

The Slovak Republic

Copyright Act

Act No. 618/2003 of 4th December 2003

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**ACT
of December the 4th, 2003**

on copyright and rights related to copyright (the Copyright Act)

The National Council of the Slovak Republic has adopted the following Act:

**P A R T O N E
INTRODUCTORY PROVISIONS**

**Section 1
Subject Matter of Legislation**

This Act shall govern the relations arising in connection with creation and use of literary work, other artistic work and scientific work, artistic performance, making and use of phonogram, audiovisual fixation, with the broadcasting and use of radio broadcast and television broadcast ("broadcast" hereinafter) and in connection with making of database, in such a way as to protect the rights and legitimate interests of author, performing artist, phonogram producer, producer of audiovisual fixation, radio broadcaster and television broadcaster ("broadcaster" hereinafter) and maker of database. Furthermore, this Act shall govern the exercise of collective administration of rights granted hereby.

**Scope of the Act
Section 2**

- (1) The provisions of this Act shall apply to the work
- a) of author, who is state citizen of the Slovak Republic ("national of the Slovak Republic" hereinafter) or who has his/her permanent residence within the territory of the Slovak Republic, or
 - b) first disclosed in the Slovak Republic, regardless of the nationality or permanent residence of the author thereof.

(2) The provisions of this Act shall also apply to the work protected in the Slovak Republic under international treaties or agreements binding on the Slovak Republic and proclaimed in a manner determined in respective legislation.

(3) The provisions of this Act on the right to remuneration upon resale of original of work of visual art shall apply to work of visual art of author who is not national of the Slovak Republic only if, based on international treaties or agreements binding on the Slovak Republic and proclaimed in a manner determined in respective legislation, reciprocity is guaranteed.

(4) The term of duration of the copyright in work of national of other country shall not be longer than in the country of origin of the work.

Section 3

- (1) The provisions of this Act shall apply to the artistic performance of performing artist, who
- a) is national of the Slovak Republic,
 - b) is not national of the Slovak Republic, if
 1. artistic performance took place on the territory of the Slovak Republic,
 2. artistic performance is incorporated in the phonogram protected under this Act, or
 3. artistic performance has not been fixed in a phonogram but is being communicated to the public in the broadcast protected under this Act.

- (2) The provisions of this Act shall apply to the phonogram and the audiovisual fixation
- a) of phonogram producer and producer of audiovisual fixation that are nationals of the Slovak Republic or that have their permanent residence or seat in the Slovak Republic,
 - b) first fixations of which were made in the Slovak Republic,
 - c) first disclosed in the Slovak Republic.

- (3) The provisions of this Act shall apply to the broadcast
- a) of a broadcaster, provided that his/her/its permanent residence or seat is on the territory of the Slovak Republic, or
 - b) provided the broadcast is realised by a broadcaster from the place within the territory of the Slovak Republic.

Section 4

The provisions of this Act shall apply

- a) to publisher of previously undisclosed work who is national of the Slovak Republic or who has his/her/its permanent residence or seat within the territory of the Slovak Republic,
- b) to performing artist, phonogram producer, producer of audiovisual fixation, broadcaster and publisher of previously undisclosed work that are protected by virtue of international treaties or agreements binding on the Slovak Republic, and, in the absence of these, if reciprocity is assured,
- c) to maker of a database who is national of the Slovak Republic or who or which has his/her/its permanent residence or seat within the territory of the Slovak Republic.

Section 5

Definitions of Certain Concepts

(1) A work of architecture is an entirely general architectural projection of the creative idea of an author, in particular the graphic and three-dimensional projection of an architectural solution for a building or urban arrangement of territory, and also the work of garden, interior and stage architecture and the work of a building design.

(2) An audiovisual work is the work perceptible by means of a technical device as sequence of related images with or without accompanying sound provided it is designed to be made available to the public. *Inter alia* the main director, the author of the scenario, the author of the dialogues and author of the music specially created for the work shall be considered to be the co-authors of such a work.

(3) A work of applied art is a work, which is an artistic creation with utilitarian functions or which is incorporated in a utilitarian article, whether made by hand or industrially or by other technical method.

(4) A database is a collection of independent works, data or other material, arranged in systematic or methodical way and individually accessible by electronic or other means. Computer program used in the making or operation of database accessible by electronic means shall not be considered to constitute the database.

(5) A photographic work is a fixing of light or other rays on any medium where an image is produced, regardless of the method by which the fixing is done; a still picture from an audiovisual work shall not be considered a photographic work but part of the audiovisual work.

(6) A cable retransmission is a simultaneous, unaltered and unabridged communication to the public of broadcasted work by cable or microwave system realised by a person other than initial broadcaster.

(7) Rental of the original or copy of a work is temporary abandonment for use the original or copy of a work realised to gain direct or indirect proprietary advantage/economic advantage.

(8) A computer program is a set of orders and instructions used directly or indirectly in a computer. Orders and instructions may be written or expressed in source code or machine code. The preparatory material necessary for the preparation of the computer program also forms an integral part thereof; it shall be protected as a literary work if it conforms to the conceptual characteristics of work (Section 7(1)).

(9) A reprographic or other technical device is a device that uses electromagnetic radiation for the making of a copies of work or that makes copies in some other way, in particular photocopying machine, scanner, fax machine and hard disk build-in into a personal computer.

(10) A satellite is any technical device operating on frequency bands allocated for the broadcast of signals for reception by the public or which are reserved for closed, point-to-point communication. In the case of point-to-point communication, the circumstances in which individual reception of signal takes place must be comparable to those that apply in the case of reception of the signals for reception by public.

(11) The making available to the public is the communication to the public of a work in such a way that an individual may access it from a place and at a time individually chosen by him/her.

(12) A school work is a work created by pupil or student to fulfil school or study duties arising from his/her legal relationship with the basic school, secondary school, college or the interest-based education facility ("school" hereinafter).

(13) An artistic performance is playing, delivering or other creative performing of the artistic work or work of folklore by action such as singing, acting, declaiming, dancing or in another way.

(14) Communication to the public is a dissemination or performance of work by any technical means for dissemination of sound or sound and images simultaneously, or of the representation thereof, by means of wire or without wire, in such a way that said work is perceivable by persons in places where it would not be possible to perceive this work without such communication; communication to the public includes cable retransmission, broadcasting and the making available to the public.

(15) Public performance is

- a) recitation, playing, dancing or any other performance of literary work, artistic work or folklore work by performing artist on the public,
- b) showing of the images of the audiovisual fixation in a sequence, with simultaneous presentation of sounds accompanying said images; such performance of audiovisual fixation shall not be considered to constitute the communication to the public.

(16) Public display is the showing of the original of work or of copy thereof on the public directly or indirectly, by means of a slide, television image or by a similar means on a screen; in the case of an audiovisual work the showing of an individual still image non-sequentially.

(17) Reproduction of work is transfer of work or part thereof on other material carrier, either directly from the original of work or indirectly from another copy of work, temporarily or permanently, all this by any means and in any form; copy of work might be realised in particular in the form of print, photographic, sound and audiovisual copy, by construction of work of architecture, or in form of other three-dimensional copy, or in electronic form including both analogue and digital expressions.

(18) A performing artist is a singer, musician, actor, dancer or other person who sings, acts, plays, delivers or otherwise performs the literary work, artistic work or work of folklore.

(19) The lending of the original or copy of a work is temporary abandonment for use the original or copy of a work, realised by facility accessible to public with no gain of either direct or indirect economic advantage.

(20) The producer of an audiovisual fixation or of a phonogram is the natural person who or legal entity which initiated or facilitated the final making thereof.

(21) Broadcasting is the communication to the public realised by a broadcaster, this also in the case when it is technically carried on by other person acting under the direction and responsibility of initial broadcaster, including broadcasting by satellite.

(22) An employee work is the work created by an author to fulfil his/her duties arising from his/her labour law relation, servant relation or state servant relation to employer or from labour law relationship between a cooperative and its member.

(23) The maker of a database is the natural person or legal entity on initiative, account and responsibility of whose or of which the database was created.

(24) An audiovisual fixation is the fixation of sounds and images which are perceivable in aural and visual manner, regardless of the method or of the medium by which or on which these sounds and images are fixed.

(25) A phonogram is an exclusively aural fixation of sounds, regardless of the method or of the medium by which or on which these sounds are fixed; a fixation of sound fixed with image shall not be considered to be the phonogram.

P A R T T W O

COPYRIGHT

Section 6 An Author

(1) An author is any natural person that created the work.

(2) An author of a collection as whole is any natural person that selected or arranged its content; the rights of authors of works selected or arranged in the collection shall not be affected thereby.

Section 7 A Work

(1) The subject matter of copyright is constituted by literary and other artistic work and scientific work that is the result of creative intellectual activity of the author, in particular

- a) literary work and computer program,
- b) work delivered orally or declaimed, or literary work performed in another way, in particular the speech and the lecture,
- c) theatrical work, in particular dramatic work, dramatico-musical work, pantomimic work and choreographic work as well as any other work created with a view to their being made public,
- d) musical work with or without lyrics,
- e) audiovisual work, in particular cinematographic work,
- f) work of painting and drawing, sketch, illustration, sculpture and other work of visual art,
- g) photographic work,

- h) architectural work, in particular the work of building architecture and urbanism, work of garden and interior architecture and the work of building design,
- i) work of applied art,
- j) cartographic work in analogue or any other form¹⁾.

(2) The subject matter of copyright is also constituted by a collection, in particular chronicle, periodical, encyclopaedia, anthology, review, exhibition or other database, provided that it is a set of independent works or other components being, by manner of selection or arrangement of content, the result of creative intellectual activity of an author.

(3) No protection under this Act shall extend to

- a) any idea, procedure, system, method, concept, principle, discovery or mere information that has been expressed, described, explained, illustrated or embodied in a work,
- b) any text of legislation, official decision, public document, publicly accessible register, official file, Slovak technical standards including the preparatory documentation and translations thereof, mere news of the day and speeches delivered in the course of proceedings in public affairs; however, the publication of a collection of such speeches or their inclusion into a chronicle requires the consent of the person who delivered them.

Section 8

A Work of Joint Authorship

A work of joint authorship is a work that has been created by creative intellectual activity of two or more authors as a single work, the rights in which belong jointly and inseparably to all the authors.

Section 9

A Combination of Works

A combination of two or more single works shall be realised only upon permission of authors thereof and for the agreed purpose only; the combination of works is being disposed with by all the authors jointly. The rights of the authors to dispose with works so combined in any other manner than disposal with the whole combination of works shall be without prejudice thereto.

Section 10

A Collective Work

(1) A collective work is a work that has been created by the joint activity of two or more authors who have agreed on the use of their own creative intellectual activity for its creation under the direction of the natural person who, or legal entity which,

- a) has initiated the creation of the work,
- b) has directed or facilitated the creation of the work.

(2) Provisions on the employee work (Section 50) shall apply *mutatis mutandis* on the collective work; this shall also apply in case the work was created in whole or in part on the basis of the contract for the creation of work (Section 39) concluded between author and natural person or legal entity pursuant to Subsection (1).

(3) Audiovisual work shall not be collective work.

¹⁾ Section 2(8) of Act No. 215/1995 of the National Council of the Slovak Republic on Geodesy and Cartography.

Section 11

A Transformation and Translation of the Work

(1) A new original work created by original creative transformation of another work shall also be eligible for copyright.

(2) The translation of a work into another language and the adaptation of the work shall likewise be eligible for copyright.

Section 12

An Anonymous and Pseudonymous Work

(1) An anonymous work is a work made public without any mention of name and surname ("name" hereinafter) of author; the name of the author may be disclosed only with his/her permission.

(2) A pseudonymous work is a work made public under a pseudonym; name of the author may be disclosed only with his/her permission.

(3) Until such time as the identity of the author is revealed to the public, the copyright in the work may be claimed by the person who or which has lawfully published it for the first time or, if it was not published, by the person who or which disclosed it. The revelation of the identity of the author on the public is not required if his/her true name is widely known.

Section 13

Disclosure and Publication of Work

(1) The work shall be considered disclosed on the day on which it is first lawfully performed, displayed in public, published or otherwise made available to the public.

(2) The work shall be considered published on the day on which copies of it start to be lawfully distributed to the public.

Section 14

Country of Origin of the Work

(1) The country of origin of the work shall be

- a) the country of which the author is a national in the case of an unpublished work,
- b) the country in which the first lawful publication of the work occurred in the case of a published work.

(2) A work published in other state shall be considered a work published in the Slovak Republic if it was published in the Slovak Republic within a period of 30 days since its publication in that other state.

Section 15

Establishment of Copyright in a Work

(1) Copyright in a work is established as soon as the work is expressed in a form perceivable by the senses, regardless of its form, content, quality, purpose or form of expression.

(2) The copyright in the work relates to finished work, to all of its particular development phases and parts, including to the name of a work and names of characters, provided they conform to the conceptual characteristics of work and are, as the subject matter of copyright, contained therein.

Section 16
Content of Copyright

Copyright shall include exclusive moral rights (“moral rights” hereinafter) and exclusive economic rights (“economic rights” hereinafter).

Section 17
Moral Rights

- (1) The author shall have the right
- a) to sign his/her work by his/her name or pseudonym and to require that his/her name or pseudonym be indicated on all copies of the work in an appropriate manner in connection with any public use thereof, the manner of the indication being determined by the nature of the use,
 - b) not to sign his/her work by his/her name or pseudonym,
 - c) to decide on the disclosure of his/her work,
 - d) to the inviolability of his/her work, and in particular to protection against any unauthorised change or other unauthorised interference into his/her work, as well as against any derogatory disposal with his/her work that would be detrimental to his/her honour or reputation. If the nature of the work or the nature of the use of work does not exclude it, the author shall have the right of supervision (the right of checking the proofs) over the disposal with his/her work; in the case of work of architecture the supervision over the construction of the building shall be equivalent to checking the proofs.

(2) The author may not waive the rights under Subsection (1); these rights shall be untransferable and they cease to exist upon the death of the author.

(3) No other person shall usurp the authorship of the work after the death of author; the work shall be used only in a manner not depreciating its value and the name or pseudonym of author shall be indicated, unless it is anonymous work. Any person closely related to author²⁾ may claim for this protection, even in a case the economic rights in work ceased to exist. Union of authors, chamber of profession or respective collective administration organisation may claim this protection alike.

Section 18
Economic Rights

(1) The author shall have the right to use his/her work.

- (2) The author of the work shall have the right to authorise any use of the work, including
- a) the making of a copy of the work,
 - b) the distribution of the original of the work or of a copy thereof to the public by sale or any other form of transfer of ownership,
 - c) the distribution of the original of the work or of a copy thereof to the public by rental or lending,
 - d) transformation, translation and adaptation of the work,
 - e) the inclusion of the work into the collection,
 - f) public display of the work,
 - g) public performance of the work,
 - h) the communication to the public of the work.

(3) The rights under Subsections (1) and (2) shall not cease to exist upon the authorisation pursuant to Subsection (2); the author shall only be obliged withstand the use of work by another person in the extent of authorisation granted.

²⁾ Section 116 of the Civil Code.

(4) Other person may use the work without authorisation of the author only in cases provided for in this Act.

(5) The rights under Subsections (1) and (2) shall be untransferable, author may not waive them and they shall not be subject to either the enforcement of judicial decision or the execution conducted in accordance with respective legislation; this shall not apply to claims arising from economic rights.

(6) The rights under Subsections (1) and (2) shall constitute the subject matter of inheritance. The provisions of this Act concerning an author shall be, unless something else results from nature of these provisions, applicable also on his/her inheritors. Where co-author has no heirs, his/her share shall accrue to other co-authors.

(7) Shall an author grant the authorisation for the distribution to the public of the original of work or of a copy thereof by rental or lending [Subsection (2)(c)] to the producer of a phonogram of the work or to the producer of an audiovisual fixation of the work, the right to equitable remuneration accrues to him payable by any person distributing to the public the original of work or copy thereof by said rental or lending; this right may not be waived in advance.

(8) The provision of Subsection (2)(c) shall not apply to

- a) the work of architecture embodied in a construction or in the form of garden, interior or stage set,
- b) the work of applied art embodied in an appliance.

Section 19

Right to Remuneration upon Resale of the Original of the Work of Visual Art

(1) Shall the original of the work of visual art that was transferred into the property of other person by an author be further sold, the author has right to remuneration, provided the sale is realised by gallery operator, person conducting the auction (auctioneer) or other person acting in the course of its own business ("seller" hereinafter), notwithstanding whether it acts on its own account or on the account of the owner of the original of the work.

(2) The person obliged to pay the remuneration under Subsection (1) shall be the seller.

(3) The seller shall be obliged to pay to the collective administration organisation to which the authorisation to exercise collective administration in extent covering the collection of remunerations from said persons upon the resale of the original of work of visual art on the territory of the Slovak Republic has been granted a remuneration that shall amount to

- a) 5 % of sale price above 30 000 Sk up to 126 000 Sk,
 - b) 4 % of sale price above 126 000 Sk up to 2 100 000 Sk,
 - c) 3 % of sale price above 2 100 000 Sk up to 8 400 000 Sk,
 - d) 2 % of sale price above 8 400 000 Sk up to 14 700 000 Sk,
 - e) 0,5 % of sale price above 14 700 000 Sk up to 21 000 000 Sk,
 - f) 0,25 % of sale price above 21 000 000 Sk;
- total remuneration, however, may not exceed 525 000 Sk.

(4) The seller obliged to pay to an author the remuneration under Subsection (1) shall report the sale to respective collective administration organisation until the end of January of a year, following the year in which the sale took place. The obligation to report also applies to specification of originals sold and to information on actual sale price; it also includes obligation to allow respective collective administration organisation to inspect the accounting and other documentation of the seller in an extent necessary.

(5) For the purposes of exercise of the right under Subsection (1), the original of the work of visual art shall mean in particular the painting, drawing, collage, tapestry, engraving, lithography or

other graphics, sculpture, ceramics, glassware, photograph, if created by the author himself/herself, or the copy thereof, shall it be considered to constitute the original of the work.

(6) As a copy for the purposes under Subsection (5) shall be considered the copy made in limited number by an author or with his/her authorisation; such copy must be numbered and signed or otherwise authorised by an author.

(7) The right to remuneration under Subsection (1) shall not apply to the work of architecture and the work of applied art.

Section 20

Relation Between Copyright and Rights *In Rem*

(1) Acquisition of ownership or other right *in rem* that vests in an object in which a work is embodied shall not affect the copyright, in particular the moral right under Section 17(1)(d), unless else is agreed or resulting from this Act.

(2) Ownership or other right *in rem* that vest in an object in which a work is embodied shall not be affected by the copyright, unless else is agreed or resulting from respective legislation or from this Act; owner or other user of the object in which the work is embodied shall be obliged to abstain from such a use of the object that would mean the use of the work, unless else is agreed or resulting from respective legislation or from this Act.

(3) Owner or other user of an object in which the work is embodied shall not be obliged to do the maintenance thereof or to protect it from the destruction, unless else is agreed or resulting from respective legislation or from this Act.

(4) The copyright shall not cease to exist upon the destruction of the object in which the work is embodied.

(5) Author shall have the right to demand from the owner of the object in which the work is embodied that the object would be made available to him shall it be necessary for the exercise of the right to use the work provided by this Act. The exercise of this right may not conflict with the legitimate interests of the owner of the object; the owner of the object shall not be obliged to surrender the object to the author, however, it is obliged to produce upon the request and on the expense of author a photography or other copy of the work and hand it over to him/her.

(6) Owner or other user of the construction in which the work of architecture is embodied may perform without the authorisation of the author only such construction changes and maintenance works on the construction that are necessary to maintain it in a good order and preserve functionality and do not depreciate the value of the work of architecture and do not infringe the copyright.

Duration of Economic Rights

Section 21

(1) Unless this Act provides otherwise, the economic rights shall last throughout the lifetime of author and 70 year after his/her death.

(2) In the case of a work of joint authorship or composite work created for use in that form, the economic rights shall last throughout the lifetime of the last surviving author and 70 years after his/her death.

(3) In the case of a collective work, the economic rights shall last 70 years from its disclosure. In a case the work has been signed by the names of authors who created the work, the economic rights shall last throughout the lifetime of the last of the authors and 70 years after his/her death.

(4) In the case of an audiovisual work the economic rights shall last throughout the lifetime of the main director, the author of the scenario, the author of the dialogues and author of the music specially created for the work and 70 years after the death of the last one of them; Subsections (2) and (3) shall not apply.

(5) In the case of a work disclosed under a pseudonym or an anonymous work the economic rights shall last 70 years after the disclosure. Shall there be no doubts as to the identity of the author or shall the author of such a work become publicly known within the term under first sentence, Subsection (1) applies on the duration of the economic rights; and, shall the work concerned be a work of joint authorship, Subsection (2).

(6) Shall the duration of the economic rights in work published in volumes, parts, instalments or episodes be determined by the disclosure thereof, the economic rights shall last for each such volume, part, instalment or episode separately.

(7) If the work for which the calculation of duration of economic rights is not linked to death of an author or authors is not disclosed within 70 years from its creation, economic rights cease to exist upon the expiry of this term.

Section 22

The duration of economic rights shall be calculated from the first day of the year following the event which gives rise thereto.

Section 23

The Distribution of the Original of the Work or of a Copy Thereof to the Public After First Sale

(1) The right of the author to authorise the distribution of the original of the work or of a copy thereof to the public under the Section 18(2)(b) shall be exhausted for the territory of the Slovak Republic on the first lawful sale or on any other act of transfer of ownership of the original of the work or of a copy thereof realised on the territory of the Slovak Republic, this in respect of the original of the work and any copies thereof that were subject to said sale or to any other act of transfer of ownership.

(2) In the case of a work of architecture embodied in the construction and the work of applied art embodied in an appliance, a lawful realisation of construction or production of appliance in which the work of applied art is embodied shall be considered as first lawful sale within the meaning of Subsection (1).

L i m i t a t i o n s o f E c o n o m i c R i g h t s

Section 24

The Making of Copy of Disclosed Work

(1) A natural person may make a copy of a disclosed work for his/her private use and for end that is neither directly nor indirectly commercial without the authorisation of author thereof; no obligation to pay remuneration to the author shall arise due to such a use.

(2) A natural person or legal person may make a copy of a disclosed work by transfer thereof onto paper or similar medium by means of reprographic device or other technical device without the authorisation of author thereof; this copy may be distributed to the public by sale or by other form of transfer of ownership. No obligation to pay remuneration to the author shall arise due to such use.

- (3) The provisions of Subsections (1) and (2) shall not apply on
- a) the architectural work in the form of project documentation of a building or construction thereof,
 - b) the entire literary work or a substantial part thereof,
 - c) the entire cartographic work or a substantial part thereof,
 - d) the musical work fixed in written form,
 - e) a computer program, unless else is provided,
 - f) the database in electronic form.

(4) An author of the work, a copy of which may be made pursuant to Subsection (1), shall have right to compensation of remuneration.

(5) An author of the work, a copy of which may be made and distributed to the public pursuant to Subsection (2), shall have right to compensation of remuneration.

(6) Compensation of remuneration under Subsections (4) and (5) shall be paid through the collective administration organisation by

- a) the manufacturer or importer of blank recording carriers ("the carrier" hereinafter) usually used for reproduction pursuant to Subsection (1), in amount of 6 % of the sale price or import price of the carrier,
- b) the manufacturer or importer of equipment for the making of the copies of the phonograms or audiovisual fixations ("the equipment" hereinafter), in amount of 3 % of the sale price or import price of said equipment,
- c) the manufacturer or importer of reprographic devices or other technical devices for the making of the copies of work ("the device" hereinafter), in amount of 3 % of the sale price or import price of said devices; shall the device be integral part of the material object, the compensation of remuneration shall be paid of the aliquot share of the sale price or import price of such material object,
- d) the manufacturer or importer of personal computers, in amount of 0,5 % of the sale price or import price of the hard disc incorporated into personal computer,
- e) the natural person who, or legal entity which, provides the reproduction services against the payment, in amount of 3 % from the total income resulting from said services,
- f) the dealer of the carriers, equipment or devices instead of persons liable under (a) to (c), shall the dealer fail to provide upon the written request from the collective administration organisation the data necessary for the identification of the importer of manufacturer, this as provided for in (a) to (c).

(7) Compensation of remuneration shall not be payable where the carriers, equipment or devices mentioned in Subsection (6) (a) to (c) are exported for the purposes of the further sale thereof; the compensation of remuneration shall not be payable also where the carrier, equipment or device is destined for private use of the importer.

(8) Persons mentioned in Subsection (6) are obliged to pay the compensation of remuneration set upon the first sale or importation to respective collective administration organisation on a quarter year basis, at the end of the month following particular quarter year at the latest.

(9) Persons mentioned in Subsection (6) are obliged to present to respective collective administration organisation the information on the type and number of the imported carriers, equipment and devices as well as the information on the sale price and import price thereof and on total income from the reproduction services. In the case these duties are not fulfilled even in the additional term set by respective collective administration organisation, the rate of the compensation of remuneration shall double.

(10) The provisions of Subsections (1) and (2) shall not prejudice the provisions of this Act on the protection of measures to prevent unauthorized making of the copy of work as well as any other unauthorised act.

Section 25

Quotation from the Work

A short part of a disclosed work may be used in the form of a quotation in another work without the authorisation of the author only for purposes of review or criticism of the disclosed work or for teaching purposes, scientific research purposes or artistic purposes. Such use must be in compliance with practice and its extent may not exceed that which is justified by the purpose of the quotation. The quotation shall be accompanied by a mention of the name of author or his/her pseudonym unless it is an anonymous work, or the name of the person under the name of which the work is being made available to the public, as well as the title of the work and source thereof. There shall be no obligation to pay remuneration to the author for such use.

Section 26

Advertisement of the Exhibition of Artistic Works or Auction of Artistic Works

(1) Without the authorisation of the author a work may be used for the advertisement of exhibitions of artistic works or auction of artistic works by making a copy thereof, by its distribution to the public by sale or any other form of transfer of ownership or by communication to the public, this to the extent necessary for such advertisement. The provision of third sentence of Section 25 shall apply *mutatis mutandis* on these uses.

(2) There shall be no obligation to pay remuneration to the author for use of the work pursuant to Subsection (1).

Section 27

The Use of Work Located in a Public Place

(1) Without the authorization of the author a work permanently located in a public place may be expressed by drawing, painting, graphics, relief picture or relief model or be fixed in a photography or in a film; work such expressed or fixed may be used without authorisation of the author of work permanently located in a public place by making a copy thereof, by its distribution to the public by sale or any other form of transfer of ownership or by communication to the public. The provision of third sentence of Section 25 shall apply *mutatis mutandis* on such uses.

(2) There shall be no obligation to pay remuneration to the author for use of the work pursuant to Subsection (1).

Section 28

The Use of Work for Teaching Purposes

(1) The authorisation of an author shall not be required to make a copy of a short part of a disclosed work, for its distribution to the public by any other form of transfer of ownership then sale or for the communication to the public of the short part of a disclosed work, provided such use is not exceeding the extent justified by teaching purposes in school and is not being realised to gain any direct or indirect economic advantage.

(2) The authorisation of an author shall not be required to make a copy of a short part of a disclosed work, disclosed short work or disclosed work of visual art by the transfer thereof onto paper or similar medium by means of reprographic device, for its distribution to the public by any other form of transfer of ownership then sale, provided such use is not exceeding the extent justified by teaching purposes in school and is not being realised to gain any direct or indirect economic advantage.

(3) The provision of third sentence of Section 25 shall apply *mutatis mutandis* on uses under Subsections (1) and (2).

(4) There shall be no obligation to pay remuneration to the author for use of the work pursuant to Subsections (1) and (2).

Section 29

The Use of Work to Cater for the Needs of the Handicapped

(1) The authorisation of an author shall not be required to make a copy of a disclosed work, for its distribution to the public by any other form of transfer of ownership than sale, for its distribution to the public by lending or for communication to the public, provided such use is being exclusively realised to cater the needs of handicapped to the extent justified by their handicap and is not being realised to gain any direct or indirect economic advantage.

(2) The provision of third sentence of Section 25 shall apply *mutatis mutandis* on the use pursuant to Subsection (1).

(3) There shall be no obligation to pay remuneration to the author for use of the work pursuant to Subsection (1).

Section 30

The Use of Work in the Course of Civil and Religious Ceremonies, in the Course of School Performances and The Use of a School Work

(1) The authorisation of an author shall not be required for the use

- a) of a work in the course of admission-free civil ceremonies or admission-free religious ceremonies,
- b) in the course of the admission-free school performances in which exclusively pupils, students or teachers of school perform,
- c) of a school work in the course of charge-free fulfilment of duties falling under the subject matter of the activity of a school.

(2) The provision of third sentence of Section 25 shall apply *mutatis mutandis* on the use pursuant to Subsection (1).

(3) There shall be no obligation to pay remuneration to the author for use of the work pursuant to Subsection (1).

Section 31

The Use of Work by Library or Archive

(1) A library³⁾ or archive⁴⁾ may make without the authorisation of the author a copy,

- a) of the work from its own collections, provided the purpose of the making of a copy is to satisfy the request of a natural person who will use that copy for the purpose of education or scientific research exclusively within the premises of library or archive,
- b) of any work from its own collections, provided the purpose of the making of a copy is replacement, archiving or preservation of the original of work or of a copy thereof for the cases of loss or destruction or damage, or where the permanent collection is being constituted.

(2) There shall be no obligation to pay remuneration to the author for use of the work pursuant to Subsection (1).

³⁾ Section 3(1) and (4) of Act No. 183/2000 on Libraries and on Amendments of the Act of the Slovak National Council No. 27/1987 on State Monument Preservation and on Changes and Amendments of Act No. 68/1997 on “Matica slovenská” (translator’s note: Slovak Cultural Heritage Institution).

⁴⁾ Section 4 of Act No. 395/2002 on Archives and Registries and on amendments of Certain Acts.

(3) The provisions of Subsections (1) and (2) shall not prejudice the provisions of this act on the protection of measures to prevent unauthorised making of a copy of work as well as any other unauthorised acts (Section 59 to 61).

Section 32

Transient or Incidental Making of Copy of Work

(1) The authorisation of an author shall not be required to make a copy of a work that is either transient or incidental and constitutes integral and essential part of a technological process, provided the sole purpose is a lawful use of work or a realisation of the transmission of work in a communication network between third parties by an intermediary, if it has no independent economic significance.

(2) There shall be no obligation to pay remuneration to the author for use of the work pursuant to Subsection (1).

Section 33

The Use of Work for Information Purposes

(1) The authorisation of an author shall not be required

- a) to make a copy of a work disclosed in a newspaper or other information medium be it in particular on current economic, political or religious events or topics, and for the communication to the public with such content; this shall not apply where an author reserved the right to authorise reproduction and communication to the public in particular cases,
- b) to make a copy and for communication to the public of a short part of a work perceivable in the course of current events being the subject of the news reporting,
- c) to make a copy and for communication to the public of a lecture, speech or other work of similar nature delivered in public,
- d) for the distribution to the public of a copy made pursuant to a) to c) by sale or any other form of transfer of ownership, provided an author had not reserved that right.

(2) The provision of third sentence of Section 25 shall apply *mutatis mutandis* on the use pursuant to Subsection (1).

(3) There shall be no obligation to pay remuneration to the author for use of the work pursuant to Subsection (1).

Section 34

The Use of Collection

(1) Lawful user of a copy of a collection may use the collection for the purposes of the access to the contents and the normal use of the contents thereof without authorisation of an author of such work by

- a) making a copy,
- b) transformation, translation, adaptation or any other alteration of the work,
- c) distribution of the original of the work or of a copy thereof to the public by sale or any other form of transfer of ownership,
- d) the communication to the public,
- e) public display,
- f) public performance.

(2) Lawful user of a copy of a collection may use without authorisation of an author of such work in a manner pursuant to Subsection (1)(a), (c) to (f) also a work created by transformation, translation, adaptation or any other alteration of said collection, provided such use is being realised to the extent

justified by purposes set under Subsection (1) and is not being realised to gain any direct or indirect economic advantage.

(3) There shall be no obligation to pay remuneration to the author for use of the work pursuant to Subsections (1) and (2).

Section 35 Reproduction and Modification of a Computer Program

(1) The lawful user of a copy of a computer program may, without the authorisation of the author, make a copy of that copy of computer program or carry out adapting or translating thereon, provided that such copy, adaptation or translation is necessary

- a) for the conjunction of the computer program with the computer according to the purpose and extent for which the program has been acquired, including the corrections of errors in the computer program,
- b) for the replacement of a lawfully acquired copy of the computer program (a back-up copy)

(2) The lawful user of a copy of a computer program may, without the authorisation of the author, observe, study or test the functionality of the program to determine the ideas or principles underlying any part thereof in the course of the downloading, display or transmission, functionality test and storage of the program into computer memory that he/she has been authorised to do.

(3) Any such copy, adaptation or translation shall be destroyed where further use of the copy of the computer program provided for in the Subsection (1) ceases to be lawful.

(4) The right provided for in Subsection (1)(b) and Subsection (2) may not be withheld by contract.

(5) There shall be no obligation to pay remuneration to the author in the cases provided for in Subsections (1) and (2).

Section 36 Decompilation of Computer Programs

(1) The authorisation of the author shall not be required for making of a copy of the code of a computer program or translation of the form of that code if that is necessary for obtaining the information required to achieve interoperability between independently created computer programs and other computer programs, provided that

- a) such act is performed by the lawful user of a copy of the computer program,
- b) the information necessary to achieve interoperability has not previously been commonly available to the persons entitled to reproduce or translate,
- c) such acts are confined to a part of the original computer program only, and are necessary for the interoperability of the independently created computer programs to be achieved.

(2) The information obtained pursuant to Subsection (1) shall not be used

- a) to pursue any aim other than the achievement of interoperability of the independently created computer programs,
- b) for provision thereof to other persons, except where such a use would be necessary to achieve interoperability between independently created computer programs,
- c) to facilitate the development and production of, or trade in, a computer program that is similar in expression,
- d) for any act by which the right of author would be violated.

(3) The authorisation of the author for the acts provided for in Subsection (1) shall be required for making of the copies of a computer program where such making of the copies would conflict with the

fair exploitation of the computer program or otherwise unreasonably interfere with the legitimate interests of the author of the computer program.

(4) Neither reproduction of the machine code of the computer program nor translation of its form may be prevented by contract.

(5) There shall be no obligation to pay remuneration to the author in the cases provided for in Subsection (1).

Section 37 Display of Work in Public

(1) The direct display to the public⁵⁾ of an original of a work or a copy thereof shall not require authorisation by the author in the following cases:

- a) where the public display is of the original of a work that has been sold, or the ownership of which has been otherwise transferred to a natural person or legal entity regarding whom the author knew that the activity in question was part of his/her/its customary activity,
- b) where the public display does not conflict with the fair exploitation of the original of the work or a copy thereof and does not otherwise interfere with the rights of the author.

(2) There shall be no obligation to pay remuneration to the author in the cases provided for in Subsection (1).

Section 38

Limitations of economic rights of author shall be permitted only in special cases provided in provisions of Section 24 to 37; disposal with a work pursuant to said provisions may not conflict with normal exploitation of the work and may not unreasonably prejudice the legitimate interests of author.

A u t h o r s ' C o n t r a c t s

Section 39 Contract for the Creation of a Work

(1) Under a contract for the creation of a work the author undertakes to create a work for his/her client.

(2) Author and client may agree upon remuneration for the creation of a work in the contract for the creation of a work.

(3) The author is obliged to create the work himself/herself.

(4) Where the work has defects, client may withdraw from the contract; where defects are eliminable the client may withdraw from the contract only if the author has failed to eliminate them within a reasonable period granted to him/her by the client for such a purpose.

(5) Unless otherwise agreed, ownership of the object in which the work is embodied shall pass onto the client upon the delivery thereof.

(6) Neither by a contract for the creation of a work nor upon the delivery of the object in which the work is embodied shall client acquire a right to use the work, unless otherwise provided hereby, that is when concurrently with a contract for the creation of a work a licensing contract is concluded with the author or when the latter is concluded after conclusion of the former.

⁵⁾ Section 1(2)(c) of Act No. 96/1991 of the Slovak National Council on Public Cultural Events.

(7) The provisions of respective legislation⁶⁾ shall apply *mutatis mutandis* on a contract for the creation of a work.

Licensing Contract

Section 40

Basic Provisions

(1) Under a licensing contract an author grants to licensee the authorisation to use the work (“licence” hereinafter). Licensing contract shall stipulate the manner of use of work, the extent of licence, term for which the licence is granted by author or the modus to determine it and remuneration or the modus to determine it, unless author and licensee agreed upon the grant of licence against no remuneration.

(2) Licensing contract shall be in writing or else it is null and void.

(3) Shall other person (Section 50) exercise economic rights of author the provisions on licensing contract apply on the grant of the licence by such person *mutatis mutandis*.

Section 41

Manner of Use of Work

(1) Author and licensee shall agree in the licensing contract upon for which manner of use of work or particular manners of use of work (Section 18(2)) author grants the licence.

(2) The author may not grant the licensee the licence for a manner of use of work that is unknown in a moment the contract is concluded.

Section 42

The Extent of Licence

(1) Author and licensee may agree in the licensing contract that licence is being granted in an unlimited extent.

(2) When the author and the licensee agree upon the grant of the licence in a limited extent, licensing contract shall stipulate territorial or material delimitation of the extent of such a licence.

Section 43

Exclusive Licence and Non-Exclusive Licence

(1) Author may grant licensee the licence as exclusive or non-exclusive one. It should be presumed that author grants non-exclusive licence unless it is agreed in the contract that author grants an exclusive licence.

(2) If author grants the exclusive licence, he/she shall not grant a licence to third person to use the work by a manner of use of work for which the exclusive licence is granted and he/she shall be required, unless other is agreed in the contract, to refrain from the exercise of the right to use the work himself/herself by a manner for which the exclusive licence is granted.

(3) If author grants non-exclusive licence, his/her right to use the work by a manner for which the non-exclusive licence is granted as well as his/her right to grant a licence to a third person shall not be affected.

⁶⁾ Section 631 to 643 of Civil Code.

(4) Non-exclusive licence a licensee had acquired before an exclusive licence was granted to a third person shall remain unaffected provided an author and the licensee holding such non-exclusive licence had not agreed upon the contrary.

(5) A contract by the means of which author grants to third person a licence for a manner of use of work for which the exclusive licence has been granted shall be, without written approval of the holder of exclusive licence issued prior to conclusion thereof, null and void.

Section 44

Disposition with Licence

(1) Licensee shall have the right to grant third person the authorisation to use the work in extent of licence granted to him/her/it ("sublicence" hereinafter) only upon approval of the author; provisions of Section 40 to 43 shall apply *mutatis mutandis*. Approval for grant of a sublicence shall be granted by author while license contract is concluded, or thereafter.

(2) Licensee may assign the licence by a contract only upon prior written approval thereof by author; the licensee is obliged to inform author on assignment of licence and the identity of assignee without undue delay. Approval of author shall not be required, unless agreed otherwise, for the sale of enterprise of which the licence constitutes a part; this shall also apply in a case of the independent organisation unit of an enterprise of which the licence constitutes a part.

Section 45

Remuneration

(1) When remuneration has been agreed to depend on the revenues arising from the exploitation of licence, licensee shall be obliged to allow author to check the relevant accounting or other documentation that would be inevitable to determine it. Shall the licensee thus provide to the author an information that is confidential by its own designation, this information may be neither revealed by the author to a third person nor used by the author for his/her own needs in conflict with a purpose for which said information had been provided.

(2) The licensee shall be obliged to provide to the author the statement on remuneration pursuant to Subsection (1) on a regular basis and in agreed time periods; shall it not be stipulated otherwise, the licensee is obliged to provide to the author the statement on remuneration at least once a year.

Section 46

Passage of Licence and Termination of Licence

(1) Upon the dissolution of a legal entity to which a licence has been granted, rights and duties that arise from licensing contract shall pass onto its successor-in-title; said passage of rights and duties onto successor-in-title may be excluded by the contract.

(2) Upon the death of natural person to which a licence has been granted, rights and duties that arise from licensing contract shall pass onto his/her heirs; said passage of rights and duties onto heirs may be excluded by the contract.

(3) Except for cases under Subsections (1) and (2), the licence shall terminate.

Section 47

Special Provisions on the Licensing Contract for Publication of Work

(1) Contract by which an author grants to a licensee the licence to make and distribute to the public the copies of literary, dramatic work, dramatico-musical work, musical work, work of visual

art, photographic work or cartographic work in printed form shall be the licensing contract on publication of work.

(2) Unless licensing contract stipulates otherwise, it shall be presumed that the licence is granted exclusively; this shall not apply in the case of the work embodied in the periodical publication.

(3) Unless licensing contract stipulates otherwise, author shall have the right to make such changes in the work prior to publication of work and in reasonable term granted by licensee that do not give rise to a need of unreasonable expenses on the part of licensee or change the nature of work (author's check of proofs).

(4) The author may withdraw from the contract and demand that original of his/her work (the object) be surrendered if licensee has not give him/her the possibility of making corrections to the proofs of his/her work or if the work was used in a manner that detracted from its value; if ownership of original of work has been transferred onto licensee, it shall pass onto author upon the surrender of said original of work to the author.

Section 48

Special Provisions on the General Licensing Contract

(1) Collective administration organisation may conclude with a licensee also a general licensing contract. By means of the general licensing contract the organisation grants to a licensee an authorisation to use all works or some of the works rights in which it administers, in agreed manner or manners, in agreed extent, during agreed term and the licensee obliges itself to pay, unless agreed otherwise, remuneration.

(2) The general licensing contract shall be concluded in written form otherwise it is null and void.

(3) Provisions on the licensing contract shall apply *mutatis mutandis*, unless otherwise is provided herein.

(4) It shall not be permitted to agree with the licensee in a general licensing contract on the limitations that would exceed the scope of the protection provided by this Act.

Section 49

Special Provisions on the Collective Licensing Contract

(1) Collective administration organisation may conclude with a legal entity in which users of works are associated a collective licensing contract. By means of the collective licensing contract this organisation grants the authorisation to use all works or some of the works rights in which it administers, in agreed manner or manners, in agreed extent, during agreed term and against agreed remuneration.

(2) The collective licensing contract is arising rights and duties directly to individual member of a legal entity in which users of works are associated, this from the moment of approval thereof by said individual member. Provisions of respective legislation shall apply *mutatis mutandis*.⁷⁾

(3) Collective licensing contract shall be concluded in written form otherwise it is null and void.

(4) Provisions on the licensing contract shall apply *mutatis mutandis*, unless otherwise provided herein.

⁷⁾ Section 50 of Civil Code

Special Provisions on Some Works

Section 50

Employee Work

(1) Author's economic rights in employee work shall exercise employer acting in its own name and on its own account, unless agreed otherwise. The employer may assign author's right to exercise economic rights only with approval of the latter; this shall not apply in case of sale of enterprise or independent organisation unit thereof.

(2) Shall the employer entitled to exercise author's economic rights in an employee work die or cease to exist with no successor-in-title, right of employer to exercise economic rights terminates and economic rights in employee work are exercised by author.

(3) Shall employer exercise author's economic rights in an employee work it is presumed that author had granted authorisation for disclosure of the work as well as for making available to the public of the work under the name of the employer, unless agreed otherwise; author's moral rights in employee work shall not be affected in any other manner.

(4) Author shall be obliged to refrain from exercise of economic rights in employee work throughout exercise of his/her economic rights in such a work by employer.

(5) Computer program, collection or cartographic work that do not constitute the collective work (Section 10) shall be deemed to constitute the employee work also if created wholly or in part on a base of the contract for creation of a work (Section 39); if that is the case, client shall be considered to be the employer. Withdrawal from contract for creation of a work shall terminate the right to exercise author's economic rights.

(6) Termination of labour law relation, servant relation, state servant relation or labour law relationship between the cooperative and its member shall not affect right and duties pursuant to Subsections (1) to (4).

Section 51

School Work

(1) School may conclude with author the licensing contract on the use of the school work under usual terms; shall author refuse to conclude the licensing contract without serious reason, school may demand court to determine the contents of such contract.⁸⁾ Provision of Section 30(1)(c)) shall not be hereby affected.

(2) Unless agreed otherwise, author of the school work may use his/her work or grant licence to another person provided it is not contradiction with legitimate interests of school.

(3) School may demand from author of the school work a contribution in reasonable amount from the remuneration he/she gained due to use of work or grant of licence pursuant to Subsection (2) to cover expenses of work creation, this, depending on circumstances, up to their actual amount; while doing so, the remuneration gained by school due to use of the school work pursuant to Subsection (1) shall be taken into account.

Section 52

Rights in Previously Undisclosed Work

(1) Any person who publishes previously undisclosed work after the expiry of duration of

⁸⁾ Section 161(3) of Civil Procedures Code.

economic right shall accrue rights in such a work to the extent author of work would have if his/her rights still lasted.

(2) Right pursuant to Subsection (1) shall last for 25 years since the disclosure of the work. Provision of Section 22 shall apply in such a case likewise.

Section 53 Work in the Public Domain

(1) If the author has no heirs or his/her heirs refuse to accept their inheritance, his/her work shall pass into the public domain, except in case pursuant to Section 18(6) third sentence; this shall apply even before expiry of the term provided for in Section 21.

(2) If work is in public domain, user shall be obliged neither to obtain authorisation for the use thereof nor to pay remuneration.

(3) Provisions of Subsections (1) and (2) shall not affect provisions of Section 17(3) and Section 52(1).

Section 54 Presumption of Authorship

The natural person whose name is indicated on a work in the usual manner as being that of the author shall, in the absence of proof to the contrary, be presumed to be the author of the work. This provision shall be applicable also if a pseudonym is indicated on the work, if there are no doubts as to the identity of the author.

Section 55 International Registration of Audiovisual Work

An entry concerning the work in an International Register of Audiovisual Works⁹⁾ shall be considered true until the contrary is proved, except

- a) where the entry can not be valid pursuant to this Act,
- b) where the entry is contradicted by another entry in the International Register.

P r o t e c t i o n o f C o p y r i g h t **Section 56**

(1) The author whose copyright has been subject to illicit interference or whose copyright is subject to danger of illicit interference may demand in particular

- a) the determination of his/her authorship,
- b) the prohibition of menace to his/her copyright, including the prohibition of the repeating menace or the prohibition of illicit interference into his/her right, including the prohibition of the interference pursuant to Section 59 and 60,
- c) the information on the origin of a copy of the work or of a counterfeit of a work, on manner and extent of use and on identity of persons that took part in the production of the copy, or eventually, in the distribution to the public thereof,
- d) removal of consequences of the interference into his/her copyright, in particular
 - 1. by removal of unlawfully produced copy of the work or of a counterfeit of a work or of an equipment pursuant to Section 59 and 60 from sale or other use,

⁹⁾ Art. 3 of the Treaty on the International Registration of Audiovisual Works (Notification No.365/1992 of the Federal Ministry of Foreign Affairs).

2. by destruction of unlawfully produced copy of the work or of a counterfeit of a work or of an equipment pursuant to Section 59 and 60,
- e) appropriate compensation for the caused prejudice of a non-material character, in particular
1. by apology,
 2. by monetary compensation, this in the case where provision of other compensation would prove to be insufficient; the amount of the monetary compensation shall be determined by the court that shall take into account in particular the gravity of the prejudice sustained and also the circumstances of the interference into copyright; the possibility of an agreement on the reconciliation shall not be hereby excluded.

(2) The right to be compensated for damages and to request the surrender of unjust enrichment as provided in respective legislation shall not be hereby affected; the amount of unjust enrichment of who unlawfully disposed with the work without having a licence shall be equivalent to remuneration that would be usually payable for the grant of such a licence in the time of unlawful disposition with the work.

Section 57

Shall author grant to other person an exclusive authorisation to exercise the right to use the work or shall the authorisation or the exercise of economic rights of author be entrusted to other person on the basis of the law, the right to make claims pursuant to Section 56(1)(b) to (d) and (2) shall vest only with said person; the right of author to make other claims including the claims arising from use of work in the extent exceeding granted exclusive licence shall not be hereby affected.

Section 58

(1) Author may request from customs authorities the information on content and scope of the import of a commodity that

- a) is a copy of his/her work in any form,
- b) shall serve as a carrier [Section 24 (6) (a)] in making of said copy
- c) is an equipment or device for the making of copies [Section 24 (6) (b), (c) and (d)],
- d) is an equipment pursuant to Section 59 (1).

(2) Author may access the customs records to determine whether the importation of said commodity for the use on the territory of the Slovak Republic is lawful under this Act or to gain the data relevant for the enforcement of rights granted by this Act.

(3) The provisions of Subsections (1) and (2) shall apply *mutatis mutandis* in the case of export.

(4) Provisions of Subsections (1) and (2) shall also apply on relevant collective administration organisation as well as any legal entity empowered to protect interests of authors.

Section 59

(1) Copyright is also infringed by anyone that in order to achieve economic gain by the provision of services or by other manner develops, produces, offers for sale, rental or lending, imports, distributes or uses equipment designed exclusively or partly for removal, disablement or inhibition of the operation of any device or technological measure for the protection of rights pursuant to this Act.

(2) The technological measure mentioned in Subsection (1) shall mean any procedure, product or component incorporated into procedure, product or equipment that shall prevent, restrict or exclude the illicit interference into copyright to work.

Section 60

(1) Following shall be also deemed as illicit interference into copyright

- a) removal or alteration of any electronic rights-management information,
- b) distribution to the public of original and copies of a work, including importation thereof, as well as communication to the public of a work from which electronic rights-management information had been removed or altered without the consent of author.

(2) The rights-management information mentioned in Subsection (1) shall mean data which identify the work, the author of the work, the holder of any right in the work, information about the terms and conditions of use of the work and any digits or codes that represent such information, when any of these information items is attached to a copy of a work or appears in connection with the communication of a work to the public.

Section 61

Illicit interference into copyright is also committed by anyone that uses for his/her work the title or external design already used lawfully by another author for his/her work of the same kind, if it would give rise to danger of confusion of said works, unless nature of the work or its designation exclude such an effect.

PART THREE RIGHTS RELATED TO COPYRIGHT

Section 62

Moral Rights of Performing Artist

The provisions of Section 17 shall apply *mutatis mutandis* to the performing artist and his/her artistic performance.

Section 63

Economic Rights of Performing Artist

(1) Performing artist shall have right to use his/her artistic performance.

(2) The performing artist shall have right to authorise any of the following uses

- a) the communication to the public of unfixed artistic performance; this shall not apply to communication to the public of broadcasted unfixed artistic performance,
- b) the making of the original of fixation of artistic performance,
- c) the making of a copy of fixation of artistic performance,
- d) the distribution of the original of fixation of artistic performance or copy thereof to the public by sale or any form of transfer of ownership,
- e) the distribution of the original of fixation of artistic performance or a copy thereof to the public by rental or lending,
- f) the making available to the public of a fixation of artistic performance.

(3) The right of the performing artist to authorise the distribution of the original of fixation of artistic performance or a copy thereof to the public pursuant to Subsection (2)(d) shall be exhausted for the territory of the Slovak Republic on the first lawful sale or any other act of transfer of ownership of the original of fixation of artistic performance or a copy thereof realised on the territory of the Slovak Republic, this in respect of original of fixation of artistic performance and any copies thereof that were subject to sale or to any other act of transfer of ownership.

(4) Shall performing artist grant authorisation for distribution of the original of fixation of artistic performance or a copy thereof to the public by rental or lending [Subsection (2)(e)] to producer of such fixation, right accrues to him to equitable remuneration against any person that shall distribute said original of fixation or artistic performance or a copy thereof to the public by rental or lending; this right may not be waived in advance.

(5) In the case of the disposal with the rights in performances that have been created jointly within the performance of the same work by several performing artists, such as members of the orchestra, choir, dance group or other artistic ensemble or artistic grouping said performing artists shall be represented in their name and on their account by joint representative. Joint representative shall be artistic principal of the ensemble or artistic grouping except for the case the majority of the members of the artistic ensemble or artistic grouping designates another person as the joint representative, to which it grants the full powers in written form.

(6) The provision of the Subsection (5) on the joint representative shall not be applied in the case of the performing artist – soloist, conductor and director of theatrical performance; the right of said persons to be designated as the joint representative of the performing artists is not hereby affected.

(7) The rights of the performing artist pursuant to Subsections (1), (2) and (4) shall last for 50 years from the moment in which the artistic performance takes place. However, where a fixation of an artistic performance is disclosed within this period, the rights of the performing artist shall last for 50 years from the moment of such disclosure.

Section 64

Economic Rights of Producer of Phonogram

(1) Producer of phonogram shall have right to use his/her/its phonogram.

(2) Producer of phonogram shall have right to authorise any of the following acts

- a) the making of a copy of phonogram,
- b) the distribution of the original of phonogram or a copy thereof to the public by sale or any form of transfer of ownership,
- c) the distribution of the original of phonogram or a copy thereof to the public by rental or lending,
- d) the broadcasting of a phonogram,
- e) the making available to the public of phonogram.

(3) The right of the producer to authorise the distribution of the original of phonogram or a copy thereof to the public pursuant to Subsection (2)(b) shall be exhausted for the territory of the Slovak Republic on the first lawful sale or any other act of transfer of ownership of the original of phonogram or a copy thereof realised on the territory of the Slovak Republic, this in respect of the original of phonogram and any copies thereof that were subject to sale or to any other act of transfer of ownership.

(4) Rights of producer of phonogram pursuant to Subsections (1) and (2) shall be transferable.

(5) The rights of the producer of phonogram pursuant to Subsections (1) and (2) shall last for 50 years from the moment in which the phonogram was produced. However, where the phonogram is disclosed within this period, the rights of producer of phonogram shall last for 50 years from the moment of such disclosure.

Section 65

Right of Performing Artist and of Producer of Phonogram To Equitable Remuneration

(1) Shall performing artist not have the exclusive right to grant authorisation for the communication to the public of his/her artistic performance pursuant to Section 63(2), he/she has the right to equitable remuneration for such a use.

(2) Shall producer of phonogram not have the exclusive right to grant authorisation for the communication to the public of its phonogram pursuant to Section 64(2), it has the right to equitable remuneration for such a use.

(3) The provision of Section 63(7) shall apply to the right to equitable remuneration provided for in Subsection (1).

(4) The provision of Section 64(5) shall apply to the right to equitable remuneration provided for in Subsection (2).

Section 66 Economic Rights of Producer of Audiovisual Fixation

(1) Producer of audiovisual fixation shall have right to use his/her/its audiovisual fixation.

(2) Producer of audiovisual fixation shall have right to authorise any of the following acts

- a) the making of a copy of audiovisual fixation,
- b) the distribution of the original of audiovisual fixation or a copy thereof to the public by sale or any form of transfer of ownership,
- c) the distribution of the original of audiovisual fixation or a copy thereof to the public by rental or lending,
- d) public performance of audiovisual fixation
- e) the broadcasting of audiovisual fixation
- f) the making available to the public of audiovisual fixation.

(3) The right of producer to authorise the distribution of the original of audiovisual fixation or a copy thereof to the public pursuant to Subsection (2)(b) shall be exhausted for the territory of the Slovak Republic on the first lawful sale or any other act of transfer of ownership of the original of audiovisual fixation or copy thereof realised on the territory of the Slovak Republic, this in respect of the original of audiovisual fixation and any copies thereof that were subject to sale or to any other act of transfer of ownership.

(4) Rights of producer of audiovisual fixation pursuant to Subsections (1) and (2) shall be transferable.

(5) Rights of producer of audiovisual fixation pursuant to Subsections (1) and (2) shall last for 50 years from the moment in which the audiovisual fixation was produced. However, where the phonogram is disclosed within this period, the rights of the producer of audiovisual fixations shall last for 50 years from the moment of such disclosure.

Section 67 Right of Producer of Audiovisual Fixation To Equitable Remuneration

(1) Shall producer of audiovisual fixation not have the exclusive right to grant authorisation for the communication to the public of its audiovisual fixation pursuant to Section 66(2), it has the right to equitable remuneration for such use.

(2) The provision of Section 66(5) shall apply to the right to equitable remuneration provided for in Subsection (1).

Section 68 Economic Rights of Broadcaster

(1) Broadcaster shall have right to use its broadcast.

(2) Broadcaster shall have right to authorise any of the following acts

- a) the communication to the public of broadcast where realised in places accessible to the public against payment of an entrance fee,
- b) the making of the original of fixation of broadcast,

- c) the making of a copy of fixation of broadcast,
- d) the distribution of the original of fixation of broadcast or a copy thereof to the public by sale or any form of transfer of ownership,
- e) the cable retransmission of broadcast,
- f) the making available to the public of fixation of broadcast.

(3) The right of broadcaster to authorise the distribution of the original of fixation of broadcast or a copy thereof to the public pursuant to Subsection (2)(d) shall be exhausted for the territory of the Slovak Republic on the first lawful sale or any other act of transfer of ownership of the original of fixation of broadcast or copy thereof realised on the territory of the Slovak Republic, this in respect of the original of fixation of broadcast and any copies thereof that were subject to sale or to any other act of transfer of ownership.

(4) Rights of broadcaster pursuant to Subsections (1) and (2) shall be transferable.

(5) Rights of broadcaster pursuant to Subsections (1) and (2) shall last for 50 years from the moment of the disclosure of the broadcast.

Section 69

Limitations of Economic Rights of Performing Artist, Producer of Phonogram, Producer of Audiovisual Fixation and Broadcaster

(1) The provisions of Section 24(1) and (6) to (10), Section 25, Section 28(1), (3) and (4), Section 30(1)(a) and (2) and (3), Section 31, Section 33(1)(a), (b) and (d), (2) and (3) and Section 38 shall apply *mutatis mutandis* to the rights of performing artist, producer of phonogram, producer of audiovisual fixation and broadcaster.

(2) Broadcaster may

- a) use a short part of the work, artistic performance, phonogram, audiovisual fixation or broadcast of another broadcaster within its news reporting, this to justified extent,
- b) make an ephemeral fixation of his/her/its broadcast by means of its own equipment and for its own broadcasting; broadcaster is entitled to archive such ephemeral fixation only if it has exceptional documentation value, otherwise it is obliged to destroy it within the term of 30 days.

(3) Performing artist, producer of phonogram, producer of audiovisual fixation, broadcaster and their successor-in-title shall have the right to compensation of remuneration for use pursuant to Section 24(1).

Section 70

Calculation of the Duration of Rights Related to Copyright

The duration of rights of performing artist (Section 63(7), Section 65(3)), phonogram producer (Section 64(5), Section 65(4)), producer of audiovisual fixations (Section 66(5), Section 67(2)) and broadcaster (Section 68(5)) shall be calculated from the first day of the year following the event which gives rise thereto.

Section 71

(1) The provisions of Section 5(6), (7), (11), (14), (15), (17), (19), (21), Section 8 to 10, Section 12, 13, 15, Section 18(3) to (6), Section 20(1) to (4), Section 39 to 49, Section 53, 54, 56 to 61 shall apply *mutatis mutandis* to performing artist and his/her performance.

(2) The provisions of Section 5(6), (7), (11), (14), (15), (17), (19), (21), Section 8 to 10, Section 13, Section 15(2), Section 18(3), Section 20(1) to (4), Section 39 to 49, Section 53, 54, 56 to 61 shall

apply *mutatis mutandis* to producer of phonogram and its phonogram, producer of audiovisual fixation and its audiovisual fixation and broadcaster and its broadcast.

PART FOUR ***SUI GENERIS* RIGHT IN DATABASE**

Section 72

The maker of a database which shows qualitatively or quantitatively a substantial investment in either the obtaining, verification or presentation of the contents thereof shall have *sui generis* right in database, irrespective of the protection of that database or the contents thereof by copyright or by other rights.

Section 73

Sui Generis Right of Maker of Database

(1) The maker of a database shall have the right to authorise any extraction and re-utilisation of all contents of a database or, evaluated qualitatively or quantitatively, of a substantial part thereof.

(2) The extraction pursuant to Subsection (1) shall be the permanent or temporary transfer of all or a substantial part of the contents of a database to another medium by any means or in any form.

(3) The re-utilisation pursuant to Subsection (1) shall be any form of making available to the public all or a substantial part of the contents of a database by the distribution of copies thereof, by renting, by on-line transmission or other form of transmission.

(4) The lending of the original of a database or copy thereof is neither the extraction under Subsection (2) nor the re-utilisation under Subsection (3).

(5) The repeated and systematic extraction, re-utilisation of insubstantial parts of the contents of a database and other act of use that is not normal or reasonable and that is prejudicial to legitimate interests of the maker of the database shall be prohibited.

(6) The rights of the maker of a database shall be transferable.

Section 74

Rights and Duties of User of Database

(1) The maker of a database which is made available to the public in whatever manner may not prohibit a user of database or a part thereof the extraction, re-utilisation of qualitatively and quantitatively insubstantial part of the contents thereof, for any purposes whatsoever.

(2) The user of a database which is made available to the public in whatever manner may not use it otherwise than in normal and reasonable way and with no prejudice to the legitimate interests of the maker of a database.

(3) The user of a database which is made available to the public in whatever manner may not cause prejudice to the author or other person to which belong the rights pursuant to this Act in respect of works or other protected subject matter contained in the database.

Section 75

Limitation of *Sui Generis* Right in Database

The lawful user of a database that is made available to the public in whatever manner may, without the authorisation of the maker thereof, extract, re-utilise a substantial part of its contents in the case of

- a) extraction for private purposes of the contents of a non-electronic database,
- b) extraction for the purposes of illustration within teaching or scientific research, as long as the source is indicated and as long as the extent of extraction is not focused to gain any direct or indirect economic advantage,
- c) extraction and re-utilisation realised for public protection and within the administrative or judicial procedure.

Section 76

Duration of *Sui Generis* Right of the Maker of a Database

(1) The *sui generis* right of the maker of a database shall last for 15 years.

(2) The duration of *sui generis* right of the maker of a database shall be calculated from the first day of the year following the year when the making of a database was completed. However, where the database is disclosed within this period, the duration of *sui generis* right of the maker of a database shall be calculated from the first day of the year following the year in which the database was disclosed.

(3) Any new qualitatively or quantitatively substantial contribution to the database consisting of the addition, deletion or other alteration shall result into the constitution of a new database.

Section 77

Provisions of Section 5(4), (7), (11) and (14), Section 7(3), Section 13, Section 18(3) and (4), Section 20(2) to (4), Section 40 to 46, Section 53 and 54, Section 56 to 61 shall apply *mutatis mutandis* also to maker of a database.

PART FIVE

COLLECTIVE ADMINISTRATION OF RIGHTS

Section 78

(1) The purpose of the collective administration of rights under this Act („collective administration“ hereinafter) is collective exercise and collective administration of the economic rights of author and economic rights of performing artist, phonogram producer, producer of audiovisual fixation and broadcaster and facilitation of making available to the public of subject matter of these rights.

(2) Collective administration is representation of several persons that

- a) have the economic rights in work, artistic performance, phonogram, audiovisual fixation or broadcast („subject matter of protection“ hereinafter),
- b) exercise the economic rights on the basis of this Act (Section 50) or
- c) gained on the basis of a contract the exclusive licence for the entire term of duration of economic rights in subject matter of protection and for the territory of the Slovak Republic with the right to grant the sublicense

(„rightsholders“ hereinafter), to joint benefit thereof and within the exercise of their economic rights in disclosed or offered-to-disclose subject matter of protection provided that other than the collective exercise of such rights is not permitted (Subsection (3)) or would not serve their purpose; as the offered-to-disclose subject matter of protection shall be considered any subject matter of protection

that has been in written notified by the rightholder to collective administration organisation for inclusion of such a subject into the registry of the subjects matter of protection.

(3) Following are the economic rights subject to compulsory collective administration:

- a) the right to remuneration upon resale of the original of work of visual art (Section 19 (1)),
- b) the right to compensation of remuneration (Section 24 (4) and (5) and Section 69 (3)),
- c) the right to grant the authorisation for cable retransmission of a work [Section 18 (2) (h)]; this shall not apply on those rights in subjects matter of protection embodied in the broadcasting of a broadcaster which said broadcaster exercises on the basis of legislation, licensing contract or any other similar contract,
- d) the right of performing artist and phonogram producer to the equitable remuneration for cable retransmission of their subject matter of protection pursuant to Section 65; this shall not apply on those rights in subjects matter of protection that are embodied in the broadcasting of a broadcaster which said broadcaster exercises on the basis of legislation or licensing contract,
- e) the right to grant the authorisation for lending [Section 18(2)(c) and Section 63(2)(e)].

(4) Collective administration shall be performed in particular in following fields:

- a) the public performance of work,
- b) the communication to the public by presentation of subject matter of protection by any technical means,
- c) the broadcasting of subject matter of protection,
- d) the cable retransmission of the subject matter of protection,
- e) the distribution of the original of subject matter of protection or copies thereof to the public by rental and lending,
- f) the making of a copy of subject matter of protection for private use,
- g) the making of a copy of work by means of reprographic device or other technical device,
- h) the resale of original of work of visual art.

(5) Collective administration is being performed by the collective administration organisation in continuous manner, under its own name, on its responsibility and as a main subject of activity thereof.

Section 79

The Collective Administration Organisation

(1) The collective administration organisation shall be a legal entity to which an authorisation to exercise the collective administration has been granted.

(2) The authorisation to exercise the collective administration may be granted only to the legal entity which has its seat within the territory of the Slovak Republic and which is established for the non-business purpose pursuant to respective legislation.¹⁰⁾

Section 80

Terms of the Grant of Authorisation

(1) Ministry of Culture of the Slovak Republic („ministry“ hereinafter) shall decide upon grant of the authorisation to exercise the collectives administration on the basis of written application of a legal entity („applicant“ hereinafter).

(2) Written application shall contain

- a) the name, seat, identification number if it has been assigned and identification of statutory body of the applicant, name and surname and permanent residence of person being the statutory body, or persons that are members thereof,
- b) the enumeration of the rights that would be subject to collective administration,

¹⁰⁾ For example Act No. 83/1990 on the Association of Citizens as Changed and Amended by Subsequent Legislation.

- c) the identification of the subject matter of protection pursuant to (b), or, shall works be concerned, identification of the types thereof,
- d) the enclosures as in Subsections (3) and (4).

(3) The applicant shall enclose following to the application

- a) the document attesting actualities under Subsection (2)(a) and Section 79(2),
- b) a proof of the membership or the pledge to accept as a member in the international organisations, a proof of cooperation with foreign organisations,
- c) information on the professional, technological and economic aptitude to exercise the collective administration, including the documents proving said information,
- d) the list of names of the rightholders which showed interest in the collective administration of their rights by the applicant containing data on the residence, nationality and signature of said rightholders,
- e) the draft of rules of distribution that shall enshrine basic principles of distribution of collected remuneration and compensations of remuneration to the entitled rightholders,
- f) the declaration on word of honour of the applicant stating the enclosures pursuant (c) and (d) are current, exhaustive and authentic.

(4) Documents pursuant to Subsection (3)(a) and (b) shall be enclosed in an original or the certified copy; documents given in a foreign language shall be accompanied by a certified translation thereof into the Slovak language.

(5) Party to the procedure pursuant to Subsection (1) shall be the applicant.

(6) Ministry shall decide on the application for the grant of the authorisation within 90 days since the filing thereof. Within the procedure on the grant of authorisation, the ministry shall take into account in particular if it might be presumed that the applicant is apt to exercise collective administration in proper and effective manner.

(7) Ministry shall grant authorisation to an applicant

- a) the application of which complies with conditions pursuant to Subsection (2),
- b) which is eligible to ensure proper and effective exercise of collective administration.

(8) Ministry shall publish its decision on the grant of authorisation in its bulletin and on its web site.

(9) Ministry shall keep the register of the collective administration organisations to which the authorisation has been granted; the register shall include the name, seat of collective administration organisation and identification of rights managed collectively as well as of subjects matter in which those rights vest, or, shall works be concerned, identification of the types thereof.

The Duties of Collective Administration Organisation and Those of User of Subject Matter of Protection **Section 81**

(1) Collective administration organisation shall be obliged to carry out in proper manner, with due professional diligence and within the extent of granted authorisation following

- a) to represent any rightholder in exercise of his/her right that is being administered on the basis of this Act,
- b) to accept on usual terms the representation of any rightholder in the exercise of his/her rights provided he/she so requests and submits the proof the subject matter of protection is being used in a relevant manner and provided said rightholder is not represented by other person in the exercise of the right in subject matter of protection or, shall works be concerned, in exercise of the right in work,
- c) to represent any rightholder in the exercise of his/her right to the extent agreed with him/her,

- d) to represent rightholders on equal terms,
- e) to keep the register of rightholders represented on the basis of a contract; the register shall contain only the data necessary for the exercise of collective administration,
- f) to keep the register of subject matter of protection being subject to collective administration exercised by the organisation, provided said subject matter of protection is known to it; the register shall contain only the data necessary for the exercise of collective administration,
- g) to inform any person submitting a written request on whether it represents particular rightholder, and, on the request and expense of such person, to issue a written confirmation in such respect,
- h) to conclude on equitable and equal terms with users or entities empowered to advocate interests of in-them associated users of the subjects matter of protection or with persons obliged to pay the compensation of remuneration contracts by the means of which
 1. the licence is granted to a user to use the subject matter of protection a right in which is being administered collectively,
 2. it agrees with a user or liable person on the remuneration or compensation of remuneration and on the manner of payment thereof,
- i) to claim in its own name and for the benefit of rightholders the unjustified enrichment due to the unlawful exercise of the right being collectively administered; this shall not apply when the rightholder so entitled makes his/her claim individually or when it would be inefficient,
- j) to collect pursuant to this Act and contracts under h) for rightholder remunerations, compensations of remuneration and potential gains stemming from surrendered unjustified enrichment, to distribute them and pay in accordance with its distribution rules,
- k) to keep the records of collected remunerations, compensations of remuneration and gains stemming from surrendered unjustified enrichment and to allow a rightholder to check upon a request the accuracy of the remuneration paid to him or accuracy of the gain stemming from the unjustified enrichment,
- l) to make provisions in the field of the registration and entry into international lists of the rightholders and subjects matter of protection and to provide upon the approval of rightholders the ministry with the information related to registration and records as under (f) and (k),
- m) to create out of collected remunerations, compensations of remuneration and potential gains stemming from unjustified enrichment a reserve fund,
- n) to keep the books of account,
- o) to prepare until 30th June of any year the annual report on the activities and economic management („annual report“ hereinafter) covering previous calendar year containing also a statement of finances and to submit it to the ministry with any undue delay; the annual report shall contain exhaustive and true description of all decisive facts and has to be made available to all the rightholders,
- p) to inform the ministry on all changes of any data presented in the application for the grant of the authorisation pursuant to Section 5 including the changes in a person that is statutory body of the collective administrator or of a member of such body, and to document such changes within 15 days at the latest from a day the change occurred,
- r) to provide the ministry with
 1. a copy of change in documents enclosed to the application for the grant of the authorisation pursuant to Section 80(3), this within 15 days from a day of the change,
 2. the information on contract-based mandate for collective administration obtained from other collective administration organisations including the foreign ones as well as with copies of any other documents related to the exercise of collective administration, this within 15 days since a day when the ministry made such a request,
 3. a copy of a decision of a court or that of any other competent body provided the collective administration is party to the procedure, this within 15 days since a day when the ministry made such a request,
- s) to publish in a suitable manner the list of tariff rates,
- t) to inform the ministry on a decision of courts or that of any other competent bodies in procedures to which the collective administration organisations constitutes a party and which have an essential importance for its activities.

(2) The duty pursuant to Subsection (1)(a) and (b) shall only apply in a case of the rightholder which is national of the Slovak Republic or who or which has his/her/its permanent residence or seat within the territory of the Slovak Republic.

(3) Collective administration organisation shall represent a rightholder in its own name and on its own account. Collective administration organisation shall exercise the collective administration on non-profit basis. However, collective administration organisation shall be entitled to claim deductions for coverage of effectively spent means.

(4) A user as well as any person liable to pay the compensation of remuneration (Section 24(6)) shall be obliged to allow a collective administration organisation to exercise the collective administration in a proper manner and it shall not, unless there is serious reason, refuse to provide the collective administration organisation with any information necessary for the purpose. The collective administration organisation shall not use the information acquired through the exercise of collective administration for any other purpose than exercise of collective administration. Collective administration organisation shall have the right to supervise the timely and proper performance of duties under contracts concluded with it within the exercise of collective administration; a user as well as any person liable to pay the remuneration or other party to such contract shall be obliged to allow the collective administration organisation to conduct such activity.

(5) User of a musical work with or without lyrics being subject to non-dramatic performance thereof shall be considered to be a person that operates a facility or any other room if said facility or room is being ceded without notifying the relevant collective administration organisation with data necessary to determine the identity of organiser of such music performance.

(6) The organiser of a live music performance shall be obliged to always notify the respective collective administration organisation with a program of such production including the names of authors and titles of works that would be performed, this 12 days at the latest before the performance takes place. Shall organiser fail to do so, it is deemed that during the performance only such works of authors will be performed the rights of live music performance in which are being administered by the collective administration organisation.

Section 82

(1) Shall collective administration organisation fail to agree with a user on conclusion of the licensing contract or the general licensing contract, or with legal entity in which users are associated upon the conclusion of a collective licensing contract, by the means of which it grants the authorisation to use subjects matter of protection rights in which it administers pursuant to this Act („administered subjects matter of protection“ hereinafter), or on conclusion of the agreement on equitable remuneration for use of subjects matter of protection by a user, the collective administration organisation, user or legal entity in which users of subjects matter of protection are associated may require a court to determine the terms of such a contract or agreement;⁸⁾ when determining the terms of the contract or agreement a court shall take into account the type of administered subject matter of protection, manner and extent of the use thereof, time during which the use of the administered subject matter of protection shall take place and conditions pursuant to Section 81(1)(h).

(2) Petition pursuant to Subsection (1) may be filed by a collective administration organisation, user or legal entity in which users are associated also in the case when the right to use administered subjects matter of protection lasts but any of the parties has been served with a written instrument directed towards the termination thereof; when the contract concluded for limited period of time is concerned, petition may be filed within a term since the first day of a month preceding the month in which the contract shall be terminated until the moment when the right to use administered subject matter of protection shall arise.

(3) Right to use administered subjects matter of protection against the payment of remuneration pursuant to Subsection (5) shall arise to the user provided he/she/it files the petition pursuant to Subsection (1) within the term of 60 days at the latest since the moment of extinguishment of the right to use of administered subjects matter of protection or if he/she/it started to use administered subjects matter of protection, provided he/she/it proves

- a) within said term to collective administration organisation that banker's guarantee¹¹⁾ that user fulfils its duties has been established at least in amount calculated pursuant to remuneration due to use of subjects matter of protection during 12 months stated in the petition pursuant to Subsection (1), or
- b) to collective administration that it deposits in regular manner, at least once in three calendar months, the finances in amount equal to remuneration due to use of administered as stated in the petition pursuant to Subsection (1) to a notary deposit, court deposit or to its account set only for such purpose.

(4) Right to use administered subjects of protection pursuant to Subsection (3) shall extinguish upon valid decision of the court on a petition pursuant to Subsection (1); if the right to use subjects matter of protection arose to the user sooner, the right pursuant to Subsection (3) shall extinguish upon that moment.

(5) Remuneration due to use of the administered subjects matter of protection pursuant to Subsection (3) shall the collective administration agree with user after the extinguishment of the right to use the administered subjects matter of protection pursuant to Subsection (4). Shall the collective administration organisation and user fail to reach the agreement on the remuneration pursuant to previous sentence, it shall be determined by a court acting on the motion of one of the parties; when determining the remuneration, the court shall take into account the type of the administered subject matter of protection, manner and extent of the use thereof, time of the use and the conditions pursuant to Section 81(1)(h).

(6) Shall the petition pursuant to Subsection (1) be filed in the term pursuant to Subsection (3) by a collective administration organisation or legal entity in which users are associated, it shall be deemed that condition of filing the petition pursuant to Subsection (3) by a user has been fulfilled. The amount of banker's guarantee pursuant to Subsection (3)(a) or amount of the finances deposited into deposit or on account pursuant to Subsection (3)(b) may be calculated by user also in accordance with the remuneration and conditions as under last valid contract by the means of which the collective administration organisation granted the authorisation to use the administered subjects matter of protection.

(7) Shall rights in particular subjects matter of protection fail to be represented in the Slovak Republic by any collective administration organization, right to use such subjects matter of protection shall arise to user if he/she/it creates a reserve fund to pay the remunerations due to use thereof; user shall not be obliged to create the reserve fund to pay the remuneration for such use of the subjects matter of protection since the moment of which at least three years have elapsed. Provisions of Subsection (5) shall apply *mutatis mutandis*.

(8) Shall right to use the subjects matter of protection arise to a user pursuant to Subsection (3) or Subsection (7), the documents on fulfilment of conditions mentioned in those provisions substitute the written document proving conclusion of a contract with the collective administration organisation and the written declaration or authorisation to use subjects matter of protection to be submitted pursuant to respective legislation.¹²⁾

¹¹⁾ Section 313 of Commercial Code.

¹²⁾ For example Section 16(f), Section 17(1)(c), Section 46(2)(d) and Section 57(2)(d) and (e) of the Act No. 308/2000 on Broadcasting and Retransmission and on Change of the Act No. 195/2000 on Telecommunications.

Section 83
Supervision by the Ministry

- (1) Ministry shall be entitled
- a) to request from a collective administration organisation any information and the submission of any documents that are necessary for exercise of supervision,
 - b) to investigate whether a failure to comply with the duties imposed by this Act does not occur on the part of a collective administration organisations,
 - c) to give to a collective administration organisation a reasonable term for the correction of deficiencies in compliance with duties pursuant to this Act and to impose a fine; shall no correction occur or shall it be impossible to make the correction, ministry may decide on the forfeiture of the authorisation.

(2) Ministry shall impose on a collective administration organisation in a case of the obstructions to the exercise of supervision and in a case of the failure to comply with duties pursuant Section 81(1)(k), (m), (n) and (o) the fine up to 50 000 Sk. When determining the amount of fine, the gravity and consequences of a failure to comply with the duties shall be taken into account. The fine may be imposed within one year since a detection of a failure to comply with duty pursuant to this Act, not later, however, then within three years since a failure to comply with the duty occurs. Fines shall be the revenue of state budget.

(3) Party to the procedure on the imposition of a fine and to the procedure on the forfeiture of the authorisation shall be the collective administration organisation on which the fine should be imposed or authorisation of which should be forfeited.

Section 84
Rights and Duties of User

Shall a user fail to present the proof that a rightholder explicitly excluded the collective administration of his/her rights and shall for the field of use of subjects matter of protection an authorisation be granted pursuant to Section 80, user is obliged to perform its duties arising due to use of the subject matter of protection through the collective administration organisation to which the authorisation to exercise collective administration in particular field of use of subjects matter of protection had been granted.

Section 85
Financial Management and Assets of Collective Administration Organisations

(1) Expenses related to the exercise of collective administration shall be covered, based upon agreement of represented rightholders, from the deduction from the collected remunerations and compensations of remuneration, from membership fees and other income.

(2) Manner of disposal with assets shall govern the statute of collective administration organisation and respective legislation.

(3) If a collective administration organisation ceases to exist or if the authorisation thereof is forfeited pursuant to Section 83(1)(c) the property settlement shall be realised in accordance with respective legislation.

Section 86

On procedures pursuant to present part of this Act the general legislation of administrative procedure¹³⁾ shall apply, unless this Act provides otherwise.

P A R T S I X TRANSITIONAL AND FINAL PROVISIONS

Section 87

(1) Duration of the economic rights of author, performing artist, phonogram producer and broadcaster shall be governed by this Act also if it had started before this Act entered into force.

(2) The provisions of this Act shall govern also legal relationships that had arisen before the entry into force thereof; rise of said legal relationships as well as claims arising thereupon before entry into force of this Act shall be reviewed pursuant to heretofore legislation.

(3) Authorisations to exercise the collective administration granted pursuant to the heretofore legislation shall be deemed to be authorisations to exercise collective administration pursuant to this Act. Content and extent of said authorisations shall be brought into conformity with this Act by the ministry that shall render to concerned persons the authorisations pursuant to this Act within 90 days since the day of entry into force of this Act.

(4) Procedures commenced before entry into force of this Act shall be governed by the legislation heretofore.

(5) Condition to file a petition pursuant to Section 82(4) shall be deemed fulfilled provided a user filed the petition pursuant to Section 82(1) within 60 days since the day of entry into force of this Act.

Section 88

This Act shall transpose the legal acts of European Communities listed in the enclosure thereto.

Section 89

Following shall be revoked

1. Act No. 383/1997 the Copyright Act and the Act by which Customs Act as Changed and Amended by Subsequent Legislation is Being Changed and Amended, as Changed and Amended by Act No. 234/2000.
2. Act No. 283/1997 on the Collective Administration of Rights Pursuant to the Copyright Act and on the Changes and Amendments of Some Acts, as Changed and Amended by Act No. 234/2000.

Section 90

Entry into Force

This Act shall enter into force on 1st January 2004.

Rudolf Schuster a. s.

Pavol Hrušovský a. s.

Mikuláš Dzurinda a. s.

¹³⁾ Act No. 71/1967 on Administrative Procedure (Administrative Code) as Changed and Amended by Subsequent Legislation.

LIST OF TRANSPOSED DIRECTIVES

This Act transposes following directives:

1. Directive of the Council and the European Parliament 2001/29/EC of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 167, 22/06/2001, p. 0010 – 0019).
2. Directive of the Council and the European Parliament 2001/84/EC of 27 September 2001 on the resale right for the benefit of the author of an original work of art (OJ L 272, 13/10/2001, p. 0032 – 0036).
3. Directive of the Council and the European Parliament 96/9/EC of 11 March 1996 on the legal protection of databases (OJ L 077, 27/03/1996, p. 0020 – 0028).
4. Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and related rights of copyright applicable to satellite broadcasting and cable retransmission (OJ L 248, 06/10/1993, p. 0015 – 0021).
5. Council Directive 93/98/EEC of 29 October 1993 harmonizing the term of protection of copyright and certain related rights as changed and amended by Directive of the Council and the European Parliament 2001/29/EC (OJ L 290, 24/11/1993, p. 0009 – 0013).
6. Council Directive 92/100/EEC of 19 November 1992 on rental right and lending right and on certain rights related to copyright in the field of intellectual property as changed and amended by Council Directive 93/98/EEC and Directive of the Council and the European Parliament 2001/29/EC (OJ L 346, 27/11/1992, p. 0061 – 0066).
7. Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programmes as changed and amended by Council Directive 93/98/EEC (OJ L 122, 17/05/1991, p. 0042 – 0046).

The translation of said directives is at Central Translating Unit of Institute for Approximation of Law, section of the Office of the Government of Slovak Republic.