
**Council for Trade-Related Aspects of
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY
LAWS AND REGULATIONS NOTIFIED UNDER
ARTICLE 63.2 OF THE AGREEMENT**

LIECHTENSTEIN

The present document reproduces the text¹ of the Law regarding Copyright and Neighboring Rights of 19 May 1999 (Copyright Law), notified by Liechtenstein under Article 63.2 of the Agreement in a communication from its Delegation dated 23 May 2000. The Law repeals the Copyright Act of 26 October 1928 as well as the Ordinance of 30 January on certain rights regarding intellectual property (see documents IP/N/1/LIE/C/1 and IP/N/1/LIE/C/2/Rev.1).

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

LIECHTENSTEIN

Le présent document contient le texte¹ de la Loi du 19 mai 1999 sur le droit d'auteur et les droits voisins (Loi sur le droit d'auteur), notifiée par le Liechtenstein au titre de l'article 63:2 de l'Accord dans une communication de sa Délégation datée du 23 mai 2000. Cette loi abroge la Loi du 26 octobre 1928 concernant le droit d'auteur ainsi que l'Ordonnance du 30 janvier sur certains droits de propriété intellectuelle (voir les documents IP/N/1/LIE/C/1 et IP/N/1/LIE/C/2/Rev.1).

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELLECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

LIECHTENSTEIN

En el presente documento se reproduce el texto¹ de la Ley de Derecho de Autor y Derechos Conexos de 19 de mayo de 1999 (Ley de Derecho de Autor), notificado por Liechtenstein en virtud del párrafo 2 del artículo 63 del Acuerdo en una comunicación de su delegación de fecha 23 de mayo de 2000. La Ley deroga la Ley de Derecho de Autor de 26 de octubre de 1928 y la Orden de 30 de enero relativa a determinados derechos en materia de propiedad intelectual (véanse los documentos IP/N/1/LIE/C/1 e IP/N/1/LIE/C/2/Rev.1).

¹ In English only./En anglais seulement./En inglés solamente.

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Law
of 19 May 1999
regarding Copyright and Neighboring Rights
(Copyright Law)

I grant consent to the following Resolution taken by the Parliament:

I. Subject

Article 1

- 1) This law governs
 - a) the protection of authors of literary and artistic works;
 - b) the protection of performers, directors, producers of phonograms and videograms and broadcasting organizations;
 - c) the protection of the producers of databases;
 - d) the activity of the collecting societies and their supervision.
- 2) International treaties shall remain reserved.
- 3)* Unless otherwise expressly provided in the Law, terms used in this Law referring to persons of the female gender shall also be deemed to apply to persons of the masculine gender.

* This reference to persons of the feminine and masculine gender is a translation of the text in the German language in which the feminine form is employed to cover both feminine and masculine forms. Since there is usually no distinction made in the equivalent terms (such as author, producer and holder, for example), in the English language, all references to such persons in this translation shall be deemed to apply to both genders.

II. Copyright

A. Works

Article 2

Definition of works

1) Works shall mean literary and artistic creations of the mind, irrespective of their value or purpose, that possess an individual nature.

2) They include, in particular:

- a) literary, scientific and other works that make use of language;
- b) works of music and other acoustic works;
- c) works of fine art, particularly painting, sculpture and graphic works;
- d) works with scientific or technical content, such as drawings, plans, maps or three-dimensional representations;
- e) works of architecture;
- f) works of applied art;
- g) photographic, cinematographic and other visual or audiovisual works;
- h) works of dance or mime.

3) Computer programs shall also be deemed works.

4) Protection shall also subsist in drafts, titles and parts of works on condition that they are creations of the mind with an individual nature.

Article 3

Derived works

1) Derived works shall mean creations of the mind of an individual nature that have been produced by making use of one or more existing works that remain recognizable with their individual nature.

2) Translations, audiovisual and other adaptations, in particular, shall constitute such works.

3) Derived works shall enjoy independent protection.

4) The protection of the works used shall remain unaffected.

Article 4

Collections

- 1) Collections shall enjoy independent protection where they are creations of an individual nature with regard to their selection or arrangement.
- 2) The protection of works included in a collection shall remain unaffected.
- 3) Databases shall also be deemed to be a collection insofar as they constitute the author's own intellectual creation by reason of the selection or arrangement of the material. Existing rights in their content shall not be affected.

Article 5

Works not protected

- 1) Copyright protection shall not subsist in:
 - a) laws, ordinances, international treaties and other official instruments;
 - b) means of payment;
 - c) decisions, records and reports of authorities and public administrations;
 - d) patent specifications and published patent applications.
- 2) Protection shall not subsist either in official or statutory collections and translations of the works referred to in paragraph 1.

B. Authors

Article 6

Definition

- 1) The natural person who has created a work shall be deemed the author.
- 2) Subject to the prerequisites specified in this Law, the copyright is passed to the producer (maker). Freedom of contract remains safeguarded.

Article 7

Joint authorship

- 1) Where two or more persons have contributed as authors to the creation of a work, copyright shall belong to all such persons jointly.

2) Save as otherwise agreed, the joint authors may only use the work with the consent of all authors; consent may not be refused for reasons contrary to the rules of good faith.

3) Each joint author may independently take action for infringement of copyright, but may only do so on behalf of all authors.

4) Where the individual contributions may be separated and there is no agreement to the contrary, each joint author may use his own contribution independently where such use does not impair the exploitation of the joint work.

Article 8

Presumption of authorship

1) Until otherwise proved, the author shall be deemed to be the person identified as such with his own name, a pseudonym or a distinctive sign on copies of the work or on publication of the work.

2) As long as the author is not identified or remains unknown in the case of a pseudonym or a distinctive sign, the person who edits the work may exercise copyright. Where such person is also not named, the person who has published the work may exercise copyright.

3) The Government may, by way of ordinance, introduce a copyright register. Entry in the register is voluntary and gives rise to the legal presumption that the person first being registered shall be deemed to be the author until the contrary is proved.

C. Scope of copyright

1. Relationship of the author to his work

Article 9

Recognition of authorship

1) The author shall have an exclusive right in his own work and the right to recognition of his authorship.

2) The author shall have the exclusive right to decide whether, when, how and under what name his own work may be published.

3) A work shall be considered published when it has been made available for the first time, by the author or with his consent, to a large number of persons not constituting a private circle within the meaning of Article 22, 1) a).

Article 10

Use of work

1) The author shall have the exclusive right to decide whether, when and how his work is to be used.

- 2) The author shall have the right, in particular:
- a) to manufacture copies of the work, such as printed matter, phonograms, videograms or data carriers;
 - b) to offer for sale, sell or otherwise distribute copies of the work;
 - c) to deliver or perform the work either directly or through any kind of medium or to make it perceivable in a place other than where it is presented;
 - d) to broadcast the work by radio, television or similar means, including either electromagnetic waves or cable or other means of conduction;
 - e) to rebroadcast works by means of technical installations of which the operator is not the original broadcasting organization, in particular by cable or other means of conduction;
 - f) to make broadcasts and rebroadcasts perceivable;
 - g) to use his work in digitalized form.

Article 11

Communication to the public via satellite

- 1) Communication to the public via satellite from Liechtenstein is subject to the provisions of this Law.
- 2) "Communication to the public via satellite" means the act whereby the program-carrying signals intended for public reception are, under the control and on the responsibility of the broadcasting organization, input into an uninterrupted communication chain running to the satellite and back to earth.
- 3) If the communication to the public of works protected by copyright is effected via satellite, permission to do so can only be granted by contract.
- 4) If a collecting society has concluded a collective contract with a broadcasting organization for a specific group of works, this contract may be extended through the Supervisory Authority (Article 54) to holders of rights in the same group who are not represented by the collecting society, subject to the prerequisite that
- a) simultaneously with the communication to the public via satellite the same broadcasting organization broadcasts via ground-based systems and
 - b) the unrepresented rightholder may at any time exclude the extension of the collective contract to his works and may safeguard his rights either individually or collectively.
- 5) Paragraph 4 shall not apply to cinematographic works, including works which have been created through a similar process to cinematographic works.

Article 12

Integrity of the work

- 1) The author shall have the exclusive right to decide:
 - a) whether, when and how the work may be altered;
 - b) whether, when and how the work may be used to create a derived work or may be included in a collection.
- 2) Even where another person is authorized by contract or by statute to alter a work or to use it to create a derived work, the author may oppose any distortion of the work that is damaging to his character or reputation.
- 3) It shall be permissible to use existing works for the creation of parodies or other comparable variations on the work.
- 4) Works of architecture that have been executed may be altered by the proprietor subject to paragraph 2.

2. Relationship between authorship and ownership of copies of the work

Article 13

Principle of exhaustion

If a copy of a work or a reproduction of a computer program or of a database has been put into circulation by way of sale with the consent of the rightholder, the right of distribution relating thereto shall thereby be exhausted. This shall not apply with regard to rental right.

Article 14

Rental of copies of works

- 1) The author has the exclusive right to rent or otherwise make available for remuneration copies of literary or artistic works.
- 2) If the author has transferred or assigned his rental right in a phonogram or in the original or in copy of a film to a producer of phonograms or films, he shall retain the entitlement to appropriate remuneration for the rental. The author may not waive this entitlement.
- 3) No obligation to pay remuneration shall subsist in the case of:
 - a) works of architecture;
 - b) copies of works of applied art;
 - c) copies of works rented for a contractually agreed use of copyright.

4) Claims to remuneration can only be asserted by a collecting society approved in the Principality of Liechtenstein (Articles 50 *et seq*).

5) This article shall not apply to computer programs. The exclusive right under Article 16, c) shall remain unaffected.

Article 15

Lending right

1) Institutions accessible to the public which lend copies of literary and artistic works shall be liable to pay the author remuneration for this.

2) No obligation to pay remuneration shall subsist in the case of:

- a) works of architecture;
- b) copies of works of applied art;
- c) copies of works lent for a contractually agreed use of copyright.

3) The Government may, by way of ordinance, exempt specific categories of institutions, such as educational establishments or public libraries, from the payment of remuneration.

4) Claims to remuneration can only be asserted by a collecting society approved in Liechtenstein (Articles 50 *et seq*).

Article 16

Restricted acts in the case of computer programs

The rightholder shall have the exclusive right to carry out or to authorize:

- a) permanent or temporary reproduction of a computer program by any means and in any form, in whole or in part. Insofar as the loading, display, running, transmission or storing of a computer program requires a reproduction, these acts shall require the authorization of the rightholder;
- b) translation, adaptation, arrangement and other alterations of a computer program as well as the reproduction of the results obtained. The rights of those persons adapting the program shall remain unaffected.
- c) any form of distribution of the original of a computer program or of copies, including rental.

Article 17

Restricted acts in the case of databases

In respect of the expression of the database which is protectable by copyright, the rightholder shall have the exclusive right to carry out or to authorize:

- a) permanent or temporary reproduction by any means and in any form, in whole or in part;
- b) translation, adaptation, arrangement and any other alteration;
- c) any form of distribution to the public of the database or of copies thereof.
- d) any communication, display or performance to the public;
- e) any reproduction, distribution, communication, display or performance to the public of the results of the acts referred to in b).

D. Transfer of rights; enforcement

Article 18

Transfer of rights

- 1) Copyright shall be transferable by assignment or by inheritance.
- 2) Assignment of one right comprised in copyright shall only comprise the assignment of other partial rights when such is agreed.
- 3) Assignment of ownership of a copy of a work shall not comprise any authorization to exploit copyright even in the case of an original.

Article 19

Creation of work in paid employment relationship

- 1) If, during the course of his employment and in the fulfilment of his contractual obligations, the employee creates a work protected by copyright, unless there is agreement to the contrary the rights in this work shall pass to the employer.
- 2) In the case of other contractual relationships the scope of the transferred copyrights shall, unless there is agreement to the contrary, be determined in accordance with the purpose pursued under the contract.

Article 20

Author in the case of cinematographic works

- 1) The author of a film or other audiovisual work shall be deemed to be the principal producer thereof.
- 2) In addition, those persons participating in the creation or production of the work who are referred to in the contract as co-authors shall be deemed to be co-authors.
- 3) If authors conclude a contract with a film producer relating to a film production, it shall be presumed, unless otherwise provided in the terms of the contract, that the author falling within the

terms of this contract has assigned his rental right. He shall be entitled to appropriate remuneration for this.

Article 21

Enforcement

The rights referred to in Article 10, 2) and Articles 12, 16 and 17 shall be subject to enforcement if the author or rightholder has already exercised them and the work has already been published with the consent of the author or rightholder.

E. Limitations on copyright

Article 22

Private use

1) Published works may be used for private purposes; private use shall mean:

- a) any use of a work in the personal sphere or within a circle of persons closely connected to each other, such as relations or friends;
- b) any use of a work by a teacher for teaching in class;
- c) the reproduction of copies of a work in enterprises, public administrations, institutes, commissions and similar bodies for internal information or documentation.

2) Persons entitled to make copies of a work for use for private purposes may also have them manufactured by other persons; libraries that make copying apparatus available to their users shall also be deemed other persons within the meaning of this paragraph.

3) The following shall not be permissible outside the private circle:

- a) the complete or extensive reproduction of copies obtainable commercially;
- b) the reproduction of works of fine art;
- c) the reproduction of graphic representations of musical works;
- d) the recording of the delivery, performance or presentation of a work on phonograms, videograms or data carriers.

4) This article shall not apply to computer programs.

Article 23

Remuneration for private use

1) Use of a work in a private circle (Article 22, 1) a)) shall not give rise to a right of remuneration.

2) Any person who reproduces works in any manner for private use under Article 22, 1) b) or c), or as another person under Article 22, 2), shall be required to pay remuneration to the author.

3) Any person who manufactures or imports blank cassettes or other phonograms and videograms suitable for the recording of works shall be required to pay remuneration to the author for this.

4) Claims for remuneration may only be asserted by a collecting society approved in Liechtenstein (Articles 50 *et seq.*).

Article 24

Decoding of computer programs

1) The code of a computer program may be reproduced and its code form translated, insofar as the following conditions are fulfilled:

- a) the acts are indispensable in order to obtain the necessary information to make an independently created computer program interactive with other programs;
- b) the acts are undertaken by a person entitled to use the copy of a computer program or by a person authorized in his name for this purpose;
- c) the information necessary to produce such interactiveness has not yet been made accessible ipso jure; and
- d) the actions are restricted to the parts of the program which are necessary to produce such interactiveness.

2) The information obtained pursuant to paragraph 1) must not be:

- a) used for purposes other than to produce the interactiveness of the independently created program;
- b) passed on to third parties unless this is necessary for the interactiveness of the independently created program;
- c) used for the development, reproduction or distribution of a program with an essentially similar form of expression or for other acts infringing copyright.

3) The decoding right pursuant to paragraph 1) cannot be waived.

Article 25

Distribution of broadcast works

- 1) The right to make broadcast works perceivable simultaneously and unaltered or to rebroadcast them within the framework of the rebroadcast of a transmitted program may only be asserted through a collecting society approved in Liechtenstein (Articles 50 *et seq*).
- 2) The rebroadcasting of works over technical installations that are intended to serve a small number of receivers, such as installations in houses with more than one occupier or in a private building, shall be permitted.
- 3) This Article shall not apply to the rebroadcasting of subscription television programs or of programs that cannot be received in Liechtenstein.

Article 26

Archive and backup copies

- 1) A copy may be made of a work in order to preserve it. The original or a copy must be stored in archives not accessible to the general public and be marked as an archive copy.
- 2) Any person entitled to use a computer program may make a backup copy thereof insofar as this is necessary for the use of the computer program; this right may not be waived by contract.

Article 27

Quotations

- 1) Published works may be quoted if the quotation serves as an explanation, a reference or illustration and the extent of the quotation is justified for such purpose.
- 2) The quotation must be designated as such and the source given. Where the source gives the name of the author, that name must also be given.

Article 28

Museum, fair and auction catalogs

A work forming part of a collection accessible to the public may be reproduced in a catalog issued by the administrators of the collection; the same shall apply to the issue of fair and auction catalogs.

Article 29

Works in public places

- 1) A work permanently located in a place accessible to the general public may be reproduced; such reproduction may be offered for sale, sold, broadcast or otherwise distributed.

2) The reproduction may not be three-dimensional and may not be utilized for the same purpose as the original.

Article 30

Recordings for broadcasting purposes

1) A work may be recorded on phonograms, videograms or data carriers for an authorized broadcast or rebroadcast.

2) A recording produced for this purpose must not be sold or otherwise distributed.

Article 31

Reporting on current events

1) Where necessary for reporting on current events, works perceived in so doing may be recorded, reproduced, presented, broadcast, distributed, rebroadcast or otherwise made perceivable.

2) For the purposes of information on current affairs, short extracts from press articles or from radio and television reports may be reproduced, distributed and broadcast or rebroadcast; the extract and the source must be designated. Where the name of the author is given in the source, that name must also be given.

F. Term of protection

Article 32

General

1) A work shall enjoy copyright protection as soon as it is created, whether or not it has been fixed on a physical medium.

2) Protection shall expire 70 years after the death of the author.

3) Where it has to be assumed that the author has been dead for over 70 years, no protection shall subsist.

Article 33

Joint authorship

1) Where two or more persons have participated in the creation of a work (Article 7), protection shall expire 70 years after the death of the last surviving joint author.

2) Where the individual contributions may be separated, protection of the independently usable contributions shall expire 70 years after the death of the author concerned.

3) The copyright period for a cinematographic work or another audiovisual work shall expire 70 years after the death of the last surviving of the following persons, irrespective of whether these persons have been nominated as joint authors: principal producer, author of the screenplay, author of

the dialog and composer of the music specially composed for the cinematographic work or audiovisual work concerned.

Article 34

Unknown authorship

1) If the author is unknown, protection of his works shall end 70 years after publication or, if the work has been published in instalments, 70 years after the final instalment.

2) If it becomes generally known who the author is before the expiration of this term of protection, protection shall expire 70 years after his death.

Article 35

Calculation

The term of protection shall be calculated as from December 31 of the year in which the event determining the calculation occurred.

Article 36

International relations

1) For works which have been published for the first time abroad, protection within the framework of the time limits laid down in Articles 32 to 35, and Articles 44 and 49 shall be granted for the period of time applying in the foreign country concerned. International treaties shall remain reserved.

1) This provision shall not be applicable in relations with member states of the European Economic Area.

III. Neighboring rights

Article 37

Rights of performers

1) Performer shall mean the natural person who performs a work or who participates artistically in the performance of a work.

2) Performers shall have the exclusive right:

- a) to make their performances perceivable in places other than those in which they were performed;
- b) to broadcast their works by radio, television or similar process using electromagnetic waves, cable or other means of conduction, and to rebroadcast the broadcast performance by means of technical installations not operated by the original broadcasting organization;

- c) to record their performances on phonograms, videograms or data carriers and to reproduce such recordings;
- d) to offer for sale, sell or otherwise distribute reproduced copies of the material on which their performances are recorded;
- e) to make their performances perceivable when they are broadcast or rebroadcast.

3) Performers shall have the exclusive right to authorize or prohibit the rental of representations of their performances.

4) If performers conclude a contract with a film producer relating to a film production, it shall be presumed, unless otherwise provided in the terms of the contract, that the performer falling within the terms of this contract has assigned his rental right. He shall be entitled to appropriate remuneration for this.

Article 38

More than one performer

1) Where two or more persons have artistically participated in a performance, protection shall belong to them jointly.

2) In the case of a choral, orchestral or stage performance, use of the performance under Article 37 shall require the consent of the following persons:

- a) the soloists;
- b) the conductor;
- c) the producer;
- d) the representative of the participating group of performers or, where there is no representative, the leader of the group.

3) For as long as the group has not designated a representative and the name of its leader is unknown, the organizer, the producer of phonograms or videograms or other data carriers, or the broadcasting organization, may exercise the neighboring rights as an agency without authority.

Article 39

Rights of phonogram producers

1) Producers of phonograms shall have the exclusive right to reproduce the recordings and to offer for sale, sell or otherwise distribute the reproduced copies.

2) Producers of phonograms shall have the exclusive right to authorize or prohibit the rental of representations of their performances.

Article 40

Rights of film producers

- 1) Producers of films shall have the exclusive right to reproduce the recordings and to offer for sale, sell or otherwise distribute the reproduced copies.
- 2) Producers of films shall have the exclusive right to authorize or prohibit the rental of representations of their performances.

Article 41

Right to remuneration for the use of phonograms or films

- 1) If commercially available phonograms or films are used for the purpose of broadcasting, rebroadcasting, public reception or presentation, the performers shall have a right to appropriate remuneration.
- 2) The producer of the medium thus used shall be entitled to an equitable share of the remuneration of the performers.
- 3) The Government shall, by way of ordinance, lay down the apportionment formula. This shall be applied if the performers and producers of phonograms or films cannot agree on the share of remuneration pursuant to paragraph 2).
- 4) Claims to remuneration can only be asserted by a collecting society approved in Liechtenstein (Articles 50 *et seq.*).
- 5) Foreign performers and producers of phonograms or films who do not have their habitual residence or registered office in Liechtenstein shall only have a right to remuneration if the State of which they are nationals or in which they have their registered office affords a corresponding right to Liechtenstein nationals. This provision shall not be applicable in relations with member states of the European Economic Area and with Switzerland.

Article 42

Rights of broadcasting organizations

A broadcasting organization shall have the exclusive right:

- a) to rebroadcast its broadcasts;
- b) to make its broadcasts perceivable;
- c) to record its broadcasts on phonograms, videograms or data carriers and to reproduce such recordings;
- d) to offer for sale, sell or otherwise distribute the reproduced copies of its broadcasts.

Article 43

Transfer of rights, enforcement and limitation of protection

The provisions of Articles 14, 18, 19, 21 and 22, Articles 25 to 31, and Article 36 shall apply *mutatis mutandis* to the rights enjoyed by performers, phonogram and videogram producers and broadcasting organizations.

Article 44

Term of protection

1) Protection shall begin with performance of the work by performers, with production of the phonogram, with the recording of a phonogram or videogram for the first time or authorized publication or public communication thereof or with the transmission of the broadcast; it shall end after 50 years.

2) The term of protection shall be calculated as from December 31 of the year in which the event determining the calculation occurred.

IV. Protection of databases

Article 45

Sui generis right

1) The producer of a database for which a qualitatively or quantitatively substantial investment is necessary for the obtaining, verification or presentation of its contents, shall have the right to prohibit extraction and/or re-utilization of the whole or of a substantial part, evaluated qualitatively or quantitatively, of the contents of that database.

2) The repeated and systematic extraction and/or re-utilization of insubstantial parts of the contents of the database implying acts which conflict with a normal exploitation of that database or which unreasonably prejudice the legitimate interests of the producer of the database shall also not be permitted.

3) For the purposes of this Chapter:

a) "extraction" shall mean the permanent or temporary transfer of all or a substantial part of the contents of a database to another medium by any means or in any form;

b) "re-utilization" shall mean any form of making available to the public all or a substantial part of the contents of a database by the distribution of copies, by renting, by on-line or other forms of transmission. The first sale of a copy of a database within a member state under the Agreement on the European Economic Area by the rightholder or with his consent shall exhaust the right to control resale of that copy within the European Economic Area. Public lending is not an act of extraction or re-utilization.

4) The right referred to in paragraph 1 may be transferred, assigned or granted under contractual licence.

5) The right provided for in paragraph 1 shall apply irrespective of the eligibility of that database for protection by copyright or by other rights. Moreover, it shall apply irrespective of eligibility of the contents of that database for protection by copyright or by other rights. Protection of databases under the right provided for in paragraph 1 shall be without prejudice to rights existing in respect of their contents.

Article 46

Beneficiaries

1) The right provided for in Article 45 shall apply to databases whose producers or rightholders are nationals of a member state of the European Economic Area or who have their habitual residence in the territory of the European Economic Area.

2) Paragraph 1 shall also apply to companies and firms formed in accordance with the law of a member state and having their registered office, central administration or principal place of business within the European Economic Area; however, where such a company or firm has only its registered office in the territory of the European Economic Area, its operations must be genuinely linked on an ongoing basis with the economy of a member state.

Article 47

Rights and obligations of lawful users

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

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

3) A lawful user of a database which is made available to the public in whatever manner may not cause prejudice to the holder of a copyright or neighboring right in respect of the works or subject matter contained in the database.

4) Any agreements to the contrary shall be null and void.

Article 48

Exceptions

A lawful user of a database which is made available to the public in whatever manner may, without the authorization of its producer, extract and/or re-utilize a substantial part of its contents:

- a) in the case of extraction for private purposes of the contents of a non-electronic database;
- b) in the case of extraction for the purposes of illustration for teaching or scientific research, as long as the source is indicated and to the extent justified by the non-commercial purpose to be achieved;

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

Article 49

Term of protection

1) The right in the database shall run from the date of completion of the making of the database. It shall expire 15 years after the date of completion.

2) In the case of a database which is made available to the public in whatever manner before expiry of the period provided for in paragraph 1, the term of protection by that right shall expire 15 years following the date when the database was first made available to the public.

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

V. Exploitation of authors' rights and neighboring rights

A. Collecting societies

Article 50

Collective exploitation

1) The collective exploitation of authors' rights shall be effected by collecting societies.

2) The Government may grant licences to foreign collecting societies or set up or grant a licence to a Liechtenstein collecting society.

3) More detailed provisions shall be laid down by the Government by way of ordinance.

Article 51

Tariffs

1) The collecting societies shall draw up tariffs for the remuneration that they collect. In this connection, exploitation for cultural and educational purposes shall be favoured.

2) They shall be required to submit their tariffs to the Supervisory Authority for approval and to publish the approved tariffs.

3) The collecting societies must not strive to make a profit of their own.

4) If more than one collecting society is admitted for the same sphere of exploitation, they shall agree on a joint tariff.

Article 52

Distribution

1) The collecting societies shall be required to draw up distribution regulations and to submit them to the Supervisory Authority for approval.

2) The collecting societies may pay out sums of money for the purpose of cultural promotion. More detailed provisions shall be laid down by the Government by way of ordinance.

3) Parts of the proceeds of exploitation for the purpose of cultural promotion shall be paid out in the Principality of Liechtenstein. The Supervisory Authority may stipulate exceptions.

Article 53

Cooperation of users

1) Where it may reasonably be expected of them, the users of works shall provide the collecting societies with all the necessary information for drawing up and applying the tariffs and for distributing the proceeds. The electronic transmission of data shall be permitted.

2) Administrative compulsion pursuant to the Law relating to State Administration (Landesverwaltunspfleugesetz) may be ordered to implement the provisions of paragraph 1.

3) The collecting societies shall be obliged to preserve business secrets.

B. Supervision

Article 54

Principle

1) The activity of collecting societies in the Principality of Liechtenstein shall be subject to supervision.

2) Supervision shall be the responsibility of the Government; it may, subject to legal recourse to the Collegiate Government, delegate this power to an official agency by way of ordinance.

Article 55

Obligation to provide information and render accounts

The collecting societies shall provide the Supervisory Authority with all information and make available all documents required to carry out the supervision, and shall also render accounts yearly in an activity report.

VI. Legal protection

A. Civil law protection

Article 56

Action for declaratory judgment

Any person who proves a legal interest therein may apply to the court for a declaratory judgment on whether or not a right or a legal relationship subsists under this Law.

Article 57

Action for execution

1) Whoever suffers or is likely to suffer a violation of his copyright or neighboring right may request the courts:

- a) to prohibit an imminent prejudice;
- b) to remove an existing prejudice;
- c) to require the defendant to state the origin of the unlawfully manufactured or marketed articles in his possession.

2) He may further, under the General Civil Code (Allgemeines bürgerliches Gesetzbuch) or the Persons and Companies Act (Personen- und Gesellschaftsrecht), institute proceedings for damages, redress or compensation for pain and suffering, and may also require the surrender of profits in accordance with the provisions on agency without authority.

Article 58

Confiscation in civil proceedings

1) The court may order that the unlawfully manufactured or utilized articles in the possession of the defendant be confiscated, destroyed or rendered unusable.

- 2) The above shall not apply to executed works of architecture.

Article 59

Interim injunctions

1) Any person who provides reasonable evidence that his copyright or neighboring right is infringed or is likely to be infringed and that the infringement is likely to result in a prejudice for him that may not be readily made good may request that interim injunctions be ordered.

2) He may request, in particular, that the court order measures to secure evidence, to determine the origin of the unlawfully manufactured or marketed articles or to maintain the existing situation, or measures for the provisional execution of preventive and restraining injunctions.

Article 60

Publication of judgment

The court may order, at the request of the successful party, that the judgment be published at the cost of the other party. The court shall determine the manner and extent of publication.

B. Penal provisions

Article 61

Infringement of copyright

1) At the request of the person whose rights have been infringed, any person shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding 360 daily rates who, intentionally and unlawfully:

- a) uses a work under a false designation or a designation that differs from that decided by the author;
- b) publishes a work;
- c) alters a work;
- d) uses a work to create a derived work;
- e) manufactures copies of a work in any manner;
- f) offers for sale, sells or otherwise distributes copies of a work;
- g) recites, performs or presents a work or makes a work perceivable in any other way either directly or with the help of any type of means;
- h) broadcasts a work by radio, television or a similar process, including electromagnetic waves, cable or other means of conduction, or rebroadcasts a broadcast work by means of technical installations the operator of which is not the original broadcasting organization;
- i) makes a broadcast or rebroadcast work perceivable;
- k) refuses to inform the responsible authority of the origin of copies of a work in his possession that have been unlawfully manufactured or marketed;
- l) hires out a work;
- m) digitalizes a work.

2) Any person who commits an infringement of copyright by way of trade (§ 70 of the Criminal Code (Strafgesetzbuch)) shall be liable to imprisonment for a term not exceeding three years. Prosecution shall be conducted by the State Prosecution Service.

Article 62

Omission of source

Any person who intentionally omits to state the source that has been used where required by statute (Articles 27 and 31) and, where he is named therein, to give the name of the author shall at the request of the person whose rights have been infringed be liable to a fine of up to 5,000 francs, or if such fine cannot be collected to imprisonment for a term not exceeding one month.

Article 63

Infringement of neighboring rights

1) At the request of the person whose rights have been infringed, any person shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding 360 daily rates who, intentionally and unlawfully:

- a) broadcasts the performance of a work by radio, television or a similar process, including electromagnetic waves, cable or other means of conduction;
- b) records a performance of a work on a phonogram, videogram or other data carrier;
- c) offers for sale, sells or otherwise distributes reproduced copies of a performance of a work;
- d) rebroadcasts a broadcast performance of a work by means of technical installations the operator of which is not the original broadcasting organization;
- e) makes a broadcast or rebroadcast performance of a work perceivable;
- f) reproduces an image carrier, phonogram or videogram and offers for sale, sells or otherwise distributes or hires out the reproduced copies.
- g) rebroadcasts a broadcast;
- h) records a broadcast on a phonogram, videogram or other data carrier;
- i) reproduces a broadcast fixed on a phonogram, videogram or other data carrier or distributes the reproduced copies;
- k) distorts or abridges an image carrier or videogram;
- l) refuses to inform the responsible authority of the origin of the carriers incorporating a performance protected under Articles 37, 39, 40 or 42 in his possession that have been unlawfully manufactured or marketed.

2) Any person who commits an infringement of neighboring rights by way of trade (§ 70 of the Criminal Code) shall be liable to imprisonment for a term not exceeding three years. Prosecution shall be conducted by the State Prosecution Service.

Article 64

Infringement of rights in databases

1) At the request of the person whose rights have been infringed, any person shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding 360 daily rates who, intentionally and unlawfully:

- a) extracts or re-utilizes the whole or a substantial part, evaluated qualitatively or quantitatively, of the contents of a database;
- b) repeatedly and systematically extracts and/or re-utilizes insubstantial parts of the contents of a database within the meaning of Article 45, 2).
- c) causes prejudice to the holder of a copyright or neighboring right in respect of the works or subject matter contained in the database.

2) Any person who commits an infringement of rights in databases by way of trade (§ 70 of the Criminal Code) shall be liable to imprisonment for a term not exceeding three years. Prosecution shall be conducted by the State Prosecution Service.

Article 65

Unauthorized assertion of rights

Any person who asserts copyright or neighboring rights the exploitation of which is subject to Government supervision without the necessary authorization shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding 180 daily rates.

Article 66

Responsibility

If offences are committed in the business activities of a legal entity, a general or limited partnership or an individual enterprise, the penal provisions shall be applicable to the persons who have or should have acted for them, but subject to the joint and several liability of the legal entity, company or individual enterprise in respect of the penalties and costs.

Article 67

Confiscation in penal proceedings

- 1) If an offence has been committed,
 - a) goods to which the offence relates, and

b) articles which have been or are intended to be used for the commission of an offence may be confiscated. § 26 of the Criminal Code shall be applicable.

2) Executed works of architecture may not be confiscated.

3) The proceedings shall be in conformity with the provisions of §§ 353 to 357 of the Criminal Procedure Code (Strafprozessordnung).

Article 68

Forfeiture of proceeds

1) The proceeds of offences may, irrespective of to whom they belong, be declared to be forfeited to the State. § 20 of the Criminal Code shall be applicable.

2) The proceedings shall be in conformity with the provisions of §§ 353 to 357 of the Criminal Procedure Code.

Article 69

Penal actions

The High Court of Liechtenstein (Landgericht) shall have jurisdiction for penal actions under this Law.

C. Measures relating to import and export

Article 70

Reporting of suspect consignments

The responsible authority shall be empowered to draw the attention of the owners of copyright or neighboring rights as also the attention of a collecting society approved in the Principality of Liechtenstein to specific consignments where there is a suspicion that goods whose distribution within the country would infringe copyright or neighboring rights are about to be imported or exported.

Article 71

Request for assistance

1) Where the holders of copyright or neighboring rights have reason to believe that goods whose distribution within the country would infringe copyright or neighboring rights are about to be imported or exported, they may request the responsible authority in writing to refuse the entry into circulation of the goods.

2) The persons making such request must provide all relevant particulars available to them that are required for the responsible authority to take a decision; this shall include a precise description of the goods.

3) The responsible authority shall decide on the request. It may charge a fee to cover the administrative costs.

Article 72

Withholding of goods by the responsible authority

1) Where the responsible authority has good reason to believe, following a request under Article 71 that the import or export of goods infringes copyright or neighboring rights, it shall inform the person making the request thereof.

2) To enable the person making the request to obtain interim injunctions, the responsible authority shall withhold the goods concerned for ten working days at most as from the date of the communication under paragraph 1.

3) Where justified by the circumstances, the responsible authority may withhold the goods concerned for an additional period of ten working days at most.

4) If the withholding of the goods is likely to cause a prejudice, the responsible authority may require the person making the request to furnish an appropriate security.

5) The person making the request shall make good any damages arising from the withholding of goods if interim injunctions are not ordered or prove to be unjustified.

Article 73

Jurisdiction; international treaties

1) The responsible authority within the meaning of Articles 70 to 72 shall be determined by the Government by way of ordinance.

2) The Government may entrust the following with measures relating to import and export:

- a) individual official agencies of the State administration;
- b) third parties.

3) International treaties shall remain reserved.

VII. Final provisions

A. Execution and repeal of previous law

Article 74

Implementing regulations

The Government shall issue the ordinances required to implement this Law.

Article 75

Repeal of Laws

With the coming into force of this Law, the Law of 26 October 1928 concerning Copyright in Literary and Artistic Works, Liechtenstein State Gazette (Landesgesetzblatt) 1928, No. 12, and the Ordinance of 30 January 1996 concerning Specific Protected Rights relating to Intellectual Property, Liechtenstein State Gazette 1996, No. 31 are repealed.

B. Transitional provisions

Article 76

Subject matter already protected

- 1) This Law shall apply also to works, performances, phonograms and videograms and also broadcasts created prior to its entry into force;
- 2) Where the use of a work, performance, phonogram, videogram or broadcast that is unlawful under this Law was previously permitted, it may be completed if begun prior to the entry into force of this Law.

Article 77

Existing contracts

- 1) Contracts concerning copyright or neighboring rights concluded prior to the entry into force of this Law and orders issued on the basis of such contracts shall remain in effect in accordance with previous law, unless the contents thereof conflict with new law or are subject to new regulations thereunder.
- 2) Unless otherwise agreed, such contracts shall not apply to rights first created by this Law.

Article 78

Expired copyright periods

- 1) Copyright periods which have expired prior to the coming into force of this Law shall not be further revived even if such periods would have been longer under this Law.
- 2) In relations with member states under the Agreement on the European Economic Area, copyright periods which under previous law have expired prior to 1 July 1995 shall be revived with retrospective effect if, according to the provisions on the term of protection pursuant to Articles 32 to 35, they would not expire until after this date. This shall not apply to films and audiovisual works created before 1 July 1994.
- 3) However, any person who, on the basis of the previous provisions on the term of protection which have been revived pursuant to paragraph 2), in good faith exploits or has commenced the exploitation of works which have become unprotected by copyright, shall be entitled to continue to do so without payment of remuneration.

C. Entry into force

Article 79

This Law shall enter into force on the date on which it is announced.

signed *Hans-Adam II. von und zu Liechtenstein*
(Head of State)

signed *Dr. Mario Frick*
(Head of Government)
