# The Law on the Amendments of the Copyright Law

Article 1

In Article 2 of the Copyright Law ("Official Gazette of the Republic of Croatia", Nos. 53/91, 58/93 and 9/99 - final draft) after paragraph 3, paragraphs 4, 5, and 6 shall be added reading as follows:

"An author's work shall be considered to be published if it has been made accessible to the public in the manner whatsoever, at will of the author or other entitled person.

The public, within the meaning of the provisions of this Law, shall mean a large number of persons outside the usual narrow circle of persons closely connected by family or friendly relations.

Public exploitation of an author's work shall comprise any exploitation of the work accessible to the public or its exploitation in the area accessible to any person.

Article 2

In Article 3, paragraph 2, subparagraph 1 shall be amended to read as follows:

" - written works of any kind, including computer programs".

Subparagraph 12 shall be deleted.

Article 3

Article 4 shall be amended to read as follows:

"Collections of author's works, data or other material, whether in machine readable or other form, which by reason of the selection or arrangement of their contents constitute individual intellectual creations shall as such, enjoy copyright protection.

The protection enjoyed by the collection referred to in paragraph 1 of this Article shall not extend to its content and shall be without prejudice to any copyright subsisting in the works, data or material itself."

Article 4

Article 30 shall be amended to read as follows:

"The author shall have the exclusive right to authorise the publication, reproduction or multiplication of the work, putting into circulation the original or the copies of the work, including the importation thereof, the presentation, performance, alteration or the exploitation of the work in any other form, unless otherwise provided by this Law.

The exclusive right of putting into circulation referred to in paragraph 1 of this Article, shall be exhausted through the first sale of the original or copies of the

author’s work or through any other transfer of property right relating thereto, done in the Republic of Croatia, with the author’s authorisation, concerning such original or such copy of the work.

The provision referred to in paragraph 2 of this Article shall not prejudice the author’s right to authorise the importation of the original or the copies of the work into a particular State, unless otherwise provided for by the international treaty binding the Republic of Croatia.”

Article 5

After Article 30, Article 30a shall be added, reading as follows:

“Article 30a

The authors of the computer programs, cinematographic works and works analogous to them referred to in Article 3, paragraph 2, subparagraph 6, of this Law, and of the works fixed on sound carriers (phonograms) shall have the exclusive right to authorise the rental of the originals or the copies of those works.

The provision referred to in paragraph 1 of this Article shall not apply to the rental of computer programs if the program itself is not an essential object of the rental".

The exclusive right of rental referred to in paragraph 1 of this Article shall not be exhausted with respect to the original or the copies of the work respectively, which have been put into circulation with the author’s authorisation through sale or in any other way.”

Article 6

Articles 35, 42, 43, 44, 45, and 46 shall be deleted.

Article 7

author reveals his identity, the author's economic right shall last as long as it would have lasted if the author's work had been published under the name of the author.

If the holder of the author's economic right, within the meaning of Article 24 of this Law, is a legal entity, the copyright shall last for seventy years as from the publication of the work or seventy years respectively as from the creation a computer program.

The terms referred to in this Article shall begin with January 1 of the year following immediately the year in which the author died, or as the case may be, the year in which the work was published or created respectively.

Article 9

Articles 82, 83, 84, 85 and 87 shall be deleted.

Article 10

Article 90 shall be amended to read as follows:

"The activity of administering copyrights may be, with the authorisation of the State Intellectual Property Office (hereinafter: the Office), carried out by associations of authors and other copyright holders as well as by other legal entities specialised for the administration of copyrights.

The administration of copyright carried out by the association of authors or other specialised legal entity referred to in paragraph 1 of this Article shall require the power of attorney given by the author or other copyright holder.

Exceptionally, copyrights in public performances of non-scenic musical or literary works, including the rights referred to in Article 32 and Article 36 of this Law (petits droits), may be administered by the association of authors even without the power of attorney of the author or other copyright holder.

The Office shall give authorisation referred to in paragraph 1 of this Article, if the association of authors or, as the case may be, other legal entity, meet the criteria of professional knowledge necessary for carrying out activities rerigT7(a)]TJ17.56 0 T5h15( )T

Article 97 shall be amended to read as follows:

"On the proposal of the author, or other copyright holder, or their association, or other legal entity specialised for the administration of copyrights, whereby it is made likely that the concerned copyright was infringed or that the infringement is imminent, the court may order:

1) the provisional seizure or withdrawal from circulation of articles or means respectively, infringing the copyright, or used for the infringement thereof, or which resulted from the infringement of the copyright, or which may be used as evidence of the infringement thereof;

2) the prohibition of the continuation of activities already started that would infringe copyright or the prohibition of the continuation of activities infringing it.

If there is a likelihood that the later provision of evidence on infringement of copyright could be difficult or impossible, or if there is a likelihood of irreparable damage, or if there is a likelihood that the provisional measures laid down in paragraph 1 of this Article would not be effective, the court shall order such measures, without the prior notification of the other party to that effect.

The procedure concerning the proposal for ordering provisional measures shall be urgent.

The corresponding provisions of the Law on Enforcement shall be applied to any matter concerning the ordering of provisional measures, not regulated by this Law".

Article 13

In Article 104, paragraph 1 shall be amended to read as follows:

"If not otherwise provided by this Law, the performer has the exclusive right to authorise:

1) radio or television broadcast of his performance;

2) communication to the public of his performance by means of a loud-speaker or other technical devices from the room or place the performance is taking place;

3) sound or visual, or sound and visual fixation of the performance;

4) direct or indirect reproduction of his fixed performance in its entirety or in parts;

5) putting into circulation of the original or the copies of his fixed performance including the importation and the rental thereof.

After paragraph 1, paragraph 2 shall be added reading as follows:

The provisions of Article 30, paragraphs 2 and 3, and Article 30a, paragraph 3, of this Law shall apply to the performers' rights in the corresponding way.

The former paragraphs 2, 3, and 4 shall become paragraphs 3, 4, and 5.

Article 14

Article 105 shall be deleted.

Article 15

Article 107 shall be amended to read as follows:

“If the fixed performance which has been put into circulation is used for the radio or television broadcasting or for other communication to the public (secondary use), the performer shall be entitled to a remuneration.”

“In the absence of the contract for broadcasting or other communication to the public of the performance or in case the contract doesn’t fix the amount of the remuneration, the association of performers may obtain the remuneration for the performer in the amount fixed by that association in its Regulations.”

Article 16

In Article 113, number "20" shall be replaced with the word "fifty".

Subparagraph 3) shall be deleted.

Article 17

Article 116 shall be amended to read as follows:

"The activity of administering performers' rights shall be, with the authorisation of the State Intellectual Property Office, carried out by the associations of performers and other holders of the performers' rights as well as by other legal entities specialised for the administration of performers' rights.

The Office shall give the authorisation referred to in paragraph 1 of this Article, if the association of performers or, as the case may be, other legal entity meet the criteria of professional knowledge necessary for carrying out activities relating to the administration of performers’ rights prescribed in the Regulations by the Director of the Office.

For the administration of performers' rights the association of performers or other specialised legal entity referred to in paragraph 1 of this Article, shall need the power of attorney given by the performer, or by other holder of performers’ rights.”

If the association of performers or other legal entity specialised for the administration of performers’ rights cease to meet the prescribed criteria for carrying out such activity, the given authorisation shall be put out of effect.

Article 18

In Article 119, paragraph 2, subparagraph 1) the word “plaintiff” shall be replaced with the word “defendant”.

Paragraph 3 shall be amended to read as follows:

“On the proposal of the performer or other holder of the performers’ rights, or their association, or other legal entity specialised for the administration of performers’ rights, whereby it is made likely that the performer’s right has been infringed, or that the infringement is imminent, the court may order:

1) the temporary seizure or withdrawal from circulation of the objects or means respectively infringing the performers' rights or the infringement of the performers' rights, or resulting from such infringement, or the objects or means respectively which may serve as evidence of the committed infringement of the performers' rights;

2) the prohibition of the continuation of activities already started which might infringe the performers' rights, or the prohibition of the continuation of activities infringing the performers' rights".

After paragraph 3, paragraphs 4, 5, and 6 shall be added reading as follows:

"If there is a risk that the later provision of evidence concerning the infringement of the performers' rights could be difficult or impossible, or if there is a risk of irreparable damage, or if there is a risk that the provisional measures laid down in paragraph 3 of this Article wouldn't be effective, the court shall order such measures without previously notifying the other party to that effect".

The procedure concerning the request for ordering provisional measures shall be urgent.

The corresponding provisions of the Law on Enforcement shall be applied to all other matters concerning the ordering of provisional measures not regulated by this Law".

Article 19

After Article 120, parts shall be added reading as follows:

Part Two A

RIGHTS OF THE PRODUCERS OF PHONOGRAMS

Article 120a

"Producer of phonograms shall be considered the person who first fixes the sounds of a performance or other sounds.

If not otherwise provided by this Law, producers of phonograms shall have the exclusive right of giving authorisations for:

1) the direct or indirect reproduction, in whole or in part, of their phonograms;

2) putting into circulation of the original or copies of their phonograms, including the importation and rental thereof ;

In cases referred to in paragraph 2 of this Article, producers of phonograms shall have the right to a remuneration, if not otherwise provided by this Law or by a contract.

Producers of phonograms shall also have the right to a remuneration in the case where the phonogram which is put into circulation is used for the radio or television broadcast or for other communication to the public (secondary use).

The rights of the producers of phonograms shall last for fifty years, counting from the end of the year in which the phonogram was published, and if it has not been published, from the end of the year in which the fixation took place.

The provisions referred to in Article 30, paragraphs 2, and 3, Article 30a, paragraph 3, and Articles 106, 115, 116, 117, and 119 of this Law shall apply to the rights of the producers of phonograms in a corresponding way.

The foreign producers of phonograms shall have the rights prescribed by this Law within the framework of the obligations assumed by the Republic of Croatia under international treaties or on the basis of the de facto reciprocity.

The rights of the producers of phonograms shall not, in any way, prejudice the rights of authors or the rights of performers".

## Part Two B

## RIGHTS OF THE BROADCASTING ORGANIZATIONS

### Article 120b

"If not otherwise provided by this Law, a broadcasting organization has the exclusive right to authorise:

1) the re-broadcasting of their broadcasts by wire or wireless means;
2) the fixation of their broadcasts;
3) the reproduction of fixations of their broadcasts;
4) the communication to the public of their television broadcasts, if such communication is accessible to the public against the payment of an entrance fee.

Broadcasting is, within the meaning of this Law, any transmission by wire or wireless means or by satellite intended for the public reception of sounds, or of images and sounds, or the representation thereof, including the transmission by the wireless means o

Article 120c

Supervision over the work of associations referred to in Articles 90 and 116 of this Law shall be carried out by the Inspection for Copyright and Related Rights in the State Intellectual Property Office.

The supervision referred to in paragraph 1 of this Article may be carried out by other government employees authorised by the Director of the Office.

In the course of the control referred to in paragraph 1 of this Article the supervisor shall be entitled to inspect any documentation relating to the activity of administering copyrights, performers' rights and the rights of the producers of phonograms.

If, in the course of the control, the supervisor finds out that the association carries out the activity of administering copyrights, or performers' rights, or the rights of the producers of phonograms contrary to the issued authorisation, he shall, in a decision, order the remedy of the found deficiencies within the fixed time limit.

In the case referred to in paragraph 4 of this Article, the supervisor shall submit a request for the institution of the magistrate court proceedings regarding the misdemeanor referred to in Article 129a, or 129b of this Law."

Article 120d

The supervision of an importation or transfer across the border line of the original or of the copies of the author's

otherwise distributes a tangible or intangible device or system for decoding such a signal, knowing or having reason to know that the device or the system serves primarily for decoding an encrypted satellite signal,

shall be punished for a criminal act by a fine or by imprisonment up to three years (Article 120b, paragraph 2).

If the commitment of a criminal act referred to in paragraph 1 of this Article has resulted in a substantial financial gain or has caused a substantial damage, and if the perpetrator has acted with the aim of acquiring such financial gain or causing such damage, she/he

shall be punished by imprisonment from 6 months up to five years.

The objects intended or used for the commitment of a criminal act or resulting from the commitment of a criminal act referred to in paragraphs 1 and 2 of this Article shall be seized and destroyed.

Article 124b

through mass media, translates, adapts, arranges, or otherwise alters the author's work or uses it in any other form (Article 30);

5) without the authorisation of the author or other holder of copyright, the association of authors or other legal entity specialised for the administration of copyrights referred to in Article 90, paragraph 1 of this Law, where such authorisation