# Pursuant to Article 95(3) of the Constitution of Montenegro I hereby issue this EDICT

- the public with the authorization of the authorized person;
- 'publication' is the offering to the public of a sufficient number of copies of a copyright work or of subject matter of related rights or placing such copies into circulation with the authorization of the authorized person,
- 4) 'original work of fine art' is the original of a painting, collage, drawing, engraving, print, photograph, sculpture, tapestry, works in ceramics or glass and similar works, which is created by the author himself, or are copies considered to be originals.

All the expressions used in this Act to refer to male persons shall be understood to also refer to female persons.

# Chapter II COPYRIGHT LAW

#### SECTION A COPYRIGHT WORK

#### Protected works Article 4

A copyright work shall be an individual intellectual creation in the domain of literature, science, and art, which is expressed in a certain mode, unless otherwise provided by this Act.

Considered as copyright works, if they fulfil the conditions referred to in Par (1) of this Article, shall be in particular the following:

- 1) spoken works (lectures, speeches, orations and the like);
- 2) written works (novels, poetry, articles, manuals, studies, monographs, computer programs and the like):
- 3) musical works with or without lyrics;
- 4) theatrical, theatrical-musical works, choreographic works, puppet theatre works, and works of pantomime:
- 5) photographic works and works produced by a process similar to photography;
- 6) audiovisual works:
- 7) works of fine art (drawings, graphic works, paintings, sculptures, and the like);
- 8) works of architecture (sketches, plans, constructed objects in the field of architecture, urban planning and landscape architecture, and the like);
- 9) works of applied art and industrial design;
- 10) cartographic works (tourist maps, auto maps, topographic maps, thematic maps, and the like:
- 11) presentations of scientific, teaching or technical nature (technical drawings, plans, standards, expert opinions, three-dimensional representations, and the like).

#### Elements of a copyright work Article 5

An unfinished copyright work, component parts and the title of a copyright work, which in themselves fulfil the conditions set out in Art. 4 (1) of this Act, shall be considered copyright works.

#### Modifications Article 6

Modifications (translations, adaptations, arrangements, alterations and the like) of copyright works or of other material, which fulfil the conditions set out in Art. 4 (1) of this Act, shall be considered a new copyright work.

The protection of a copyright work resulting from a modification under Par. (1) of this Article, shall be without prejudice to the rights of the author of the pre-existing work.

#### Collections Article 7

A collection of works or of other material (encyclopædiæs, anthologies, databæses, collections of documents, and the like), which by virtue of selection or adjustment or arrangement of their contents fulfil the conditions set out in Art. 4 (1) of this Act, shall be considered autonomous copyright works.

A database under Par. (1) of this Article is a collection of independent works, data or other materials in any form, arranged in a systematic or methodical way and individually accessible by electronic or other means.

The protection of a collection provided for by this Act shall not extend to their contents and shall be without prejudice to the rights

### Presumption of authorship Article 10

A person whose name, pseudonym or mark appears in the usual manner on the work or is so indicated at the time of disclosure of the work, shall be presumed to be the author, until proven otherwise.

Where the author is not known, the person who published the work is presumed to be entitled to exercise the author's rights; where neither the name, pseudonym or mark of this person is indicated, then the person who disclosed the work is considered to be the authorized person.

Where the identity of the author is established, the person referred to in Par. (2) of this Article shall transfer to the author all benefits and other rights derived from copyright.

#### Co-authors Artide 11

If the work is created in by a joint creative work of two or more persons and constitutes an inseparable whole, all co-authors shall have a joint copyright in the work.

The of the rights on the work referred to in Par. (1) of this Article shall be exercised jointly by all coauthors, whereas a co-author may not prohibit the exercise of these rights to other co-authors contrary to the principle of fairness and integrity.

The shares of co-authors shall be determined in proportion to the factual contribution of each co-author to the creation of the work.

#### Authors of joined works Article 12

Two or more authors may join their works for joint exploitation.

Copyright in the work referred to in Par. (1) of this Article shall be exercised jointly by all authors of joined works, with individual authors not being allowed to prohibit the exercise of such rights to other authors of the joined work contrary to the principle of fairness and integrity.

The shares of authors of joined works shall be determined in proportion to the factual contribution of each author to the joined work.

SECTION C COPYRIGHT

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Subsection 2 Moral rights

> Content Article 14

Moral rights protect the author with respect to his intellectual and personal ties to the work. The exercise of moral rights may be limited only if this is dictated by the manner of the exploitation of the work and in other cases as provided by this Act.

#### Right of first disclosure Artide 15

The author enjoys the exclusive right to determine whether, when, where and how his work is to be disclosed for the first time.

Until the first disclosure of the work only the author has the exclusive right to give public notice on the contents of the work or to describe his work.

Right of authorship Article 16

The author enjoys the exclusive right to be identified as the author of his work by having his name indicated on and in connection with his work.

### Subsection 3 Economic rights

Content Artide 19

Economic rights protect the economic interests the author.

### Right of distribution Artide 22

The author enjoys the exclusive right to authorize or prohibit the distribution to the public of the original and of copies of his work by sale or other transfer of ownership.

### Right of public communication by means of phonograms or videograms Article 26

place and at a time chosen by them.

#### Right of adaptation Article 32

The author enjoys the exclusive right to authorize or prohibit the adaptation for stage, the musical arrangement, the translation, the alteration and other adaptation of the work.

The right referred to in Par. (1) of this Article includes also cases where a pre-existing work is included in a new work in unaltered form.

# Subsection 4 Other rights of the author

#### Right of access to the work Article 33

The author has the right to request the possessor to access the original or the copy of work, if this is indispensable for the reproduction or adaptation of the work, and if this does not prejudice the legitimate interests of the possessor.

The author may demand from the possessor the delivery of the original of a work of fine art or photography for the purpose of its exhibition in Montenegro, for a continuous period up to 60 days, if he can prove an interest of higher priority.

The delivery of the original referred to in Par. (2) of this Article may be conditioned upon depositing of sufficient security or upon stipulating insurance coverage in the amount of the market value of the original.

The author shall exercise the access to and exhibition of the work with the least inconvenience possible for the possessor, at his own expense and the author being strictly liable for damage to the original or copy of the work.

#### Resale right Article 34

Where an original work of fine art is sold subsequent to the first transfer of the work by the author, the author has the right to be notified of the sale (hereinafter: the resale right), as well as the right to a remuneration under Article 35 of this Act, provided that the seller, buyer or intermediary are art market professionals (art galleries and auction houses).

The seller, buyer and intermediary shall be jointly liable for the obligations referred to in Par. (1) of this Article.

Copies of works of fine art referred to in Par. (1) of this Article shall be considered originals insofar as they have been created by the author himself in a limited number or by another person under his authority, and which are numbered and signed by the artist.

The author may not waive or assign right referred to in Par. (1) of this Article, nor can this right be subject to civil execution.

# Remuneration deriving from the resale right Article 35

The obligation to pay remuneration for the resale right referred to in Article 34, Par. (1) of this

Act shall be due if the retail price of the original amounts to at least €1.000 and shall be set as a percentage of the retail price, net of tax, as follows:

- 1) 4% for the portion of the price from €1.000 to €50.000;
- 2) 3% for the portion of the price from €50. 000,01 to €200.000;
- 3) 1% for the portion of the price from €200.000,01 to €350.000;
- 4) 0.5% for the portion of the price from €350.000,01 to €500.000;
- 5) 0.25% for the portion of the price exceeding €500.000.

The remuneration referred to in Par. (1) of this Article may not exceed the amount of €12,500.

#### Right to remuneration Article 36

The author has a right to a portion of a remuneration for making a sound or visual fixation and for photocopying of his work done under Article 52 of this Act.

Remuneration with respect to sound or visual fixation shall be paid upon the first sale or importation of new:

- 1) appliances for sound or visual fixation, and
- 2) blank audio or video fixation mediums.

The remuneration with respect to photocopying shall be paid upon the first sale or importation of new appliances for photocopying.

Importation as used in Par. (2) and (3) of this Article shall be understood to mean the release of goods into free circulation in accordance with customs regulations.

Photocopying as used in Par. (1) of this Article shall also include other technical reproduction procedures, and appliances for sound or visual fixation also other appliances producing similar effect.

The author may not waive or assign the right to remuneration under Par. (1) of this Article, neither may it be subject to civil execution.

#### Persons jointly liable Article 37

Liable to pay remuneration under Article 36, Par. (1) of this Act shall be the manufacturer and importer of appliances and audio or video fixation media respectively.

The manufacturer and importer shall be jointly liable to pay the remuneration under Article 36 of this Act.

The persons referred to in Par. (1) of this Article shall not be liable to pay remuneration for appliances and fixation mediums intended for:

- 1) export
- 2) commercial reproduction of copyright works for which the acquirement of an authorization by the rightsholders is prescribed;
  - 3) reproduction of copyright works for the needs of persons with a disability;
  - 4) import for personal and non-commercial use, as part of one's personal luggage.

The person referred to in Par. (1) of this Article shall submit, quarterly in the course of a calendar year, reports to the Society for the collective administration of copyright and related rights on the type and number of manufactured or imported appliances and media.

The Society for the collective administration of copyright and related rights may use the

information obtained under Par. (4) of this Article only for the purpose of administration of the rights under this Act.

### Amount of remuneration Article 38

The remuneration under Article 36 of this Act, which belongs to all rightholders entitled under this Act, shall be set by an agreement entered into by the societies for the collective administration of rights and by producers and importers, in accordance with Article 172 of this Act.

The amounts of remuneration referred to in Par. (1) of this Article shall be set for:

- 1) each sort of appliance per piece for sound fixation and each appliance for visual fixation;
- 2) each appliance which operates without audio and visual fixation media in a double amount of the amount set for appliances referred to in subparagraph 1 of this paragraph;
  - 3) each audio and visual fixation medium per piece depending on the duration of the fixation;
- 4) each photocopying appliance depending on its capacity (number of copies per minute), and its capacity to make colour copies (for which the amount may be set as the double of the amount for black-and-white copying), etc.

When setting the remuneration under Par. (2) of this Article the amounts may be increased or reduced depending on whether the technological measures referred to in Article 186 of this Act are applied.

Subsection 5
Relations between copyright and ownership

Independence of copyright Article 39

Article409

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### Exhaustion of the right of distribution Article 42

The right of distribution shall be exhausted within the territory of Montenegro in respect of the original and copies of the work if the first sale or other transfer of ownership on that object in Montenegro is effected by the right holder or with his consent.

# Reconstruction of architectural objects Article 43

The owner of an executed architectural object shall be free, without acquirement of the corresponding economic right and without payment of a remuneration, to use the sketch or design for the purpose of reconstruction thereof.

The owner of an executed architectural object shall be free, without acquirement of the corresponding economic right and without payment of a remuneration, to adapt that object.

In the case of Par. (2) of this Article, the owner shall respect the author's moral right under Article 17 of this Act.

#### Protection of the original of the work Artide 44

The owner of the original of a work, who wishes to destroy the work, shall offer it to the author at the price of the material used, if he may presume, according to the circumstances, that the author has a justifiable interest in preserving the original of the work.

Where the restitution under Par. (1) of this Article is not possible, the owner shall enable the author, in an appropriate manner, to make a copy of the work.

Notwithstanding Par. (1) of this Article, the author of an executed architectural object shall have only the right to make photographs of the work and to claim, at his ow

### Subsection 1 Statutory licenses

### Educational teaching and printed media Article 46

Reproduction under Par. (1) of this Article shall not be permitted with respect to entire books, sheet music, electronic databases, computer programs, as well as to the execution of architectural objects according to the design; with the exception if:

- 1) the reproduction of entire books is done by an entity under the conditions set out in Par. (1), subparagraph 2 of this Article or if copies of such book have been out of print for a minimum of two years;
- 2) the reproduction of sheet music is done by an entity in accordance with Par. (1), subparagraph 2 of this Article or if transcripts are made in handwriting.

#### Quotations Article 53

Without acquirement of the corresponding economic right and without payment of a remuneration, it is permitted to use quotations of a disclosed work in another main work, if the quotation is used for the purpose of criticism, recognition, or reference, if it is in accordance with fair practice and if it is used to the extent required by that purpose.

#### Official proceedings Article 54

Without acquirement of the corresponding economic right and without payment of a remuneration, it is permitted to use a disclosed copyright work for the purpose of public security of Montenegro, or for the conduct of proceedings before judicial or other state authorities, or arbitration.

#### Works in public places Article 55

Without acquirement of the corresponding economic right and without payment of a remuneration, it is permitted to use of works permanently exhibited in parks, streets, squares or other public places.

The works referred to in Par. (1) of this Article may not be reproduced in a three-dimensional form, used for the same purpose as the original work, or used for direct or indirect economic advantage.

#### Incidental and accessory works Article 56

A disclosed work which is incidentally included in another object or that may be regarded, in relation to that object, of accessory or of secondary importance, may be used on the occasion of exploitation of that object, without acquirement of the corresponding economic right and without payment of a remuneration.

#### Public exhibition or sale of artistic works Article 57

The organizer of a public exhibition or public sale of artistic works may use such works

without acquirement of the corresponding economic right and without payment of a remuneration, for the purpose and to the extent necessary for the advertising and promotion of such events and without any direct or indirect economic advantage.

#### Free adaptations Article 58

Without acquirement of the corresponding economic right and without payment of a remuneration, it shall be permitted to adapt a disclosed work, provided:

- 1) the adaptation is of private or other internal nature, not intended for or available to the public;
- 2) the work has been adapted into a parody, cartoon, or pastiche, where this does not cause confusion as to the source of the work;
- 3) the adaptation is indispensable, according to the purpose of the use of the work.

#### Demonstration and repair of equipment Article 59

Within repair services and shops where phonograms, videograms, and equipment for their use or receipt are repaired or sold, copyright works may be reproduced or communicated to the public, without acquirement of the corresponding economic right and without payment of a remuneration, to the extent necessary for the demonstration or repair of phonograms, videograms and equipment.

#### Research through dedicated terminals Article 60

Natural persons may use, for the purpose of research or personal study, copyright works contained in collections of archives and libraries, museums and educational or scientific establishments, through dedicated terminals on their premises, without acquirement of the corresponding economic right and without payment of a remuneration, provided the use of such works is not subject to purchase or licensing terms.

#### Databases Article 61

A lawful user of a disclosed database or of a copy thereof may, without acquirement of the corresponding economic right and without payment of a remuneration, use that database, if this is necessary for the purposes of access to and the normal use of its contents.

Where the user is authorized to use a part of the database, Par. (1) of this Article shall apply to that part.

# SECTION E DURATION OF THE PROTECTION OF COPYRIGHT

Term Artide 62

The protection of copyright shall run for the life of the author and until the expiry of 70 years

after his death, unless otherwise provided by this Act.

The protection of the rights of the author in Articles 16 and 17 of this Act shall run also after the expiry of the term referred to in Par. (1) of this Article.

#### Co-authors Article 63

The protection of copyright of co-authors shall run until the expiry of 70 years following the death of the last surviving co-author.

The protection of copyright of co-authors of audiovisual works shall run until the expiry of 70 years from the death of the last of the following co-authors referred to in Article 104 of this Act: the principal director, screenplay writer, dialogue writer and the composer of music specifically composed for the audiovisual work.

The protection of copyright of co-authors of musical works with lyrics shall run until the expiry of 70 years from the death of the last of the persons considered as co-authors in accordance with Article 11 of this Act, that is the author of the lyrics and the composer of the music.

#### Anonymous and pseudonymous works Article 64

The protection of copyright in anonymous or pseudonymous works shall run until the expiry of 70 years from the date of the disclosure of the work.

Where the pseudonym leaves no doubt as to the identity of the author, or where the author discloses his identity before the expiry of the term referred to in Par. (1) of this Article, the protection of copyright shall be subject to the terms set in Article 62 of this Act.

#### Collective works Article 65

The copyright in collective works shall run until the expiry of 70 years following the date of disclosure of the work, save where the natural persons who have participated in the creation of the copyright work are identified as such therein.

### Special term for certain undisclosed works Article 66

When the term of protection under this Act does not run from the death of the author or coauthors, and the work was not lawfully disclosed within 70 years from its formation, the protection shall terminate with the expiration of this term.

#### Artide 68

Insubstantial changes to the selection, adjustment or arrangement of the contents of a collection shall not extend the term of protection of copyright.

"Insubstantial changes" referred to in Par. (1) of this Article shall be understood to mean additions, deletions, or alterations to the selection, adjustment or arrangement, which have no influence on the quantity and quality of the collection, but are necessary for the collection to function in the way intended by the author.

Calculation of terms Article 69

For the purpose of establishing the expiry date of copyright, the terms of copyright protection shall be calculated from 1 January of the year directly following the year in which the event occurred from which the beginning of the term is calculated.

# Chapter III LEGAL TRANSFER OF COPYRIGHT

#### SECTION A General provisions

Succession Article 70

Copyright as a whole or as single copyrights are subject to succession.

If there are no heirs, the protection of moral rights of the author shall be looked after by associations of authors as well as by institutions in the field of science and arts.

Succession of copyright shall be subject to general regulations on succession, unless otherwise provided by this Act.

# Assignment of single rights Article 71

An author may not assign his moral rights to other persons.

An author may assign to other persons his single economic rights and his single other rights of the author (hereinafter: *rights*) by contract or by another legal act, unless otherwise provided by this Act.

The assignment of rights shall be subject to general regulations on obligations, unless otherwise provided by this Act.

#### Civil execution on copyright Article 72

Copyright, an unfinished and an undisclosed work may not be subject to civil execution. Only the economic benefits deriving from copyright may be subject to civil execution

Right holder Article 73

Rights granted under this Act to the author, including the right to protection in courts and Tc.0024 Tw()-27

#### Scope of assignment Article 74

When assigning the rights referred to in Article 71 Par.(2) of this Act, indication must be made of the right assigned, the type of assignment (non-exclusive or exclusive), the territory and duration of assignment, the possibility of subsequent assignments and other conditions of assignment.

#### Separate assignments Article 75

The assignment of a single economic or other right of the author shall have no effect on his other rights, unless otherwise provided by this Act or by contract.

The assignment of the right of reproduction shall not include the assignment of the right to its audio or visual fixation and the right of its saving in electronic form under Article 21 of this Act, unless otherwise provided by this Act or by contract.

The assignment of a single right shall not include the assignment of the right to remuneration as laid down in Articles 34, 36 and 37 of this Act, unless otherwise provided by this Act or by contract.

In case of assignment of the right of rental of phonograms or videograms containing a copyright work, the author shall retain the right to a remuneration for each such rental.

#### Subsequent assignments Article 78

A rightholder who acquired a right by assignment, may further assign this right to a third party only with the consent of the author, unless otherwise provided by this Act or by contract.

The consent referred to in Par. (1) of this Article shall not be required where the assignment of the economic right is a consequence of restructuring, corporate changes, bankruptcy or liquidation of the acquirer of the right.

Where a subsequent assignment is possible by law or by contract without the author's consent, the initial and subsequent acquirer of the right shall be jointly liable to the author for his claims.

#### Presumptions as to the scope of assignment Article 79

In case of doubt as to the content and the scope of the assigned rights, it shall be deemed that less rights have been assigned.

Unless otherwise provided by law or contract, it shall be presumed that economic rights are assigned non-exclusively, limited to the territory of Montenegro, and limited to a term which is customary for the use of a certain category of works.

Unless the object or scope of the assigned economic right is not specif c4(t)-6(r)-a o

#### Accounting Article 83

Where the royalty or remuneration has been agreed or determined in proportion to the revenues derived from the use of the work, the user of the work must keep the books on the revenues and documentation on the basis of which the amount of such revenues shall be determined.

The user of the work shall enable the author or his representative to inspect the books and documentation referred to in Par.(1) of this Article and shall deliver reports on the revenues by deadlines and in the manner as set by contract or by publishing best practices.

#### Rescission of contract Article 84

The author may recover an assigned economic right and thus rescind the contract, in case its exclusive acquirer of the authorization or right does not exploit such right or exploits the acquired right to an extent smaller than was agreed, thereby prejudicing the author's interests.

The author may not exercise his right referred to in Par. (1) of this Article before the expiration of two years from the time of assignment of the economic right.

Notwithstanding Par. (2) of this Article, contributions intended for disclosure or publication in a daily printed medium shall be subject to a three-month term, and for a periodical printed medium to a six-month term as of the date of assignment of the right.

Prior to the recovery of rights or rescission of the contract referred to in Par. (1) of this Article, the author shall give the acquirer an adequate term within which to exploit the acquired right or to exploit the right to the agreed extent.

The economic right of the acquirer shall cease to exist upon his receipt of a written notification on the recovery of the economic right.

The author may not waive in advance the right under this Article.

#### Authors' collective agreements Article 85

Organizations registered for the protection of copyright as well as acquirers and users of copyright works, or associations of users of such works may:

- 1) lay down general rules for the use of copyright works;
- 2) enter into agreements with respect to the use of copyright works.

#### SECTION C SPECIAL PART OF COPYRIGHT CONTRACT LAW

Subsection 1 Publishing contract

> Definition Article 86

By a publishing contract the author assigns to the publisher the right of reproduction of his

work in the form of printing, and the right to distribute such reproduced copies of the work, while the publisher takes the obligation to pay the royalties, as well as to reproduce and distribute the work.

A publishing contract with respect to a certain work may also include the agreement on a dub edition, pocket-book edition, periodical edition in instalme67(eD-.0057 i,16276itr2nst)45.2(t)-6.7(h)1.3(e)5.n27

- 1) to care about the sale of the work and report on this to the author from time to time upon his request;
- 2) allow the author, upon his request and during the technical process of reproduction, to make corrections of the work, and
- 3) allow the author, during the preparation of each subsequent edition of the work to include corresponding alterations on condition that this does not change the character of the work and that, taking into account the publishing contract in its entirety, it does not result in unreasonable obligations on the part of the publisher.

#### Presumption of exclusivity of assignment Article 90

The assignment of rights under a publishing contract shall be exclusive, unless otherwise provided by contract.

Par. (1) of this Article shall not apply to the publication of articles, drawings and other authors' contributions in newspapers and periodical press.

#### Publisher's priority right Artide 91

The publisher who has acquired the right to publish the work in the form of a book shall enjoy, on equal terms, a priority right to publish the work in electronic form.

The priority right referred to in Par. (1) of this Article shall run three years from the date agreed for the publication of the work.

To be able to use his priority right, the publisher referred to in Par. (1) of this Article shall deposit, within 30 days of the receipt of the author's written offer, the royalty in the amount set in the author's offer.

#### Destruction of work by force majeure Article 92

Where the only copy of the work is destroyed by force majeure after its delivery to the publisher for publication, the author shall be entitled to the royalty that would have been due had the work been published.

#### Termination of contract Article 93

The publishing contract shall terminate:

- 1) if the author dies before the completion of the work;
- 2) if the copies of all agreed upon editions are sold out;
- 3) if the term of the contract has expired;
- 4) in other cases provided for by contract or by law.

The author may rescind the publishing contract if the publisher, after an edition is sold out, does not publish a new agreed upon edition within the term set in Article 89, Par. (1), subparagraph 5 of this Act.

An edition shall be considered sold out under Paras. (1) and (2) of this Article, if the number of unsold copies is under 5% of the total edition, as well as if the number of the unsold is less than 35

copies.

### Destruction of copies Article 94

If the publisher intends to sell the unsold copies of the work for pulping he must first offer them to the author, at the price for pulping.

#### Chapter IV SPECIAL PROVISIONS FOR COPYRIGHT WORKS

#### SECTION A AUDIOVISUAL WORKS

Definition Article 102

Audiovisual works as used in this Act shall be a cinematographic film, a television film, an animated film, a short music-video, an advertising film, a documentary and another audiovisual work, expressed by means of sequence of related moving images, with or without incorporated sound, which

#### Authors of contributions to an audiovisual work Article 105

An animator and a composer of film music, who are not considered co-authors referred to in Article 104 of this Act, as well as a scenographer, a costumographer, a make-up artist, an editor and author who has contributed another contribution to an audiovisual work, shall enjoy copyright with respect to his individual contribution to such work, if the author's contribution fulfils the conditions set in Art. 4 Par. (1) of this Act (hereinafter: authors of contributions).

#### Film production contract Article 106

Mutual rights and obligations of the film producer, the co-authors of an audiovisual work and authors of contributions, as well as those among the authors themselves, shall be regulated by a contract of film production.

By entering into a film production contract, co-authors of an audiovisual work shall be deemed to have assigned to the film producer, exclusively and without limitations, their economic rights and other rights of the author to the audiovisual work, its components, its translations, its audiovisual adaptations, and photographs made in connection with this audiovisual work, unless otherwise provided by contract.

By entering into a film production contract, authors of contributions an audiovisual work shall be deemed to have assigned to the film producer, exclusively and without limitations, the right to use their contributions for the purpose of completion of the audiovisual work.

The co-author of the audiovisual work referred to in Par. (2) of this Article shall retain the exclusive right to a further transformation of the audiovisual work into another artistic form and the right to daim equitable remuneration from the film producer for each rental of videograms of the audiovisual work.

The author of contributions referred to in Par. (3) of this Article shall have the right to use separately its contribution, if the rights of the film producer are not prejudiced thereby.

The rights referred to in Paras. (4) and (5) of this Article are not assignable.

#### Remuneration Article 107

Co-authors of an audiovisual work shall be entitled to a remuneration separately for each assigned economic right or other right of the author.

#### Completion of an audiovisual work Article 108

An audiovisual work shall be deemed completed when, according to the agreement between the principal director and the film producer, the first standard copy of a work, which is the subject matter of the contract, is finished.

The technology of production and of the mediums of the first standard copy of the work referred to in Par. (1) of this Article shall be determined by the producer.

The master of the first standard copy referred to in Par. (1) of this Article must not be destroyed.

Changes to the copy of the audiovisual work referred to in Par. (1) of this Article may only be made upon agreement between the principal director and the film producer.

Where a co-author of an audiovisual work or the author of individual contributions to an audiovisual work referred to in Par. (1) of this Article refuses to cooperate on the production of this work or where he is unable to continue cooperation due to a force majeure, he may not object to the use of the results his creative work for the purpose of completion of the audiovisual work.

A co-author of an audiovisual work and the author of individual contributions referred to in Par. (5) of this Article shall enjoy the respective copyright on the contribution made to the audiovisual work.

#### Rescission of contract Article 109

If a film producer does not complete the audiovisual work within five years from the conclusion of the film production contract, the co-authors may demand the rescission of contract, unless otherwise provided by contract.

In the case referred to in Par. (1) of this Article co-authors and authors of contributions shall have the rig(t).8(ejle.1(g(t).8(0t-9/krov)e8(r)-ep(ed)-4.ss o)-4r6(u)-11(g(t).8(0t-9/(.))-54(2((ed)-4.se)-5.(ed)-4ayment3(ed)-4.se o)-4r6(u)-4.se o)-4r6(u)-4.se o)-4r6(u)-4.se o)-4r6(u

#### Limitations of rights Article 113

A person having by law the right to use a computer program, may use such program, including error corrections, without the acquiring of the relevant economic right and payment of a remuneration, provided this is necessary for the use of the computer program in accordance with its intended purpose.

The person referred to in Par. (1) of this Article may, without the authorization by the author:

- 1) make one back-up copy of the program, where that is necessary for its use;
- 2) observe, study or test the functioning of a program in order to determine the ideas and principles that underlie any element of functioning, running, transmitting and storing of the program for which he is authorized.

The use of computer programs shall not be subject to the provisions of Articles 18 and 52 of this Act.

The provisions of a contract limiting the rights referred to in Par. (2) of this Article shall be null and void.

#### Decompilation Article 114

The reproduction of the code of a computer program and the translation of its form may be performed without acquiring the respective economic right and without payment of a remuneration, if the reproduction or translation is performed to obtain indispensable information to achieve the interoperability of independently created computer programs with other programs, or with hardware, provided that the following conditions are met:

- 1) the reproduction or translation is performed by the person which by law holds the right to use the computer program;
  - 2) the information necessary to achieve interoperability has not been previously and readily

# Employment and works made for hire Article 115

Where a computer program is made in the course of employment, or under a contract for a work made for hire, all economic rights and other rights of the author to such program are assigned to the employer or person ordering the work, exclusively and without limitations, unless otherwise provided by contract.

#### Chapter V RELATED RIGHTS

General rule Article 116

The provisions of this Act governing the elements of a copyright work, presumption of authorship, co-authors and authors of joined works, content and restrictions of moral rights, economic and other rights of authors, restrictions of copyright with respect to its content, calculation of the terms with respect to copyright, relations between copyright and ownership right, copyright and legal transfers, copyright arising from employment relations shall apply mutatis mutandis to related rights, unless otherwise provided by Articles 117-145 of this Act.

#### SECTION A Rights of performers

Performer Article 117

Performers, as used in this Act, are: actors, singers, musicians, dancers, players and other natural persons who act, sing, deliver, declaim, play, present, or otherwise interpret or perform copyright works or works of folklore.

Considered as performers, within the meaning of Par. (1) of this Article, shall also be theatre directors, orchestra and choir directors, sound editors, as well as variety and circus artists.

#### Representative of performers Article 118

Performers who collectively take part in a performance, such as members of an orchestra, choir, dancing troupe, theatrical group or similar ensembles, shall designate a representative for the assignment of economic rights which they hold under this Act.

The power of representation referred to in Par. (1) of this Article shall be in writing. The provisions of Paras. (1) and (2) of this Article shall not apply to conductors, soloists and directors of theatre performances.

### Moral rights of performers Article 119

The performer enjoys the exclusive right to be

#### A performer may not waive or assign the right referred to in Par. (2) of this Article.

#### Contribution of a performance to an audiovisual work Article 124

If a performer of an audiovisual work referred to in Article 123 of this Act refuses to cooperate on the production of this work or where he is unable to continue cooperation due to a force majeure, he may not object to the use of the results of his performance for the purpose of completion of the audiovisual work.

The performer referred to in Par. (1) of this Article shall enjoy the respective related rights on his contribution given to the audiovisual work.

#### Terms of protection Article 125

The protection of economic rights of a performer shall run for 50 years from the date of the performance.

If a fixation of the performance is lawfully published or communicated to the public within the term referred to in Par. (1) of this Article, the protection of economic rights of a performer shall run for 50 years from either the first publication or from the first communication to the public, whichever is the earlier.

The protection of performers' moral rights shall run also after the expiry of the terms referred to in Paras. (1) and (2) of this Article.

#### SECTION B RIGHTSOF PHONOGRAM PRODUCERS

Producer of phonograms Article 126

A phonogram producer is a natural or legal person who or which provides the organization and the means for the first fixation of a performance, of other sounds or of a representation of sounds.

# Right to remuneration for the communication to the public of a phonogram Article 128

If a phonogram published for commercial purposes is used for broadcasting or for another form of communication to the public, the user shall pay the producer of phonograms a single remuneration for each separate communication.

The producer of phonograms shall, without delay, pay half of the remuneration under Par. (1) of this Article to the performers whose performances are communicated to the public from the phonograms used, unless otherwise agreed by contract between the producers of phonograms and the performers.

A phonogram made available to the public in accordance with Article 31 of this Act shall be also considered as a phonogram published for commercial purposes.

#### Right to remuneration Article 129

The producer of phonograms shall have the right to a share in the remuneration for reproduction for private or other internal use referred to in Article 36 (2) of this Act.

The producer may not waive the right under Par. (1) of this Article or assign it. This right may neither be subject to civil execution.

#### Term of protection Article 130

The rights of producers of phonograms shall run for 50 years from the date the fixation is made.

If the phonogram is lawfully published within the term referred to in Par. (1) of this Article, the rights of producers of phonograms shall run for 50 years from the date of the first lawful publication.

If no lawful publication has taken place within the term referred to in Par. (2) of this Article, but the phonogram has been lawfully communicated to the public within this term, the protection of the rights of producers of phonograms shall run for 50 years from the date of the first lawful ade.

### Rights of film producers Article 132

#### SECTION E RIGHTS OF PUBLISHERS

#### Right of the first publisher of a work in public domain Article 137

A person who for the first time lawfully publishes or otherwise lawfully communicates to the public a previously unpublished work in which the economic rights of the author have expired, shall enjoy the economic rights and other rights granted to the author under this Act.

The protection of rights referred to in Par. (1) of this Article shall run for 25 years from the date of the first lawful publication or first lawful communication to the public of the work.

#### Right to remuneration Article 138

A publisher shall have the right to a share in the remuneration for reproduction for private or other internal use referred to in Article 36 (3) of this Act.

The right of publishers referred to in Par. (1) of this Article shall run for 50 years from the date of the first lawful publication of the work.

If a database is disclosed within the period under Par. (1) of this Article, the protection of rights of a maker of a database shall last until the expiry of 15 years from such first disclosure of the database.

To any qualitatively or quantitatively substantial change to the contents of a database, which results in a new investment, a new term of protection of 15 years shall apply.

A collection (accumulation) of successive additions, deletions or other alterations of the database shall also be considered a substantial change of the contents of the database as referred to in Par. (3) of this Article.

## Chapter VI COLLECTIVE MANAGEMENT OF RIGHTS

#### Rights management

#### Artide 146

An author and holder of related rights may manage their rights individually or collectively. Individual management of rights referred to in Par. (1) of this Article is exercised in person or through a representative.

Collective management of rights is exercised through societies for collective management of copyright and related rights.

#### SECTION A SOCIETY FOR COLLECTIVE MANAGEMENT OF COPYRIGHT AND RELATED RIGHTS

#### Activity Artide 147

The management of rights referred to in Article 146 (3) of this Act, for more holders of copyright and related rights, shall be exercised collectively by a Society for collective management of copyright and related rights (hereinafter: *Society*) in accordance with this Act.

Authors and holders of related rights (hereinafter: *members*) establish the Society by contract as a non-profit non-governmental organization with the status of a legal entity.

The Society shall be registered in accordance with the law governing the conduct of its activity following the issuance of authorization referred to in Article 150 (1) of this Act.

The Society shall, on its own name and for the account of its members, manage copyright and related rights with respect to their published copy

by a legal entity which fulfils the conditions established by this  $\operatorname{Act}$ .

(hereinafter: previous Society) the competent authority issues an authorization for collective management of rights to another Society (hereinafter: successor Society), the following shall be conferred to the successor Society on the date of issue of authorization:

annual revenue distribution plan, if so approved by members of the Society.

Annual distribution of revenues to Society members shall be regulated by a revenue distribution plan adopted by 31 December for the next year by the Assembly upon the proposal of the Management Board.

The criteria for the Society revenue distribution to its members and the criteria for the distribution of funds for social and cultural purposes shall be determined by the revenue distribution rules to be adopted by the Assembly.

#### Basis for distribution Article 162

The basis for distribution referred to in Article 161 (1) of this Act shall be the range of actual use of a certain protected matter (principle of proportionality).

Where the range under Par. (1) of this Article cannot be determined, the distribution shall be done according to the principle of equity.

The basis for distribution under Par. (1) of this Article shall be based on quantified or otherwise clearly set data.

Where no precise data referred to in Par. (3) of this Article exist, or where the collection of such data would constitute an unreasonable organisational or financial burden, the distribution may be based on assessments which derive from relevant and authenticable facts.

Special case of distribution Article 163

#### Members' examination of operation Article 164

Each member of the Society shall have the right to examine the documents referred to in Article 179 of this Act.

The Society shall enable its members to examine the documents referred to in Par. (1) of this Article at its own expense.

Members holding in the Society Assembly a minimum of 10% of votes shall be entitled to request once a year that an independent expert inspects a certain part of the operation of the Society and prepares a written report on such, which shall be delivered to all members.

The Society shall afford the expert under Par. (3) of this Article, upon his request, access to all necessary data and official records, as well as it

If the broadcasting organization does not comply by the set deadline, the Agency shall provisionally, for 30 days, revoke the authorization under Par. (1) of this Article.

The authorization shall be revoked permanently with regard to a broadcasting organisation, which has been sentenced for two times to a provisional revocation of the authorization as referred to in Paragraph (3) of this Article.

The law governing electronic media shall apply, *mutatis mutandis*, to the procedure for the issuance and revocation of authorization and to the pronouncement of the measures in Paras. (2), (3) and (4) of this Article, unless otherwise provided by this Act.

## SECTION D TARIFFSAND COMMON AGREEMENTS

#### Tariff Artide 171

The tariff shall set the equitable amount of remuneration for single forms of use of protected matter.

The tariff referred to in Para (1) of this Article shall be set as follows:

- 1) as a percentage of gross revenue which the user earns through an activity which is conditioned by the use of protected matter (e.g. concert producers, dancing schools, discos, etc.);
- 2) as a percentage of gross revenue which the user earns through an activity which is conditioned by the use of protected matter, whereby it cannot be established which share of revenue derives from the use of protected matter (e.g. broadcasts of broadcasting organizations, cable retransmissions etc);
- 3) as a percentage of costs for the use of protected matter, if the user does not earn any revenue:
- 4) in proportion to the revenue earned by the use of protected matter, if the revenue is earned from the use of protected and unprotected matters;
  - 5) as the ratio between the rights managed collectively and those managed individually;
- 6) as the ratio between the share of a single rightsholder, where there are several rightsholders with respect to one protected matter:
- 7) as a lump sum per number of uses of protected matter, if the use of protected matter is not indispensable for the conduct of the activity of the user, or where the revenue or costs for the use of protected matter cannot be exactly established and/ or where the establishment of this revenue requires unproportionate costs.

The amount of remuneration referred to in Par. (1) of this Article shall be set on the following basis:

- 1) the duration and the number of uses of protected matter;
- 2) the number of potential end-users in a given territory and within a given time period;
- 3) the purpose of use (commercial or non-commercial), and
- 4) the status of the user (youth and student associations, organizations of persons with a disability, non-professional organizations, minorities, etc.).

The gross revenue of the user as referred to in Par. (2), subparagraphs 1 and 2 of this Article shall include his total revenue earned through the conduct of his activity, less the VAT.

#### Common agreements Article 172

Upon request of a representative association of users (hereinafter: user association), the Society shall negotiate the tariffs, and where consensus is reached, conclude an agreement (hereinafter: common agreement).

The representative user association referred to in Par. 1 of this Article shall be understood to mean an association representing the majority of users conducting an activity that makes use of protected matter on the territory of Montenegro or an association granted the status of representativeness by virtue of other regulations.

The Society and user associations shall point to facts and provide evidence in support of their claims or those opposing the statements of the adverse party.

The competent authority shall not be bound by the evidence and claims provided by the parties.

The preliminary tariff shall be published in the "Official Gazette of Montenegro".

The preliminary tariff as referred to in Paragraph 1 of this Article shall enter into force on the eighth day following its publication.

The Society shall publish the preliminary tariff on its website.

All users in a category of exploitation shall by bound by the preliminary tariff.

by the competent authority.

Upon request by the competent authority the Society shall enable that authority to examine its business books and any other documentation.

The competent authority shall be entitled to be present at the meetings of the Society bodies, to ask questions, to seek explanations and to give recommendations.

#### Annual reports and audit Article 178

The Society shall, not later than three months after the end of the business year, adopt at its annual assembly the following:

- 1) annual report, together with financial reports on the operation of the Society, that contain in particular the report on the implementation of common agreements with users as well as the report on the implementation of agreements with foreign societies, etc.
- annual report delivered by the supervisory board on the compliance of the Society's operation with law and internal regulations;
- 3) annual report delivered by the authorized financial auditor on the compliance of the Society's operation with the law and internal regulations;
- 4) opinions and suggestions received from the Society management and supervisory boards on the reports referred to in it.. (3) of this Article;
- 5) measures to remedy the identified irregularities, if they have been identified in the reports received from the supervisory bodies and auditors;
- 6) draft financial plan of the Society for the next business year.

#### Duty to inform Article 179

The Society shall deliver to the competent authority, within three days of the date of adoption, establishment or conclusion the following:

- 1) its general regulations (statute, rules, etc);
- 2) tariffs, including the amounts for single user categories;
- 3) revenue distribution plan of remunerations collected in line with this Act;
- 4) revenue distribution plan for social and cultural needs:
- 5) general terms and conditions for the conclusion of agreements with members and users;
- 6) conduded common agreements with user associations;
- 7) agreements concluded with foreign societies;
- 8) decisions rendered by the assembly and other Society bodies:
- 9)

#### Duty to remedy irregularities Article 180

Where the competent authority identifies irregularities in the work of the Society, it shall issue a decision specifying the irregularities identified, order measures to be taken and set a deadline for their remedy.

Upon request of the Society the competent authority may, for justifiable reasons, prolong the deadline under Par. (1) of this Article.

If the Society fails to comply with the order of the competent authority in the given deadline, the competent authority may order the Assembly of the Society to relieve of their duty the persons responsible for the implementation of the decision.

# Chapter VII REGISTER AND NOTICES OF PROTECTED MATTER

#### Register of protected matter Article 181

In order to secure evidence of their copyright and related rights rightholders may deposit copies of their protected matter with the competent authority.

The competent authority shall keep the register of deposited copies under Par. (1) of this Article by categories of copyright works and by subject of related rights.

The rights with respect to deposited protected matter shall belong to the persons who are entered in the register as their holders until proven otherwise.

A conscientious person who has infringed somebody's copyright or related right relying on the accuracy of register data shall not be liable for any damages.

When depositing the copies of protected matter and their entering into the register, the holder of copyright or related rights is obliged to enter true and complete data on the deposited matter and his rights.

The content of the register under Par. (2) of this Article and the conditions which the deposited copies of works and subject matter of related rights must meet, shall be regulated by a regulation issued by the Ministry.

The registration and deposit of copies of copyright works and subject matter of related rights shall be subject to the payment of a prescribed fee.

The registration and deposit of copies of copyright works and subjects of related rights do not have influence on the existence and protection of rights established by this Act.

#### Notices of reserved rights Article 182

A copyright holder may mark his work or its packaging with the notice ©, followed by his name or title and the year of first disclosure.

A holder of related rights of a phonogram producer may mark his phonogram or its

# Chapter VIII PROTECTION OF RIGHTS

# SECTION A GENERAL PROVISIONS

Persons entitled to protection Article 183

The rightholder of a Copyright work or subject matter of related rights (hereinafter: protected matter) whose rights under this Act was infringed, may seek the protection of his rights and claim

for commercial purposes of devices or offering of services shall be treated as an infringement of exclusive rights granted pursuant to this Act, provided that:

- 1) such devices and services are promoted, advertised or sold in order to circumvent efficient technological measures;
- 2) such devices and services have only a limited commercial purpose or use other than to circumvent effective technological measures;
- 3) such devices and services are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of effective technological measures.

#### Obligation to use markings Article 187

In the case of use of technological measures pursuant to the provisions of this Act, the rightsholder or importer shall put a dearly visible marking on each copy of protected matter, manufactured or imported for commercial purposes, which contains information on:

- 1) the technological measure used and its effects, and
- 2) his company and contacts, in order to ensure the effective implementation of Article 188 of this Act.

#### Enforcement of the limitations to rights Article 188

The acts referred to in Article 185 of this Act shall not be deemed infringements if they are carried out within the scope of the limitations referred to in Articles 49 and 54 of this Act..

The rightholder who uses technological measures pursuant to this Act shall make available, upon request and without undue delay, appropriate means to enforce limitations for:

- 1) persons with a disability;
- 2) teaching in schools;
- 3) private and other internal reproduction;
- 4) ephemeral recordings made by broadcasting organizations.
- If the right holder fails to secure the means referred to in Par. (2) of this Article, the users may initiate a collective dispute.

The provisions of Paras (1) and (2) of this Article shall not apply to technological measures:

- 1) which rightholders apply voluntarily, including the technological measures applied in implementation of agreements on the enforcement of limitations between rightsholders and users or for the implementation of decisions in a collective dispute;
- 2) for protected matter made available to the public pursuant to Article 31 of this Act on agreed contractual terms.

#### SECTION B JUDICIAL PROTECTION

#### Preserving evidence Article 189

Upon request by the rightsholder, the court shall order preservation of evidence provided the rightsholder makes it probable to believe that:

1) he is the right sholder under this Act, and

2) his exclusive right has been infringed or that there is threat for such infringement to occur.

The court may order the preservation of evidence referred to in Par. (1) of this Article without prior notification or examination of the other party, where a delay would cause irreparable harm to the rightholder or where there is a demonstrable risk of evidence being destroyed.

In the circumstances referred to in Par. (2) of this Article the parties shall be given notice after the preservation of evidence at the latest.

The court may order any measure in order to achieve the preservation of evidence, and in particular:

- 1) a detailed description or taking of samples or the seizure of objects or other means by which infringement is effected;
  - 2) the seizure of documents relating to the infringement;
  - 3) the inspection of premises, books, databases, computer memory, and the like;
  - 4) the appointment and examination of experts;
  - 5) the examination of witnesses.

The procedure for the preservation of evidence shall be subject to the legislation governing the civil procedure, unless otherwise provided by this Act.

The court shall guarantee to preserve the confidentiality of data of the parties and to prevent the abuse of the court procedure with the aim of obtaining confidential information from the opposing party.

#### Right of information Article 190

In the proceedings concerning the infringement of rights the court may, upon a justified and proportionate request of the party, order that information on the origin and distribution networks of the goods or services which infringe a right under this Act be provided by the alleged infringer.

The court may order that information referred to in Par. 1 be provided also by a person who for commercial purposes:

- 1) possesses the goods that are subject to infringement;
- 2) uses the services that are subject to infringement;
- 3) provides services used in the activities giving rise to infringement;
- 4) is indicated by the person referred to in subparagraphs 1, 2 or 3 of this paragraph as being involved in the production, manufacture or distribution of the goods or the provision of the services.

An act shall be deemed to be performed for commercial purposes if it is performed for direct or indirect economic advantage.

The information referred to in Par. (1) may comprise the following:

- 1) the names and addresses of the producers, manufacturers, distributors, suppliers and other previous holders of the goods or services, as well as the intended wholesalers and retailers, and
- 2) information on the quantities produced, manufactured, delivered, received or ordered, as well as the price agreed for the goods or services in question.

The persons referred to in Paras. (1) and (2) of this Article may refuse to provide information in accordance with other regulations.

#### Provisional measures Article 191

Upon request by the rightholder, the court shall order provisional measures to secure non-

monetary daims under this Act, provided the rightsholder makes it probable to believe that:

- 1) he is the rightholder under this Act, and

2) his exclusive right has been infringed or that such infringement is imminent.

The court may order provisional measures referred to in Par. (1) of this Article without prior notification or examination of the other party, where the delay would cause irreparable harm to the rightholder in which case the parties must be informed once the measures have been implemented at the latest.

The court may order any provisional measure to ensure the purpose of security, and in

#### Comparison of terms of protection Article 197

The terms of protection laid down in this Act shall apply to foreign natural and legal persons as holders of related rights, who enjoy protection under this Act, however, the terms shall expire on the day when the protection expires in the country of their citizenship, or where their seat is located, and may not exceed the terms set by this Act.

### Communication to the public by satellite Article 198

This Act shall apply to authors and holders of related rights whose copyright work or subject matter of related rights is communicated to the public by satellite, when under the control and responsibility of a broadcasting organization the program-carrying signals intended for reception by the public are sent in an uninterrupted chain of communication to a satellite and back to the Earth.

This Act shall apply also when the conditions in Par. (1) of this Article are not fulfilled, provided:

- 1) the uplink station from which program-carrying signals are transmitted is located in the territory of Montenegro, or
- 2) the broadcasting organization which commissioned the communication to the public by satellite has its seat in Montenegro.

#### Chapter X SUPERVISION

#### Competent authorities Article 199

Authorized to supervise the implementation of this Act shall be the following authorities: state administration body in charge of economic affairs, state administration body in charge of drugs and medicinal products, state administration body in charge of spatial planning affairs, state administration body in charge of culture and media, and the

# Chapter XI CRIMINAL PROVISIONS

#### Misdemeanour concerning collective management of rights without authorization Article 200

By a fine of €500 to €20,000 shall be punished for a misdemanour a legal person which engages in collective management of copyright and related rights without authorization by the competent authority (Article 147 (5)).

An entrepreneur who commits the misdemeanour referred to in Par. (1) of this Article shall be punished by a fine of  $\le$ 150 to  $\le$ 6,000.

A natural person and the authorized person of a legal entity who commit the misdemeanour referred to in Par. (1) of this Article shall be punished by a fine of  $\leq 30$  to  $\leq 2,000$ .

# Misdemeanour by the authorized person of the Society Article 201

By a fine of €300 to €2,000 shall be punished for a misdemanour the authorized person of a Society for the collective management of rights, if the Society:

- 1) does not fulfil its obligation to contract with rights holders (Art. 154);
- 2) does not fulfil its obligation to contract with users (Art. 165);
- 3) does not adopt reports, positions, measures and suggestions (Art. 178(1));
- 4) does not deliver to the competent authority all information and explanations on its activity, as provided for in this Act or required by the competent authority (Art. 179 (1));
- 5) does not inform the competent authority of any change of persons authorized to represent the Society (Art. 179(2));
- 6) does not deliver to the competent authority the requested information and data (Art. 179 (3));
- 7) does not implement within the set term the measures to remedy irregularities as ordered by the competent authority (Art. 180 (1)).

# Misdemeanours concerning the duty to inform Article 202

By a fine of €500 to €20,000 shall be punished for a misdemeanour a legal entity, if

- 1) it does not inform the Society, within 15 days of the commencement of use of protected matter, of all necessary data on the protected matter relevant for the calculation of remuneration under the tariff (Article 168 (2));
- 2) does not submit, in its role of a broadcasting organization, to the Society the required information on a monthly basis (Article 168 (4));
- 3) provides false information or conceals true information, when registering and depositing protected matter with the competent authority (Article 181(5)).

An entrepreneur who commits the misdemeanour referred to in Par. (1) of this Article shall be punished by a fine of €150 to €6,000.

The authorized person of a legal entity who commits the misdemeanour referred to in Par. (1) of this Article shall be punished by a fine of  $\leq 30$  to  $\leq 2,000$ .

A natural person who commits the misdemeanour referred to in Par. (1) it. 1) and 3) of this Article shall be punished by a fine of  $\leq$ 30 to  $\leq$ 2,000.

# Chapter XII TRANSITIONAL AND FINAL PROVISIONS

#### Artide 203

The Society that was established and has collectively managed rights under the *Copyright and Related Rights Act* (Official Gazette of Serbia and Montenegro No. 61/2004) shall continue its operation in accordance with this Act.

The Society under Par. (1) of this Article shall comply with the provisions of this Act with respect to its organization, operation and activity within one year after the date this Act enters into force.

The Society under Par. (1) of this Article shall file an application to be registered with the register of non-governmental organizations with the state administration body in charge of administrative affairs in accordance with the law governing the establishment and work of non-governmental organizations within three months after the date this Act enters into force.

The Society under Par. (1) of this Act shall, within three months after its registration with the registry of non-governmental organizations, submit an application to the competent authority to be issued authorization to exercise the activity of collective management of rights in accordance with this Act.

If the Society referred to in Par. (1) of this Article does not ensure compliance with respect of its operation, organization or activity in the manner and by the deadlines as set by this Article, the competent authority shall revoke its authorization for work pursuant to regulations in force before this Act entered into force.

The rights which pursuant to this Act may be managed only collectively, may be managed individually until the competent authority has granted an authorization for their collective administration.

#### Application of tariffs Article 204

The tariffs that were applied in Montenegro before this Act entered into force shall be applied until the conclusion of common agreements with user associations or until preliminary tariffs have been adopted in accordance with this Act.

#### Pending procedures Article 205

The procedures relating to the authorization for collective management of rights which have been initiated before the date this Act enters into force shall be concluded according to this Act.

#### Implementation of the Act Article 206

Copyright works and subject matter of related rights that have enjoyed protection before the date this Act enters into force shall be subject to this Act provided their term of protection under the previous act has not expired.

This Act shall apply to databases as subject matter of related rights created after 1 January 1983.

This Act shall not apply to contracts on copyright works and subjects matter of related rights concluded before the date this Act enters into force.

The application of Articles 200, 201, 202 and 208 (2) of this Act shall be adjourned until the date of application of the *Misdemeanours Act* ("Official Gazette of Montenegro", No. 1/11).

#### Deadline for passage of secondary legislation Article 207

The implementing regulation referred to in Article 181 (6) of this Act shall be passed within one year after the date this Act enters into force.

Until the entry into force of the implementing regulation referred to in Par. (1) of this Article, the *Decree on the register of copyright works and subject matter of related rights* ("Official Gazette of Serbia and Montenegro, No. 24/ 2005) shall be applied, provided it is not in conflict with this Act.

#### Cessation of application of legislation Article 208

On the date this Act enters into force, the *Copyright and Related Rights Act* (Official Gazette of Serbia and Montenegro, No. 61/2004) shall cease to apply.

On the date this Act enters into force, Articles 3, 4(1) it. 8,9 and 10, Articles 19, 20, 25 and 26(1) it. 1, 13, 14 and 15 of the *Act on the enforcement of regulations on the protection of intellectual property* (Official Gazette of Montenegro, No. 45/ 2005), shall be repealed.

#### Entry into force Article 209

This Act shall enter into force on the eighth day following its publication in the 'Official Gazette of Montenegro'.

No. 07-1/11-1/15 EPA 547 XXIV Podgorica, 12 July 2011

24th convocation of the Parliament of Montenegro

Ranko Krivokapic President