

DRAFT

REVISED COPYRIGHT LAW
[Law No.101/III/90 of 27 December 1990]

OF

THE REPUBLIC OF CAPE VERDE

LAW 101/III/90
TITLE I
Works Protected and Copyright
Preliminary provisions

Article 5
Definition of Copyright

1. Copyright shall grant to the creator of literary, artistic and scientific works, exclusive rights to enjoy and dispose of his work, to exploit it and to use it, or to authorize its total or partial exploitation or use by a third party.
2. Copyright shall include personal rights and property rights, termed moral rights.
3. Property rights may be transmitted by all means foreseen in the moral rights, but only under the terms of this law.

Article 6
Other definitions

For the purpose of this law, the following terms have the following meanings:

r) Literary and artistic works – includes every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression, such as books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramatic-musical works; choreographic works and entertainments in dumb show; musical compositions with or without words; cinematographic works to which are assimilated works expressed by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works to which are assimilated works expressed by a process analogous to photography.

Article 7 Original works

1. Original intellectual works in the literary, scientific and artistic fields, whatever their type, shall be object of copyright, and include in particular.

2. Subsequent editions of a work, even though they are corrected, enlarged, revised, or their titles or format are changed, shall not constitute works distinct from the original work, nor shall reproductions of works of art, even though their dimensions may have been changed.

3. The existence of a work is independent of its disclosure, publication, use or exploitation by any means.

4. The object of copyright shall include the following:

a) books, pamphlets, magazines, newspapers and other writings;

b) lectures, lessons, addresses and sermons and related dissertation works, prepared for oral delivery or writing or other material form;

c) dramatic and dramatico-musical compositions and their production;

d) musical compositions, with or without words;

e) works of choreographic type or mime entertainment, which are expressed in written or any other form ;

f) audio-visual works including cinematographic, television, phonographic, video and radio phonic works;

g) works of applied art, including works of design that constitute artistic creations, painting, drawing, tapestry, sculpture, pottery, glazed tiles, engraving, lithography, pictorial illustrations and designs for works of arts;

h) photographic works and works produced by processes analogous to photography;

- i) works of applied art, industrial designs, and works of design that constitute artistic creations, whether or not protected as industrial property;
- j) illustrations, plans, maps, plans concerning architectural works, town planning, sketches, applied arts, geographical or topographical or sciences or other sciences;
- l) computer programs, [whether in source or object code, shall be protected as literary works](#);
- m) parodies and other literary musical compositions.

Article 8 Derivative works

The following shall be deemed to be original works, and the protection granted to them shall not prejudice the rights recognized to the authors of the corresponding original work:

- a) translations, adaptations, arrangements [of music other alterations of a literary or artistic work](#), instrumentations, dramatizations, even if it has not been the subject of protection, [provided, that the adaptation into any other artistic form of a cinematographic production derived from a literary or artistic work shall, without prejudice to the authorization of the author of the cinematographic production, remain subject to the authorization of the author of the original work](#);
- b) collections of literary works such as anthologies, encyclopaedias, dictionaries and abridgements or selections which, by reason of the selection [and arrangement of their contents, constitute intellectual creations without prejudice to the copyright in each of the works forming part of the collection](#);
- c) systematic or summaries and collections of texts of conventions, laws, regulations, decrees, administrative or legal decisions, or decisions by any body or authority of the State or administration.
- d) parodies and other literary or musical compositions, even if inspired by the theme or subject of another work.
- e) [compilations of data or other material, whether in machine readable or other form, which by reason of the selection or arrangement of their contents constitute intellectual creations shall be protected as such. Such protection, which shall not extend to the data or material itself, shall be without prejudice to any copyright subsisting in the data or material itself.](#)

Article 9
Titles of Works

The protection granted to literary, scientific and artistic works shall extend to its title, provided that it shall not affect the force of any subsisting copyright upon the original works employed or any part thereof, and is original cannot be confused with the title of any other work of the same nature by another author which has previously been disclosed or published, and not consisting of the generic, necessary or habitual designation of the subject matter of works of a certain kind, names of historical or literary and mythological personages.

Article 10
Unprotected works

1) The following may not be protected:

a) news of the day and reports of events given simply for information, however

2) Where it is possible to distinguish the individual contributions of some or all of the authors in a collective work, the provisions on individual contributions to works of joint authorship cited in nº 2 of article 14 shall apply.

3) Newspapers and other periodicals shall be deemed to be collective works and copyright therein shall belong to the respective enterprises.

Article 16 Composite works

1) The rights pertaining to a composite work shall belong exclusively to its author, without prejudice to the rights of the author of the pre-existing work, incorporating all or part of it.

Article 17 Folkloric parodies

1. Ownership of copyright in Cape-Verde folkloric parodies belong to the State, which exercises that right through the cultural governmental department in charge of the cultural area, without prejudice for those who have collected, transcribed, arranged or translated, provided that they are in essence originally authentic.

2. The set of Cape -Verde folkloric parodies and other works created abroad without the authorization of the authorities, can only be imported or distributed in the territory of the Republic of Cape Verde, under authorization of the government department in charge of the Cultural area and shall constitute as result, one of the elements of the Cape Verde's cultural and traditional property.

Article 18 Determination of Ownership in special cases

1. Without prejudice to the moral rights, ownership of copyright in a work carried out in fulfilment of official duties, under an employment contract, shall remain the property of the person or

provide – according to Berne Article 14bis(2)(b) – “that such authors, if they have undertaken to bring such contributions, may not, in the absence of any contrary or special stipulation, object to the reproduction, distribution, public performance, communication to the public by wire, broadcasting or any other communication to the public, or to the subtitling or dubbing of texts, of the work.” – ***also, - according to Berne Article 14bis(2)(c) if this is the case, this law should indicate whether there should be a written agreement or written act of the same effect that makes the foregoing limitation applicable if the maker of the cinematographic work has his headquarters or habitual residence in Cape Verde - ***if protection is claimed in Cape Verde and the limitation is deemed applicable, this law should provide for such agreement or act. – related to these points is –Berne Article 14bis(3)- which provides that unless the national legislation provides to the contrary, the provisions of Article 14bis (2)(b) shall not be applicable to authors of scenarios, dialogues and musical works created for the making of the cinematographic work, or to the principal director thereof)

b) the visual or sound broadcasting, for cases of radio or television broadcasting programmes ;

c) its respective author or editor, in the case of journals, revues, or other periodic publications ;

d) the entry that shall promote its elaboration, in the case of computer programmes.

CHAPTEER III

Duration of the rights and public domain

Article 19

General rules

1) Without prejudice for the provisions of article 24, the duration of the present copyright for the economic exploration of the literary, artistic and scientific work, shall comprise those during the author’s lifetime, and shall lapse 50 years after the death of the creator of the work, even in the case of works disclosed or published posthumously.

2) In the legislation of a foreign country attributes to the copyright a different time period from that stated previously, the duration of the right claimed in the territory of the Republic of Cape Verde for any other original work from that country shall be established in n^o 1.

Article 20

Works of joint authorship and collective works

1) Copyright in works of joint authorship as a whole shall lapse 50 years after the death of the last surviving author. (**Cape Verde may want to change to 70 years after death – which is a period many countries are now using)

2) Copyright in collective works or in works originally attributed to a collective entity shall lapse 50 years after the first disclosure or publication.

3) With regard to individual contribution that can be distinguished, the duration of copyright attributed to each author in works of joint authorship or in collective works shall lapse 50 years after his death.

4) In cases of collective work belonging to the singular entity, the copyright shall be 50 years from the end of the calendar year of authorized publication, or if there is no authorized publication within 50 years from the making the work, then copyright shall elapse 50 years from the end of the calendar year of making.

5) In the case of inter vivos transmission or alienation in executive process, the

Article 24 Phonograms

The term of the protection to performers and producers of phonograms shall last at least until the end of a period of 50 years computed from the end of the calendar year in which the fixation was made or the performance took place.

Article 25 Broadcasts

The term of protection granted pursuant to article 81 n2 shall last for at least 20 years from the end of the calendar year in which the broadcast took place.

Article 26 Photographic works, works of applied art and computer programs

Copyright in photographic works, in works of applied arts and computer programs shall lapse 25 years after [their making](#).

Article 27 Calculation of the date of lapsing

1) The dates of lapsing for the copyright established in the previous articles shall be shall be calculated from the 1st of January of the subsequent year for the facts referred in it and shall take effects up until the following that in which the period of protection ended.

2) Where the various parts or volumes of a work have not been published simultaneously, or in different time periods, the legal period of protection referred to previously in n^o 1 shall apply to each part or volume.

3) The previously stated principles in n^o 2 shall also apply to issues and numbers of collective works published periodically such as newspapers and magazines.

Article 28 Folkloric parodies

The copyright of folkloric parodies is unlimited in time.

Article 29 Falling into the public domain

1. A work shall fall into the public domain, whenever the rights conferred by the present law are expired in relation to the respective authors or their successors.

2. The following pertain to the public domain:

a) the works in relation to which the deadlines stated in articles 19 to 25;

b) the works of deceased authors which heritage has been declared in favour of the State, after ten years without its direct usage or authorization of usage by the third parties ;

c) folkloric parodies works.

3. The usage and exploration, for financial

b) seizure, for assuring the payment of the debts of the author's responsibility.

c) seizure and attachment

2. Unpublished manuscripts, sketches, drawings, paintings or sculptures, whether signed or not, shall be exempt from seizure and attachment when they are unfinished unless the author offers them or consents thereto.

3. Where the author, by his direct acts, shows his intention to disclose or publish the works referred to above, the creditor may obtain seizure and attachment of the corresponding copyright regarding the results of the economic exploration of the work.

4. The seizure, in accordance with this article does not confer to his creditor any rights as far as material support for the work is concerned.

Article 36 Re-edition of works out of print

1) Where the owner of the right to reedit refuses to use his right or to authorize another edition after the work has become out of print, any interested party, including the State, may seek legal authorization to reedit the work.

2) The legal authorization shall be granted provided that re-edition of the work is in the public interest and that the refusal was not based on justified moral or material reasons, excluding financial reasons.

3) The owner of the right to publish shall not be deprived of his right to undertake or authorize future editions.

4) The provisions of the present article shall be compatible with the provisions of the Penal and Civil Code.

5) The court shall determine the number of the samples to be reproduced and the amounts to be paid, in the absence of an agreement between the parties.

6. Appeals against the decision may be lodged with the Court of Appeal, which will give final judgment, and they shall have suspensive effect.

Article 37 Surviving rights

1) An author who has transferred an original work of art or his own original manuscript or copyright in his own work, shall have the right to participation of surviving rights and the increase in the remuneration that shall be calculated according to the last transaction only.

2) Participation shall consist of an added value percentage on the increase of the price obtained in case that exceeds 10%.

3) This article shall not apply if the increase in price results exclusively from the currency depreciation.

Article 38
Additional compensation

1) Where the intellectual creator or his successors in title, having transferred or assigned their right to exploit their work financially, suffer grave economic prejudice as a result of evident disproportion between their revenue and the profits earned by the beneficiary of the rights, they may claim additional compensation to be reflected in the results of the exploitation.

2) The additional compensation referred to in the preceding paragraph shall be fixed taking into account the payment for transfer or assignment of copyright is fixed in the form of participation in the income derived by the beneficiary from exploitation, the right to additional compensation shall only apply where the percentage established is evidently lower than that customarily paid in transactions of the same nature.

Article 39
Prescription

Copyright may not be acquired by prescription.

CHAPTER V
Moral rights

Article 40
Definitions

1) The moral rights over a copyright work shall be:

a) the right to claim authorship of a work and to ensure its authenticity and reference to the name or pseudonymous, heteronymous, or any distinctive sign whenever it is published, reproduced or communicated to the public;

b) the right to oppose the destruction, mutilation, distortion or other modification thereof and, in general, opposing any act which denatures the work and is liable to be prejudicial to his honour and reputation ;

c) the right to make any alterations of his work prior to, or to withhold it from publication ;

d) the author of a disclosed or published work may at any time withdraw it from circulation at any time and in any form of exploitation previously authorized for, except for the provisions of article 4 ;

e) the right to have access to the unique sample of the work, when used by third parties, in order to exercise the right of publication, disclosure or communication to the public ;

Article 41
Non-transferable nature of moral rights

1. The moral rights defined in article 39 shall be perpetual, inalienable and imprescriptible and shall continue after the death of the author.
2. The State shall be responsible for the defense of the authenticity and totality of works within the public domain and this right shall be exercised by the Ministry of Culture.

Article 42
Modification of works

- 1) Modification of works without the author's consent shall not be permitted, even where use of the work without such consent is lawful.
- 2) Where the author has partially or wholly revised his work and has effected or authorized the disclosure *ne varietur*, his successors or third parties may not reproduce any of the previous versions.
- 3) In some cases authorization for the necessary modifications may be given, provided that the author does not object to them, or they do not affect the overall originality of the work;
- 4) Where a work is executed according to a project, the proprietor of the work may not, either during or after building, introduce any alterations without previously consulting the project's author, under penalty of compensation for damages.

Article 43
Right of withdrawal

The author of a disclosed or published work may at any time withdraw it from circulation and may terminate its use in any form, provided that he has justifiable moral reasons, but he shall compensate the interested parties for the prejudice caused, save for the provisions of article 4.

Article 44
Moral rights in cases of pledge or attachment of copyright

- 1) Where the purchaser of copyright in an attached and published work decides to publish it, the right to revise the proofs, to correct the work and, in general, the moral rights, shall not be affected.

2) In the case mentioned in the preceding paragraph, where the author retains the proofs without justification for a period exceeding thirty days, the printer may proceed without the revision.

CHAPTER VI

Article 45 Exercise

Copyright may be exercised by its owners or through agents appointed by them legally or voluntary.

Article 46 Posthumous works

1) Upon the death of the author, following the provisions of article 114, in accordance with the Civil Code, the author's successors shall exercise the moral rights over the exploration of the undisclosed or published posthumous work, save in cases where the author has prohibited by any means its disclosure or publication.

2) Following the provisions of article 28, once the exploitation has been authorized for, successors shall enjoy the same rights as the author in respect to the work.

3) In the cases the opinion diverges amongst the successors regarding the exploration of the work, and serious moral rights shall be decided by the courts, and the opinion of the majority shall prevail on request through a petition addressed to the court where the process of heritage lies.

Article 47 Authors' representatives

The national and foreign associations and bodies set up to administer copyright shall carry out that function as the representatives of the respective owners of copyright by reason of the fact that such owners are associates or members or are registered as beneficiaries of the services concerned.

Article 48 Authors in a state of incapacity

1. An intellectual creator in a state of incapacity may exercise his moral through their legal representatives, regarding the patrimonial rights.

2. Moral rights may also be exercised by them upon agreement.

TITLE II
Use of Works

CHAPTER I
General provisions

Article 49
Procedures regarding forms of Use

1. The author of a literary, artistic and scientific work, shall have the exclusive right to enjoy and use or exploit his work, either in whole or in part, including, the right to authorize third parties in particular to disclose, publish and exploit it.

2. The author shall, have the exclusive right to carry out or to authorize the following, either by himself or by his representatives:

a) reproduction and publication either by printing or by any other method of graphic fixing or adapting any apparatus used for mechanical, electric, electronic or chemical reproduction, including reproduction by sound or visual recording;

b) performance, recitation, execution, exhibition or display to the public of the work and translations thereof, including public performance by any means or process and any communication to the public of the recitation;

c) its audiovisual registration and respective public communication by any means ;

d) diffusion of the work and translations thereof to the public by photography, telephotography, television, radio or by any other process for producing and diffusing signals, sounds or images, as well as public communication by loudspeaker or analogous instruments, and subsequent public communication by any means, including any communication to the public by wire or by re-broadcasting of the broadcast of the work, when this communication is made by an organization other than the original one;

i) regulations applicable to this law shall prescribe the conditions under which the rights mentioned in this paragraph 47(d) may be exercised and shall not in any circumstances be prejudicial to the moral rights of the author, nor to his right to obtain equitable remuneration which, in the absence of agreement, shall be fixed by the competent Cape Verde authority;

ii) permission granted with respect to the rights mentioned in this paragraph 47(d) shall not imply permission to record, by means of instruments recording sounds or images, the work broadcast and regulations applicable to this law shall prescribe conditions for ephemeral recordings made by a broadcasting organization by means of its own facilities and used for its own broadcasts;

e) direct or indirect appropriation in any form such as the

and cinematographic works, authors and their successors in title shall have the right to authorize or to prohibit the commercial rental to the public of originals or copies of their copyright works, subject to an exception in respect of cinematographic works unless such rental has led to widespread copying of such works which is materially impairing the exclusive right of on authors and their successors in title, and subject to an exception in respect of computer programs regarding rentals where the program itself is not the essential object of the rental;

f) translation, adaptation, arrangement, instrumentation or any other transformation of the work or use in another work, including the cinematographic adaptation and reproduction of the work as well as the distribution, public performance, and communication to the public of the work thus adapted or reproduced;

3. The owner of the copyright shall have the exclusive right to decide freely upon the procedures and conditions of the work's use and exploitation, without prejudice for the provisions of articles 39 n° 2 and 102.

Article 50 Unrestricted use

1. The following uses of a work without the consent of the author shall be lawful, at the absence of equitable remuneration to be paid to the author and to the publisher by the body that has carried out the reproduction, and mention, wherever possible, shall be made of the name of the author

f) performance of national anthems or officially adopted patriotic songs, as well as works of a religious character, during religious rites or services ;

f) performance of national anthems or officially adopted patriotic songs, as well as works of a religious character, during religious rites or services;

g) Reproduction or other forms of use employing brail or another system for blind persons of lawfully published works shall be permitted, provided that such reproduction or use is not for profit-making purposes.

h) reproduction, translation, adaptation, arrangement or any other transformation for exclusive individual and private use ;

i) quotation from a work which has already been lawfully made available to the public, provided making the quotation is compatible with fair practice and the extent of quotation does not exceed that justified by the purpose, including quotations from newspaper articles and periodicals in the form of press summaries.

j) utilization, to the extent justified by the purpose, of literary or artistic works by way of illustration in publications, broadcasts or sound or visual recordings for teaching, provided such utilization is compatible with fair practice; where such use is made, mention shall be made of the source and of the name of the author if it appears thereon;

k) reproduction by the press and the broadcasting or the communication to the public by wire, articles published in newspapers or periodicals on current economic, political or religious topics in cases in which the reproduction, broadcasting or such communication thereof is not expressly reserved; where such use is made the sources must always be clearly indicated;

l) reproduction by the press and the broadcasting or the communication to the public by wire, broadcasts on current economic, political or religious topics in cases in which the reproduction, broadcasting or such communication thereof is not expressly reserved; where such use is made the sources must always be clearly indicated;

2. The author who has reproduced in a book or “opuscule”, articles, published letters in newspapers, magazines, that may cause conflicts with other people shall also publish the answers from the adverse party at the same level and by any means, even after the publication by the other party.

3. The author who has reproduced manuscripts existing in libraries, public archives shall not oppose to these manuscripts being republished by third parties, following the original, except for cases in which such publication by the third party is an original reproduction from the person who first published that work.

4. Regulations applicable to this law shall prescribe the conditions under which,

Article 52 Procedure

1. In the case of a legal dispute on the basis of the previous article [and enforcement of rights protected under this Law](#), the provisions of the Civil Code shall apply

a) In order that the author of a literary or artistic work protected by this Law shall, in the absence of proof to the contra

specified number of copies of a work or series of works, the third party being responsible for the distribution and sale of the work or works.

g) The original work shall be returned to the author, for being object of the reproduction, after the process is accomplished.

2) Except for the author's option regarding the aesthetic nature of the spelling, modernization of spelling and correction of grammar errors, in accordance with the official rules in force shall not be deemed to be modification of the work, if the author gives consent for that.

Article 58

Production of samples

The publisher that publishes samples in an inferior number than the conventional, may be compelled to complete it, and refusal to doing that is liable to compensation of losses and prejudices, for the publishing of the missing samples.

Article 59

Production of samples

For the cases in which the publisher has published samples in an superior number than the conventional, the author may apprehend the samples, for being his property.

Article 60

Rendering of accounts

1) Publishing contracts shall be subject to payment.

2) The author's remuneration shall be that laid down in the publishing contract and it may consist either of a fixed lump sum to be paid for the edition as a whole, a percentage of the price of each copy, the attribution of a certain number of copies, or payment on some other basis, according to the nature of the work, and a combination of such forms may be used. In the cases where remuneration consists of a percentage of the price of each copy, increases and reductions in this price shall affect its calculation. The publisher shall only determine reductions in the price with the author's agreement, unless the latter's remuneration corresponds to the previous price.

3) Where the remuneration due to the author depends on the results of sales or payment is dependent on the development of sales, the publisher shall render his accounts to the author within an agreed period or, if no period has been agreed, every six months, except for the cases in which a different deadline has been agreed upon

4) The non-compliance for nº 3, the author has the right to demand from the editor the legal accounts and auditing.

Article 61
Liability of sale of copies at reduced prices or by weight

Where a work has not been exhausted within the agreed period of time or, failing such agreement, within a period of ten years as from the date of publication, the publisher shall have the possibility of selling the remaining copies at a reduced price or by weight, or of destroying them. The publisher shall notify the author so that he may exercise his right of priority to acquire the remaining copies at a price fixed on the basis of profits from sale at a reduced price or by weight.

Article 62
Works completed

1. The author who has contracted one or more publishers for each publication separately, may contact another publisher for a complete publication of his work.
2. The contract for the full publishing of an author's work allows the editor to edit it separately from the works included in that edition, without prejudice for the above stated regulation.

Article 63
Future works

In the case of future publications, article 32 shall apply.

Article 64
Transfer of publishing rights

- 1) The authorization for the editing of a work regardless of transmission does not confer the right to translate, adapt or transform the work that is object of a contract.
- 2) Without the author's consent, the publisher may not transfer his rights under the publishing contract to third parties, either gratuitously or against payment, unless the transfer is the result of the dissolution of his establishment, and the granting of the rights emerging from the publication contract, does not confer the right to translate, adapt or transform the work that is object of a contract.
- 3) Where such dissolution causes or leads to moral prejudice for the other contracting party, the latter shall have the right to cancel the contract within a period of six months from the date of being informed of such dissolution, the publisher having the right to claim compensation for damages.
- 3) The inclusion of rights deriving from the publishing contract in the publisher's participation in any commercial company shall be deemed to be transfer of such rights within the meaning of this Article

Article 65
Cancellation of contracts

2. Under a performance contract, the author authorizes an impresario to promote performance of the work and the latter shall do so in accordance with the conditions agreed. A performance contract, unless otherwise agreed, it shall not give the impresario the exclusive right of direct communication of the work by this means.

3) The entrepreneur shall hold the rehearsals necessary to ensure performance under satisfactory technical conditions and, in general, make every effort customary in such circumstances to ensure the performance's success. The entrepreneur shall have the work performed according to the text furnished by the author and he may not make any changes such as deletions, substitutions or additions, without the author's consent.

Article 69 Rights of the author

1) Unless otherwise stipulated, the performance contract shall give the author the right to:

a) introduce into the work, independently of the other party's consent, the changes he deems necessary, provided that they do not alter its general structure nor detract from its dramatic or theatrical interest, nor prejudice the programming of rehearsals and performances;

b) be consulted regarding casting and attend rehearsals;

c) attend the performance himself or through his representative, be consulted regarding the choice of artistic collaborators, and give the necessary indications regarding interpretation and direction;

d) object to performance where he considers that there have not been sufficient rehearsals; however, he may not make undue use of this possibility and unjustifiably delay performance, in which case he shall be liable for damages;

e) they shall have free access to the premises during the performance for verification process.

Article 70 Suppression of passages in the work

For the contract of performance, where a judicial decision compels the suppression of a passage in the work thereby compromising or altering its general theme, the author shall have the right to withdraw the work and to cancel the contract without incurring any liability.

Article 71

Article 72
License and visa authorization

In such cases where the above stated are dependent upon, a visa or official authorization shall be purchased from the competent authority, upon consent by the author.

Article 73
Cancellation of contract

1) Performance contracts may be cancelled in the following cases:

a) cases legally or contractually established, upon which there are

2) for the defence of the rights in the cinematographic work, the producer shall be deemed to be their representative for this purpose and he shall account for the technical demands.

Article 76

jeopardizes satisfactory communication of the work regardless of the author's consent, to whom a compensation shall be due.

Article 80
Obligations of the producer

- 1) Any person who promotes or organizes the performance or recitation of a literary, musical, or dramatic-musical work, before a public audience, must display the corresponding program on the premises in advance, showing as far as possible the designation of the work and identification of the author.
- 2) Where the program is not displayed or communicated works that are performed or recited.

SECTION III

**Broadcasting and Other Processes for the Reproduction of Signals,
Sounds and Images**

Article 81
Authorization

Audio or visual broadcasting of a work by any means, whether live or retransmitted, shall be subject to the author's authorization from the organizing board.

Article 82
Limitations as to authorization

1. Where the work has been fixed for commercial purposes with the author's consent, including specifically the corresponding communication or audio or visual broadcasting, it shall not be necessary to obtain special consent for each communication or broadcast, without prejudice to the moral rights and to the right to equitable remuneration.
- 2) The faculty stated above, confers to the author of the work the right to a previous compensation, that is exclusive for communication of the work in a public place by any means used to diffuse signals, sounds or images in the Cape - Verde territory.

Article 83
Ephemeral fixing by the broadcasting organization

1. Without prejudice for the provisions of article 64, the ephemeral fixing, and audiovisual broadcasts previously authorized for are exclusive for the effects of transmission by the board, which was authorized to carry out the registration for the maximum period of six months.
2. The registration referred above are not transferable nor compensated by any means

Article 84
Identification of the author

Broadcasting stations shall indicate the name or pseudonym of the author together with the title of the broadcast work, with the exception of those cases recognized by customary usage in which the circumstances and requirements of the broadcast enable such indications to be omitted.

SECTION IV
Creation of Graphic and Applied Art

Article 85
Copyrights

1) The author alone may exhibit or authorize a third party to exhibit works of art in public, as stated in paragraphs g), h), i), and j) of article 7 n° 4 as well as works of applied art based on folkloric parodies bear the following rights:

a) to use or authorize third parties to make public use of the work;

b) to reproduce or authorize third parties to reproduce the work;

2) Save conventions of the contrary, the alienation of such works comprises the right to expose them;

3) Whenever any of the work has not

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reproduction and sale of portraits and without prejudice to copyright in the reproduced work in the case of photographs of works of plastic art.

Section VI
Newspapers and Other Periodical Publications Article 85

Article 87
Copyright Protection

1. Without prejudice for the provisions of the special legislation, and n^o 3 of article 15 of this code, Copyright in published works, even where they are not signed, in newspapers or periodicals shall belong to the respective owners and they alone may undertake or authorize reproduction separately or in the said publication, unless there is written agreement to the contrary.

2. Copyright in journalistic works produced in fulfilment of an employment contract that bear an indication of authorship, whether a signature or some other means, shall belong to the author. Unless authorized by the company owning the newspaper or publication concerned, the author may not publish the work referred to in the preceding paragraph separately until three months after the date of circulation of the publication in which it appeared.

3. Where the said works are not signed or do not contain any identification of the author, copyright therein shall belong to the proprietor of the newspaper or publication in which they appeared and their authors may only publish them separately with his permission

Article 88
Current affairs works

The articles stated above for economic, political cultural and religious discussions may be reproduced by the press, on condition that copyright is not reserved, and the author's name and pseudonymous as well as origin of the article are indicated.

TITLE III
Protection of related rights

Article 89
General provisions

Related rights shall constitute the legal protection that assures to the performers, interpreters, and performers of phonographic and ideograms broadcasting works, full rights over their performance.

Article 90

Protection for performers

1. In respect of a fixation of their performance on a phonogram, performers shall have the possibility of preventing the following acts when undertaken without their authorization:

a) the fixation of their unfixed performance and the reproduction of such fixation;

b) the reproduction, without their consent, of a fixation of their performance:

i) if the original fixation itself was made without their consent;

ii) if the reproduction is made for purposes different from those for which the performers gave their consent;

iii) if the original fixation was made in accordance with any of the exceptions that are applicable by reason of regulations referred to in paragraph d) of this Article 87a, and the reproduction is made for purposes different from those referred to in such provisions.

d) The regulations that apply to this Law may provide for exceptions to the protection guaranteed by this Article 90 as regards:

i) private use;

ii) use of short excerpts in connection with the reporting of current events;

iii) ephemeral fixation by a broadcasting organisation by means of its own facilities and for its own broadcasts;

iv) use solely for the purposes of teaching or scientific research.

2. Performers shall also have the possibility of preventing the following acts when undertaken without their authorization:

not operate to deprive performers of the ability to control, by contract, their relations with broadcasting organisations.

5. Notwithstanding anything in this Law, once a performer has consented to the incorporation of his performance in a visual or audio-visual fixation, the provisions of paragraph 1) of this Article 90 shall have no further application.

Article 91

Protection for producers

Producers of phonograms shall enjoy the right to authorize or prohibit the direct or indirect reproduction of their phonograms and the right to authorize or to prohibit the commercial rental to the public of their phonograms.

Article 92

Secondary uses of phonograms

If a phonogram published for commercial purposes, or a reproduction of such phonogram, is used directly for broadcasting or for any communication to the public, a single equitable remuneration shall be paid by the user to the performers, or to the producers of the phonograms, or to both. The regulations that apply to this Law may govern the conditions as to the sharing of this remuneration, in the absence of agreement between these parties.

Article 93

Protection for broadcasting organizations

Article 94
Content

Article 100
Deadline for the protection

It shall last forty years from the day of submission of the object of protection.

TITLE IV
Infringement of Copyright law

Article 101
Violation of ownership rights

1. Violation of the above stated right, by any means or through partly or full reproduction of a literary, artistic or scientific work, without the authorization of his author by exceeding the limits of the authorization shall be considered a crime of usurpation.

2. It is considered a counterfeit all those who fraudulently present or utilize, a creation of literally, artistic or scientific work, in part or full.

Article 102
Penalties

1. The crimes in the preceding article are of public nature and shall be punished with a prison sentence liable to one year and a fine of about double, depending upon the nature of the infraction committed.

2. Simple negligence is also punishable with a fine of 100.000\$00 (one hundred thousand CVE).

Article 103
Violation of moral rights

The above stated punishment shall apply to:

a) anyone with pretence to being the author of a literally, artistic or scientific work ;

b) anyone attempting against the genuine or integrity of a literally, artistic or scientific work ;

Article 104
Usage of a counterfeit work

The same punishment shall apply to those who import, sell, or put to sell by any means of distribution to the public, a counterfeit work that has been published in Cape Verde or abroad.

Article 105
Criminal proceedings

1. Except for the stipulated in article 102, criminal proceedings are not only of a complaint or participation nature.
2. As far as folkloric parodies, that have fallen into public domain, the complaint shall be submitted from the governmental board in charge of the culture sector.

Article 106
Apprehensions

1. The owner of the copyright may require to the court the apprehension of samples of counterfeit works, independently of their nature and form of infringement as instruments of counterfeit.
2. Apprehension is of responsibility of the legal authorities, who may extend that functions to the administrative and justice boards.

Article 107
Civil responsibility

The emerging responsibility from the infringements stated above, is independent from the criminal procedure of its origin. The legal measures may be exercised in combination with the penal actions.

Article 108
Precautionary measures

The copyright of literally, artistic or scientific work requires from the judicial, administrative authorities of the place where the violation occurred, the immediate suspension of any form of communication to the public, of the work in effect, without authorization.

Article 109
Evidence of law Infringement

Under the penal code the terms are applicable to the civil servants, police personnel or other agents as referred in article 110.

TITLE V
Final provisions

Article 110
Organizational management

The management of patrimonial and moral right, as stipulated in this law, shall be conferred to the authors' public and private agencies, with competence over the matter, to act in the name of their agents, for the granting of the necessary authorization for both the use and exploitation of their works and receipt of the

