

**LAW OF UKRAINE  
“ON COPYRIGHT AND RELATED RIGHTS”**

( *Vidomosti Verkhovnoyi Rady Ukrayiny (VVR)*, 1994, No. 13, p. 64 )

( **Enacted by Resolution of the Verkhovna Rada  
No. 3793-XII of December 23, 1993, VVR, 1994, No. 13, p.65** )

( **With amendments, made according to the Laws of Ukraine  
No. 75/95-BP of February 28, 1995, VVR, 1995, No. 13, p. 85  
No. 998-XIV of July 16, 1999, VVR, 1999, No. 41, p.373** )

( **In the wording of the Law of Ukraine  
No. 2627-III of July 11, 2001, VVR, 2001, No. 43, p.214** )

( **With amendments, made according to the Laws of Ukraine  
No. 850-IV of May 22, 2003, VVR, 2003, No. 35, p.271  
No. 1294-IV of November 20, 2003, VVR, 2004, No. 13, p.181** )

( **Throughout the text of the present Law, the words “regular members of a family” were replaced with the words “a family” in respective cases according to the Law of Ukraine No. 850-IV of 22.05.2003** )

**"Law of Ukraine  
"ON COPYRIGHT AND RELATED RIGHTS"**

This Law shall protect personal non-proprietary rights and proprietary rights of authors and their successors related to the creation and use of works of science, literature and art - copyright, and the rights of performers, manufacturers of phonograms and videograms and broadcast organizations - related rights.

**SECTION I  
GENERAL PROVISIONS**

**Article 1. Definitions**

For the purposes of this Law, the terms shall have the following meaning:

author - an individual who created a work by his creative effort;

audiovisual work - a work fixed on a certain material medium (cinema film, magnetic tape or magnetic disk, CD, etc.) in the form of a series of consecutive frames (images) or analog or discrete signals reproducing (encoding) moving images (with and without a soundtrack), the perception of which is possible exclusively by means of any sort of a display (cinema screen, TV screen, etc.) on which the moving images are reproduced visually with the help of certain technical means. The varieties of an audiovisual work are movies, TV films, video films, diapositive film strips, slide films, etc. that can be fiction, animation (cartoons), non-fiction or other;

database (data compilation) - an aggregate of works, data or any other independent information in unrestricted form, including in electronic form, in which the selection and placement of components and their organization result from creative work, and the

components of which are available individually and can be found via a special retrieval system based on electronic (computer) or other means;

exclusive right - a proprietary right of a person holding copyright and (or) related rights with respect to a work, performance, staging, a broadcast organization's transmission, a phonogram or videogram, entitling this person alone to use these objects of copyright and (or) related rights, and entitling this person alone to permit or prohibit the use thereof by other persons within the term stipulated by this Law;

performer - an actor (theatre actor, cinema actor, etc.), singer, musician, dancer or other person who acts, sings, recites, declaims, plays a musical instrument, dances or otherwise performs works of literature, art or folklore works, circus, variety and puppet shows, pantomimes, etc., as well as a conductor of musical and musical drama works;

videogram manufacturer - an individual or a legal entity that initiated and is responsible for the first video recording of a performance or any moving images (both with and without a soundtrack);

phonogram manufacturer - an individual or a legal entity that initiated and is responsible for the first sound recording of a performance or any sounds;

videogram - video recording on the appropriate material medium (magnetic tape, magnetic disk, CD, etc.) of a performance or any moving images (with or without a soundtrack), except for the images in the form of a recording that is part of an audiovisual work. A videogram is the original material for the manufacturing of its copies;

reproduction - manufacturing of one or more specimens of a work, videogram, phonogram in any material form, as well as recording thereof for temporary or permanent storage in electronic (including digital), optical or other computer-readable form;

state system of legal protection of intellectual property – the Institution and a total of of expert, scientific, educational, informational and other state institutions of the relevant specialization, which belong to the shere of management of the Institution (Article 1 was supplemented with this paragraph according to the Law of Ukraine No. 850-IV of 22.05.2003).

rights management information - information, including in electronic (digital) form, that identifies an object of copyright and (or) related rights and the author or another person holding the copyright and (or) related rights to this object, or the information concerning the conditions of using an object of copyright and (or) related rights or any figures or codes in which such information is represented, when any of these elements of the information is attached to or incorporated into a specimen of an object of copyright and (or) related rights or appears in connection with its being presented for general notice;

author's name - an aggregate of words or marks identifying an author: author's last and first names; author's last name, first name and patronymic; author's initials; author's pseudonym; a character (an aggregate of marks) chosen by the author, etc.;

recording (audio recording, video recording) - fixation of sounds and (or) moving images

with the help of special technical means (including through digital presentation) on the appropriate material medium that allows their perception, reproduction or notification via the appropriate device;

transfer for property lease - assignment of the right to use and (or) possess an original or a specimen of a work, phonogram or videogram during a certain term with the aim of deriving direct or indirect commercial benefit;

computer software - a set of instructions in the form of words, digits, codes, schemes, symbols or in any other form, expressed in a computer-readable form, that enable it to achieve a certain goal or result (this notion covers both an operating system and an application expressed in output or object codes);

counterfeit specimen of a work, phonogram, videogram - a specimen of a work, phonogram or videogram reproduced, published and (or) distributed in violation of copyright and (or) related rights, including specimens of the works, phonograms and videograms that are protected in Ukraine and are imported into the customs territory of Ukraine without the consent of the author or other copyright and (or) related rights holder, in particular from the countries in which these works, phonograms and videograms have never been or have ceased to be protected;

promulgation (disclosure to the public) of a work - an action accomplished upon the consent of the author or other copyright and (or) related rights holder that makes a work available to the public for the first time through publication, public performance, public display, public demonstration, broadcast, etc.);

publication of a work, phonogram, videogram - issuance into circulation, upon the consent of the author or other copyright and (or) related rights holder, of specimens of a work, phonogram, videogram manufactured by printing, electronic or other means, in an amount that can satisfy, given the nature of the work, phonogram or videogram, the reasonable needs of the public, through their sale, transfer for property lease, home or commercial rental, granting access to the work, phonogram, videogram through electronic information systems in such a manner that any person can obtain it at any place and at any time at the person's own discretion, or by assigning the title thereto or the right to possess them by other methods. Publication of a work, phonogram, videogram also means depositing a manuscript of a work, phonogram, or videogram in an open-access depository with the possibility of obtaining a specimen (copy) of the work, phonogram and videogram therefrom;

collective management organization (organization for collective management of proprietary rights) - a non-profit organization that manages the proprietary rights of copyright and (or) related rights holders on a collective basis;

broadcast organization - an air broadcast organization or a cable broadcast organization;

air broadcast organization - a TV and radio organization broadcasting radio or television transmissions and programs (produced by this organization or by other organizations) by

transmitting on the air with the help of radio waves (and laser beams, gamma rays, etc.) in any frequency band (including via satellite);

cable broadcast organization - a TV and radio organization broadcasting radio or television transmissions and programs (produced by this organization or by other organizations) through remote transmission of a signal with the help of a surface, underground or underwater (conductor, optical fiber or other) cable;

person - an individual or a legal entity;

derivative work - a work that is a creative remaking of another existing work without prejudicing the existing work's protection (annotation, adaptation, arrangement, version of a folklore item, other remaking of a work) or a creative translation thereof into another language (derivative works shall not include audiovisual works obtained by dubbing, soundtracking of other audiovisual works, or by adding subtitles thereto in Ukrainian or other languages);

specimen of a work - a copy of a work produced in any material form;

specimen of a phonogram - a copy of a phonogram on the appropriate material medium produced directly or indirectly from this phonogram and containing all sounds or a portion of the sounds fixed on the phonogram;

specimen of a videogram - a copy of a videogram on the appropriate material medium produced directly or indirectly from this videogram and containing all moving images or a portion of the moving images (with or without a soundtrack) fixed on the videogram;

producer of an audiovisual work - a person that organizes or organizes and finances the creation of an audiovisual work;

pseudonym - a fictitious name selected by an author or a performer to identify his authorship;

public performance - presentation, upon consent of copyright and (or) related rights holders, of works, performances, phonograms, broadcast organization transmissions by declamation, playing, singing, dancing and other method both directly (live performance) and via any devices or processes (except for air or cable transmission) in places that are or can be attended by persons not belonging to members of a family or close acquaintances of this family, regardless of whether they are present in one place at the same time or in various places at various times;

public demonstration of an audiovisual work, videogram - single or multiple public presentation to the public, upon consent of copyright and (or) related rights holders, on premises that can be attended by persons not belonging to members of a family or close acquaintances of this family, of an audiovisual work or a performance fixed on a videogram or any moving images;

public display - any demonstration of the original or a specimen of a work, performance, phonogram, videogram, or broadcast organization transmission, with the consent of copyright and (or) related rights holders, either directly or on a screen by means of a film, slide,

television frame, etc. (except for air or cable transmission) or via other devices or processes in places that are or can be attended by the persons not belonging to members of a family or close acquaintances of the displaying person's family, regardless of whether they are present in one place at the same time or in various places at various times (public display of an audiovisual work or a videogram also means demonstration of individual frames of an audiovisual work or a videogram without observance of their sequence);

broadcast - air transmission, with the consent of copyright and (or) related rights holders, via radio waves (as well as laser beams, gamma rays, etc.) including via satellite, or remote transmission by wires or any type of surface or underground (underwater) (conductor, fiber optic or other) cable in the form of signals (including encoded, if the public receives decoding means from or with the consent of a broadcast organization) of works, performances, any sounds and (or) images, broadcast organization transmissions (programs), fixed on phonograms (videograms) of performances or any sounds and (or) images, etc., where said transmission can be received by an unlimited number of persons in various places located at a distance from the place of transmission at which the images or sounds cannot be received without said transmission;

reprographic reproduction - facsimile reproduction of any size (including enlarged or reduced) of the original of a written or other graphic work or a specimen thereof by photocopying or other similar methods, except for recording in electronic (including digital), optical or other computer-readable form;

distribution of objects of copyright and (or) related rights - any action whereby objects of copyright and (or) related rights are offered to the public directly or indirectly, including notification of the public of these objects in such a manner that its representatives can access these objects at any place and at any time at their own discretion;

course-of-duty work - a work created by an author in the course of his duty in accordance with his job or under an employment agreement (contract) between the author and the employer;

public domain - works and objects of related rights, the copyright and (or) related rights on which has expired;

work of architecture - a work of construction and landscape design art (drawings, sketches, models, erected buildings and facilities, parks, residential area layouts, etc.):

work of fine art - a sculpture, painting, drawing, engraving, lithograph, a work of artistic (including stage) design, etc.;

work of applied art - a work of art, including art crafts, hand-made or created by industrial means for daily use, or one applied to objects so used;

technical means of protection - technical devices and (or) technological means designed to create a technological obstacle to the infringement of copyright and (or) related rights during receipt and (or) duplication of protected (encoded) recordings in phonograms (videograms) and broadcast organization transmissions, or to control access to the use of objects of copyright and related rights;

the Institution – the central body of executive power in the sphere of intellectual property;

phonogram - sound recording on the appropriate material medium (magnetic tape or magnetic disk, gramophone record, CD, etc.) of a performance or any sounds, except for the sounds in the form of a recording that is part of an audiovisual work. A phonogram is the original material for producing specimens (copies) thereof;

quotation - a relatively brief excerpt from a literary, scientific or any other published work that is used, with a compulsory reference to its author and quotation sources, by another person in his work in order to make his statements more understandable or to refer to opinions of another author in the authentic wording.

## **Article 2. Legislation of Ukraine on Copyright and Related Rights**

Ukrainian legislation on copyright and related rights shall be based on the Constitution of Ukraine and consist of the relevant rules of the Civil Code of Ukraine, this Law, the Laws of Ukraine "On Ownership", "On Cinematography", "On Television and Radio Broadcasting", "On Publishing", "On Distribution of Specimens of Audiovisual Works and Phonograms", and other legislative acts of Ukraine protecting personal non-proprietary rights and the proprietary rights of copyright and related rights holders.

## **Article 3. The Scope of This Law**

1. This Law shall be applicable to:

a) works specified in part one of Article 8 of this Law, and objects of related rights specified in Article 35 of this Law, regardless of the place of their first promulgation (or non-promulgated items that are located in Ukraine in an objective form), the authors of or holders of copyright and (or) related rights to which are individuals - citizens of Ukraine or those who are not citizens of Ukraine but have permanent residence in the territory of Ukraine, or legal entities having their permanent locations in the territory of Ukraine;

b) works specified in part one of Article 8 of this Law and objects of related rights specified in Article 35 of this Law that were first promulgated in the territory of Ukraine, or those that were first promulgated outside Ukraine, but were thereafter promulgated in the territory of Ukraine within 30 days;

c) transmissions of broadcast organizations that are officially located in the territory of Ukraine and broadcast via transmitters located in the territory of Ukraine;

d) works of architecture and sculpture objectively located in the territory of Ukraine;

e) works and objects of related rights protected pursuant to the international agreements of Ukraine.

2. The provisions of this Law are aimed at protecting the personal non-proprietary rights and proprietary rights of:

a) copyright holders specified in Article 7 of this Law and related rights holders specified in part one of Article 36 of this Law who are Ukrainian citizens or those who are not Ukrainian citizens but have permanent residence in the territory of Ukraine (for legal entities - permanent locations in the territory of Ukraine), regardless of the territory in which their works or objects of related rights were first promulgated;

b) copyright holders specified in Article 7 of this Law and related rights holders specified in part one of Article 36 of this Law, regardless of their citizenship and permanent residence (for legal entities - their locations), whose works or objects of related rights were first promulgated in the territory of Ukraine, or those that were not promulgated but are located in the territory of Ukraine in an objective form;

c) copyright holders specified in Article 7 of this Law and related rights holders specified in part one of Article 36 of this Law, regardless of their citizenship and permanent residence, whose works or objects of related rights were first promulgated in another country and were promulgated thereafter in Ukraine within 30 days;

d) other persons who hold copyright and (or) related rights.

3. Copyright and (or) related rights holders, irrespective of their citizenship, whose works or objects of related rights were first promulgated in the territory of another state, or those that were not promulgated but are located in an objective form in the territory of another state, shall be granted legal protection in accordance with the international agreements of Ukraine.

#### **Article 4. The Powers of the Institution in the Sphere of the Protection of Copyright and Related Rights**

1. The Institution shall ensure the implementation of State policy in the sphere of the protection of copyright and related rights, exercise its powers within the scope stipulated in the law and carry out the following functions:

monitor the application and observance of domestic legislation and international agreements in the sphere of copyright and related rights;

keep records of collective management organizations after their registration, supervise the activity of these organizations and provide them with methodological assistance;

supervise the observance of this Law in compliance with the procedure prescribed by the Cabinet of Ministers of Ukraine;

act as an intermediary in negotiations and during the settlement of conflicts between collective management organizations, as well as between these organizations and copyright and (or) related rights holders;

arrange for the drafting of standards and schedules concerning minimum remuneration and its distribution among the authors and other copyright and (or) related rights holders, and submit them to the Cabinet of Ministers of Ukraine for approval;

provide reproducers, importers and exporters of specimens of audiovisual works, phonograms

(videograms) with control stamps in accordance with the Law of Ukraine "On Distribution of Specimens of Audiovisual Works and Phonograms", and keep the Uniform Register of Control Stamp Recipients;

arrange for the receipt and consideration of applications for the State registration of copyrights to works of science, literature and art, as well as the registration of contracts relating to copyright with respect to works, and registration thereof;

ensure the drawing up and periodical publication of catalogues of all State copyright registrations;

arrange for the publication of an official bulletin on the protection of copyright and related rights;

ensure the development and implementation of educational programs in the sphere of protection of copyright and related rights;

represent the interests of Ukraine in matters of the protection of copyright and related rights before international organizations pursuant to effective legislation;

authorize the institutions of the State system of legal protection of intellectual property to perform, pursuant to their specialization, individual tasks stipulated in this Law, the Institution's Regulations, other normative and legal acts in the sphere of legal protection of intellectual property;

assists organization for collective management of proprietary rights of holders of copyright and (or) related rights holders in their activities, related to the fulfillment of the functions, determined by Article 49 of the present Law;

(part one of Article 4 was supplemented by the new paragraph fourteen according to the Law of Ukraine No. 850-IV of 22.05.2003, therefore paragraph fourteen shall be considered paragraph fifteen)

perform other functions pursuant to the Institution's Regulations approved in compliance with the established procedure.

2. The Institution shall be entitled to request from collective management organizations the information stipulated in part 7 of Article 48 of this Law.

3. The Institution's activity shall be financed from the State budget of Ukraine.

#### **Article 5. Application of the Rules of an International Agreement**

If an effective international agreement, which was approved as binding by the Verkhovna Rada of Ukraine, stipulates other rules than those set forth in the legislation of Ukraine on copyright and related rights, the rules of the international agreement shall be applied.



## **Article 6. Rights of Foreign Persons and Stateless Persons**

Foreign persons and stateless persons, according to international agreements or on the grounds of the principle of reciprocity, shall enjoy rights equal to those of the persons of Ukraine stipulated in this Law.

## **SECTION II COPYRIGHT**

### **Article 7. Copyright Holders**

Copyright holders are the authors of works specified in part one of Article 8 of this Law, their heirs and persons to whom authors or their heirs have assigned their proprietary copyrights.

### **Article 8. Objects of Copyright**

1. Objects of copyright shall be works in the domain of science, literature and art, namely:
  - 1) literary written works of fiction, journalistic, scientific, technical or other nature (books, brochures, articles, etc.);
  - 2) speeches, lectures, orations, sermons and other oral works;
  - 3) computer software;
  - 4) databases;
  - 5) musical works with or without lyrics;
  - 6) dramatic, musical drama works, pantomimes, choreographic and other works created for stage presentation and staging versions thereof;
  - 7) audiovisual works;
  - 8) works of fine art;
  - 9) works of architecture, city construction, garden and park art;
  - 10) photographic works, including works made by methods similar to photography;
  - 11) works of applied art, including works of decorative weaving, ceramics, carving, casting, of art glass, jewelry, etc.; (item eleven of part one of Article 8 as amended, according to the Law of Ukraine No. 850-iV of 22.05.2003)
  - 12) illustrations, maps, layouts, drawings, sketches, plastic works relating to geography, geology, topography, engineering, architecture and other spheres of activity;
  - 13) stage interpretations of works specified in clause 1 of this part, and folklore versions that can be presented on stage;
  - 14) derivative works;
  - 15) collections of works, collections of folklore versions, encyclopedias and anthologies, collections of regular data, and other composite works, provided that they result from creative work involving the selection, co-ordination or arrangement of the contents without prejudice to the copyright of works which are included thereto as the integrated parts ;
  - 16) texts of translations for dubbing, soundtracking of and adding Ukrainian and other language subtitles to foreign audiovisual works;
  - 17) other works.

2. Protection under this Law shall be granted to all works specified in part one of this Article, both promulgated and non-promulgated, finished and unfinished, irrespective of their purpose, genre, volume, goals (education, information, advertising, propaganda, entertainment, etc.)

3. The legal protection stipulated in this Law shall be extended only to the form of expression of a work, and shall not apply to any ideas, theories, principles, methods, procedures, processes, systems, manners, concepts, or discoveries, even if they are expressed, described, explained or illustrated in a work.

### **Article 9. Protection of Copyright with Respect to a Portion of a Work**

A portion of a work that can be used independently, including the original title of a work, shall be considered a work and shall be protected pursuant to this Law.

### **Article 10. Objects Not Covered by Protection**

The following items shall not be objects of copyright:

- a) daily news or current events information that are regular press information;
- b) works of folk art (folklore);
- c) official documents of a political, legislative, or administrative nature (laws, decrees, resolutions, court awards, State standards, etc.) issued by government authorities within their powers, and official translations thereof;
- d) State symbols of Ukraine, government awards; symbols and signs of government authorities, the Armed Forces of Ukraine and other military formations; symbols of territorial communities; symbols and signs of enterprises, institutions and organizations;
- e) bank notes;
- f) transportation schedules, TV and radio broadcast schedules and telephone directories and other similar databases that do not meet the originality criteria and to which the sui-generis right (a peculiar, special right) is applicable.

The drafts of the official symbols and signs specified in clauses d) and e) of this Article, before they are officially approved, shall be considered as works and protected pursuant to this Law.

### **Article 11. Arising and Exercise of Copyright. Presumption of Authorship**

1. The author of a work shall be the primary holder with whom copyright vests.

Unless proven to the contrary, the person indicated as the author on the original or a specimen of a work shall be deemed the author (presumption of authorship).

This provision shall also apply when a work is published under a pseudonym identifying the author.

2. Copyright to a work shall arise by virtue of the work's creation. No registration of a work or any other special formalization thereof, nor performance of any other formalities shall be required for the onset and exercising of copyright.

3. In order to give notice of his rights, the person holding copyright (author of a work or any other person who was lawfully granted proprietary copyright to the work) can use the copyright protection sign. The sign shall consist of the following elements:  
an encircled Latin letter C - ©  
the copyright holder's name  
the year of first publication of the work.

The copyright protection sign shall be applied to the original and to every specimen of a work.

4. If a work was published anonymously or under a pseudonym (except when a pseudonym unequivocally identifies the author), the publisher of the work (its name must appear thereon) shall be considered the author's representative and shall have the right to protect the latter's rights. This provision shall remain effective until the author of the work discloses his name and declares his authorship.

5. A copyright holder, in order to certify his authorship (copyright) with respect to a promulgated or non-promulgated work, the fact and date of publication of the work, or to certify contracts relating to the author's right to a work, may have its copyright registered at any time during the copyright protection term in the official State registers.

The State registration of copyright or of contracts relating to the author's right to a work shall be implemented by the Institution in compliance with the procedure approved by the Cabinet of Ministers of Ukraine. The Institution shall draw up and periodically issue catalogues of all State registrations.

The fees prescribed by the Cabinet of Ministers of Ukraine shall be paid for the preparation by the Institution of the State registration of copyright and the contracts relating to the author's right to a work.

The Institution shall issue a certificate concerning the registration of copyright with respect to a work. The State duty shall be paid for the issuance of the certificate, and the relevant proceeds shall be transferred to the State budget of Ukraine. The amount of the State duty charged for the issuance of the certificate and the relevant payment procedure shall be stipulated by legislation.

A person possessing the material object in which a work is embodied (expressed) shall not impede copyright registration by the person holding the copyright.

## **Article 12. Copyright and Ownership Right to the Material Object in which a Work is Embodied**

1. Copyright and ownership right to the material object in which a work is embodied shall not be inter-dependent. The alienation of the material object in which a work is embodied shall not mean the alienation of copyright and vice versa.

2. The owner of the material object, in which the original of a work of art or architecture is embodied, shall not be allowed to destroy the object without first offering it to the author at a price which shall not exceed the value of the materials used for the creation thereof. If it is impossible to preserve the object in which the original of a work is embodied, the owner of the material object in which the original of the work is embodied shall allow the author to make a copy of the work in the relevant form, and with respect to an architectural structure - to take a photographic picture thereof.

### **Article 13. Co-Authorship**

1. Co-authors are persons whose joint creative effort resulted in a work.

Copyright with respect to a work created in co-authorship shall be vested with all co-authors irrespective of whether the work is a single inseparable item or is composed of parts each having independent significance.

Relations between co-authors shall be stipulated by an agreement made between them.

The right to publish or otherwise use a work as a whole shall be vested with all co-authors.

If a work created in co-authorship is a single inseparable item, neither co-author shall, without sufficient grounds, deny permission to the other authors to publish or otherwise use or alter the work.

In the event of a violation of a joint copyright, each co-author may prove his rights by court procedure.

2. If a work created in co-authorship consists of parts each having independent significance, each of the co-authors shall be entitled to use the part he created at his own discretion, unless otherwise stipulated in an agreement between the co-authors.

3. Copyright to an interview shall also be regarded as co-authorship. Co-authors of an interview shall be the interviewee and the interviewer.

A recording of an interview can be published only with the interviewee's consent.

4. Remuneration for the use of a work shall belong to co-authors in equal portions, unless otherwise stipulated in an agreement between them.

### **Article 14. Author's Personal Non-Proprietary Rights**

The following personal non-proprietary rights shall be vested with the author:

1) to require recognition of his authorship by properly indicating the author's name on a work and its specimens and during any public use of the work, if practicable;

2) to prohibit the mentioning of his name during a public use of a work, if the author wishes to remain anonymous;

3) to choose a pseudonym, to indicate and require indication of a pseudonym instead of the author's real name on a work and its specimens and during any public use thereof;

4) to require preservation of the integrity of a work, and to counteract any twisting, distortion or other alteration of a work, or any other encroachment thereon that may prejudice the author's honor and reputation.

2. The author's personal non-proprietary rights shall not be assigned (alienated) to other persons.

### **Article 15. Proprietary Rights of an Author**

1. The proprietary rights of an author (or other copyright holder) shall include the following:

a) the exclusive right to use a work;

b) the exclusive right to allow or prohibit the use of a work by other persons.

The proprietary rights of an author (or other copyright holder) can be assigned (alienated) to another person in compliance with the provisions of Article 31 of this Law, whereupon this person shall become a copyright holder.

2. An author's (or other copyright holder's) exclusive right to use a work shall allow him to use the work in any form and in any manner.

3. The exclusive right of an author (or other copyright holder) to allow or prohibit the use of a work by other persons shall entitle him to allow or prohibit:

1) reproduction of works;

2) public performance and broadcast of works;

3) public demonstration and public display of works;

4) any repeated promulgation of works, if carried out by an organization other than the one that carried out the first promulgation;

5) translations of works;

6) versions, adaptations, arrangements and other similar alterations to works;

7) inclusion of works as components into collections, databases, anthologies, encyclopedias, etc.;

8) distribution of originals of works and their specimens by first sale or alienation by another method or by transferring for property lease or rental, and by other transfer prior to the first sale of specimens of a work;

9) general notification of the public of his works in such a manner that its representatives can access the works at any place and at any time at their own discretion;

10) transfer for property lease and (or) commercial rental after the first sale, alienation by another method of the original or specimens of audiovisual works, computer software, databases, musical works as sheet music, as well as of works fixed on a phonogram or videogram or in a computer-readable form;

11) import of specimens of a work.

This list is not exhaustive.

4. Authors' exclusive rights to use works of architecture, city construction, garden and park art shall also envisage their right to participate in the implementation of the relevant work projects.

5. Except for the cases stipulated in Articles 21 through 25 of this Law, an author (or other copyright holder) shall have the right to require payment of remuneration for any use of a work. The remuneration can be effected in the form of a one-time (lump sum) payment, or deductions for each specimen sold or for each use of a work (royalty) or mixed payments.

The amount of and procedure for paying the author's remuneration for the creation and use of a work shall be stipulated in an author's contract or contracts made upon requests of copyright holders between collective management organizations and persons who use works.

The Cabinet of Ministers of Ukraine may establish minimum rates of the author's remuneration and the procedure for their application.

(Paragraph three of part five of Article 15 as amended according to the Law of Ukraine No. 850-IV of 22.05.2003)

6. The proprietary rights restrictions stipulated in Articles 21 through 25 of this Law shall be effected, provided that they do not prejudice normal use of a work or unjustifiably limit the author's legitimate interests.

7. If specimens of a lawfully published work are legally put into civil circulation through their first sale in Ukraine, it shall be permissible to repeatedly introduce them into circulation through sale, bestowal, etc. without the consent of the author (or other copyright holder) and without payment of the author's remuneration, and with respect to works of fine art - subject to the provisions of Article 27 of this Law. However, in this event the right to transfer for property lease or commercial rental shall be preserved exclusively by the copyright holder.

#### **Article 16. Copyright with Respect to Course-of-Duty Works**

1. Personal non-proprietary copyright with respect to a course-of-duty work shall be vested with the author thereof.

2. The exclusive proprietary right to a course-of-duty work shall be vested with the employer, unless otherwise stipulated by an employment agreement (contract) and (or) civil-law contract between the author and the employer.

3. The amount of the author's remuneration for the creation and use of a course-of-duty work, as well as the relevant payment procedure, shall be stipulated in the employment agreement (contract) and (or) civil-law contract between the author and the employer.

## **Article 17. Copyright with Respect to an Audiovisual Work**

1. The authors of an audiovisual work shall be:

- a) the director;
- b) the author of the script and (or) texts or dialogues;
- c) the author of a musical work with or without lyrics, specially created for the audiovisual work;
- d) art director;
- e) cameraman.

One and the same individual can carry out two or more of the author's functions indicated in this part.

2. Unless otherwise stipulated in a contract for the creation of an audiovisual work, the authors who contributed or undertook to contribute to the creation of the audiovisual work and assigned the proprietary rights to an organization that manufactures the audiovisual work, or to the producer of the audiovisual work, shall not have the right to object to the performance of the work, reproduction, distribution, public display, public demonstration, or broadcast thereof, or to the subtitling or dubbing of its text, except for the right to carry out separate public performance of the musical works incorporated into the audiovisual work. All authors of the audiovisual work shall preserve the right to receive a fair remuneration for the promulgation and each public performance, display, demonstration or broadcast of an audiovisual work, transfer thereof for property lease and (or) commercial rental of its specimens; the remuneration shall be distributed and paid out by collective management organizations or by another method.

3. Authors whose works have been incorporated into an audiovisual work (both those that existed before and those created in the process of working on the audiovisual work) shall preserve the copyright with respect to each of their works, and can use it independently of the entire audiovisual work, unless otherwise stipulated in a contract with the organization that manufactures the audiovisual work, or with the producer of the audiovisual work.

## **Article 18. Copyright with Respect to Computer Software**

Computer software shall be protected as literary works. Such a protection shall cover computer software irrespective of the method or form of its expression.

## **Article 19. Copyright with Respect to Collections And Other Composite Works**

1. The author of a collection and other composite works (compiler) shall hold the copyright with respect to his selection and placement of the works and (or) other data resulting from his creative effort (compiling).

The compiler of a composite work shall hold the copyright provided that he observes the rights of the authors of each of the works incorporated in the composite work.

The authors of the works incorporated in a composite work shall be entitled to use their works independently of the composite work, unless otherwise stipulated by the author's contract with the compiler of the composite work.

The copyright of the compiler of a composite work shall not hinder other persons' independent selection or placement of the same works and (or) other data for creating their own works.

The legal protection of databases stipulated in this part shall not apply to the data or information itself, nor shall it affect any copyright associated with the data or information incorporated in a database.

2. The publishers of encyclopedias, encyclopedic dictionaries, periodic collections, collections of scientific works, newspapers, magazines and other periodicals shall hold the exclusive rights to use such publications in their entirety. The publisher shall be entitled to indicate his name or to require indication thereof in the publications with respect to any use of such publications.

The authors of the works incorporated in such publications shall preserve the exclusive rights to use their works irrespective of the entire publication, unless otherwise stipulated by an author's contract.

#### **Article 20. Copyright of Translators and Authors of Other Derivative Works**

1. Translators and authors of other derivative works shall hold a copyright with respect to their translation, adaptation, arrangement or other re-making.

The translator and (or) the authors of other derivative works shall hold the copyright with respect to their work provided that they observe the rights of the author whose work has been translated, adapted, arranged or otherwise remade.

2. The copyright of translators and (or) authors of other derivative works shall not hinder other persons' translation and remaking of the same works.

#### **Article 21. Free Use of a Work with the Indication of the Author's Name**

The following shall be permitted without the consent of the author (or other copyright holder), but with mandatory indication of the author's name and of the source of borrowing:

- 1) to use quotations (brief excerpts) from published works to the extent justified by the intended purpose, including quotations from newspaper and magazine articles in the form of press reviews, if this is required by the critical, polemic, scientific or informational nature of the work incorporating the quotations; to freely use quotations in the form of brief excerpts from performances and works incorporated in a phonogram (videogram) or a broadcast program;
- 2) to use literary works and works of art to the extent justified by the intended purpose as illustrations in publications, broadcasts, sound recordings or video recordings of an educational nature;



- 3) to reproduce in the press, to carry out public performance or broadcast of previously published newspaper or magazine articles on current economic, political, religious and social issues, or broadcast works of the same nature, when the right to carry out such a reproduction, broadcast or other public communication has not been specially prohibited by the author;
- 4) to reproduce, in order to present current events by means of photography or cinematography, to carry out broadcasting or other public communication of the works seen or heard in the course of such events to the extent justified by the informational purpose;
- 5) to reproduce works displayed at exhibitions, auctions, fairs and collections that are open to the public in catalogues for coverage of events mentioned above, without the use of these catalogues for commercial goals; (item five of part one of Article 21 in the wording of the Law No. 850-IV of 22.05.2003)
- 6) to issue works for the blind, published in Braille characters;
- 7) to reproduce works for court and administrative proceedings, to the extent justified by this purpose;
- 8) to carry out the public performance of musical works during official and religious ceremonies, as well as funerals, to the extent justified by the nature of such ceremonies;
- 9) to reproduce for informational purposes in newspapers and other periodicals, to transmit by air or otherwise broadcast publicly delivered speeches, addresses, reports and other similar works, to the extent justified by the intended purpose;
- 10) to reproduce a work for the purposes and under the conditions stipulated in Articles 22 through 25 of this Law.

This list of freely usable works is exhaustive.

#### **Article 22. Free Reprographic Reproduction by Libraries and Archives of Specimens of a Work**

It shall be permissible for libraries and archives, the activity of which is not aimed, directly or indirectly, at earning profit, to reprographically reproduce, without the consent of the author or other copyright holder, one specimen of a work, subject to the following:

- 1) when a reproduced work is a separately published article and other small works or excerpts from written works (except for computer software and databases), with or without illustrations, and when the reproduction is made upon individuals' requests, provided that:
  - a) a library or archive has sufficient reason to believe that such a specimen will be used for the purpose of education, training or private research;
  - b) reproduction of the work is a single, not a regular, event;

- c) there are no restrictions on the part of collective management organizations concerning the terms and conditions for producing such specimens;
- 2) when reproduction is made to preserve or replace a lost, damaged or unusable specimen of the library or archive, or to renew a lost, damaged or unusable specimen from the storage of a similar library or archive, and it is impossible to obtain such a specimen by other means, and when reproduction of the work is a single, not a regular, event.

### **Article 23. Free Reproduction of Specimens of a Work for Training**

The following shall be permitted without the consent of the author or other copyright holder:

- 1) to reproduce excerpts from published written works or audiovisual works as illustrations for training, provided that the extent of the reproduction is consistent with said purpose;
- 2) for educational institutions to reprographically reproduce for classroom lessons published articles and other small works and excerpts from written works, with or without illustrations, provided that:
  - a) the extent of the reproduction is consistent with said purpose;
  - b) reproduction of the work is a single, not a regular, event;
  - c) there are no restrictions on the part of collective management organizations concerning the terms and conditions for the reproduction.

### **Article 24. Free Copying, Modification and Decompilation of Computer Software**

1. A person lawfully possessing a specimen of computer software shall be entitled to do the following without the consent of the author or other person holding the copyright with respect to the software:

- 1) to change (modify) the computer software with the aim of ensuring its operation when it is used with the user's technical equipment, and performing the actions related to the operation of the computer software in accordance with its purpose, in particular, to record and store in computer memory and to correct evident errors, unless otherwise stipulated by an agreement with the author or other person holding the copyright;
- 2) to manufacture one copy of computer software, provided that the copy is made only for archival purposes or to replace a lawfully acquired specimen in case the original computer software is lost, destroyed or becomes unusable. In this case, the copy of the computer software shall not be used for purposes other than those specified in this clause and clause 1 of this part, and shall be destroyed if possession of a specimen of the computer software ceases to be lawful;
- 3) to decompile computer software (to transform its object code into output text) with the aim of obtaining the information required for the achievement of its interaction with independently developed computer software, subject to the following conditions:
  - a) this person previously had no other sources of access to the information necessary for the

- achievement of the interaction;
- b) said actions are performed only with respect to those computer software portions that are necessary for the achievement of the interaction;
  - c) the information obtained upon decompilation shall be used only to achieve its interaction with other software, and shall not be transferred to other persons, except when this is necessary for the achievement of compatibility with other software, and shall not be used for the development of computer software that looks similar to the decompiled computer software, or for any other copyright-infringing action;
- 4) to observe, study and modify the functioning of computer software to understand the underlying ideas and principles, provided that this is done in the course of performing any action such as loading, display, functioning, transfer, or storing in memory (saving) the computer software.

2. The enforcement of the provisions of this Article shall not prejudice the use of computer software nor restrict the legitimate interests of the author and (or) of other person holding the copyright with respect to the computer software.

### **Article 25. Free Reproduction of Works for Personal Purposes**

1. It shall be permissible to reproduce exclusively for personal purposes or for members of a family, without the consent of the author (or other copyright holder) and without payment of the author's remuneration, works previously promulgated in a lawful way, except for the following:

- a) works of architecture in the form of buildings and facilities;
- b) computer software, except in the cases stipulated in Article 24 of this Law;
- c) to reprographically reproduce books, sheet music and original works of fine art, except in the cases stipulated in Articles 22 and 23 of this Law;
- d) works, performances of which have been fixed on phonograms or videograms, and specimens thereof.

2. It shall be permissible to reproduce works and performances fixed on phonograms, videograms and specimens thereof, in home conditions and exclusively for personal purposes or for a regular family members and close acquaintances of this family, without the consent of the author(s), performers, manufacturers of the phonograms, or manufacturers of the videograms, by paying remuneration. The specifics of the payment of the remuneration in this case are stipulated in Article 42 of this Law.

### **Article 26. The Right to Have Access to a Work of Fine Art**

Upon transferring a work of fine art or a material object in which this work is embodied, to the ownership of another person, the author shall be entitled to demand access to such a work for the purpose of using it for reproduction (manufacturing of specimens, slides, post cards, revisions, etc.) provided that this does not prejudice the legitimate rights and interests of the owner of the work of fine art. The owner cannot deny the author access to the work without sufficient grounds. The owner of the work cannot be requested to deliver the work to the author.

### **Article 27. The Right to Succeed**

The author of a work of fine art, and, in the event of his death, his heirs shall enjoy, during the term stipulated in Article 28 of this Law with respect to the original works of fine art sold by the author, the inalienable right to receive five percent of the price of every next sale of the work via an auction, gallery, showroom, shop, etc., that follows the first sale thereof by the author of the work (the right to succeed). The remuneration shall be paid in this case by said auctions, galleries, showrooms, shops, etc.

The collection and payment of the remuneration, resulting from the exercise of the right to succeed, shall be implemented by the author personally, through the author's agent or through collective management organizations.

### **Article 28. Period of Validity of Copyright**

1. Copyright to a work shall arise as a result of the fact of its being created and shall start being effective on the day of creation of the work.
2. Copyright shall remain in effect throughout the author's lifetime and for 70 years after his death, except in the cases stipulated in this Article.
3. With respect to works promulgated anonymously or under a pseudonym, the period of validity of copyright shall terminate 70 years after the promulgation of the work. If a pseudonym accepted by an author leaves no doubts as to the author's identity, or if the author of a work, promulgated anonymously or under a pseudonym, is disclosed not later than 70 years after the promulgation of the work, the term stipulated in part two of this Article shall apply.
4. Copyright to works created in co-authorship shall remain in effect throughout the co-authors' lifetimes and for 70 years after the death of the last co-author.
5. If an entire work is published (promulgated) not in its entirety, but in consecutive volumes, parts, issues, series, etc., the period of validity of its copyright shall be stipulated separately with respect to each published (promulgated) portion of the work.
6. The term of protection of copyright with respect to works of posthumously rehabilitated authors shall remain in effect for 70 years after their rehabilitation.
7. Copyright to a work that was first published within 30 years after the author's death shall remain in effect for 70 years after the date of the lawful publication thereof.
8. Any person who promulgates a non-promulgated work for the first time after expiration of the term of protection of copyright with respect to the work, shall enjoy protection equal to the protection of the author's proprietary rights. The term of protection of these rights shall be 25 years after the time when the work was first promulgated.
9. The term of protection of copyright prescribed in parts 2 - 8 of this Article shall expire on January 1 of the year that follows the year of occurrence of the legal facts stipulated in said parts.

10. The author's personal non-proprietary rights stipulated in Article 14 of this Law shall be protected in perpetuity.

### **Article 29. Inheriting Copyright**

1. The proprietary rights of authors and other copyright holders shall be inheritable. An author's personal non-proprietary rights shall not be inheritable.

2. Heirs shall have the right to protect the authorship of a work and to counteract mangling, distortion or other alteration of a work, as well as any other encroachment on a work that may prejudice the author's honor and reputation.

### **Article 30. Works Falling into the Public Domain**

1. The expiration of the period of validity of copyright with respect to works means their falling into the public domain.

2. Works that have fallen into the public domain can be used freely by any person without payment of the author's remuneration subject to observance of the author's personal non-proprietary rights stipulated in Article 14 of this Law.

3. The Cabinet of Ministers of Ukraine may prescribe special deductions to the funds of artist unions of Ukraine for the use in the territory of Ukraine of works that have fallen into the public domain.

### **Article 31. Assignment (Alienation) of Proprietary Rights of Copyright Holders**

1. The author (or other copyright holder) can assign his proprietary rights specified in Article 15 of this Law to any other person fully or partially. The assignment of copyright of the author (or other copyright holder) shall be formalized by an author's contract.

The proprietary rights that are assigned under an author's contract shall be stipulated therein. Proprietary rights not specified in the author's contract as being alienated shall be deemed not assigned.

2. The proprietary right of a copyright holder - legal entity can be assigned (alienated) to another person in compliance with the procedure stipulated by law following liquidation of the legal entity - copyright holder.

### **Article 32. Assignment of the Right to Use a Work**

1. The author and other copyright holder shall have the exclusive right to grant to other persons permission to use a work, by any single method or by all known methods, on the basis of an author's contract.

A work shall be used by any person exclusively on the basis of an author's contract, except for the cases stipulated in Articles 21 through 25 of this Law.

2. The right to use a work shall be assigned to other persons on the basis of an author's contract for the assignment of the exclusive right to use the work or on the basis of an author's contract for the assignment of a non-exclusive right to use the work.
3. Under the author's contract for the assignment of the exclusive right to use the work, the author (or other copyright holder) shall assign the right to use the work in a certain manner and within the prescribed scope only to one person to which these rights are assigned, and shall authorize this person to permit or prohibit similar use of the work by other persons. The person assigning the exclusive right to use the work shall preserve the right to use this work only to the extent of the rights that are not assigned.
4. Under the author's contract for the assignment of the non-exclusive right to use the work, the author (or other copyright holder) shall assign the right to use the work in a certain manner and within the prescribed scope. The person assigning the non-exclusive right shall preserve the right to use this work and to assign the non-exclusive right to use the work to other persons.
5. The right to assign to any persons non-exclusive rights to use works shall be vested with the collective management organizations or other persons to which copyright holders have assigned the powers to manage their proprietary copyrights.
6. The rights to use a work that are assigned under an author's contract shall be deemed non-exclusive if the contract does not stipulate the assignment of the exclusive rights to use the work.

### **Article 33. Contracts Authorizing the Use of Works**

1. Contracts concerning the assignment of rights to use works shall be made in writing. A contract concerning the use (publication) of a work in periodicals (newspapers, magazines, etc.) can be made orally.
2. A contract concerning the assignment of rights to use works shall be deemed concluded if the parties agree on all essential terms and conditions (contract term, the method of using a work, the territory covered by the assigned right, the amount and procedure for paying the author's remuneration, as well as other terms and conditions with respect to which an agreement should be reached at the request of one of the parties).

The author's remuneration shall be stipulated in the contract as percentages of the income derived from the use of a work, or as a fixed amount, or otherwise. The author's remuneration rates shall not be lower than the minimum rates established by the Cabinet of Ministers of Ukraine.

3. Rights that did not exist at the time of conclusion of the contract cannot be the subject matter of a contract for the assignment of the rights to use a work.
4. The appropriate agencies and artist unions can draft model author's contracts.
5. Contract conditions that worsen an author's (his legal successor's) situation as compared to the situation established by effective legislation shall be invalid.

6. Under an author's contract of request, the author undertakes to create a work in the future in accordance with the terms and conditions of such contract and to transfer it to the customer. The contract can stipulate payment of an advance to the author by the customer as a portion of the author's remuneration.

7. Contract terms and conditions that restrict the author's right to create future works on a subject indicated in the contract or in the indicated sphere shall be invalid.

8. All proprietary rights concerning the use of a work that are assigned under an author's contract shall be stipulated therein. Proprietary rights not specified in the author's contract as assigned by a copyright holder shall be deemed not assigned, and shall be reserved by the copyright holder.

#### **Article 34. Liability for Default under an Author's Contract**

1. A party that fails to perform or improperly performs, obligations under an author's contract shall reimburse to the other party all damages, including lost profit.

2. If an author does not transfer a work to a customer in accordance with the terms and conditions set forth in an author's contract of request, he shall reimburse to the customer the damages, including lost profit.

3. Disputes concerning liability for defaults under author's contracts shall be resolved by court.

### **SECTION III RELATED RIGHTS**

#### **Article 35. Objects of Related Rights**

Objects of related rights, irrespective of destination, contents, evaluation, or method and form of expression, shall be:

- a) performances of literary, dramatic, musical, musical drama, choreographic, folklore and other works;
- b) phonograms, videograms;
- c) broadcast organization broadcasts (programs).

#### **Article 36. Related Rights Holders**

1. Related rights holders shall be:

- a) performers of works, their heirs and persons to whom related proprietary rights to performances have been assigned on legal grounds;
- b) manufacturers of phonograms, their heirs (successors) and persons to whom related

- proprietary rights to phonograms have been assigned on legal grounds;
- c) manufacturers of videograms, their heirs (successors) and persons to whom related proprietary rights to videograms have been assigned on legal grounds;
- d) broadcast organizations and their successors.

2. Performers shall exercise their rights subject to their observance of the rights of the authors of the works performed, or of other copyright holders. Manufacturers of phonograms and manufacturers of videograms shall observe the rights of copyright holders and performers. Broadcast organizations shall observe the rights of copyright holders, performers and manufacturers of phonograms (videograms).

### **Article 37. Arising and Exercise of Related Rights**

1. The primary related rights holders shall be the performer, the manufacturer of a phonogram, the manufacturer of a videogram and the broadcast organization.
2. A related right shall arise by virtue of the performance of a work, the manufacture of a phonogram, the manufacture of a videogram and the promulgation of a broadcast organization's transmission.
3. No formalities shall be required for the arising and exercise of related rights.

The performer, manufacturer of a phonogram or manufacturer of a videogram, in order to give notification of his related rights, can use the related rights protection sign on phonograms, videograms and all specimens thereof that are distributed among the public on legal grounds, or on the packages thereof. This sign shall consist of the following elements:

- the encircled Latin letter P;
- the name of the person holding related rights to these phonograms (videograms);
- the year of first publication of a phonogram (videogram).

Unless there is evidence to the contrary, the performer, the manufacturer of a phonogram or videogram are deemed to be the persons whose names are indicated on the phonogram, videogram and specimens or packages thereof.

4. The Cabinet of Ministers of Ukraine may prescribe minimum rates of remuneration for the use of objects of related rights and the procedure of their indexation.

### **Article 38. Performers' Personal Non-Proprietary Rights and Rights to the Name That Can Be Vested with the Manufacturers of Phonograms, Videograms and Broadcast Organizations**

1. The performer of a work shall hold the following personal non-proprietary rights:
  - a) to require recognition that he is the performer of the work;
  - b) to require that his name or pseudonym be indicated or announced in connection with each of his appearances, recordings or performances (whenever possible);
  - c) to require provision of the proper recording quality of his performance and the right to



counteract any mangling or distortion thereof or other essential amendments thereto that can prejudice his honor and reputation.

2. The manufacturer of a phonogram or the manufacturer of a videogram shall be entitled to affix his name to every recorded medium or its package along with the indication of the authors, performers and titles of works, and to require that he be mentioned when a phonogram (videogram) is used.

3. The broadcast organization shall be entitled to require that its name be mentioned in connection with the recording, reproduction and distribution of its transmission and repeated broadcasts thereof by another broadcast organization.

### **Article 39. Performers' Proprietary Rights**

1. Performers' proprietary rights shall be their exclusive right to permit or prohibit other persons taking the following actions:

a) broadcast of their non-fixed performances (live broadcast);

b) fixation in phonograms or videograms of their performances that have not been fixed before;

c) reproduction (direct and (or) indirect) of their performances that were fixed without their consent in a phonogram or videogram, or with their consent, if the reproduction is carried out for a purpose other than the one to which they granted their consent;

d) distribution of their performances fixed on a phonogram or videogram through first sale or other title transfer in the case when during the first fixation of a performance they did not authorize the manufacturer of a phonogram (manufacturer of a videogram) to subsequently reproduce it;

e) commercial rental or property lease of their performances fixed on a phonogram or videogram, if, during the fixation, they did not grant their consent to the commercial rental and property lease, even after the performances have been distributed by or with the approval of the phonogram (videogram) manufacturer;

f) distribution of their performances fixed on phonograms or videograms via any means of communication in a manner whereby any person can access them from any place and at any time at their own discretion, if, during the fixation of the performance, they did not grant consent to such a type of distribution.

2. Performers' proprietary rights can be assigned (alienated) to other persons on the basis of a contract stipulating the method of using the performances, the remuneration amount and the procedure for paying the remuneration, the contract term and the performances usage term, the territory within which the assigned rights are effective, etc. The remuneration rates stipulated in the contract shall not be lower than the minimum rates prescribed by the Cabinet of Ministers of Ukraine.

3. If a performance is used in an audiovisual work, the performer shall be deemed to assign to the organization producing the audiovisual work or to the producer of the audiovisual work all proprietary rights with respect to the performance, unless otherwise stipulated in the contract.

4. If the performer, during the first fixation of a performance, expressly permits further reproduction thereof by the manufacturer of a phonogram or the manufacturer of a videogram, the performer shall be deemed to have assigned to the manufacturer of the phonogram or the manufacturer of the videogram the exclusive right to distribute the phonograms, videograms and specimens thereof by first sale or other transfer for ownership or possession, as well as by property lease, commercial rental and other transfer. The performer shall retain the right to receive a fair remuneration for said types of use of his performance through collective management organizations or by another method.

#### **Article 40. Proprietary Rights of Manufacturers Of Phonograms And Manufacturers Of Videograms**

1. The proprietary rights of manufacturers of phonograms and manufacturers of videograms shall include their exclusive right to use their phonograms, videograms and the exclusive right to permit or prohibit other persons from taking the following actions:

a) reproduction (direct and (or) indirect) of their phonograms and videograms in any form and by any method;

b) distribution among the public of phonograms, videograms and specimens thereof through first sale or other title transfer;

c) commercial rental of phonograms, videograms and specimens thereof, even after they have been distributed by a manufacturer of a phonogram or videogram or with their permission;

d) broadcast of phonograms, videograms and specimens thereof via any means of communication in a manner whereby any person can access them from any place and at any time at their own discretion;

e) any remaking of their phonograms and videograms;

f) importation into the customs territory of Ukraine of phonograms, videograms and specimens thereof for the purpose of having them distributed among the public.

2. The proprietary rights of manufacturers of phonograms and manufacturers of videograms can be assigned (alienated) to other persons on the basis of a contract stipulating the method of using a phonogram (videogram), remuneration amount and the procedure for paying the remuneration, contract term, the term of using a phonogram (videogram), the territory within which the assigned rights are effective, etc. The remuneration rates stipulated in the contract shall not be lower than the minimum rates prescribed by the Cabinet of Ministers of Ukraine.

The proprietary rights of the manufacturer of a phonogram or videogram, which is a legal entity, can also be assigned (alienated) to another person in compliance with the procedure prescribed by law following the liquidation of a legal entity - related rights holder.

3. If phonograms, videograms or specimens thereof are lawfully put into civil circulation by the manufacturer of a phonogram (videogram) or with his consent through first sale thereof in Ukraine, further distribution thereof by sale, bestowal, etc., shall be permitted without the consent of the manufacturer of the phonogram (videogram) or his successor and without payment of remuneration to him. In this case, however, the right to transfer such specimens of phonograms (videograms) for property lease or commercial rental shall be reserved exclusively by the manufacturer of the phonogram (videogram).

#### **Article 41. Proprietary Rights of Broadcast Organizations**

1. Proprietary rights of broadcast organizations shall include their exclusive right to use their programs in any manner and their exclusive right to permit or prohibit other persons from taking the following actions:

- a) public promulgation of their programs by broadcast and rebroadcast;
- b) fixation of their programs on a material medium and reproduction thereof;
- c) public demonstration of their programs in places where admittance is paid.

Broadcast organizations shall also be entitled to prohibit the dissemination, in or from the territory of Ukraine, of a satellite signal carrying their programs by a distributing body not authorized to handle this satellite signal.

2. Broadcast organization's proprietary rights can be assigned (alienated) to other persons on the basis of a contract which shall stipulate the method and term of the use of a broadcast program, the amount of and procedure for paying remuneration, the territory within which the assigned rights are effective, etc. Broadcast organization's proprietary rights can also be assigned (alienated) to another person in compliance with the procedure prescribed by the law upon liquidation of a legal entity - holder of related rights.

#### **Article 42. Restriction of the Proprietary Rights of Performers, Phonogram and Videogram Manufacturers and Broadcast Organizations**

1. It shall be permissible to use performances, phonograms, videograms or broadcast programs, and to fix, reproduce and present them for general notice, without the consent of the performers, phonogram, videogram manufacturers and broadcast organizations, in the cases stipulated in Articles 21 through 25 of this Law concerning restriction of the proprietary rights of the authors of literary, art and scientific works, if the following conditions are met:

- a) said objects are reproduced solely for training purposes or scientific research;
- b) the right to carry out reproduction, stipulated in subclause (a) of this part, shall not apply to the export of reproduced specimens of phonograms, videograms, broadcast programs outside the customs territory of Ukraine;
- c) related rights holders shall preserve the right to receive a fair remuneration based on the quantity of reproduced specimens.

The use of objects of related rights without the consent of the related rights holders, as stipulated in this part, shall be possible only if the personal non-proprietary rights of copyright and related rights holders, stipulated in Articles 14 and 38 of this Law, are observed.

2. It shall be permissible to reproduce the works and performances fixed on phonograms and videograms and their specimens in home conditions and exclusively for personal purposes without the consent of the author(s), performers and manufacturers of phonograms (videograms), but paying remuneration to them in the manner stipulated in part four of this Article.

3. The use of objects of related rights stipulated in parts one and two of this Article without the consent of related rights holders shall not prejudice the normal use of performances, phonograms, videograms and broadcast programs nor affect the legitimate interests of the performers, manufacturers of phonograms, videograms and broadcast programs or other copyright and (or) related rights holders.

4. The remuneration of manufacturers of phonograms and videograms and other persons holding copyright and (or) related rights with respect to the reproductions stipulated in part two of this Article shall be paid as deductions (interest) from (on) the value of equipment and (or) material media by the manufacturers and (or) importers of the equipment and material media, with the use of which it is possible to carry out the reproduction of works fixed on phonograms and videograms exclusively for personal purposes in home conditions, except for:

a) professional equipment and (or) material media not designed for use for recording in home conditions;

b) equipment and material media that are exported outside the customs territory of Ukraine;

c) equipment and material media that are imported by an individual into the customs territory of Ukraine exclusively for personal purposes and without a commercial purpose.

5. The amount of deductions (interest), indicated in parts two and four of this Article, to be paid by the manufacturers and (or) importers of the equipment and material media, shall be determined by the Cabinet of Ministers of Ukraine. This money shall be remitted by the manufacturers and importers of the equipment and (or) material media to the collective management organizations (hereinafter - "authorized organizations") specified by the Institution. The collected money shall be distributed among the collective management organizations registered with the Institution on the basis of contracts that authorized organizations shall enter into with all collective management organizations. The importers shall remit this money to an authorized organization when they import goods into the customs territory of Ukraine; and to the manufacturers - at the end of each month after the sale of equipment and material media.

6. The Institution and the authorized organizations specified by the Institution for the collection of money shall be entitled to require from manufacturers and importers information concerning the manufacture, import and realization (sale) of the equipment and material media indicated in part three of this Article.

7. The collected money specified in parts two and four of this Article shall be distributed between the authors, performers, manufacturers of phonograms and videograms. This money shall be distributed in the following proportions, unless otherwise stipulated in the contracts between the collective management organizations: authors - 50 percent, performers - 25 percent and manufacturers of phonograms (videograms) - 25 percent.

#### **Article 43. The Use of Phonograms and Videograms Published for a Commercial Purpose**

1. The following direct or indirect commercial use of phonograms and videograms and specimens thereof shall be allowed without the consent of the manufacturers of phonograms (videograms), the phonograms (videograms) of which were published for commercial use, or of the performers whose performances are fixed on these phonograms (videograms), but with payment of remuneration:

- a) public performance of a phonogram or a specimen thereof or public demonstration of a videogram or a specimen thereof;
- b) broadcast of a performance fixed on a phonogram or videogram and specimens thereof;
- c) wire (cable) broadcast of a performance fixed on a phonogram or videogram and specimens thereof.

2. The collection of remuneration for the use of phonograms (videograms) indicated in part one of this Article and the supervision of their lawful use shall be effected by the authorized collective management organizations specified by the Institution. The collected money shall be distributed among the collective management organizations that are registered with the Institution on the basis of contracts that shall be made by and between authorized organizations and all collective management organizations. The remuneration received from the authorized organization shall be distributed by the appropriate collective management organization in the following proportions: performers – 50 percent, manufacturers of phonograms (videograms) - 50 percent.

3. The amount of a remuneration for the use of phonograms (videograms) indicated in part one of this Article, the procedure and conditions for paying the remuneration shall be prescribed by the Cabinet of Ministers of Ukraine.

4. Persons using phonograms, videograms or specimens thereof shall provide the organizations specified in part two of this Article with the exact information concerning the use thereof that is necessary for the collection and distribution of the remuneration.

#### **Article 44. Period of Validity for Related Rights**

1. A performer's proprietary rights shall be protected for 50 years from the date of the first recording of a performance.

A performer's personal non-proprietary rights, stipulated in part one of Article 38 of this Law, shall be protected in perpetuity.

2. The rights of the manufacturers of phonograms and videograms shall be protected for 50 years from the first publication of a phonogram (videogram) or from the first sound or video recording thereof if the phonogram (videogram) is not published within said term.

3. Broadcast organizations shall enjoy the rights granted under this Law for 50 years from the date of the first broadcast of a transmission.

4. The term of protection of related rights shall expire on January 1 of the year following the year in which the protection term stipulated in this Article expires.

5. Performers' heirs and the successors of manufacturers of phonograms and videograms and broadcast organizations shall inherit the right to permit or prohibit the use of performances, phonograms, videograms, as well as broadcasts, and the right to receive remuneration within the term stipulated in this Article.

#### **SECTION IV MANAGEMENT OF THE PROPRIETARY RIGHTS OF COPYRIGHT AND RELATED RIGHTS HOLDERS**

##### **Article 45. Methods for Managing the Proprietary Rights of Copyright and Related Rights Holders**

Copyright and related rights holders can manage their rights:

- a) personally;
- b) through an agent;
- c) through a collective management organization.

##### **Article 46. Managing Proprietary Rights Through an Agent**

A copyright and (or) related rights holder can entrust an agent to manage his proprietary rights on the basis of an agency contract concluded with him. While managing the proprietary rights, this person shall act within the powers assigned to him by the copyright and (or) related rights holder.

##### **Article 47. Securing Collective Management of Proprietary Rights**

1. Copyright and (or) related rights holders can entrust the management of their proprietary rights to collective management organizations.

2. Collective management organizations shall be set up by copyright and (or) related rights holders as legal entities in accordance with the corporate forms pursuant to legislation.

3. It shall be permissible to set up separate organizations managing certain categories of the proprietary rights of certain categories of copyright and (or) related rights holders, or organizations managing various proprietary rights in the interest of various categories of copyright and (or) related rights holders.

4. Persons using works, performances, broadcasts, and specimens of phonograms (videograms) shall provide collective management organizations with a precise list of the works, performances, specimens of phonograms (videograms) and broadcasts used, together with the documented data concerning the profits derived from the use thereof. They shall pay remuneration to the collective management organizations within a stipulated term in the stipulated amount.

5. Copyright and (or) related rights holders can also entrust the management of their proprietary rights, on a collective basis, to the respective state organizations, the founding documents of which stipulate such functions.

#### **Article 48. The Activity of Collective Management Organizations**

1. A collective management organization, after its State registration, shall be registered with the Institution within 30 days. The Institution shall publish in its official bulletin the information concerning the registration of collective management organizations.

Collective management organizations shall operate on the basis of charters, which shall be approved in compliance with the established procedure, and within the powers received from the persons holding copyright and (or) related rights.

2. Collective management organizations shall not have the right to carry out commercial activity or to use in any manner the objects of copyright and (or) related rights entrusted to them for management. The restrictions envisaged by anti-monopoly legislation shall not apply to the activity of such organizations.

3. The powers to exercise the collective management of proprietary rights shall be assigned to collective management organizations by the authors and other copyright and (or) related rights holders on the basis of written contracts.

4. Collective management organizations can manage the proprietary rights of foreign copyright and (or) related rights holders in the territory of Ukraine on the basis of agreements with similar foreign organizations, including agreements for mutual representation of interests.

Collective management organizations can entrust, on the basis of agreements with similar foreign organizations, the management abroad, on a collective basis, of the proprietary rights of Ukrainian copyright and (or) related rights holders, including agreements for mutual representation of interests.

5. On the basis of powers received, collective management organizations shall grant to any persons, by entering into contracts with them, non-exclusive rights to use objects of copyright and (or) related rights.

6. A collective management organization shall be entitled to require submission by the users of objects of copyright and related rights of documents containing precise information on the given use that are necessary for the collection and distribution of remuneration.

7. A collective management organization shall provide the Institution with the following information:

a) amendments to the organization's charter;

b) conclusion by the organization of bilateral or multilateral agreements with other collective management organizations, including foreign ones;

c) management of the proprietary rights of persons who have not assigned an organization the powers pursuant to part three of this Article;

d) resolutions of the general meetings of the organization members concerning the contracts for the management of rights of copyright and (or) related rights holders;

e) an annual balance sheet, annual report and audit results;

f) the persons authorized to represent the organization.

#### **Article 49. Functions of Collective Management Organizations**

1. Collective management organizations shall perform the following functions on behalf of copyright and (or) related rights holders on the basis of powers granted by them:

a) coordinate with the users of objects of copyright and (or) related rights the remuneration during conclusion of a contract;

b) enter into contracts for the use of rights assigned for management. The terms and conditions of these contracts shall comply with the provisions of Articles 31 - 33 of this Law;

d) collect remuneration for the use of objects of copyright and (or) related rights in the cases and on the grounds stipulated in this Law;

e) distribute and pay out collected remuneration to the copyright and (or) related rights holders the rights of whom it manages, as well as to other rights holders pursuant to this Law,

f) perform other actions, stipulated in effective legislation, necessary for the protection of the rights managed by the organization.

2. Copyright and (or) related rights holders who did not assign the powers to manage their rights to collective management organizations, including collection of remuneration, shall have the right to demand the payment of such remuneration from collective management



organizations which collect such remuneration for use of their works and related rights objects, as well as to demand withdrawal of their works and related rights objects from the permits for use issued by collective management organizations to persons who use such objects via entering into contracts with the said persons.

3. Collective management organizations shall be entitled to keep on their accounts any amounts of unclaimed remuneration received from the users of objects of copyright and (or) related rights. Three years after placement of respective amounts to the account of a collective management organization, the unclaimed remuneration amounts can be used for regular payments to copyright and (or) related rights holders, or for other purposes stipulated in their charters in the interests of copyright and (or) related rights holders.

## **SECTION V PROTECTION OF COPYRIGHT AND RELATED RIGHTS**

### **Article 50. Infringement of Copyright and Related Rights**

Copyright and (or) related rights infringements that give grounds for seeking remedies shall be:

a) actions by any person that infringe the personal non-proprietary rights of copyright and (or) related rights holders stipulated in Articles 14 and 38 of this Law, and their proprietary rights stipulated in Articles 15, 39, 40 and 41 of this Law, subject to the proprietary rights restrictions stipulated in Articles 21 through 25, 42 and 43 of this Law;

b) piracy in the sphere of copyright and (or) related rights - publication, reproduction, importation into the customs territory of Ukraine, exportation from the customs territory of Ukraine, and distribution of counterfeit specimens of works (including computer software and databases), phonograms, videograms and broadcast organization programs;

c) plagiarism - promulgation (publication), in full or in part, of another person's work under the name of a person who is not the author of this work;

d) importation into the customs territory of Ukraine, without permission of the persons holding the copyright and (or) related rights, of specimens of works (including computer software and databases), phonograms, videograms and broadcast programs;

e) actions that pose a threat of infringement of copyright and (or) related rights;

f) any actions for the intentional circumvention of technical means of protection of copyright and (or) related rights, in particular the production, distribution, importation for distribution and use of means of such circumvention;

g) forging, altering or eliminating rights-management information, in particular rights-management information in electronic form, without the permission of the copyright and (or) related rights holders or the persons implementing such management;

h) the distribution, importation into the customs territory of Ukraine for distribution purposes, and broadcast of objects of copyright and (or) related rights from which rights-management information, in particular that in electronic form, has been eliminated or altered without the permission of the copyright and (or) related rights holders.

#### **Article 51. The Procedure for Protecting Copyright and Related Rights**

The protection of personal non-proprietary and proprietary rights of copyright and (or) related rights holders shall be effected in compliance with the procedure prescribed by administrative, civil and criminal legislation.

#### **Article 52. Civil Law Remedies for the Protection of Copyright and Related Rights**

1. Persons holding copyright and related rights shall have the right to seek protection of their copyright and (or) related rights by lodging claims in compliance with the established procedure with a court of law and other bodies pursuant to their powers.

In the case of violation by any person of the copyright and (or) related rights stipulated in Article 50 of this Law, of non-observance of the conditions for using works and (or) objects of related rights stipulated by contract, for the use of works and objects of related rights in circumvention of technical means of protection or by the forging of rights-management information and (or) documents, or for the creation of a threat of unlawful use of objects of copyright and (or) related rights, and for other infringements of personal non-proprietary and proprietary rights of the persons holding copyright and (or) related rights, persons holding copyright and (or) related rights shall have the right:

- a) to require the recognition and renewal of their rights;
- b) to lodge claims with a court of law requiring renewal of the infringed rights and (or) the termination of actions infringing copyright and (or) related rights or posing a threat of their violation;
- c) to lodge claims requiring reimbursement of moral (non-proprietary) losses;
- d) to lodge claims requiring reimbursement of losses (material damage), including lost profit, or collection of the income derived by the infringer as a result of his violation of copyright and (or) related rights, or payment of compensation;
- e) to require the termination of preparations for an infringement of copyright and (or) related rights, including the suspension of customs procedures, if there is a suspicion that counterfeit specimens of works, phonograms, videograms or means of circumvention might be allowed into or from the customs territory of Ukraine, in compliance with the procedure stipulated in the Customs Code of Ukraine;
- f) to participate in the inspection of the production premises, storage facilities, technological processes and business operations relating to the production of specimens of works, phonograms and videograms with respect to which there are grounds to suspect violation or threat of violation of copyright and (or) related rights, in compliance with the procedure established by the Cabinet of Ministers of Ukraine;

g) to require, including by court procedure, the publication in the mass media of information about infringements of copyright and (or) related rights and of court judgments with respect to infringements;

h) to require the provision, by the persons infringing the claimant's copyright and (or) related rights, of information about third parties involved in the manufacture and distribution of counterfeit specimens of works and objects of related rights or means of circumvention, and the relevant distribution channels;

i) to require other measures envisioned by legislation, concerning the protection of copyright and related rights.

2. A court of law shall have the right to issue a resolution or award concerning:

a) the reimbursement of moral (non-proprietary) damages resulting from an infringement of copyright and (or) related rights, specifying the amount of the reimbursement;

b) the reimbursement of damages resulting from an infringement of copyright and (or) related rights;

c) collection from the infringer of copyright and (or) related rights of income derived from the infringement;

d) the payment of compensation, to be prescribed by the court, in an amount from 10 to 50,000 minimum salaries, in lieu of damage reimbursement or income collection;

e) a prohibition on the publication of works, their performance or staging, the issuance of specimens of phonograms, videograms, their broadcasts, termination of their distribution, removal into protective custody (confiscation) of counterfeit specimens of works, phonograms, videograms or broadcast programs, as well as equipment and materials for the production and reproduction thereof, publication in the press of the information about the infringement, etc., if, in the course of court proceedings, the fact of copyright and (or) related rights infringement, or the fact of actions posing a threat of infringement of these rights, is proven;

f) to require the provision, by the persons infringing the claimant's copyright and (or) related rights, of information about third parties involved in the manufacture and distribution of counterfeit specimens of works and objects of related rights, or means of circumvention, and the relevant distribution channels.

When determining damages to be reimbursed to a person whose rights have been infringed, and when reimbursing moral (non-proprietary) damages, the court shall proceed from the merits of an infringement, the proprietary and moral damages suffered by the person holding the copyright and (or) related rights, and the estimated income that could have been derived by this person. The damages suffered by a person whose rights have been infringed may also include this person's court expenses and legal fees (lawyers, attorneys, etc.).

When determining compensation to be paid in lieu of damage reimbursement or income collection, the court shall determine, within the scope stipulated in clause "d" of this part of the Article, a specific compensation amount, taking into account the extent of the infringement and (or) the defendant's intentions.

3. A court may resolve to impose upon an infringer a fine at the rate of 10 percent of the amount awarded to the claimant by the court. Fines shall be transferred to the State budget of Ukraine in compliance with the established procedure.

4. A court may resolve to remove into protective custody or confiscate all counterfeit specimens of works, phonograms, videograms or broadcast programs with respect to which it has been established that they were produced or distributed in contravention of copyright and (or) related rights, as well as means of circumvention. This shall also apply to all cliches, matrices, moulds, originals, magnetic tapes, photo negatives and other items used for the reproduction of specimens of works, phonograms, videograms, broadcast programs or means of circumvention, as well as the materials and equipment used for their reproduction and for the production of means of circumvention.

Pursuant to a court resolution, counterfeit specimens of works (including computer software and databases), phonograms, videograms and broadcast programs that have been removed into protective custody, can be transferred to the copyright and (or) related rights holder whose rights have been infringed, at the holder's request. If this person does not request the transfer, the counterfeit specimens shall be destroyed, and the materials and equipment used for the reproduction of the counterfeit specimens shall be alienated and the relevant proceeds remitted to the State budget of Ukraine.

### **Article 53. Claim Preservation Measures in Proceedings Concerning Infringements of Copyright and Related Rights**

1. Prior to completing of consideration of a case on its merits, a judge shall have the right to issue, *sua sponte*, an order prohibiting the performance by a defendant with respect to whom there are sufficient grounds to believe that he is an infringer of copyright and (or) related rights, of certain actions, until the court issues its resolution or order, namely: production, reproduction, sale, transfer for property lease, rental, importation into the customs territory of Ukraine and other uses stipulated in this Law, as well as transportation, storage or possession for the purpose of issuing into civil circulation of specimens of works, including computer software and databases, as well as recorded performances, phonograms, videograms, broadcast programs that are believed to be counterfeits, as well as means of circumvention.

2. If there is sufficient evidence of such an infringement of copyright and (or) related rights, which results in criminal liability pursuant to law, the inquiry body, the investigation body or the court shall take measures to ensure a search for and the levying of an attachment on:

a) specimens of works (including computer software and databases), recorded performances, phonograms, videograms and broadcast programs that are believed to be counterfeits, as well as means of circumvention;

b) materials and equipment for the production and reproduction thereof;

c) documents, invoices and other items that can serve as evidence of unlawful actions.

3. If a defendant in proceedings concerning an infringement of copyright and (or) related rights denies access to the required information, or does not arrange for the submission thereof within a reasonable term, or if he hinders court procedures, and also with the aim of preserving the appropriate evidence of the alleged violation, especially when any delay can result in irreparable damage to the person holding the copyright and (or) related rights, or when there is an apparent risk that the evidence will be destroyed, the court or judge shall have the right to impose *sua sponte*, on the applicant's application, interim measures until a claim is lodged or until proceedings are initiated with the participation of the other party (defendant) by:

- a) issuing an order authorizing inspection of the premises in which the events, relating to an infringement of copyright and (or) related rights, are allegedly occurring;
- b) levying attachment on and removing into protective custody all specimens of works (including computer software and databases), recorded performances, phonograms, videograms and broadcast programs believed to be counterfeits and of means of circumvention, as well as materials and equipment used for the production and reproduction thereof;
- c) levying attachment on and removing into protective custody invoices and other documents that can serve as evidence of actions infringing or creating a threat of infringement of (or certifying an intention to infringe) copyright and (or) related rights.

An application for the use of interim measures shall be considered only with the applicant's participation within two days from the day of its submission.

The court order concerning the application of the interim measures shall be executed immediately, with the applicant's participation, by the government enforcement service body.

Prior to the issuance of a judgement concerning the application of the interim measures indicated in paragraph one of this part, the court shall have the right to require provision by the applicant of a justification that he is a holder of copyright and (or) related rights and that these rights have been infringed or will inevitably be infringed, and shall issue to the applicant a court judgement setting a pledge or an equivalent security sufficient for the prevention of abuse of an interim measure. The pledge shall consist of a deposit of money by the applicant or other persons in the deposit account of the court, or the transfer of other material valuables. The amount of the pledge (security) shall be set by the court based on the circumstances of the case; however, it shall not be less than 100 minimum tax-free incomes, nor shall it exceed the amount of the damage claimed.

In the case of the application of the interim measures specified in paragraph one of this part, the defendant shall have the right to demand their alteration or cancellation, and the applicant shall lodge a claim with the court requiring protection of the infringed copyright and related rights not later than 15 calendar days from the day of application of an interim measure.

The pledge shall be returned fully to the applicant if the court rejects the claim or grants the claim fully or in part. Otherwise, the pledge shall be used for the implementation of the resolution concerning reimbursement to the defendant of the damage resulting from the application of the interim measures.

Upon cancellation of the interim measures stipulated in paragraph one of this part, or if the proceedings reveal that no infringement was committed or there is no threat of an infringement of copyright and (or) related rights, the court shall have the right to issue, at the defendant's request, a judgement concerning proper reimbursement by the claimant to the defendant of any damages resulting from these measures.

## **SECTION VI FINAL PROVISIONS**

1. This Law shall take effect on the day of its publication and apply to the legal relations that arise after it has taken effect.
2. Within four months, the Cabinet of Ministers of Ukraine shall submit to the Verkhovna Rada of Ukraine its proposals concerning amendments to the laws of Ukraine in connection with the adoption of this Law, as well as adopt the required normative-legal acts and bring its effective normative-legal acts into conformity with this Law.
3. Currently effective acts of the legislation of Ukraine shall apply until the legislation of Ukraine is brought into conformity with this Law, unless such acts conflict with this Law.
4. To establish that after the date of entry into force of this Law the terms of protection of copyright stipulated in Article 28 of this Law and parts 1 and 2 of Article 44 of this Law shall apply in all cases when the 50-year period of validity of copyright after the author's death or the period of validity of related rights has not expired prior to the date of entry into force of this Law.
5. To establish that this Law shall apply to performances and phonograms created or first published prior to the date of entry into force of this Law, if, as of this date, 50 years have not expired since their first recording or publication.
6. To establish that objects of copyright and related rights that are the subject matter of an international treaty to which Ukraine has acceded and that has been approved as binding by the Verkhovna Rada of Ukraine and that were created or first published prior to the date of entry into force of this Law, shall be protected under this Law from the date of its entry into force, if, as of this date, said objects have not fallen into public domain in the country of origin by reason of expiration of the term of their protection in this country.
7. The Resolution of the Verkhovna Rada of Ukraine of 23 December 1993 "On the Procedure for Putting into Force the Law of Ukraine 'On Copyright and Related Rights'" ("Vidomosti Verkhovnoyi Rady Ukrayiny", 1994, No. 13, p. 65) shall lose effect.

8. In Article 2 of the Law of Ukraine "On Ukraine's Accession to the Berne Convention on Protection of Works of Literature and Art (Paris Act of 24 July 1971, as amended on 2 October 1979)" (Vidomosti Verkhovnoyi Rady Ukrayiny, 1995, No. 21, p. 155), to delete the words "notifying that said Convention shall not apply to works that, as of the date of entry into force of this Convention for Ukraine, have already fallen into the public domain in its territory".

9. The Ministry of Foreign Affairs of Ukraine shall notify the General Director of the World Intellectual Property Organization of the fact that Article 18 of the Berne Convention, after the date of entry into force of this Law, is in full effect in the territory of Ukraine.

10. To add the following sentence to paragraph two of the Law of Ukraine "On The Accession To The Convention For The Protection Of Producers Of Phonograms Against Unauthorized Duplication Of Their Phonograms of 29 October 1971" (Vidomosti Verkhovnoyi Rady Ukrayiny, 1999, No. 32, p. 265):

"With the aim of meeting the requirements set forth in said Convention, to apply, on a mutual basis, the national treatment of protection of related rights stipulated in the Law of Ukraine "On Copyright And Related Rights" to phonogram manufacturers from the states-parties to the Convention and their phonograms, if the term of protection of these phonograms has not expired in the country of origin."

11. The Ministry of Foreign Affairs of Ukraine shall notify the Secretary General of the United Nations Organization of the addendum to the Law of Ukraine "On The Accession To The Convention For The Protection Of Producers Of Phonograms Against Unauthorized Duplication Of Their Phonograms of 29 October 1971."

**President of Ukraine**  
**Kyiv**

**L. KUCHMA**

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