilty in the violation of this Law shall be subject to bringing to responsibility pursuant to the legislation.

Article 48. Protection of Copyright and Related Rights

Protection of copyright and related rights shall be effected by ways defined by the Civil Code of the Republic of Tajikistan, as well as by following ways:

- 1) collection of profit received by the violator due to violation of copyright and related rights instead of indemnity;
- 2) payment of compensation in the size defined by the court instead of indemnity or collection of profit.

Counterfeit copies of works or phonograms shall be transferred to the possessor of copyright and related rights at his/her request.

Counterfeit copies of works and phonograms that were not claimed by the possessor of copyright and related rights shall be subject to liquidation.

Materials and equipment used for production and reproduction of counterfeit copies of works or phonograms shall be subject to liquidation or transfer to public revenue.

Possessors of copyright and related rights can approach judicial authorities for protection of their rights pursuant to the procedures set in the legislation (the Law of RT No. 162 as in force from March 3, 2006).

E. RAHMONOV  
President  
Republic of Tajikistan  
Dushanbe  
November 13, 1998  
No. 726

RESOLUTION OF THE MAJLISI OLI OF THE REPUBLIC OF TAJIKISTAN

On Promulgation of the Law of the Republic of Tajikistan “On Copyright and Related Rights”

Majlisi Oli of the Republic of Tajikistan resolves:

1. The Law of the Republic of Tajikistan “On Copyright and Related Rights” shall be promulgated after its official publication.
2. The Government of the Republic of Tajikistan shall:
  - submit proposals on bringing the laws of the Republic of Tajikistan with this Law to the Majlisi Oli of the Republic of Tajikistan;
  - bring its decisions in compliance with this Law.

S. RAJABOV  
Chairman  
Majlisi Oli  
Republic of Tajikistan  
Dushanbe, November 13, 1998  
No. 727