
**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**

TURKEY

The present document reproduces the text¹ of Law N° 3257 on Cinema, Video and Music Works of Art, as notified by Turkey under Article 63.2 of the Agreement (see document IP/N/1/TUR/2).

**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**

TURQUIE

Le présent document contient le texte¹ de la Loi n° 3257 sur les œuvres d'art cinématographiques, vidéographiques et musicales, notifiée par la Turquie au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/TUR/2).

**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**

TURQUÍA

En el presente documento se reproduce el texto¹ de la Ley N° 3257 de obras de cine o vídeo y obras musicales, que Turquía notificó de conformidad con lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/TUR/2).

¹ In English only. The text of this law in the original language is available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées peuvent consulter le texte de cette loi, dans sa langue d'origine, au Secrétariat de l'OMC./En inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC el texto de esta ley en su idioma original.

LAW OF CINEMA VIDEO AND MUSIC WORKS OF ART

Number of Law: 3257

Date of Approval: 23/1/1986

Publication in Official Gazette: 7.2.1986/19012

Law on amendment of some articles

Number of Law: 3329

Date of Approval: 29.1.1987

Publication in Official Gazette: 4.2.1987/19362

Objective:

Article 1:

The objective of this law is to realize the educative, instructive, culture spreading and transmitting, introductory functions of cinema, video and music works of art which are one of the most important mediums of mass communication due to their close relation with culture and their prevalence; to provide their improvement from the aspect of production, inspection and display, programming matters and technology usage; to give support to the people working in the field of Turkish Cinema and music art; to contribute order and dimension to cinema and music life from the aspect of national solidarity, integrity and our continuity.

Scope:

Article 2:

This law comprises the incite, creation of the work of art, inspection, display, execution of the products of Turkish Cinema and Turkish music art, which are branches of industry and art, and the principles and procedure of the protection of the copyright, display and execution right, which arise from these process.

Definitions:

Article 3:

The explanations of the phrases used in this law are as follows:

- a) Work of art: Mobile or audio thought and art productions recorded on film, video, recorders or on their similar ones.
- b) Inspection: The inspection of the works of art, which are identified in this matter, by the authorities in order to determine whether they contain elements of offense or incite to offense from the aspect of the indivisible integrity of the state with its country and nation, national sovereignty, republic, national security, public order, general ease, public interest, general ethics and general health and whether they are appropriate to our national culture, customs and traditions.
- c) Film: Every kind of mobile cinema works and their similar ones that determine works of art prepared as audio or visual or only visual with commercial purpose and the introductory, instructive or technical ones or the daily events.
- d) Video: Every kind of mobile material on which vision with sound or only vision has been recorded with the electromagnetic parts on it.
- e) Recorder: Every kind of record, cassette or their similar ones on which only sound has been recorded.
- f) Banderole: The label which is stuck on the band, cassette and outer package of the works that makes the stuck material lose its special feature when removed and which the special sign of the person with the enterprise certificate and the serial number is on. (ministry banderole and the special sign of the owner of enterprise certificate is used on the recorder)
- g) Producer: Real or legal persons producing or importing the works of art.

h) Operator: Person doing the total and retail distribution, buying-selling and hiring of the works, or managing public cinemas or similar other saloons that provide more than one people to watch or listen, or broadcasting cable network.

i) Ministry: Ministry of Culture and Tourism.

Production and Import:

Article 4:

The real and legal persons that shall do the production and import and collective distribution of the works of art are obliged to inform the ministry beforehand.

Amateur works related with the question of who can do broadcasting, their qualifications, the rules to be obeyed and other matters related with this subject, the principles that should be followed by the foreign real or legal persons who want to make films about scientific researches in Turkey, or films with inspection and commercial purpose or by real or legal persons of Turkish nationality who make activities on behalf of these persons and the principles of the co-production, which shall be made by real and legal persons of Turkish nationality and foreigners, shall be determined with the regulations prepared by the Ministry.

Register and Record:

The first paragraph of Article 5 has been amended.

Article 5:

The register and record of the works of art, which are the subject matter of production and import, shall be done by the Ministry and enterprise certificate shall be given before they are presented to collective distribution and display. This certificate can be bought by the person who produces the work of art or who has taken the copy, broadcast and display rights in domestic works of art; by the person who imports the work of art by taking the production, copy, distribution and display rights of the works of art from the person they belong to, by a contract, in works of art with foreign origin.

It is obligatory that the banderole of the ministry and the owner of the enterprise certificate shall be stuck on every copy of the work whose register and record has been done. The special sign of the owner of the enterprise certificate shall be used together with the Ministry banderole in records and audiocassettes. But, the Ministry shall not be responsible from this register and record based on the declaration of the producer and importer.

Inspection:

The third and the fourth paragraphs and the last paragraph of Article 6 have been amended.

Article 6:

For the register and record of the works of art, an application shall be made to the Ministry with a declaration of which a copy of any size or form is enclosed and this declaration shall be taken as a base in the transactions. The ministry determines the works of art that seem to be necessary or obligatory to be inspected, transfers them to the inspection committee and forms a sub commission of three persons that shall be determined with the regulations. The ministry can form more than one sub commissions or inspection committees with regard to the size of the work.

The register and record of works of art that do not seem necessary or obligatory to be inspected and the works of art that have been determined as positive as a result of the inspection shall be done and enterprise certificate shall be given. The necessary amendments shall be made by the producer in the works of art that are

determined to be amended by the committee and enterprise certificate shall be given with the register and record. The ones that are absolutely inappropriate to be presented to distribution and display shall be returned after all administrative and judgment transactions have been completed.

The producers can request the Ministry to inspect the scenarios of the production if they wish. This inspection shall be made by the sub commissions. The inspection results of the works of art and the inspection results of the scenarios shall be declared to the related person in maximum 15 days. The inspection result shall be registered on the enterprise certificate of the works of art. If inspection is not necessary and obligatory, this matter shall also be registered on the enterprise certificate.

The inspection committee forms from the representatives of the Ministry of National Education Youth and Sports, the General Secretariat of the National Security Council and the Ministry of Interior under the chairmanship of the representative of the Culture and Tourism Ministry. But, it is obligatory that one representative from the vocation union of Turkish cinema works of art and one from the vocation union of Turkish music works of art and one artist determined by the Ministry shall take position in the inspection committee. The producer of the work of art that is inspected can participate in the inspection committee as an observer if he wishes. The number of sub commissions and inspection committees, the provinces they shall be organized in, the place they shall assembly at and the working principles and procedures, the financial rights of the non-officials and other matters shall be stated in the regulation that shall come into force with the resolution of the council of ministers.

Distribution and display:

The first paragraph of Article 7 has been amended.

Article 7:

The persons who make the collective and retail distribution, who sell, rent and present to display the works of art containing enterprise certificate for more than one person with commercial purpose are obliged to get enterprise license. The enterprise licenses are given by the municipalities and by the superior local administration chief at places outside the municipality border.

The persons to whom the enterprise license shall be given, the characteristics, rules to be obeyed and other matters related with this subject and exceptions shall be stated in the regulation prepared by the Ministry.

Copyright:

Article 6 has been amended.

Article 8:

The copy, distribution and display rights of the works of art belong to the owner of the enterprise certificate. The right of copying and responsibility of these works of art belongs to the person who registers and records them. Every kind of disposal on the works of art is forbidden unless there is the permission of the owner of the rights. The copy, distribution and display rights can be subject to any kind of perception as buying, selling and leasing.

A work of art that has not been registered and recorded cannot be subject to right of display, copy and distribution. The transfer of the copyright after the register and record does not give the right to make any amendments on the work of art.

When any conflict arises in the matters of copying, distributing and displaying, the work's copy at the ministry shall be taken as a base. The provisions of the law numbered 5846 on works of thought and art shall be applied on the matters about copyright that have not been mentioned in this law.

Authority of the enterprise:

Article 9:

The ministry and the civil administration chiefs can inspect enterprise certificate and banderoles of the works of art during their distribution and display and inspect the work of art at any time in order to determine whether there have been any amendments on it. The works of art without enterprise certificate or banderole or on which any amendment has been made shall be collected and transferred to the C Attorney generalships with offense declaration.

The civil administration chiefs can prohibit the distribution and display of the works of art which are probable of causing a social event due to the characteristics of the region, in the limits of their authorities and duties, on condition that the reason shall be stated. In case the work of art is found inappropriate to the inseparable integrity of the state with its country and nation, to our national sovereignty, Republic, National Security, Public Order, General Ease, Public Interest, General ethics and general health, customs and traditions at the end of any inspection made by the ministry or the civil administration chiefs, the work of art shall be prohibited and legal proceeding shall start.

Local civil authorities and municipalities have the authority to inspect the banderoles and the enterprise certificates.

Fund:

The fourth paragraph of the 10th article has been amended, sub paragraph (d) has been annexed to its 6th paragraph numbered II and its last paragraph has been amended.

Article 10:

"Cinema and music art subvention fund" has been established to the order of the ministry with the aim of contributing to the development of cinema industry and music art, supporting the cinema and music workers and to provide the introduction of the country. In the fund establishments, implementation of the public accounting law numbered 1050, state tender law numbered 2886 and provisions of Audit Court law numbered 832 depend on the inspection of the Fund and Prime Ministry High Control Board.

I- Fund Revenue;

*a) 10.000 liras that shall be taken from domestic works of art during the register and record, 50.000 liras of register and record charge that shall be taken from foreign works of art,

b) 1000 liras that shall be taken from every domestic film copies, 5000 liras that shall be taken from every foreign film copies,

**c) 200 liras for each banderole from the domestic video copy, 500 liras that shall be taken for each banderole from the foreign video copy,

**d) 50 liras that shall be taken from each record, 20 liras that shall be taken from each cassettes,

e) Donations and aid,

f) The interest yield and other incomes of the fund,

g) Money that shall be collected according to the provisional 3rd article.

The council of ministers is authorized to increase or decrease the charges and quantities in the a, b, c and d sub paragraphs of the paragraph above to five folds. Register and record charge shall not be taken from the works of art produced with educational purpose.

Annex of resolution dated 9/9/1987 and numbered 87/12090

RESOLUTION

A- The charge of 50.000 liras that should be taken from the foreign works of art during register and record according to the (a) sub paragraph has been decreased to 10.000 liras for foreign records and their similar ones.

B- The banderole charge of 20 liras that should be taken for each cassette according to the (d) sub paragraph has been increased to 50 liras.

Annex of resolution dated 26/8/1988 and numbered 88/13242

RESOLUTION

A- The charge of 200 liras that should be taken from each banderole of domestic video copies and the charge of 500 liras that should be taken from each banderole of foreign video copies according to the (c) sub paragraph have been increased to 300 and 600 liras respectively.

B- The banderole charge of 20 liras that should be taken from each cassette according to the (d) paragraph and that has been determined as 50 liras with the council of ministers resolution dated 9/9/1987 and numbered 87/12090 has been increased to 100 liras.

II- Fund expenditures;

a) Non-profit aids and credits that shall be given for maximum 5 years term by an intermediary state bank.

b) Aids that shall be made for needy cinema and music artists.

c) Expenditures that shall be made for the introduction of Turkey's historical, cultural and natural wealth.

d) The necessary expenditures for the duties to be realized given to the ministry by this law.

Principles and procedures regarding the use of the fund, collection of the revenue, expenditure that shall be made from the fund, giving credit, interest rate of the credits shall be stated in the regulation.

Penalty Provisions:

Article 11:

According to this law:

a) The persons who do not give the information to the Ministry that must be given shall be penalized with heavy fine from 1.000.000 to 2.000.000 liras according to the 1st paragraph of the 4th article.

b) The persons who do not obey the obligation to get enterprise license stated in the 1st paragraph of the 7th article shall be penalized with heavy fine from 1.000.000 to 2.000.000 liras.

c) The persons who do not obey the prohibition in the 1st paragraph of the 8th article shall be penalized with heavy fine from 2.000.000 to 10.000.000 liras.

d) As stated in the 1st paragraph of the 9th article the persons who declare the works of art in an improper way with its origin although they have an enterprise certificate and the persons who do not obey the prohibition stated in the 2nd paragraph shall be penalized with heavy fine from 2.000.000 to 4.000.000 liras even if their acts form another offense, the persons who have been prosecuted and the ones whose

offense is fixed shall be penalized with heavy fine from 3.000.000 to 6.000.000 liras even if their acts form the same offense; the penalty provisions, which can be implemented in case the situations stated in this paragraph form another offense or offenses, shall be concealed.

Administrative Penalty:

Article 12:

10.000 liras of fine shall be collected by the municipalities from the works of art or from their copies that have no enterprise document or banderole or special sign, with regard to the 9th article.

Outside the municipalities, these fines shall be given by the superior local administration chief.

These fines shall be collected by the inventory official according to the law provisions numbered 6183 on procedure of public receivable collection.

An objection can be raised against the administrative penalties to the criminal court of peace in 15 days from the date of declaration. The objection shall not stop the execution of the penalty given by the administration.

In situations where there is no indispensability, the objection shall be accomplished in the shortest time by inspecting the document. The penalties upon the objection are final.

Abolished Provisions:

Article 13:

The 6th article of the police duty and authority law dated 4 July 1934 and numbered 2559 has been abolished with the annexes and amendments.

Provisional Article 1:

The regulations to be passed in this law shall be prepared in three months from the validity date of the Law and shall be put into force by the council of ministers.

Provisional Article 2:

Enterprises are obliged to get license in three months from the issuing of the regulations. Penalty provisions shall not be applied within this period.

Provisional Article 3:

The works of art still existing in the market with no banderole shall be registered and recorded on the person presenting the copyright or display right and enterprise certificate shall be given in six months from the date when the regulations have been put into force. But these works of art shall be declared to the ministry with a declaration. 500 liras from every copy of the film, 100 liras for each banderole from every video copy, 25 liras from every record and 10 liras from every audio cassette shall be taken with 2.000 liras of register and record charge from the present domestic and foreign works of art provided that these declarations are taken as a base. Penalty provisions shall not be applied within the 6 months period.

Provisional Article 4:

Every kind of cinema work and their similar ones, which were being inspected and have been inspected by the Film Inspecting Committees on the date when this law has been put into force, and information about them, sources and material (display and record copy machines) shall be transferred to the Ministry by the Ministry of Interior in one month from the date when the regulations have been put into force. The former committees continue to perform their duties within this period.

Validity:

Article 14:

This law shall come into force on the date of issue.

Execution:

Article 15:

The Council of Ministers execute these provisions of law.
5/2/1986
