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

EDICT
TO PROCLAIM THE COPYRIGHT AND RELATED RIGHTS ACT

I hereby proclaim the Copyright and Related Rights Act enacted by the 24th convocation of the Parliament of Montenegro at the tenth session of its first regular (spring) sitting in 2011, held on 12 July 2011.

No. 01-933/2
Podgorica, 25 July 2011

President of Montenegro,
Filip Vujanovic

Pursuant to Article 82, Par. (1), subparagraph (2) and Article 91 (2) of the Constitution of Montenegro, the 24th convocation of the Parliament of Montenegro, at the tenth session of its first regular (spring) sitting in 2011, held on 12 July 2011, enacted the

COPYRIGHT AND RELATED RIGHTS ACT

Chapter I
BASIC PROVISIONS

Scope of the Act
Article 1

This Act shall govern the right of authors with respect to their works of literature, science and art (hereinafter: *copyright*), the rights of performers, producers of phonograms, film producers, broadcasting organizations, publishers and makers of databases (hereinafter: *related rights*), the copyright contract law, the collective management of copyright and related rights, and the protection of copyright and related rights.

Relations between copyright and related rights
Article 2

Protection of related rights granted under this Act shall leave intact and shall in no way affect the protection of copyright.

Definition of terms
Article 3

The single terms as used in this Act shall have the following meaning:

1) 'public' and "the public" is a larger number of persons beyond the usual circle of the family or the usual circle of acquaintances;
2) 'disclosure' is the making a copyright work or subject matter of related rights available to

the public with the authorization of the authorized person;

3) '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 (encyclopaedias, anthologies, databases, 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 subsisting in that contents themselves.

The protection of a collection provided for by this Act shall not apply to computer programs used in the making or operation of electronic databases.

The right under Article 18 of this Act does not apply to collections.

Non-protected creations
Article 8

Copyright protection shall not include:
1) ideas, principles and inventions;
2) official texts in the legislative, administrative and judicial domain;
3) official translations of the texts under subparagraph 2 of this Article;
4) traditional culture expressions (hereinafter: *works of folklore*);
5) news of the day or other facts having the character of common media information.

SECTION B
THE AUTHOR

A natural person
Article 9

The author shall be the natural person who created a copyright work.

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
Article 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 co-authors, 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

Subsection 1

Origin of copyright
Article 13

The author shall obtain Copyright by the creation of a copyright work.

Copyright includes moral rights, economic rights and other rights of the author.

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
Article 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.

The author may determine that his authorship be indicated in another manner.

Right of integrity of the work
Article 17

The author enjoys the exclusive right to object to any distortion, mutilation of his work, or other derogatory action in relation to his work, if these acts are or may be prejudicial to his honour or reputation.

Right to withdrawal
Article 18

The author enjoys the exclusive right to withdraw in writing his assigned economic right on his work from the acquirer of the right (hereinafter: *right to withdrawal*'), provided serious moral reasons exist for this, and on the condition that he reimburses to the acquirer of the right the actual damage caused.

The acquirer of the right must notify the author the extent of damage suffered within three months from the receipt of the notice of withdrawal referred to in Par. (1) of this Article.

If the acquirer of the right does not notify the author the extent of the caused actual damage, the notice of withdrawal takes effect on the expiration of the term in Par. (2) of this Article.

The notice of withdrawal takes effect on the day the author deposits a security for the caused damage referred to in Par. (2) of this Article.

Subsection 3
Economic rights

Content
Article 19

Economic rights protect the economic interests the author.

The author enjoys an exclusive right to authorize or prohibit the exploitation of his work or copies thereof.

The exploitation of a copyright work is permitted only where the author, under the conditions he has set, has assigned the respective economic right, unless otherwise provided by this Act or by contract.

Any exploitation of a copyright work by another person shall entail a royalty (hereinafter: *royalty*) or an equitable remuneration (hereinafter: *remuneration*) for the author, unless otherwise provided by this Act or by contract.

Types of economic rights of the author
Article 20

The use of the original and copies of the work in material form, in addition to the right of reproduction referred to in Article 21 of this Act, includes also the following rights:

1) the right of distribution;
2) the rental right, and
3) the lending right.

The use of the work in non-material form (communication to the public) includes in particular:

1) the right of public performance;
2) the right of public communication by phonograms and videograms;
3) the right of public presentation;
4) the right of broadcasting;
5) the right of rebroadcasting;
6) the right of public communication of a broadcast work;
7) the right of making available of the work to the public.

The use of the work in a modified form includes in particular:

1) the right of adaptation of the work;
2) the right of audiovisual adaptation.

Right of reproduction
Article 21

The author enjoys the exclusive right to authorize or prohibit the reproduction and fixation resp. of his work in a material medium, which is made indirectly or directly, permanently or temporarily, in part or in whole, by any means and in any form.

The reproduction under Par. (1) of this Article includes in particular graphic reproduction, photographic reproduction, sound or visual fixation, three-dimensional reproduction, building of an architectural object according to the design, the saving in digital form.

Right of distribution
Article 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.

The distribution under Par. (1) of this Article includes also the offering to the public, the possession, and the importation of originals or copies of the work, if these acts are done with the intent of their distribution.

Article 42 of this Act shall be applied to the right of distribution.

Rental right
Article 23

The author enjoys the exclusive right to authorize or prohibit the use of the original and copies of his work for a limited period of time, for direct or indirect economic advantage (rental).

Par.(1) of this Article shall not apply to originals and copies of:

1) executed architectural objects;
2) works of applied art and industrial design;
3) works for on-the-spot reference use;
4) works which are used in the frame of employment relations.

Lending right
Article 24

The author enjoys the exclusive right to authorize or prohibit to establishments which are accessible by the public the lending to other persons of the original or copies of his computer program, for a limited period of time, without any direct or indirect economic advantage.

The author enjoys a right to remuneration for the lending of his works in the form of library material in establishments which are accessible to the public.

Par. (2) of this Article shall not apply to originals and copies of:

1) library material in the national library, in school libraries of all levels and in special libraries;
2) works for on-the-spot reference use in the library, or for lending among libraries;
3) works which are used in the frame of employment relations.

Right of public performance
Article 25

The author enjoys the exclusive right to authorize or prohibit:

1) the recitation of his literary work to the public by live performance (right of public recitation);
2) the live performance of his musical work to the public (right of public musical performance);
3) the presentation of his work to the public by performing it live on stage (right of public stage performance).

The author enjoys the exclusive right to authorize or prohibit the communication to the public of the recitations, performances and presentations referred to in Par. (1) of this Article, beyond the original location and by a loudspeaker, screen or similar technical device (right of public transmission).

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

The author enjoys the exclusive right to authorize or prohibit the communication to the public of the recitations, performances and presentations, which are fixed in a phonogram or in a videogram.

Right of public presentation
Article 27

The author enjoys the exclusive right to authorize or prohibit the communication to the public by technical means, of his audiovisual and photographic works, works of fine art and works of architecture, scientific and technical works.

Right of broadcasting
Article 28

The author enjoys the exclusive right to authorize or prohibit the broadcasting of his work.

Broadcasting within the meaning of Par. (1) of this Article means the communication to the public of works by radio or television program signals, intended for the public, by either wireless means (including satellite broadcasting) or by wire (including cable or microwave systems).

Communication to the public by satellite, within the meaning of Par. (1) of this Article, also exists when under the control and responsibility of a broadcasting organization program-carrying signals intended for public reception are sent in an uninterrupted chain of communication to a satellite and down to the Earth.

If the signals are encrypted, satellite broadcasting within the meaning of Par. (3) of this Article shall be deemed to have occurred, on condition that the means for decrypting of the signals are made available to the public by the broadcasting organization, or under its authorization.

Right of rebroadcasting
Article 29

The author enjoys the exclusive right to authorize or prohibit the simultaneous, unaltered and unabridged broadcasting of a broadcast of his work:

1) if rebroadcasting is exercised by another broadcasting organization ;
2) by a cable or microwave system involving more than 50 cable connections, or if the work is initially broadcast from another state (cable retransmission).

Right of public communication of a broadcast work
Article 30

The author enjoys the exclusive right to authorize or prohibit the communication of his broadcast work to the public by a loudspeaker, screen or similar technical devices.

Right of making available of a work
Article 31

The author enjoys the exclusive right to authorize or prohibit that his work is made available to the public by wire or wireless means in such a way that members of the public may access it from a

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

The copyright is independent from and compatible with ownership or other property rights in an material object in which the copyright work is embodied, unless otherwise provided by law.

Separateness of rights in case of assignments
Article 40

The assignment of single economic rights or of other rights of the author on his copyright work shall be without effect on the ownership of the material object in which the work is embodied, unless otherwise provided by law or contract.

The assignment of ownership in the material object in which the work is embodied shall be without effect on single economic rights or other rights of the author with respect to his copyright work, unless otherwise provided by law or contract.

Community property of spouses
Article 41

Only the economic benefits deriving from the exploitation of copyright may be included into the community property of spouses.

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
Article 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 own expense, copies of the designed project.

SECTION D
Limitations to the contents of copyright

Permitted limitations
Article 45

Limitations to copyright shall only be permitted in the cases referred to in Articles 43, 46-61, 76, 113, 114 and 144 of this Act, provided they do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author.

The limitations to copyright referred to in Par. (1) of this Article may not be waived.

The provisions of a contract or other legal act stipulating the user's waiver of the permitted limitations referred to in Par. (1) of this Article, shall be null and void.

During the exploitation of a work referred to in Par. (1) of this Article, the user shall indicate the source and authorship of the work, unless this is not possible.

Subsection 1
Statutory licenses

Educational teaching and printed media
Article 46

Provided a remuneration is paid, the following shall be permitted without the acquirement of the corresponding economic right:

1) to use parts of disclosed copyright works solely as illustrations intended for teaching according to a public curriculum or for scientific research, in readers and textbooks, that comprise works of several authors;

2) to use a single disclosed copyright work of photography, fine arts, architecture, applied art, industrial design, and cartography solely as illustrations intended for teaching according to a public curriculum or for scientific research, in readers and textbooks that comprise works of a number of several authors;

3) to reproduce in print media or in the form of press reviews (press clipping) disclosed articles, broadcast works or other similar works on current economic, political or religious issues, provided those rights are not expressly reserved.

Par. (1) of this Article shall apply *mutatis mutandis* to communications to the public of the works referred to therein.

Public institutions
Article 47

Without acquirement of the corresponding economic right but against a payment of a remuneration, it shall be permitted to reproduce and rebroadcast broadcasts within the framework of public institutions, such as student homes, hospitals, or prisons, provided it is not done for direct or indirect economic advantage.

Persons with a disability
Article 48

Without acquirement of the corresponding economic right but against payment of a remuneration, it shall be permitted to use a copyright work for the benefit of people with a disability:

1) for its modification if the work is not available in the desired form;
2) provided the use is directly related to the special needs of the people;
3) provided the use is limited to the scope of the special needs;
4) provided the use is not for direct or indirect economic advantage.

Subsection 2
Free use

Temporary acts of reproduction
Article 49

Without acquirement of the corresponding economic right and without payment of a remuneration, temporary reproduction of copyright works shall be permitted, provided:

1) the reproduction is transient or incidental;
2) the reproduction is an integral or essential part of a technological process;
3) the purpose of the reproduction is to enable the transmission of data in a computer network among two or more parties through an intermediary;
4) the reproduction has no special economic significance.

Right to information
Article 50

Without acquirement of the corresponding economic right and without payment of a remuneration, it shall be permitted to the extent justified by the purpose of information:

1) in connection with the reporting of current events to reproduce works, which are seen or heard in the course of that event;

2) to prepare and reproduce summaries of disclosed newspaper and similar articles in the form of press reviews,

3) to use political speeches as well as extracts from public lectures, or similar works.

Par. (1) of this Article shall apply *mutatis mutandis* to the communication to the public of the works referred to therein.

The author shall enjoy the exclusive right of making a collection of the works referred to in Par. (1), subparagraph 3 of this Article.

Teaching
Article 51

Without acquirement of the corresponding economic right and without payment of a remuneration, it shall be permitted for the purpose of teaching (pre-school and school teaching, research, examination) and illustration, provided it is done without any direct or indirect economic advantage:

1) to communicate to the public a disclosed work in the form of direct teaching;

2) to publicly perform a disclosed work at school events with free admission, on condition that the performers receive no payment for their performance;

3) to communicate to the public of school radio or television broadcasts, that have been broadcast.

Reproduction for private and other internal needs
Article 52

Subject to Article 36 of this Act, the reproduction of a disclosed work in not more than three copies shall be permitted without acquirement of the corresponding economic right and without payment of a remuneration, with regard to:

1) a natural person:

a) on paper or other similar medium by the use of an appropriate photographic technique or by other process producing similar effects,

b) on other medium if the reproduction is done for private use, if the copies are not available to the public and if the reproduction is not done for direct or indirect economic advantage;

2) a public archive, library, museum and educational or scientific establishment on any medium, provided reproduction is done from the copy owned by that legal entity for internal use, and under the condition that it is not done for direct or indirect economic advantage.

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
Article 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 co-authors, and the work was not lawfully disclosed within 70 years from its formation, the protection shall terminate with the expiration of this term.

Serial works
Article 67

When, according to this Act, the term of copyright is calculated from the day of lawful disclosure of the work, but the work is being disclosed over a certain period of time in volumes, parts, instalments, issues, or episodes, the term of protection shall run for each such item separately.

Collections

Article 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.

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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 other competent authorities (legal standing), belong to another person to the extent in which they are assigned to him by law, by contract or by other legal act (right holder).

Societies for the collective administration of copyright and related rights, trade unions as well as professional associations registered for the protection of copyright, enjoy legal standing to enforce protection of their members' rights in courts and other competent authorities.

SECTION B
GENERAL PART OF COPYRIGHT CONTRACT LAW

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.

The author may not waive or assign the right under Par. (4) of this Article.

Joint assignment
Article 76

In case of assignment of the right of reproduction of the work referred to in Article 21 of this Act, the right of distribution of copies of such work is also assigned, unless otherwise provided by contract.

The assignment of the right of broadcasting to broadcasting organizations referred to in Article 28 of this Act, includes also the right:

1) to make fixations of the work with its own facilities and for its own broadcasts, on condition that it broadcasts them only once and that it destroys such fixations no later than one month after the broadcasting (*ephemeral fixations*);

2) to deliver ephemeral fixations to a public archive, if such fixations have exceptional documentary value.

The broadcasting organization shall notify the author within seven days after the implementation of the actions under Par. (2) of this Article.

Non-exclusive and exclusive assignment
Article 77

By a non-exclusive assignment of an economic right to the assignee the right to exploit the copyright work besides the author and other right holders is assigned.

By an exclusive assignment of an economic right to the assignee the right to exploit the copyright work to the exclusion of the author and other persons is assigned.

A non-exclusive assignment made prior to a subsequent exclusive assignment is effective as to the assignee of the exclusive right, unless otherwise provided by contract between the author and the assignee of the non-exclusive rights.

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 specified by contract or another act of assignment, it shall be presumed that only the rights to the extent which is essential for the achievement of the purpose of the contract are assigned

Nullity
Article 80

The provisions of a contract shall be null and void if assigning:
1) author's moral rights;
2) author's economic rights with respect to all his future works;
3) the rights of exploitation of works by unknown means and forms.

Written form
Article 81

A contract or other act on assignment of economic rights must be made in writing, unless otherwise provided by law.

Royalty and remuneration
Article 82

Where the royalty or remuneration have not been set by contract, or other legal act on assignment of copyright, they shall be determined by taking into account the usual fees for a particular category of works, the scope and duration of use, and other circumstances of the case.

Where the revenue derived from the use of the work is in manifest disproportion to the agreed or determined royalty or remuneration, the author may claim that the contract be revised to remove the disproportion.

The author may not waive the right referred to in Par. (2) of this Article.

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 club edition, pocket-book edition, periodical edition in instalments, the assignment of the right of translation, etc.

Rights of an agent
Article 87

An author's agent may conclude a publishing contract only for such works as are expressly mentioned in his power of representation.

Exception as to the form of contract
Article 88

A publishing contract for the publication of articles, drawings or other authors' contributions in newspapers and other periodical press need not be made in writing.

Contents of the contract
Article 89

Besides the elements referred to in Article 74 of this Act, the publishing contract shall also include the following:

1) the term within which the author or other copyright holder must deliver to the publisher a correct manuscript or other original of the work;

2) the term within which the publisher has to start distributing the copies of the work;

3) the number of editions the publisher is authorized to make; unless otherwise agreed upon, the publisher is authorized to only one edition;

4) the number of copies in each edition, and where the number has not been agreed upon and unless it does not follow otherwise from business practices or other circumstances, this number shall be 500 copies;

5) the term within which the publisher has to start to distribute, after the exhaustion of the first edition, a next one; if not otherwise agreed upon, this term shall be one year after the author claimed such next edition;

6) the appearance and the technical properties of the copies of the work.

If the royalties referred to in Article 86 (1) of this Act are fixed as a percentage of the retail price of the copies sold, the publishing contract must specify the minimum number of such copies of the first edition, unless the contract sets the minimum royalties that the publisher must pay to the author regardless of the actual number of copies sold.

Where the term referred to in Par. 1, subparagraphs 1, 2 and 3 of this Article are not set by contract, such term shall be one year from the date of conclusion of the contract or the receipt of the correct manuscript or first copy of the work or the date of filing of the claim by the author.

Where the contractual obligations referred to in Par. 1, subparagraphs 1, 2 and 5 of this Article are not observed, the other contracting party may rescind the contract and claim damages.

The publisher shall:

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
Article 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.

Subsection 2
Performance contract

Definition
Article 95

By a contract of performance, an author assigns to the user the right of public recitation, public musical performance or the right of public staging of his work, while the user undertakes to pay the royalties and to recite, perform or stage the work within the set term, under the conditions set out in the contract.

Obligations of the user
Article 96

The user shall provide adequate technical conditions under which the work can be performed, allow the author to observe the performance and shall send to the author the publications concerning the work (the program, public reviews of the performance etc.), unless otherwise provided by contract.

Rescission of contract
Article 97

If the user does not perform the work within the stipulated term, the author may rescind the contract and keep or demand the payment of the stipulated royalty.

Subsection 3
Contract for a copyright work made for hire

Copyright works made for hire
Article 98

Under a contract for a copyright work made for hire, the author undertakes to create a certain work and to deliver it to the orderer, while the latter undertakes to pay a royalty to the author.

The person ordering the copyright work may supervise and give instructions during the process of creation of the work, unless he is thereby interfering with the author's artistic or scientific freedom.

The orderer shall have the right to publish the work and distribute its copy, delivered by the author, whereas the author shall retain other copyrights, unless otherwise provided by the contract made for hire.

Rights of the orderer of a collective copyright work
Article 99

A collective copyright work which is created upon the initiative and under the organization of a person ordering it, and through the collaboration of a larger number of authors, shall be published and used under the name of the person ordering it (encyclopaedia, anthology, database, etc).

For the purpose of creating a collective work a contract must be concluded, specially elaborating the elements referred to in Par. (1) of this Article.

A contract not having the elements referred to in Par.(1) of this Article shall be null and void.

By entering into a contract for a collective copyright work, it shall be deemed that authors of contributions have assigned to the person ordering it, exclusively and without limitations, their economic rights and other rights on those contributions, unless otherwise provided by contract.

Subsection 4
Employment contract

Employment copyright work
Article 100

If an author has created a copyright work in the course of employment and in the execution of his work duties or following the instructions given by his employer (hereinafter: *employment copyright work*), it shall be deemed that all economic rights and other rights of the author to such work are, without limitations and exclusively, assigned to the employer for a term of five years from the completion of the work, unless otherwise provided by contract.

Upon expiry of the term referred to in Par. (1) of this Article, the economic and other rights revert to the author.

Upon request by the employer, the author shall exclusively re-assign the economic and other rights on such work, for an adequate remuneration.

Special rights
Article 101

Notwithstanding Par. (1) of Article 100 of this Act:

1) the author shall retain the right to use an employment copyright work in the case of an edition of his collected works;

2) all economic rights and other rights of the author to a collective work and to a database shall be deemed to be assigned, without limitations and exclusively, to the employer, unless otherwise provided by contract.

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 fulfil the conditions set in Article 4 Par. (1) of this Act.

The right of audiovisual adaptation
Article 103

The author enjoys the exclusive right to authorize or prohibit that the original work be adapted or included in an audiovisual work.

By entering into a contract of audiovisual adaptation, the author of a pre-existing work shall be deemed to have assigned to the film producer, exclusively and without limitations, the right of transformation and inclusion of the pre-existing work in an audiovisual work, his economic rights and other rights of the author in this audiovisual work, its translations, its audiovisual transformations and in photographs made in connection with the audiovisual work, unless otherwise provided by contract.

The author of a pre-existing work referred to in Par. (2) of this Article shall retain:

1) the exclusive right to further transformation of the audiovisual work into another artistic form;

2) the exclusive right to a new audiovisual adaptation of the pre-existing work, after the expiry of ten years from the conclusion of the contract referred to in Par. (2) of this Article;

3) the right to claim equitable remuneration from the film producer for each rental of videograms of an audiovisual work.

The rights referred to in Par. (3) of this Article are not assignable.

Co-authors of an audiovisual work
Article 104

According to this Act, as co- authors of an audiovisual work shall be considered:

1) the author of the adaptation;
2) the author of the screenplay;
3) the author of the dialogue;
4) the director of photography;
5) the principal director, and
6) the composer of music specifically created for use in the audiovisual work.

If animation represents an essential element of the audiovisual work, the principal animator shall also be considered as co-author of that work.

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 claim 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 right to keep or to demand payment of the stipulated remuneration.

Audiovisual works shall not be subject to Article 18 of this Act .

SECTION B
COMPUTER PROGRAMS

Application of other regulations
Article 110

The provisions of this Act on computer programs do not relate to rights, which are acquired and managed under the regulations on patents, trademarks, unfair competition, trade secrets, protection of the topography of semi-conductor products and to contract law on computer programs.

Definition
Article 111

Computer programs, as used in this Act, shall be written copyright works expressed in any form, including preparatory design materials for their creation provided they fulfil the conditions set in Article 4, Par. (1) of this Act.

Ideas, principles, procedures and methods which underlie the computer program, including its interface, shall not be subject to copyright protection within the meaning of this Act.

Right of reproduction
Article 112

The loading, displaying, running, transmission or storage in digital form of the computer program, which require its reproduction, shall be considered as the author's exclusive right of reproduction within the meaning of this Act.

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 available to the person referred to in subparagraph 1 of this paragraph;

3) these acts are confined only to the parts of the program which are necessary to achieve interoperability.

The information and data obtained through the performance of acts referred to in Par. (1) of this Article may not be:

1) used for goals other than to achieve the interoperability of the independently created computer program;

2) given to other persons, except where necessary for the interoperability of the independently created computer program;

3) used for the development, production or marketing of another computer program substantially similar to the computer program referred to in Par. (1) of this Article, or for any other act that may infringe the copyright.

The reproduction of the code and the translation of its form referred to in Par. (1) of this Article may only be performed in a manner which complies with a normal exploitation of the work and if it does not cause damages to the legitimate interests of the author.

Contractual provisions contrary to Paras. (1) and (2) of this Article shall be null and void.

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 identified as the performer of his performance in a way that his name is indicated on and in connection with his performance.

The right referred to in Par. (1) of this Article shall be enjoyed by:

1) a soloist for his performances;

2) an ensemble of performers as a whole, the artistic director and the soloists.

The performer enjoys the exclusive right to object to any distortion, mutilation of, or any other derogatory action in relation to his performance, if these acts are or would be prejudicial to his honour or reputation.

Economic rights of performers
Article 120

A performers shall have the exclusive right to authorize or prohibit :

1) to fix his performance;
2) to reproduce the phonograms or videograms with his performance;
3) to distribute the phonograms or videograms with his performance;
4) to rent phonograms or videograms with his performance;
5) to publicly transmit his live performance;
6) to broadcast his live performance;
7) to make available to the public the phonograms or videograms with his performance.

Right to remuneration for the communication to the public of a phonogram
Article 121

A performer shall have the right to a share in the remuneration referred to in Article 128, Par. (2) of this Article for public communication of a phonogram in which his performance is fixed.

Right to remuneration
Article 122

A performer shall have the right to a share in remuneration for the reproduction for private or other internal use referred to in Article 36, Par. (2) o f this Act.

The performer may not waive his right referred to in Par. (1) of this Article or assign it. This right may neither be subject to civil execution.

Presumption of assignment of rights
Article 123

By entering into a contract for the film production, the performer of an audiovisual work shall be presumed to have assigned to the film producer, exclusively and without limitations, his economic rights in the performance and to the photographs made in connection to this performance, unless otherwise provided by contract.

The performer referred to in Par. (1) of this Article shall have the right to a remuneration from the film producer for each single economic right referred to in Par. (1) of this Article.

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
RIGHTS OF 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.

A phonogram is a fixation of the sounds of a performance or of other sounds, or of a representation of sounds, other than a fixation incorporated in an audiovisual work.

Fixation is an embodiment of sounds or of representations thereof on a medium, from which they can be perceived, reproduced or communicated through a device.

Rights of producers of phonograms
Article 127

The producer of phonograms shall have the exclusive right to authorize or prohibit:
1) to reproduce his phonogram;
2) to distribute his phonogram;
3) to rent his phonogram;
4) to make phonograms available to the public.

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 communication to the public.

SECTION C
RIGHTS OF FILM PRODUCERS

Film producer
Article 131

A film producer is a natural or legal person who or which provides the organization and the means for the first production of an audiovisual work or of a sequence of moving images on a videogram, and who or which has the responsibility for their completion.

A videogram is a fixation of an audiovisual work or of a sequence of moving images, with or without sounds.

Rights of film producers
Article 132

A film producer shall have the exclusive right to authorize or prohibit:
1) to reproduce his videogram;
2) to distribute his videogram;
3) to rent his videogram;
4) to present his videograms to the public;
5) to make videograms available to the public.

Right to remuneration
Article 133

A film producer 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 referred to in Par. (1) of this Article or assign it. This right may neither be subject to civil execution.

Term of protection
Article 134

The protection of rights of a film producer shall run for 50 years from the date the fixation of the videogram is made.

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

SECTION D
RIGHTS OF BROADCASTING ORGANIZATIONS

Exclusive rights of broadcasting organizations
Article 135

A broadcasting organization shall have the exclusive right to authorize or prohibit:
1) to fix its broadcast;
2) to reproduce the fixations of its broadcast;
3) to distribute the fixations of its broadcast;
4) to rebroadcast its broadcast;
5) to communicate to the public its broadcast if it is made in places accessible to the public against payment of an entrance fee;
6) to make broadcasts available to the public.

Term of protection
Article 136

The protection of rights of a broadcasting organization shall run for 50 years from the date of the first broadcast.

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.

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

SECTION F
RIGHTS OF MAKERS OF DATABASES

Databases
Article 139

A database is a collection of independent data, copyright works or other materials, arranged in a systematic or methodical way and individually accessible by electronic or other means, whereby the obtaining, verification or presentation of the contents demands a qualitatively or quantitatively substantial investment.

The protection of a database or its contents shall apply irrespective of its eligibility for protection by copyright or other protection, whereas the inclusion of a material into a database and its use shall be without prejudice to rights existing in respect of that material.

Databases shall be subject to protection under the provisions of this Act on related rights.

Scope of protection
Article 140

The protection of a database in accordance with this Act comprises:

1) the entire contents of a database,
2) every qualitatively or quantitatively part of its contents,
3) qualitatively or quantitatively insubstantial parts of its contents, if they are used repeatedly

and systematically, which conflicts with a normal exploitation of the database and which causes unreasonable prejudice to the legitimate interests of the maker of the database.

The protection under Par. (1) of this Article shall not apply to computer programs used in the making or operation of electronic databases.

Rights of makers of databases
Article 141

The maker of a database shall have the exclusive right to authorize or prohibit:
1) to reproduce his database;
2) to distribute his database;
3) to rent his database;
4) to make the database available to the public.

Rights and obligations of authorized users of a database
Article 142

An authorized user who uses a disclosed database or a copy thereof in accordance with law may use qualitatively or quantitatively insubstantial parts of the database for any purposes whatsoever.

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

An authorized user of a disclosed database or a copy thereof may not perform acts which conflict with a normal exploitation of the database and which cause unreasonable prejudice to the legitimate interests of the maker of the database.

An authorized user of a disclosed database or a copy thereof may not cause an infringement to the copyright or related rights on protected matter which forms part of that database.

Any contractual provision contrary to Paras. (1) through (4) of this Article shall be null and void.

Employment and contracts for hire
Article 143

Where a database is made within employment relations or where it is made under a contract for hire, it shall be deemed that all economic rights to such database are exclusively and without limitations assigned to the employer or to the ordering party, unless otherwise provided by contract.

Limitations to rights of makers of a database
Article 144

An authorized user of a disclosed database may use, without assignment of the respective economic right and payment of a remuneration, substantial parts of its contents for the purposes referred to in Articles 51, 52 and 54 of this Act.

Term of protection
Article 145

The protection of rights of a maker of a database shall last until the expiry of 15 years after the day of the making of the database.

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

Article 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
Article 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 copyright works and subject matter of related rights (hereinafter: protected matter) by:

1) concluding with users of protected matter (hereinafter: *users*) contracts on the non-exclusive assignment of rights upon payment of a remuneration;

2) monitoring the implementation of the contractual and statutory obligations of users;

3) collecting remuneration from users;

4) keeping a register with data on authors, members of the Society, copyrights and types of protection of individual works;

5) distributing the collected revenue to its members;

5) representing the interests of its members before state authorities.

The activities referred to in Par. (3) of this Article may be exercised for the sole purpose of enforcing the interests of its members in line with the public interest as established by this Act.

The activity of collective management of copyright and related rights may only be exercised on the basis of an authorization by the administrative authority responsible for intellectual property matters (hereinafter: *competent authority*).

Procedure for authorization
Article 148

The procedure for an authorization by the competent authority shall be initiated upon written request

by a legal entity which fulfils the conditions established by this Act.

The legal entity shall enclose to the request referred to in Par. (1) of this Article its foundation act, statute, preliminary representation contracts with members, proof of payment of the prescribed administrative fee as well as other evidence on the complying with the conditions in Article 149 of this Act.

The competent authority shall issue a decision on the request of the legal entity within 30 days after the correct request was filed.

Conditions for the exercise of activity
Article 149

The collective management of copyright and related rights may be exercised by a legal entity which:

1) holds a statute which meets the requirements referred to in Article 160, Paras. (1) and (2) of this Act;

2) is registered with the register of non-governmental organizations held by the relevant authority;

3) holds preliminary representation contracts with the majority of domestic rightholders for the protected matter of its requested activity;

4) employs at least one staff member holding a university degree in law;

5) owns or rents premises with necessary IT and communications equipment, and

6) has draft rules on a transparent, complete, timely and proper operation modus and procedures of the Society.

Authorization by the competent authority
Article 150

The authorization for the exercise of the activity referred to in Article 147 (6) of this Act shall be issued in the form of a decree for a period of five years.

The authorization in Par. (1) of this Article for a single type of protected matter may be issued only to one Society.

Revocation of authorization
Article 151

The competent authority shall revoke the authorization:

1) upon request of the Society;
2) if the Society no longer meets the statutory requirements for the activity as set by this Act, and
3) if the Society does not remedy the irregularities identified in its work by the set deadline.

Before revoking the authorization referred to in Par. (1), subparagraphs (2) and (3) of this Article, the competent authority shall inform the Society in writing of the irregularities identified in its work, order measures to be taken, and set a deadline for remedy.

Ex lege succession of agreements
Article 152

Where after the revocation of authorization from a Society referred to in Article 151 of this 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:

1) contracts that the previous Society concluded with its members;
2) agreements that the previous Society has signed with foreign societies;
3) common agreements of the previous Society with user associations;
4) agreements and authorizations held by the previous Society for the exploitation of protected matter with users;
5) obligations to pay remuneration by users.

The previous Society shall deliver to the successor Society its entire documentation compiled in the course of its activity and provide all information necessary.

A member of the previous Society may cancel his agreement conferred onto the successor Society.

Implementation of another legislation

Article 153

The procedure for the issuance and revocation of authorization shall be governed by regulations on general administrative procedure.

The authorization of the competent authority under Article 147(6) and the decision on revocation of the authorization under Article 151 of this Act may may be appealed with the state administration authority in charge of intellectual property affairs (hereinafter: *Ministry*).

The final decision on the issuance and revocation of authorization shall be published by the competent authority in the 'Official Gazette of Montenegro'.

The establishment, registration, operation and termination of operation of the Society shall be subject to the act governing non-governmental organizations, unless otherwise provided by this Act.

SECTION B
RELATIONSHIP TOWARDS MEMBERS

Obligation to contract
Article 154

Upon request of a rightholder, the Society shall be obliged to conclude with him a representation contract under the same conditions as those concluded with members of this category.

The contract under Par. (1) of this Article shall include in particular: the rightholder's power of attorney for the collective management of his rights, the category of protected matter, the rights to be managed, the duties of the Society and the duration of the contract.

The contract under Par. (2) of this Article may be concluded for a term up to five years.

During the term of implementation of the representation contract or as long a right is managed collectively under this Act, a member of the Society or a rightholder may not manage his rights individually, unless otherwise provided by this Act.

Mandatory collective management
Article 155

Notwithstanding Article 146 (1) of this Act, collective management of copyright or related rights shall be mandatory for rightsholders of Copyright or related rights in the following cases:

1) cable retransmission of protected matter, except in respect of broadcasters' own transmissions, irrespective of whether the rights concerned are their own or have been assigned to them by other rightsholders;

2) lending referred to in Article 24 (2) of this Act;

3) remuneration for private and other internal purposes;

4) remuneration for the reproduction of current articles from dailies and periodicals referred to in Article 46 (1), subparagraph 3 of this Act;

5) remuneration for the reproduction of current articles from dailies and periodicals for the purpose of press clipping referred to in Article 46 (1), subparagraph 3 of this Act.

Obligations of the Society towards members
Article 156

(1) The Society shall manage the rights of its members according to law in an efficient, economic and transparent way, and shall have the duty in particular to:

1) adopt tariffs;

2) conclude common agreements with associations of users;

3) conclude contracts with users of protected matter;

4) collect remuneration from users of protected matter;

5) monitor the implementation of users' obligations as set by law and contracts;

6) distribute the revenue collected in accordance with this Act;

7) submit to its members a report with data from business records and allow examination of the documentation created in the course of its activities.

When implementing its obligations referred to in Par. (1) of this Article the Society shall ensure the proportionality of the costs of its operation and work compared to the profit it earns for its members.

Management of the Society
Article 157

The Society shall be managed by its members in compliance with law and the statute of the Society.

Members of the Society shall be: authors, performers, producers of phonograms, film producers, broadcasters, publishers and their legal successors, which have entered into a representation contract with the Society.

The organs of the Society shall be

1) the Assembly;
2) the Management Board;
3) the CEO;
4) the Supervisory Committee.

Assembly of the Society
Article 158

The Assembly of the Society shall be composed of Society members.

The number of voting rights to be held by a member of the Society shall be set in proportion to the scope and level of exploitation of his protected matter in a given year, according to the statute of the Society.

One or more members of the Society Assembly shall have the right to authorize a proxy to vote on their behalf.

The authorization under Par. (3) of this Article must be certified in accordance with law.

Other bodies of the Society
Article 159

The Management and Supervisory Boards shall be elected by the Society Assembly.

Members of the Management and Supervisory boards shall be elected to a five-year term. The CEO shall be elected by the Management Board.

Detailed provisions on the organization, composition, and decision making procedures in the assembly and bodies of the Society shall be set by the statute of the Society.

Statute
Article 160

The Statute of the Society shall regulate in particular:

1) the forms and protected matter of rights which are managed collectively, and the relations with respect to members and users;
2) the procedure and content of notification on the Assembly session, voting procedure, number of votes required for single issues;
3) the duties of its members;
4) procedure for the establishment of tariffs;
5) basic criteria for the establishment of expenses for the operation of the Society;
6) criteria on the distribution of revenue to members;
7) the manner of control of financial assets;
8) the type and content of the reports submitted to the members and to the competent authority in accordance with law;
9) the manner in which members and the public are informed about the operation of the Society.
10) criteria for setting the proportion between the scope and level of exploitation of protected matter and the number of votes that a members holds in the Society Assembly.

The statute shall be adopted by the Assembly by the majority of votes of all members.

The statute of the Society shall be published in the „Official Gazette of Montenegro“ following the issuance of the authorization referred to in Article 150 of this Act.

Distribution of revenue
Article 161

The Society shall distribute to its members its entire revenue, save for:

1) the means designated to cover its operating costs;

2) the means allocated for social and cultural purposes of the Society, as well as for the promotion of cultural diversity (monetary social assistance, scholarships, support for the development of culture in minority communities, etc.) up to 10% of the revenue collected in accordance with the

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

The revenue collected from the remuneration referred to in Article 36 (2) of this Act shall be distributed from remuneration of:

1) technical appliances and blank audio media:
   -authors shall receive 50%,
   -performers 25%,
   -producers of phonograms 25 %;
2) technical appliances and blank visual media:
   -co-authors of and authors of contributions to audiovisual works shall receive 50%,
   -performers 25%,
   -film producers 25 %.

The revenue collected from the remuneration referred to in Article 36 (3) of this Act shall be distributed as follows:

-authors of literary work shall receive 50%,
-publishers of books and magazines 50%.

The revenue collected from the remuneration referred to in Article 46 (1) subparagraph 3 of this Act shall be distributed as follows:

-authors of works shall receive 50%,
-media publishers 50%.

Authors and performers may not waive or assign their rights referred to in Paras. (1), (2) and (3) of this Article.

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 its premises and other conditions, required for his work to be efficient.

SECTION C
RELATIONSHIP TOWARDS USERS

Obligation to contract

Article 165

Upon request of a single user or a user association, the Society shall be obliged to conclude, on equal terms, a contract on the non-exclusive assignment of rights of use of protected matter from its repertoire or a contract on the amount of remuneration due.

The Society may refuse the request under Par. (1) of this Article only to a user who has several times infringed the rights of its members.

Should parties fail to conclude a contract under Par. (1) of this Article, the requested right shall be deemed to have been assigned, if the user pays to the Society or deposits with a notary public or a court the amount of remuneration for the use of protected matter as set by the tariff.

Obligation to furnish information
Article 166

The Society shall allow, upon request by a user or a user association, to have insight into the matter which it protects within its activity and shall make accessible all data and information as to the conditions for the managements of rights of its members.

Presumption of representation
Article 167

The Society's relationship with its users shall be subject to a presumption that the Society is authorized to manage the rights of all rightsholders with regard to protected matter, which is included in its activity.

A rightsholder who decides to manage his rights individually shall notify the Society of such a decision.

About the decision under Par. (2) of this Article the Society shall inform the users who it has contracts with.

If rightsholders have not submitted to the Society the notification under Par. (2) of this Article, the Society shall, when distributing revenue, fulfil its obligations toward them on equal terms as it does to its members.

Obligations of users
Article 168

Users shall conclude with the Society a contract on non-exclusive use of protected matter prior to their use.

Users shall submit to the Society within 15 days after the commencement of use of protected matter notification of any changes to the data relevant for the calculation of the remuneration under the tariff (the titles, duration and number, etc.).

Users which under this Act exploit protected matter without an assignment of rights, but upon payment of a remuneration, shall submit the data referred to in Par. (2) of this Article on a monthly basis.

Broadcasting organizations shall submit to the Society the data referred to in Par. (2) of this Article on a monthly basis.

The users' obligations are covered by joint and several liability of the following persons: the person who uses the protected matter, the owner, holder and renter of the premises where the protected matter is used as well as the organizer of the activity resulting in such use of the protected matter.

The user shall allow the authorized person from the Society to examine the documentation and data relevant for the calculation of remuneration paid under the tariff.

Obligation of competent state authorities
Article 169

State authorities which keep records on the data relevant for the establishment of the extent of exploitation of protected matter or of the amount of remuneration, are obliged, upon request of the authorized person of the Society, to deliver such data to the Society.

The Society shall use the data and information from Par. (1) of this Article solely for the purpose of management of rights under this Act.

Issuance and revocation of authorization to a broadcasting organization
Article 170

When exploitation of protected matter constitutes the predominant activity of a broadcasting organization, the authority in charge of broadcasting affairs (hereinafter: *Agency*) may issue an authorization for broadcasting activity only to the broadcasting organization which submits, together with its application for authorization, a written proof that its obligations towards the Society have been settled.

If a broadcasting organization, after the issuance of authorization under Par. (1) of this Article, violates its obligations towards the Society, the Agency shall, in order that the identified violations be rectified, issue a warning to the broadcasting organization and set a deadline for their remedy.

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
TARIFFS AND COMMON AGREEMENTS

Tariff
Article 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.

A common agreement may also be concluded directly between the Society and an individual user of protected matter, where that particular user is the only in Montenegro to perform the activity that makes use of protected matter.

A common agreement shall include, *inter alia*: data and facts in support of the representativeness of the user association, the method for the calculation and the amount of the remuneration due, the procedures and terms of reporting on the use of protected matter, the conditions for an increase or decrease of the remuneration set in the tariffs, and the term for and form of payment of the remuneration.

The Society shall publish the common agreement concluded in accordance with Paras. (1), (3) and (4) of this Article in the Official Gazette of Montenegro.

The common agreement referred to in Par. 1 of this Article shall enter into force on the eighth day following its publication.

The common agreement concluded for a category of use shall apply to all users of that category, regardless of whether they are members of the user association.

The users referred to in Par. (7) of this Article shall conclude individual agreements with the Society in accordance with the common agreement.

The procedure for the conclusion of a common agreement
Article 173

The Society initiates the procedure for the conclusion of a common agreement by publishing an invitation in at least one daily distributed across the territory of Montenegro, to user associations, individual users and business associations to start negotiations within a certain period of time.

The Society shall deliver, within 30 days of the deadline under Par. (1) of this Article, to individuals and to associations under Par. 1 of this Article, a draft common agreement together with an explanatory memorandum and necessary data.

Preliminary tariff
Article 174

If the common agreement has not been concluded within six months of the delivery of the draft common agreement to individual users and user associations, a preliminary tariff shall be set by the competent authority in accordance with Article 171 of this Act.

The competent authority shall initiate the above procedure upon claim of a Society or a user association.

When setting the preliminary tariff under Par. (1) of this Article, the competent authority shall consider the proposals received from the Society and user associations.

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.

The users as referred to in Par. (6) of this Article shall conclude individual agreements with the Society in accordance with the preliminary tariff.

The preliminary tariff shall apply until the common agreement under Article 172 has become effective or until the final decision in a collective dispute on the tariff has been rendered.

Proceedings with collective disputes
Article 175

The proceedings in a collective dispute is initiated by a claim. The latter shall include, in addition to the contents prescribed in the regulation on civil proceedings, an indication that it is a collective dispute.

The competent court may request of parties at any time to present additional evidence and facts, reports, expert reports, etc.

In collective dispute proceedings the court shall not be bound by the limits of the claims filed, and may establish facts and render a decision beyond the limits as set by the claim.

Rulings in collective disputes
Article 176

In collective dispute proceedings the competent court rules:

1) on the representativeness of a user association with respect to a common agreement and its validity for a certain user;

2) on the compliance of the Society's preliminary tariff with this Act and on its equitable amount;

3) on the collective management of the cable retransmission right under Article 155 (it. 1) of this Act, upon a prior mediation procedure before the same court;

4) on the possibility and mode of enforcement of limitations of rights against technological protection measures in the cases referred to in Article 186 (3) of this Act.

The existence of a collective dispute is not an obstacle for the conduct and conclusion of individual disputes between the Society and individual users on the payment of remunerations due.

Chapter E
CONTROL OVER THE OPERATION OF THE SOCIETY

Supervision over the work of the Society
Article 177

The control of the lawfulness and appropriateness of the work of the Society shall be exercised

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.
2) 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) concluded common agreements with user associations;
7) agreements concluded with foreign societies;
8) decisions rendered by the assembly and other Society bodies;
9) reports referred to in Article 178 of this Act;
10) annual report on revenue distribution, and
11) decisions rendered by courts and other relevant authorities that the Society is a party to.

The Society shall immediately notify the competent authority of any change of persons authorized to represent the Society.

Upon request of the competent authority, the Society shall deliver immediately, and within three days of the receipt of the request at the latest, the required information and data from its sphere of activity.

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 packaging with the notice ℗, followed by his name or title and the year of first disclosure.

Until proven otherwise, it shall be presumed that the rights in works or phonograms bearing the notices referred to in Paras. (1) and (2) of this Article exist and that they belong to the persons indicated.

The notices referred to in Paras (1) and (2) of this Article do not have influence on the existence and protection of rights established by this Act.

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 damages according to general regulations, unless otherwise provided by this Act.

The protection under Par. (1) of this Article may be sought by a rightholder, also when there is apparent danger that an infringement of the rights under this Act will occur.

Joinder of parties
Article 184

Where there are several rightsholders of a right granted under this Act, each of them may claim the protection of this right in its entirety.

Where there are several infringers of a right granted under this Act, each of them is liable for entire damages.

Protection of rights-management information
Article 185

Rights management information means any information provided by the rightsholder which identifies the protected matter, the author or rightsholder, information on the terms of use or their number or code representing such information, if it is marked on the copy of protected matter or appears in connection with its communication to the public.

Any inducing, enabling, facilitating or concealing of an infringement of exclusive rights from this Act shall be treated as an infringement of these rights, if it is committed by the following acts:

1) the removal or alteration of any electronic rights-management information;

2) the reproduction, distribution, rental or communication to the public of protected matter from which electronic rights information has been removed or altered without authorization.

Technological measures
Article 186

Technological measures shall be any technology, device, component, or computer program (hereinafter: *device*) or other measure that, in the normal course of its operation, is designed to prevent or restrict acts not authorized by the rightsholder; these measures shall be deemed effective where the use of protected matter is controlled by the rightsholders through application of an access control or protection process of encryption, scrambling, or other transformation of the protected matter, or a copy control mechanism, which achieve the protection objective.

Circumvention of efficient technological measures designed to protect the protected matter shall be treated as an infringement of exclusive rights pursuant to this Act.

The manufacture, import, distribution, sale, rental, advertising for sale or rental or possession

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 clearly 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 rightsholder 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 claims 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 particular:

1) preventing activities that may result in infringements,

2) prohibiting the continuation of an activity which constitutes or may constitute an infringement;

3) seizing, excluding from the channels of commerce and take into custody the objects of infringement and the instruments principally used for the infringement.

The procedure for implementation of provisional measures shall be subject to the law regulating enforcement procedure, unless otherwise provided by this Act.

Claims
Article 192

When the exclusive rights granted by this Act are infringed, the rightholder may file a claim requesting that the following action be taken at the expense of the infringer:

1) to establish the infringement of rights;
2) to prohibit the current and future infringements;
3) to recall the objects of infringement from channels of commerce, taking into account the interests of *bona fide* third parties;
4) to remedy the situation caused by the infringement;
5) to remove definitevely the objects of infringement from the channels of commerce;
6) to destroy the objects of infringement;
7) to destroy the instruments of infringement that are principally used for infringement;
8) to surrender to the rightsholder the objects of infringement against the reimbursement of the costs of their production to the infringer;
9) to publish the judgment on the infringement of rights.

The court may order that instead of the claims referred to in Par. (1), subparagraphs 3- 8 of this Article the infringer pays pecuniary damages to the rightholder.

In considering the claims referred to in Par. (1), subparagraphs 3- 8 and in Par. (2) of this Article, the court shall take account of all circumstances of the case, in particular the proportionality between the seriousness of the infringement and the requested claim, the interest of the rightholder for an effective protection of rights, the readiness of the rightholder to receive pecuniary damages instead of nonpecuniary measures, etc.

The provisions of Par. (1), subparagraphs 4 and 6 of this Article shall not apply to executed architectural objects, unless the destruction of the object is justified by the circumstances of the case.

Compensation for material damage
Article 193

Infringements of rights under this Act shall be subject to the general rules governing damages,

unless otherwise provided by this Act.

The infringer shall pay to the rightsholder damages in the amount to be defined under general rules on compensation for material damage, or in the amount which is equal to agreed or customary remuneration for the legal use of such kind (*license analogy*).

If infringement of an economic right was intentional or caused by gross negligence, the plaintiff may claim, instead pecuniary damages, a compensation in the amount of up to three times of the customary remuneration he would have received for the relevant form of use of protected matter had that use been lawful, irrespective of whether he suffered damage or not.

In considering the claim referred to in Par. (3) of this Article and in setting its amount, the court shall take into account all circumstances of the case, and in particular the degree of culpability of the infringer, the amount of agreed or customary remuneration, and the achievement of a general preventive purpose sought by the award of damages in Par. (3) of this Article.

Where the actual damage exceeds the maximum amount of damages under Par.(3) of this Article, the rightholder may claim the difference to full damages.

Compensation for non-material damage
Article 194

Irrespective of any compensation for material damage, and even in the absence of such damage, the court may award an author or a performer an equitable monetary satisfaction for the mental suffering endured as a consequence of the infringement of his moral rights, if the court finds that it is justified by the circumstances of the case, particularly with respect to the potency of the suffering and its duration.

Expeditious procedures
Article 195

The proceedings for an infringement of copyright and related rights shall be summary.

Chapter IX
RELATIONS WITH FOREIGN ELEMENTS

General provision
Article 196

Eligible to enjoy the protection under this Act shall be authors and holders of related rights who are citizens of Montenegro or have a residence or a seat in Montenegro.

Other foreign natural or legal persons shall enjoy equal protection as the persons referred to in Par. (1) of this Article in accordance with ratified international agreements or if factual reciprocity exists.

This Act shall apply to foreign natural and legal persons even if the conditions in Paras. (1) and (2) of this Article are not fulfilled, with respect to:

1) moral rights - in any case;

2) the resale right and the right to remuneration for private and other internal needs , if factual reciprocity exists.

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 tourism, state administration body in charge of culture and media, and the independent regulatory body in charge of broadcasting affairs.

Inspection supervision activities with respect to the protection of copyright and related rights, within the competence of the bodies under Par. (1) of this Article shall be implemented by the following: market inspection, drugs inspection, medicinal products inspection, building construction inspection, tourism inspection, and the authorized officer in the independent regulatory body in charge of broadcasting affairs (hereinafter: *authorized inspector*).

In the course of inspection supervision an authorized inspector may take the following measures:

1) temporarily seize the objects resulting from an infringement;
2) order the infringer to remedy the infringing situation by a deadline.

The inspection supervision proceedings shall be summary.

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 €150 to €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 €30 to €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 deposit ing 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 €30 to €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 €30 to €2,000.

Chapter XII
TRANSITIONAL AND FINAL PROVISIONS

Article 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, Articles19, 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