

**Law No. 5846 on Intellectual and Artistic Works
dated 5/12/1951 ***

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PART ONE
INTELLECTUAL AND ARTISTIC WORKS

(A) Definition

1. Within the meaning of this law, a work is any kind of intellectual and artistic product bearing the characteristics of its owner and which is considered a work of science and literature, music, fine arts or cinema under the following provisions.

(B) Types of Intellectual and Artistic Works

I. WORKS OF SCIENCE AND LITERATURE

2. Works of science and literature are as follows:

1. (Amended: 7.6.1995 — 4110/article 1) Works expressed in language and writing in any way and computer programs expressed in any form and their preliminary designs, provided that they lead to a program in the next stage;

2. (Amended: 1.11.1983 — 2936/article 1) All kinds of dances, written choreography works and similar unworded stage works.

3. (Amended: 7.6.1995 — 4110/1) All kinds of technical and scientific photographic works that do not have a rhetorical character, all kinds of maps, plans, projects, sketches, pictures, geographical and topographical models and alike, all kinds of architectural and civil designs and projects, architectural models, industrial, environmental and stage designs and projects.

Ideas and principles constituting a basis for any element of a computer program, including the ideas and principles constituting a basis for its interface, are not considered works.

II. WORKS OF MUSIC

3. Works of music are all kinds of worded and unworded compositions.

III. WORKS OF FINE ART

4. (Amended: 7.6.1995 — 4110/2)

Works of fine art are:

1. Oil and water colour paintings; all kinds of pictures, designs, pastels, engravings, manuscripts and gilding, works drawn or fixed with mineral, stone, wood or other substances by scratching, engraving, tapping or similar methods, calligraphy, screen printing,

2. Statues, reliefs and carvings,

3. Works of architecture,

4. Handicrafts and minor works of art, miniatures and products of decorative art, and textile and fashion designs,

5. Photographic works and slides,

6. Graphic works,

7. Cartoon works,

8. All kinds of typing, with esthetical value.

The usage of sketches, pictures, models, designs and similar works as industrial models and pictures does not affect their title as intellectual and artistic works.

IV. WORKS OF CINEMA

5. Works of cinema are as follows:

1. Movies,

2. Films carrying didactic and technical characteristics or reflecting daily events,

3. All kinds of scientific, technical or rhetorical projection diapositives.

The above mentioned works take place in the group of cinema works if they are displayed through projection, even if they are fixed on material other than film and glass.

Films used merely for the transfer of compositions, speeches, conferences, etc. are not considered as works of cinema.

(C) Adaptations

6. The intellectual and artistic products created through the use of another work and not independent as compared to such work, and the principal ones of which are listed below are adaptations:

1. Translations,

2. The conversion of one of the works such as novels, stories, poems and drama to another of these kinds,

3. The conversion of works of music, fine arts, science and literature into films or conversion of the same into a form suitable for taking into a film and broadcasting through radio and television,



4. Musical arrangements,
5. Conversion of works of fine arts from one form into other forms,
6. The conversion of all works or works of the same kind of the owner of a work into a complete work,
7. Arrangement of selected and collected works in line with a certain purpose and within a special plan,
8. Making a work not published yet suitable for publication through scientific research and study (ordinary transcriptions and facsimiles which are not the product of a scientific research and study are excluded from this),
9. Description or commentary or abridgement of a work belonging to someone else.
The adaptations bearing the characteristics of the adapter are considered works under this law.
10. (Supplemented: 7.6.1995 —4110/3) Adaptation, arrangement or any modification of a computer program.
11. (Supplemented: 7.6.1995 —4110/3) Databases constituted as a result of the selection and gathering of data and materials in line with a certain purpose and within a special plan. (However, the protection provided here may not be expanded so as to protect the data and materials within the database.).

(D) Publicized and Published Works

7. A work presented to the public with the consent of the owner of its rights is considered as publicized.

In case the copies of a work obtained by way of its duplication are presented to the public by way of putting on the market or distribution or any other way with the consent of the owner of its rights, such a work is considered as published.

The provision of 2nd paragraph of article 3 of Press Law No. 5680 is reserved.

PART TWO OWNER OF THE WORK

(A) Definition

I. GENERAL

8. (Amended: 7.6.1995 —4110/4)

The owner of a work is the person who creates it.

Unless otherwise understood by the special contract between them or the content of the work; the owner of the financial rights of the works created by the officials, servants and workers in conduct of their job is the person employing or assigning them. The same rule applies to the organs of the corporal persons.

The owner of an adaptation is, provided that the rights of the original owner are reserved, the adapter.

The producer or publisher of a work can exercise the financial rights only under the contract he will conclude with the owner of the work.

In cinematographic works; the director, the composer of the original soundtrack and the author of the scenario are the collective owners of the work. The collective owners of a work can transfer the financial rights to the producer under a contract they will conclude and against a suitable cost.

After the collective owners of a cinematographic work transfer their financial rights, they cannot object to the duplication, distribution, supply to the public, cable transmission, broadcast by means of television or other media, subscription or dubbing of the work by the producer, unless there is any provision otherwise.

II. MORE THAN ONE OWNER OF WORK

9. In case the work created by more than one person can be divided into parts, each of the owners is considered as the owner of the part he created.

Unless otherwise decided, each of the persons collectively creating the work may request the participation of the others for the changing or publication of the whole work. If the other party does not participate without any justified reason, the court can permit such an action. The same provision applies to the exercise of the financial rights.

III. UNITY AMONG THE OWNERS OF THE WORK

10. If the work created through the participation of more than one person constitutes a whole, the owner of the work is the unity of its creators.

The provisions regarding ordinary corporations are applied to the unity. In case one of the owners of the work does not permit a collective action without any justified reason, the required permission may be granted by the court. Each of the owners of the work can act individually, in case the interests of the unity are violated.

The technical services or aids regarding the details during the creation of a work do not constitute a basis for participation.

(B) Inferences on the Ownership of a Work

I. IN WORKS WHERE THE NAME OF THE OWNER IS NOT STATED

11. The person using his name or his known pseudonym in the published copies of a work in the original of a work of fine arts as the owner of such a work is considered as the owner of the said work until otherwise is proven.

(Amended: 7.6.1995 — 4410/5) The person regularly presented as the owner of the work in public places or in the conferences and performances broadcast by radio or television is considered as the owner of the said work; unless another person is considered as the owner of the work by way of the inferences set forth in the first paragraph.)

II. IN WORKS WHERE THE NAME OF THE OWNER IS NOT STATED

12. Unless the owner of a published work is not known according to article 11, the publisher, and in case it is also not known, the duplicator may exercise the rights and authorities of the owner of the work in his own name.

Such authorities belong to the deliverer of the conference or the executor of the performance in cases where the owner of the work is not known by inference in the second paragraph of article 11.

The provisions of ordinary proxy are applied in the relations between the persons authorized under this article and the original owners of the right.

PART THREE INTELLECTUAL RIGHTS

(A) Rights of the Owner of the Work

I. GENERAL

13. The financial and moral interests of the owners of intellectual and artistic works on such works are governed within the framework of this law.

The rights and authorities granted to the owner of the work cover the whole and part of the work.

II. MORAL RIGHTS

1. Authority to Present to the Public

14. The owner of the work exclusively determines the presentation or non-presentation and the time and way of promulgation of a work.

Only the owner of a work can give information on the content of a work, the whole or a substantial part of which has not become publicized or the main lines of which have not yet been introduced to the public.

In case the presentation to the public or the way of publication of the work will humiliate the honour and prestige of its owner, the owner of the work, even if he had authorized someone else, may prohibit the introduction to the public or the publication of both the original and the adapted form of the work. The right to demand indemnity of the other party is reserved.

2. The Authority to State the Name

15. The authority to decide on presenting to the public or publishing the work with the name or pseudonym of its owner or without a name rests exclusively with the owner of the work.

It is obligatory to state the name or sign of the original owner of the work in the decided or customized manner and to clearly show that the created work is a copy or adaptation on the duplicated copies of a work of fine art and the original or duplicated copies of an adaptation.

In case the creator of a work is disputed or any person claims that he is the owner of the work, the original owner may request the establishment of his right from the court.

(Supplemented: 7.6.1995 — 4110/6) In the architectural constructions carrying the properties of a work, the name of the owner of the work is written indelibly in a visible place on the work with a material deemed suitable by the owner of the work upon written request.

3. Prohibition of Changes on the Work

16. Abbreviations, additions or other changes cannot be made on the work or the name of the owner of the work without the permission of the owner of the work.

The person who adapts, presents to the public, duplicates, promulgates, performs or otherwise disseminates a work with the permission of the law or the owner of the work can make the changes deemed necessary due to the technique of adaptation, duplication, performance or promulgation without any special permission of the owner of the work.

Although he has unconditionally granted permission, the owner of the right reserves his right to objection against all kinds of changes disturbing his honour or prestige or the content and properties of the work. Waiver from this right by a contract is void.

4. The Rights of the Owner of the Work Against the Possessor and the Owner

17. The owner of the rights of duplication and adaptation can request from the possessor of the original to make use of the work as much as required for the exercise of such rights. However, the owner of the rights cannot request the handing over of the work to himself.

(Amended: 7.6.1995 — 4110/7) The possessor of the original can own the work under the conditions of the contract he makes with the owner of the work. However, he cannot deteriorate and destroy the work and damage the rights of the owner of the work.

(Supplemented: 7.6.1995 — 4110/7) In case the work is single and unique, the owner of the work can request the work so as to return it by fulfilling the protection conditions in order to use it in the studies and exhibitions covering all the periods belonging to him.

5. Exercise of the Rights

(a) General

18. Even if the period of continuance of the financial right has expired, the owner of the work may exercise the rights he has under articles 14, 15 and 16 as long as he lives, in case he is a natural person and as long as it continues, in case of a natural person. Discriminating against disabled persons does not need the consent of their legal representatives in the exercise of such rights.

(b) Persons Who May Exercise the Rights

19. In case the owner of the work did not establish the way of exercise of the authorities granted to him through the first paragraphs of articles 14 and 15 or did not assign them to anyone, the exercise of such authorities after his death shall rest with the person authorized to exercise his legacy, and if this was not assigned, his surviving spouse and children and heirs, parents and brother(s)/sister(s) respectively.

After the death of the owner of the work, the persons listed in the above paragraph can exercise the rights granted to the owner of the work under the third paragraphs of articles 14, 15 and 16 during the effectiveness of the financial rights and within 50 years from the death of the owner of the work, in their own names.

In case the owner of the work or the persons authorized under the first and second paragraphs do not exercise their authorities, any person acquiring a financial right from the owner of the work or his heir may exercise the rights granted to the owner of the work under the third paragraphs of articles 14, 15 and 16 in his own name, provided that he proves his legal interest.

In case the authorized persons are more than one and cannot agree on the action, the court settles the dispute by way of simple judgment most suitably to the possible will of the owner of the work.

(Amended: 1.11.1983 — 2936/article 2) In case none of the authorized persons mentioned in article 18 and the above paragraph is present or they are present but they do not exercise their authorities or the periods mentioned in the second paragraph have expired, the Ministry of Culture may exercise the rights granted to the owner of the work under the third paragraphs of articles 14, 15 and 16 in its own name, if this is deemed important in terms of the culture of the country.

III. FINANCIAL RIGHTS

1. General

20. (Amended: 1.11.1983 —2936/article3) The right to make use of a work not publicized yet in any way whatsoever belongs exclusively to the owner of the work. The right to make use of a publicized work exclusively by the owner of the work consists of the right set forth in this law as the financial right. Financial rights are not bound to each other. The deposit and use of one of these does not affect the other.

In case the owner of the work is a member of a professional union, the observation of his works stated in the written authorization document and the financial rights related to it, the collection of copyrights and the distribution of these charges and the work are carried out by the professional union.

The rules and principles related with the authorization document are determined by the regulations to be prepared by the Ministry of Culture.

The owner of an adaptation exercises the financial rights granted to him under such title to the extent allowed by the original owner of the work, except where an adaptation is free.

2. Types

(a) Right to Adapt

21. The right to make use of a work by way of adapting it rests exclusively with the owner of the work.

(b) Right to Duplicate

22. (Amended: 7.6.1995 —4110/article8) The right to partially or wholly duplicate the original or adaptations of a work belongs exclusively to the owner of the work.

Making a second copy of the original of the work or recording the work on all kinds of media, known or to be developed in the future, used for transfer and replay of signs, sound and image, all kinds of sound and music recordings and the implementation of the plans, projects and sketches of the works of architecture are considered as duplication. The same rule applies to the relief and perforated shapes, as well.

The right to duplicate covers the acts of loading, displaying, operating, transmitting and storing of the program, to the extent necessitated by the provisional duplication of the computer program.

(c) Right to Disseminate

23. (Amended: 7.6.1995 —4110/article9) The right to disseminate, lease, lend or sell or make a subject of trade in any way whatsoever a work and its copies obtained by

duplication from the original or adaptation of it and to benefit from this way belong only to the owner of the work. In case the copies of the work duplicated abroad are brought home, the right to promulgate the work at home and to benefit from the work belong exclusively to the owner of the work.

The sale of certain copies after their first sale or dissemination is made within the borders of the country by the transfer of their property by the owner of the right upon the utilisation of the right to disseminate does not violate the dissemination right granted to the owner of the work, provided that the right to lease and lend to the public are reserved.

(d) Right to Perform

24. The right to make use of a work by means of performances such as reading, playing and displaying its original or adaptations directly or through devices used for sign, sound or image transfer at public places belong exclusively to the owner of the work.

The transport of the performance from the place it is realized to be presented to the public to another place by any technical means also belong to the owner of the work.

(Supplemented: 1.11.1983 —2936/article 4) The right to perform may not be exercised by other real or corporal persons without the permission of the owner of the work, or in case he is member of a professional union, of the professional union within the authorities stated in the authorization document. However, the provisions of articles 33 and 43 are reserved.

(e) Right to Broadcast Through Radio

25. The right to make use of a work by promulgating its original or adaptations by means of radio or similar technical facilities used for sign, sound or image transmission; or promulgating the works promulgated by this way again through or without cable by receiving it live at another radio facility or performing it at public places by means of loudspeakers or similar technical facilities used for sign, sound or image transmission belong exclusively to the owner of the work.

3. Periods

(a) General

26. The financial rights granted to the owner of the work are restricted by time. After the expiry of the protection period, everyone may make use of the rights granted to the owner of the work, except the situations stated in articles 46 and 47.

The protection periods granted for the original or adaptations of a work are not dependent on each other.

This provision also applies to the works in the first paragraph of article 9. The protection period does not become effective prior to the becoming publicized of the work.

For works published in sheets or fascicles, the date of publication of the last sheet or fascicle is considered as the date of becoming publicized. The date of becoming publicized for each volume of the works consisting of numerous volumes published at intervals and for works such as bulletins, booklets, periodicals and yearbooks is the date of publication of each of these.

The periods commencing at the date of becoming publicized are calculated from the first day of the year following the year that the work initially becomes publicized or is deemed to have been publicized.

In the calculation of the periods commencing from the date of death of the owner of the work, the first day of the year following the year that the owner of the work has died is considered as the commencement date. In cases mentioned in the first paragraph of article 10, the period commences after the date of death of the last surviving one of the owners of the work.

(b) Continuation of the Periods

27. (Amended: 7.6.1995 — 4110/article 10)

The protection period continues during the lifetime of the owner of the work and for 70 years after his death.

For works becoming publicized after the death of the owner, the protection period is 70 years after the date of death.

In cases stated in the first paragraph of article 12, the protection period is 70 years from the date that the work becomes publicized; provided that the owner of the work discloses his name before the expiry of this period.

In case the first owner of the work is a corporal person, the protection period is 70 years from the date that the work becomes publicized.

(c) Protection Period for Translation into Turkish

28. (Amended: 7.6.1995 — 4110/article 11)

In case a work of science and literature originally published in a language other than Turkish is not translated into Turkish and published by the owner of the work or by someone else by his permission within 70 years from its date of publication, it may be translated into Turkish upon the elapse of 70 years.

(d) Periods for Handicrafts, Minor Works of Art, Photographic and Cinema Works

29. (Amended: 7.6.1995 — 4110/article 12)

The protection period for handicrafts, minor works of art, photographic and cinema works is 70 years from their date of becoming publicized.

(B) Limitations

I. INCONSIDERATION OF PUBLIC ORDER

30. The rights granted to the owner of the work do not impede the use of the work before the court and other government offices for its proof and as the subject of a proceeding in the absolute security and penalty procedures. Photographs may be duplicated and disseminated through any way whatsoever by the government offices and by other through their orders without receiving the consent of the owner, in consideration of public security and for ordinary purposes.

The provisions of public legislation prohibiting or binding to permission or control the marketing, performance or use in other ways of the work are reserved.

II. INCONSIDERATION OF GENERAL INTEREST

1. Legislation and Jurisprudence

31. Duplication, dissemination, adaptation or otherwise use of the laws, rules, regulations, notifications, circular letters and juridical decisions which are officially promulgated or announced is free.

2. Speeches

32. The duplication of the words told and the speeches delivered in the Grand National Assembly and other official assemblies and congresses, courts and public meetings for the purpose of giving news and information, reading these in public places or broadcasting them through radio or otherwise is free.

When not necessitated by the scope of the event and the requirements of the situation, the names of the owners of the words and speeches may not be mentioned.

Duplicating or otherwise disseminating such words and speeches other than mentioned in the first paragraph rests with the owner of the work.

3. Freedom of Performance

33. The free performance of a published work at public places exclusively for training and education purposes or without any aim of benefit is allowed.

This same rule applies to the performances, the net revenue of which are completely allocated to felicities.

Yet, it is obligatory to regularly mention the name of the owner of the work and the work.

4. Selected and Collected Works for Training and Education

34. (Amended: 7.6.1995 — 4110/article 13) Creating selected and collected works from the published works of music, science and literature and publicized works of fine art, which are understandably aimed at training and education from their states and situations, by way of borrowing to the extent justified for the purpose is allowed. The works stated in the third indent of article 2 and the first and fifth indents of the first paragraph of article 4 may only be borrowed in order to describe the contents of these selected and collected works. However, this freedom may not be exercised in a way as to give harm to the legal interests of the owner of the right without any justification nor in contradiction to the normal use of the work.

The provisions of the first paragraph also apply for the broadcasts (school -radio) exclusively prepared for the schools and approved by the Ministry of National Education.

In all these cases, it is obligatory to regularly mention the name of the work and the owner of the work.

5. Freedom of Borrowing

35. Borrowing from a work under the following circumstances is allowed:

1. Including some sentences and paragraphs of a publicized work in an independent work of science and literature;
2. Including mostly the parts such as theme, motive, passage and idea of a promulgated composition in an independent work of music;
3. Including publicized works of fine arts and other promulgated works in a work of science to the extent justified by its purpose and for the purpose of describing its contents;
4. Illustrating publicized works of fine arts in scientific conferences or courses through projection or similar means in order to describe the subject.

6. Contents of the Newspapers

36. Daily news and information promulgated to the public through press or radio may be freely borrowed, provided that article 15 of the Press Law is reserved.

Unless the borrowing right of the articles and paragraphs concerning daily social, political or economic matters published in the newspapers or periodicals is clearly preserved, their citation in the other newspapers and periodicals literally or as adapted and their promulgation through radio or otherwise is allowed. Even if the right to borrow is reserved, the citation of the said articles and paragraphs as press summaries by way of abridgement and their promulgation through radio or otherwise is allowed.

In all these cases, it is obligatory to mention the name of the borrowed newspaper, periodical or agency and if they also cited these from another source, the name and volume of such source as well as the name, pseudonym or sign of the owners of the articles.

7. Interviews

37. The inclusion of some parts of the intellectual and artistic works in the media used for sign, sound or image transmission in relation to daily events, provided that these have the characteristics of an interview, is allowed. The duplication, promulgation, performance or broadcasting through radio of the parts cited in such a manner is allowed.

The broadcasting of some parts of the publicized intellectual and literature works through radio is allowed, provided that this action does not step beyond the framework of an interview.

III. INCONSIDERATION OF PRIVATE INTEREST

1. Personal Usage

38. (Amended: 7.6.1995 — 4110/article 14)

All the intellectual and artistic works may be duplicated for personal usage without the purpose of promulgation or profit. However, such duplication may not damage the legal interests of the owner of the right without any justified reason or may not be contradictory to the normal use of the work.

Within the framework of the provision of the first paragraph, everyone may adapt or have adapted the works of music, science and literature.

In case of lack of determining provisions in the contract, when required for the intended use of a computer program, the duplication and adaptation of a computer program, including correction of faults, by the person who has legally obtained it is allowed.

The loading, operating and fault -correcting of a program by the person obtaining such computer program through legal means may not be prevented by the contract. To the extent required for the use of the computer program, the person who has the right to use the computer program cannot be prevented by virtue of the contract from generating a back -up copy.

The person who has the right to use the computer program is free to observe, detect and try the operation of the program for the purpose of determining the ideas and principles underlying any element of the computer program during the conduct of the acts of loading, imaging, operation, transmission or storage of the computer program he is entitled to make.

In cases where the duplication of the code and the conversion of the code form is also compulsory in terms of the duplication and adaptation of the computer program in order to obtain the information required for providing the interoperability of an independently created computer program and the other programs, the conduct of such acts is allowed when the following requirements are fulfilled:

1. Such acts should be conducted by the owner of the license or such other person who has the right to use the copy of the computer program or the person authorized to do so on their behalf,

2. The information required for providing interoperability should not be supplied for usage by the persons mentioned in indent (1),

3. Such acts should be restricted to the program components required for providing interoperability.

The provision of the above paragraph does not allow, with respect to the information obtained by its practice;

1. To be used for purposes other than providing the interoperability of the independently created computer program,

2. To be given to persons other than in cases required for providing the interoperability of the independently created computer program,

3. To be used for the development, creation or marketing of a computer program from the original one similar in terms of expression or to be used for any other act violating the intellectual rights.

The provision of the sixth and seventh paragraphs may not be interpreted so as to be in contradiction to the normal use of the program or so as to interfere with the legal benefit of the owner of the rights unreasonably.

2. Rights Granted to the Composers

39. (Amended: 7.6.1995 — 4110/article 14)

A work of literature may be used in a work of music only upon the written permission of the owner of the work.

When all kinds of lyrics, librettos and similar works used in a work of music are composed, such permission is documented at each stage before the collective work is recorded, registered and marketed and inspected by the owners of the right and the other relevant persons.

It is possible to distribute the lyrics freely by including in radio -television programs and print them to be supplied on or together with the sound carrying devices. The person making use of these possibilities is obliged to state the name of the work of literature and the owner of the work.

3. Copying and Demonstration

40. The duplication through illustrations, graphics, photographs, etc., promulgation, demonstration by projection at public places and broadcasting through radio and similar

media of the works of fine arts stat ionarily placed on the public roads, streets and avenues are allowed. This authority is exclusive only to the outer shape in the works of architecture.

Unless a prohibitory record is clearly placed on them by their owners, the works of fine arts can be demonstrated at public places by their possessors or by others upon their approval.

Work to be sold by auction may be demonstrated to the public. Duplication and promulgation of a work demonstrated at public places or put on an auction by means of catalogues, manuals or similar publications to be published by the organizers of such auction for these purposes are allowed.

In such cases, unless there is any otherwise accepted custom, the mentioning of the owner of the work may be renounced.

4. Usage of Records, Video Cassettes and Sound Cassettes at Public Places

41. (Amended: 1.11.1983 —2936/article 6) The performance of works recorded in the mediums used for sound, image or sound and image replay with the permission of the owner of the work and specifically marked for performance at places open to the public by way of playing or displaying is possible. However, in case of works not specifically marked, the rights of the owner of the work or the professional union, where authorized, to demand a suitable indemnity is reserved.

The rules and principles for the determination, follow-up and sharing between the owner of the work and the professional union of this amount of indemnity is determined by the regulations to be prepared by the Ministry of Culture after receiving the opinion of the professional union.

IV. AUTHORITIES GRANTED TO THE GOVERNMENT

1. Establishment of Professional Unions

42. (Amended: 7.6.1995 —4110/article 16) The owners of the works and the owners of the neighbouring rights may establish professional unions in accordance with the regulations and type statutes prepared by the Ministry of Culture and approved by the Board of Ministers, in order to protect the common interests of their members and to follow their rights granted by this law within the principles and procedures set forth by the legislation, to collect the receivable charges and to distribute such revenues to the owners of the rights. Field determination is decided by the regulations. More than one professional unions may be established in the same field. Each union may operate by opening branches in line with the requirements.

The professional unions may establish a superior institution according to the type status prepared by the Ministry of Culture and approved by the Board of Ministers.

Professional unions and confederations are corporal persons subject to special legislation. Their members cannot be held responsible for depositing capital and participating in the profit and loss and legal obligations.

In the type statutes of professional unions and federations, the general assembly, board of management, board of inspection, technical -scientific board and board of prestige are established as compulsory organs. The establishment, control and inspection of these unions and federations and the minimum number of members required for holding the first general assembly meeting, other arbitrary organs, way of establishment of the boards, number of members and their duties, requirements for acceptance, resigning and dismissal from membership, determination of the areas where they can establish their branches, their relations with the public organizations and institutions home and abroad and real and private legislation of corporal persons, their rights and authorities in these relations, their financial relations with their members, the distribution of the copyright fees and indemnities and the matters related with the other procedures and principles are determined by the regulations to be prepared by the Ministry of Culture following the receipt of the opinion of the relevant organizations.

Second paragraph of article 21 and articles 30, 37, 40, 42, 43, 44, 45, 48, 65, 66, 67, 68, 69, 70 and 90 of the Law No. 2906 on Associations dated 4/10/1983 are applied to the professional unions and federations to be established under this article together with their penal provisions.

The financial rights of the owners of the works who are Turkish citizens may not be followed by unions, associations and similar organizations other than the professional unions established within the country under this article. ns

2. Copyrights in Radio -Television Broadcasts

43. (Amended: 7.6.1995 —4110/article 17)

The intellectual and artistic works used in the radio -television broadcasts are paid copyright charges.

In all kinds of broadcasts, no permission is received from the owners of the works and no charge is paid for short citations at a level that will not damage the rights on the whole of the work used for the purpose of promotion.

The usage of any portion of the works in the introduction of verbal or musical programs, as auxiliary dramatic element, signal, generic and passage music and for similar purposes is considered as short citation.

The owners of the works are not paid for the works used in the broadcasts to be made abroad through the short wave radio stations of Turkish Radio and Television Organization.

3. Marking the Intellectual and Artistic Works

44. (Amended: 7.6.1995 —4110/article 18)

Owners of the financial rights and the manufacturers and publishers of the devices used for the replay of intellectual and artistic works through signs, sound and image are collectively responsible for putting signs and serial numbers on all copies of a work to be marketed, distributed or otherwise marketed in accordance with this Law.

There are land and corporal persons manufacturing or commercially importing all kinds of empty video cassettes, sound cassettes, compact disks and computer disks are liable to deduct an amount over the manufacturing or import value to be determined by the decision of the Board of Ministers so as not to exceed five percent of the same and to deposit the sum they collected within one month in a special account to be established in a national bank in the name of the Ministry of Culture until the half of the following month at the latest.

The Ministry divides 3/4 of the amount collected in this account among the professional unions to be distributed to the owners of the rights represented by the professional unions. The professional unions distribute this sum to the owners of the rights according to the distribution plan to be approved by the Ministry. When approving these plans, the Ministry considers the duplication numbers of the works represented by the professional unions. The Ministry uses the remainder 1/4 of this amount for cultural and social purposes and for the prevention of the violation of intellectual rights.

The rules and regulations regarding the signs and serial numbers to be placed on the copies of the intellectual and artistic works according to their usage for the purposes of their performance at personal or public places, the collection of the copies not bearing these, the authority to whom the number of duplicated and distributed copies will be informed and the other matters are determined by the regulations to be introduced by the Ministry of Culture.

4. Giving Shares from the Sales Values of the Works of Fine Arts

45. After the one of the originals of the works of fine arts listed in 1st and 2nd indent of article 4 and of the works listed in 1st indent of article two and in article 3 and handwritten by the authors and the composers is once sold by the owner of the work or his heirs, in case there is a clear disproportion between the sales value of such work in its circulation as a subject of sales in an exhibition or auction or store selling such goods and its previous sales value, the vendor may be charged through a decree to pay a suitable share of the value difference each time to the owner of the work, to his legal heirs up to the 3rd degree (excluding 3rd degree) and his spouse, if he is dead and to the professional union, if these are not also available.

In this decree:

1. A share tariff to be determined according to the proportion of the difference, so as not to exceed ten percent of the value difference;
2. That the sales not exceeding a certain amount, the value of which will be determined in the decree, will be exempted from the liability to give shares;
3. The branch of the professional union that will be considered relevant in respect of types of works;

are shown.

The owner of the establishment where the sales is realized is successively liable together with the vendor.

In cases of forced sales, the share is paid only after all the other receivables are completely paid.

The forfeiture of the share giving liability is five years from the sales leading to the rise of such liability.

5. State's Authority to Benefit

46. (Amended: 1.11.1983 —2936/article 10)

The works, which are not published or publicized yet, the duplication and promulgation of which are not expressly prohibited by the owner of the work and which are kept in public libraries, museums and similar organizations belong to the public organizations and institutions they are kept by, provided that the period related with the financial rights has expired. The authority that the public organizations and institutions and the persons and organizations who want to benefit from these for scientific and similar purposes will receive permission from and the fee to be charged from these, the cultural purposes that such fees will be spent for and the other matters are determined by the regulation to be prepared by the Ministry of Culture after receiving the opinion of the relevant organizations.

6. Expropriation

47. The authority to make use of the financial rights on a work that is deemed to carry importance for the country culture may be expropriated by way of paying a suitable value before the expiry of the protection period through a decree.

In order to decide on this matter, the work should have been promulgated in Turkey or by Turkish citizens out of Turkey and at the same time the copies of the work should have been sold out for two years and the promulgation of new copies by the owner of the rights within a suitable period should have been considered impossible.

The following are written in this decree:

1. Name of the work and its owner;
2. The value to be paid to the persons whose acquired rights are violated;
3. The authority or organization that will exercise the financial rights;
4. The cultural purposes that the net profit gained after the paying off of the given value will be allocated for.

PART FOUR CONTRACT AND DEPOSIT S

(A) Deposits Protective in Life

I. ORIGINAL ACQUISITION

48. The owner of the work or his heirs can transfer the financial rights legally granted to them to others in a restricted or unrestricted manner in terms of duration, place and contents, with or without any return.

The authority to merely exercise the financial rights (license) can also be assigned to another person.

The deposit procedures mentioned in the above paragraphs are void if they concern a work which is not created yet or which will be completed.

II. ACQUISITION BY TRANSFER

49. Any person who has acquired a financial right or a license to exercise such a right from the owner of the work or his heirs may transfer such rights or a license to exercise such rights to someone else only through the written consent of them.

In the transfer of the right to adapt, the consent of the owner of the work or his heirs is also required for the person acquiring these by transfer in the same manner.

III. CONTRACTS

1. Work to be Created

50. The commitments regarding the disposal procedures mentioned in articles 48 and 49 are valid even if they are made prior to the creation of the work.

Such commitments concerning the whole or a certain type of the work that the owner of the work will create in the future may be terminated by each of the parties so as to be effective one year after the date of notification.

In case the owner of the work dies or loses his ability to complete the work or it is impossible for the work to be completed without his default before the completion of the work, the said commitments are automatically terminated. The same provision also applies in cases where the other party declares bankrupt or becomes incapable of using the financial rights it has taken over under the contract or such usage becomes impossible without his default.

2. Possibilities for Further Exploitation

51. Contracts concerning transfer of the financial rights possibly granted through further legislation to author in the future or exploitation of the financial rights by others shall be null and void.

The same provisions shall be in force concerning the contracts for extending the scope of the financial rights or renouncing the authorization caused by extension of the protection term or containing the transfer of the rights through further legislation.

IV. FORM

52. The contracts and deposits including financial rights should be in writing and the rights subject to these should be shown separately.

V. ENGAGEMENT

1. Absence of Right

53. Any person transferring a financial right to someone else or giving the license of usage guarantees the presence of the right against the acquirer under the provisions of articles 169 and 171 of Debt Law.

Claims arising from unjustified acts and groundless acquisition of goods are reserved.

2. Absence of Authority

54. Any person acquiring a financial right or license of usage from a person not authorized to transfer is not defended even though he has goodwill.

The person transferring a financial right to someone else or giving the license of usage without authority is liable to indemnify the damage arising from the ineffectiveness of the deposit unless she proves that the other party knows or had to know that he did not have such authority. In case of default, the court may determine a higher indemnity, if justice requires to do so.

Claims arising from unjustified acts and groundless acquisition of goods are reserved.

VI. RULES OF INTERPRETATION

1. Scope

55. Unless otherwise decided, the transfer of a financial right or giving a license does not cover the translations or other adaptations of a work.

2. License

56. The license is a “simple license”, if it does not prevent the granting by the owner of the financial right of the same license to others and a “full license”, if it is exclusive to only one person.

Unless otherwise understood from the law or the contract, every license is considered a simple license.

The provisions on revenue lease are applied for simple licenses and the provisions on right of benefit are applied for full licenses.

3. Transfer of Property

57. The transfer of the property right on the original or duplicate copies does not include the transfer of intellectual rights unless otherwise decided.

Any person who acquires the possession of shapes and other duplication means from a person who has duplication right on a work of fine art is considered to have acquired the right to duplicate, as well, unless otherwise decided.

Any person who acquires property on the duplicated copies of a cinematograph work is considered to have acquired the right to perform, as well, unless otherwise decided.

VII. RIGHT TO RENOUNCE

58. In case any person acquiring a financial right and license does not duly make use of his rights and authorities within the agreed period of time and a suitable period of time required by the situation if not time is determined, and thus, the interests of the owner of the work are substantially neglected, the owner of the work may renounce from the contract.

The owner of the work who wants to exercise his right to renounce is obliged to give a term of grace to the other party through the notary public for the exercise of the rights under the contract. In case the exercise of the right is impossible for the acquirer or rejected by him or in case the interests of the owner of the work are substantially jeopardized upon the granting of such a term of grace, the determination of a term of grace is not necessary.

In case no result is obtained during the term of grace or the determination of a term of grace is not necessary, renouncement is completed upon a notification through the notary public. No case of objection can be sued against the renouncement after 4 weeks have passed from the furnishing of the renouncement notification.

In case the acquirer does not have default in not exercising the financial right or the default of the owner of the work is graver, the acquirer may demand a suitable indemnity in cases where justice is required.

While advance waiving from the right to renounce is not allowed, restrictions prohibiting the expression of this right for a period more than two years are also void.

VIII. RETURNING OF THE RIGHT TO THE OWNER OF THE WORK

59. In case the owner of the work or his heirs have transferred a financial right for a certain purpose or a certain period, the right is returned to its owner upon the elimination of the purpose or the expiry of the period. This provision does not apply in case of the death or bankruptcy of the person acquiring a financial right, the transfer of which is not allowed through the contract; provided that the exercise of the right is bound to the person of the acquirer due to the scope of the work.

Licenses granted for a certain purpose or a certain period of time expire in the cases mentioned in the first paragraph.

(B) Waiver

60. The owner of the work or his heirs may waive the financial rights granted to them legally upon the arrangement of an official bond and the announcement of the matter in the Official Journal, provided that they do not violate their deposits that were realized previously.

Waiver commences on the date of announcement and gives rise to the result caused by the expiry of the protection period.

(C) Attachment and Pledge

I. CASES NOT ALLOWED

61. Provided that the provisions of articles 24 and 30 of Execution and Bankruptcy Law are reserved:

1. The drafts or originals of a work not publicized yet which are under the possession of the owner of the work or one of his heirs;

2. The financial rights on the works mentioned in the 1st indent, except cinema works;

3. The receivables other than cash of the owner of the work arising out of the legal proceedings regarding financial rights; cannot be the subject of a legal or contractual right of pledge, forced execution or right of imprisonment.

II. CASES ALLOWED

62. Within the framework of the following provisions:

1. The draft or original of a publicized work;

2. The duplicated copies of a promulgated work;

3. The financial rights of the owner of the work on a publicized work, provided that the moral rights deserving protection of the work are not violated;

4. The cash receivables of the owner of the work arising from the legal proceedings regarding the financial rights;

May constitute the subject of a legal or contractual right of pledge, forced execution or right of imprisonment.

The pledge contract regarding the matters listed in the first paragraph should be made in writing to be valid. The pledged goods should be separately shown in the contract.

Shares of the works of fine arts and other duplication means may be provisionally taken from the possessor to the extent that it is considered necessary for the implementation of forced execution on the financial rights mentioned in the third indent of the first paragraph.

The originals of works of fine art, excluding works of architecture and the drafts of works of music, science and literature belong to the owner of the work or his heirs may be provisionally taken from the possessor to the extent that it is considered necessary for the implementation of forced execution on the financial rights mentioned in the third indent of the first paragraph.

(D) Heritage

I. GENERAL

63. The financial rights granted by this law are transferred by heritage. Deposits depending on death may be realized on the financial rights.

II. DEATH OF ONE OF THE COLLECTIVE OWNERS OF THE WORK

64. In case one of the collective creators of the work dies before the completion or becoming publicized of the work, his share is divided among the others. These are reliable to pay a suitable value to the heirs of the deceased. In case they cannot agree on the amount, the court determines it.

In case one of the collective creators of the work dies after the becoming publicized of the work, the others are free to continue the unity with the heirs of the deceased or not.

In case they decide to continue, the surviving owners of the work may request the assignment of a representative from the heirs on the exercise of their rights against the unity.

In case they do not decide to continue, the provisions of the first paragraph apply.

III. MORE THAN ONE HEIRS

65. In case the financial rights granted by this law are present in the legacy of the owner of the work and a representative has been assigned under article 581 of the Civil Law, the representative is obliged to receive the decision of the heirs for the procedure she will apply on these rights.

PART FIVE
CASES OF JURISPRUDENCE AND PENALTY

(A) Cases of Jurisprudence

I. CASE OF ELIMINATION OF VIOLATION

1. General

66. The person who has been subject to violation may sue for the elimination of the violation against the violator.

If the violation has been performed by the representative or employees of an organization during the conduct of the services, the owner of the organization may also be sued.

The default of the violator or the persons stated in the second paragraph is not necessary.

The court considers the immaterial and financial rights of the owner of the work, the scope of the violation, the presence of a default, if any, its gravity and the damages that the violator will possibly be subjected to in case of elimination of the violation, and decides upon the implementation of the measures that it will deem necessary for the elimination of the violation.

(Supplemented: 7.6.1995 — 4110/19) The owner of the work may also sue a case of elimination of violation at the place he is domiciled.

2. In Case of Violation of the Immaterial Rights

67. In case a work not publicized yet is presented to the public without the consent of its owner or in contradiction to his will, the case of elimination of violation may only be sued when the act of presentation to the public is performed through the promulgation of duplicated copies. The same provision also applies in cases where the work is named in contradiction to the will of its owner.

In case the name of the owner has not been placed at all on the work or placed wrongly or the placed name might lead to confusion and the owner of the work has requested the elimination of the violation besides the determination case mentioned in article 15, the violator is obliged to inscribe the name of the owner of the work on both the original and the circulating duplicated copies. The announcement of the decision in maximum 3 newspapers to the cost of the violator may be demanded.

In case wrong or insufficient sources are stated or no source is given at all in the cases listed in articles 32, 33, 34, 35, 36, 39 and 40, the provision of the second paragraph is applied.

In case the work is unjustly modified, the owner of the rights may demand the following:

1. The owner of the work may demand the prohibition of the duplication, promulgation, performance and radio broadcasting of the work as modified and the violator to correct the modifications in the circulating duplicated copies or to restore them. If the modification has taken place during the promulgation of the work through newspapers, periodicals or radio, the owner of the work may demand from all the newspaper, periodical and radio administrations that have promulgated the work as modified to correct the modification by way of announcement to the cost of the violator;

2. (Amended: 7.6.1995 — 4110/20) In works of fine arts, the owner of the work may demand that the modification was not made by himself for the deletion or changing of his name on the work. In case return to the old state is possible and the removal of the modification does not substantially damage the interests of the public or the owner, the owner of the work may restore the work.

3. In case of Violation of the Financial Rights

68. (Amended: 7.6.1995 — 4110/21)

In case the work has been translated without the permission of the owner of the rights, printed out of the contract or in a number more than that stated in the contract, otherwise adapted or broadcast or performed through radio and television, the owner of the work for which permission was not taken may demand maximum three times the damage he was subject to as of the current value.

In case a work is used by way of unauthorised duplication and the duplicated copies have not been marketed, the owner of the work may demand the destruction of the duplicated copies and the films, shapes and similar devices used for duplication or the delivery of the duplicated copies and the films, shapes and similar devices used for duplication against a suitable value not to exceed the cost price or three times as much the amount he would be entitled to demand in case of the presence of a contract. This does not prejudice the legal responsibility of the person performing unauthorised duplication.

In case the copies of a work obtained by unauthorised duplication are placed on the market or the sales constitute an unjust violation, the owner of the work may choose one of the options in the second paragraph with respect to the copies held by the violator.

The person claiming a value may exercise all the rights and authorities against the violator that he would be entitled to in case he had made a contract with him.

II. CASE OF PREVENTION OF VIOLATION

69. The owner of the work subjected to the danger of violation of financial or immaterial rights may sue for the prevention of the possible violation. The same provision

applied to the cases where the continuation or repetition of a realized violation is deemed possible.

The provisions of second, third and fourth paragraphs of article 66 apply here, as well.

III. CASE OF INDEMNIFICATION

70. (Amended: 7.6.1995 — 4110/22) The person whose immaterial rights are damaged may sue a case for the payment of an immaterial indemnity against the immaterial damage he has been subjected to. The court may decide for another type of immaterial indemnity in place of or in addition to such amounts.

The person whose immaterial rights are damaged may claim indemnity within the framework of the provisions concerning unjust acts, if the violator is defaulting.

In the cases stated in the first and second paragraphs, the persons subjected to violation may demand the delivery of the gained profit to himself besides the indemnity.

In such a case, the value demanded under article 68 is discounted.

(B) Cases of Penalty

1. Violation of Immaterial Rights

71. (Amended: 1.11.1983 — 2936/article 11)

Any person who intentionally:

1. Presents to the public or promulgates a work publicized or not, without the written permission of the owner of the work or his successor,

2. Places names in a work or its duplicated copies without the written permission of its owner or his successor,

3. Demonstrates a work belonging to someone else as his own or his work as someone else's or acts in contradiction to the provision of the second paragraph of article 15,

4. Does not show any source or shows wrong or insufficient or deceptive sources in cases stated in articles 32, 33, 34, 35, 36, 37, 39 and 40,

in contradiction to the provisions of this Law,

(Amended: 7.6.1995 — 4110/23) is sentenced to imprisonment from three months to one year and a major fine of 300 million to 600 million liras.

2. Violation of Financial Rights

72. (Amended: 1.11.1983 — 2936/article 12)

Any person who intentionally:

1. Adapts a work in any way,
 2. Duplicates a work in any way,
 3. Sells or supplies for sale or circulation the copies of a work or its adaptations duplicated by himself,
 4. Performs or demonstrates or displays at public places or promulgates through radio or similar media a work or its adaptations,
 5. (Supplemented: 7.6.1995 —4110/24) Leases a work or its adaptations,
 6. (Supplemented: 7.6.1995 —4110/24) Imports the copies made without the permission of the owner of the work,
- without the written permission of the owner of the rights in contradiction to this law, is sentenced to imprisonment from three months to one year and a major fine of 300 million to 600 million liras.

3. Other Offences

73. (Amended: 1.11.1983 —2936/article 13)

Any person who intentionally:

1. Places on the market the copies of a work that he is or should be aware of duplication thereof in contradiction to the provisions of this law or uses these for the purpose of promulgation at public places by performance or radio or in any way for gaining profit;
 2. Sells to others the copies of a work that he is or should be aware of marketing thereof in contradiction to the provisions of this law or uses these for the purpose of promulgation at public places by performance or radio or in any way for gaining profit;
 3. Transfers or grants or pledges or makes the subject of any deposit the financial right or the license that he is or should be aware of the unavailability of for that he is not authorized for disposal of;
 4. Duplicates or causes to be duplicated copies in a number more than he is permitted contractually or legally;
 5. (Supplemented: 7.6.1995 —4110/25) Keeps in his hand for commercial purposes the copies of a work that he is or should be aware of duplication thereof in contradiction to the provisions of this Law;
 6. (Supplemented: 7.6.1995 —4110/25) Keeps or distributes for commercial purposes any technical means which is used merely for invalidating or removing without permission a technical device applied for the protection of a computer program;
- is sentenced to imprisonment from three months to three years and a major fine of 300 million to 600 million liras.

II. PERPETRATOR

74. In case the offences stated in articles 71, 72 and 73 are committed by the representative or employees of an organization during their conduct of services, the owner or director of the organization who has not prevented the realization of the offence or the person actually administering the organization under any name or title is also punished as the perpetrator. In case the act requiring a penalty is ordered by the owner or director of the organization or the person actually administering the organization, these persons are punished as perpetrators and their representative or employee is punished as an assistant.

Any person reserving a place with or without any return for the display of a work that he knows is contradictory to law to be performed or any person assuming a duty or role in the performance of such a work is punished as an assistant.

If any of the offences stated in articles 71, 72 and 73 is committed during the conduct of the business of a corporal person, the corporal person is successively liable for the cost and the fine.

The provisions of articles 64, 65, 66 and 67 of the Penal Code are reserved.

III. LEGAL PROCEEDINGS

75. Legal proceedings for the offences stated in articles 71, 72 and 73 are dependent on complaints.

(Amended: 1.11.1983 — 2936/article 14) The ones authorized for complaints other than the persons subjected to the violation are as follows:

1. When acts contradictory to the liability to show sources under article 35 in cases stated in the fourth indent of article 71 are concerned, Ministries of National Education and Culture and the professional union of which the person who was subject to or who committed the violation is a member.

2. When acts contradictory to the liability to show sources under article 36 in cases stated in the fourth indent of article 71 are concerned, the Ministry of Culture and the General Directorate of Press and Publication and the institutions representing the Turkish press.

The case of penalty should be sued within one year from the commitment of the act.

The affairs included in the scope of this law are of urgent affairs covered by article 423 of the Law of Criminal Procedure.

(C) Miscellaneous Provisions

I. ASSIGNMENT

76. In the case arising from the legal relations arranged by this law, the assigned office is the court of first instance notwithstanding the amount of the sued thing and the degree of the penalty shown in law.

In case a personal case has been sued, article 358 of the Law of Criminal Procedure is applied. If personal rights are also demanded together with the penal case, the documents are directly transferred to the court of justice in case of acquittal.

II. PRECAUTIONARY MEASURES

77. If considered necessary for the prevention of a substantial damage or a sudden danger or accomplished facts or for any other reason and the claims set forth on this matter are also considered strongly possible, the court, upon the request of the person whose rights granted by this law are subject to a threat or violation, may order the other party to do or not to do something prior to or after the bringing of the suit at law or decide to seize the duplicated copies of a work or the shapes used for its manufacture and similar duplication means by way of precautionary measures. In the decision, it is stated that acting contradictory to the order will lead to the penal results in article 343 of Execution and Bankruptcy Law.

III. ANNOUNCEMENT OF THE DECISION

78. Except for the cases stated in the second paragraph of article 67, the justified party is entitled to the right to demand the announcement of the final decision in whole or summary in newspapers or similar media at the cost of the other party, if he has a justified reason or interest.

The form and contents of the announcement are determined in the decision.

The right of announcement is annulled unless it is exercised within three months from the finalization of the decision.

IV. SEIZURE, CONFISCATION AND DESTRUCTION

79. The provisions of article 36 of Penal Code and articles 392, 393 and 394 of the Law of Criminal Procedure are applied in the seizure, confiscation and destruction of the duplicated copies, the production or promulgation of which require penalties under the provisions of this law and the shapes and similar means used for their duplication.

PART SIX
MISCELLANEOUS PROVISIONS

(A) Neighbouring Rights and Prevention of Violation

I. RIGHTS NEIGHBOURING TO THE RIGHTS OF THE OWNER OF THE WORK

80. (Amended: 7.6.1995 — 4110/26)

Provided that they do not damage the material and immaterial rights of the owner of the work, the performing artists uniquely performing and commenting the intellectual and artistic works and the producers of sound carrying devices initially recording a performance or the voices and the radio and television organizations have neighbouring rights to the rights of the owner of the work.

The right to benefit from the performance of a performing artist by way of recording it, duplicating and leasing this recorded work, broadcast of the performance by all kinds of cable and cordless means or its performance belong exclusively to the performing artist and the written permission of the performing artist is required for these. Performing artists may transfer such rights to the producer against a suitable value.

If the performance is conducted by an orchestra, chorus or a theatre group, the permission of only the conductor is sufficient.

If the artist or the group is hired by a venture for reading, performance or presentation, the permission of the venture should also be received.

The right to make use of a recording by way of its direct or indirect duplication, leasing, broadcasting by all kinds of cable or cordless means or its performance at places open to public belong exclusively to the producer and the written permission of the producer is required for these.

No person or organization may duplicate all or part of the broadcasts, broadcast them again by all kinds of cable and cordless means and display them at places with changed entries without the written permission of the radio and television organizations.

The written permission of the owner of the neighbouring rights is not required in the following cases:

1. Performance and supply to the public of intellectual and artistic works for the purposes of public order, training, education, scientific research or interview and without the aim to gain profit,

2. Duplication of intellectual and artistic works and radio and television programs for personal usage without the aim to broadcast them or to gain profit,

3. The provisional recordings made by the radio and television organization on their own possibilities for their own broadcasts,

4. The cases stated in articles 30, 32, 34, 35, 43, 46 and 47 of this law.

However, this implementation cannot damage the legal interests of the owner of the rights without any justified reason or cannot be contradictory to the normal use of the work.

Artists, conductors and soloists in choruses and orchestras and chiefs or lead actors in theatre groups may request the citation of their names in the means used for image and sound transmission.

The owners of neighbouring rights may also exercise the rights of suing cases of elimination of violation, prevention of violation and indemnification as well as the owners of the works.

The persons violating the rights of an owner of neighbouring rights without receiving the written permission stated in this article are sentenced to imprisonment from three months to one year and a major fine of 300 million liras to 600 million liras.

II. PREVENTION OF VIOLATION OF INTELLECTUAL RIGHTS

81. (Amended: 7.6.1995 — 4110/27)

In order to duplicate a work, the printing office, production company or filling facility should be convinced that the person is the owner of the work or the rights through the contract approved by the notary public and in compliance with article 52 or through the authorization certificate. The persons duplicating the work should fill bills of order and lading approved by the Ministry of Finance and submit these together with the invoice.

The band role to be taken from the Ministry of Culture should be attached to the non-periodical publications. The submission of the documents stated in the first paragraph is required for receiving band roles. Upon such submission, the band role is given within fifteen days without the need for any further procedure. The rules and principles related with the receipt of the documents are determined by the regulation to be prepared by the Ministry of Culture.

In case of unauthorized use of the financial or neighbouring rights of the owners of intellectual and artistic works or the owners of the rights by persons other than the owner of the rights, the Chief Public Prosecutor of the place where the event has taken place, upon application of the owners of the work and the financial rights or the authorized Professional Union, may request from the authorized judge to have the unduly duplicated or performed copies of the work collected and the technical means used for this purpose sealed.

In cases where delay is disadvantageous, the Chief Public Prosecutor may directly take the decision of collection and sealing, to be submitted to the approval of the authorized judge within three days.

The owners of the rights may apply to the Chief Public Prosecutor within six months from the date that they are aware of the violation and the perpetrator together with the documents proving their rights, provided that the crime is within the period of prosecution

forfeiture. The provisions of Law No. 3005 on Witnessed Offences are applied in relation with this offence.

The persons duplicating or disseminating the works by means of devices or methods used for sign, picture or sound replay without receiving the written permissions and the band role prescribed in this article, are sentenced to imprisonment from three months to one year and a major fine of 300 billion liras to 600 billion liras.

III. SCOPE AND PERIODS OF NEIGHBOURING RIGHTS

82. (Amended: 7.6.1995 — 4110/28)

The provisions of this law related with the performing artists are applied to the performing artists;

1. Who are citizens of the Republic of Turkey,

2. Who are not citizens of the Republic of Turkey, but whose performances are realized within the borders of the Republic of Turkey, included in the sound carrying devices where the provisions of this law are applied and not recorded in a sound carrying device, but broadcast through radio -television broadcasts where the provisions of this law are applied.

The provisions of this law related with the sound carrying devices are applied to the radio-television programs;

1. Within the borders of the Republic of Turkey,

2. Broadcast through the reflector within the borders of the Republic of Turkey.

The provisions of this law related with the neighbouring rights are also applied to the performing artists, producers and radio -television organizations protected under the provisions of an international agreement to which the Republic of Turkey is a party.

The rights of the performing artists commence on the date of the initial recording of the performance and last for 70 years. If the performance is not broadcast, this period commences upon the initial becoming publicized of the performance.

The rights of the producers commence on the date of the initial broadcast of the sound carrying devices and last for 70 years.

The rights of the radio -television organizations commence on the date of the initial broadcast of the program and last for 70 years.

(B) Unjust Competition

I. NAMES AND SIGNS

83. The names and signs and the forms of the duplicated copies of a work cannot be used in another work or its duplicated copies in a manner as to cause confusion.

The provision of the first paragraph does not apply to names, signs and other forms which are used by the public and which do not have any discriminating property.

The application of this article is not subject to the realization of the conditions in the 1st, 2nd and 3rd parts.

The provision of article 14 of the press law on the names of the periodicals is reserved.

Even if the violator is not a trader, the provisions concerning unjust competition are applied for the persons acting in contradiction to the provision of the 1st paragraph.

II. SIGN, IMAGE AND SOUND

84. Any person recording a sign, image or sound on a device used for the transmission of the same or duplicating them reasonably for commercial purposes may prohibit the duplication or promulgation of the same sign, image or sound by a third person through the same means.

Even if the violator is not a trader, the provisions concerning unjust competition are applied for the persons acting in contradiction to the provision of the first paragraph.

The provision of this article also applies to all kinds of photographs, images recorded through similar methods and cinema products which do not bear the characteristics of a work.

(C) Letters

85. The letters, memories and similar writings cannot be promulgated without the consent of their authors or the persons stated in the first paragraph of article 19, if the authors have died, even if they do not bear the characteristics of a work, unless ten years have passed from the death of the author.

Other than the above conditions, letters cannot be promulgated without the consent of the correspondent or the persons stated in the first paragraph of article 19, if the correspondent has died, unless 10 years have passed from the death of the correspondent.

The provisions of article 49 of the law on debts and articles 197 and 199 of the penal code are applied for the ones acting in contradiction to the above provisions.

In cases where promulgation is allowed according to the provisions of the first and second paragraphs, the provision of article 24 of the Civil Law is reserved.

(D) Pictures and Portraits

I. GENERAL

86. Pictures and portraits cannot be presented to the public by demonstration or otherwise without the consent of the illustrated person or the persons stated in the 1st

paragraph of article 19, if the illustrated person had died, even if they do not bear the characteristics of a work, unless 10 years have passed from the death of the illustrated person.

The consent mentioned in the first paragraph is not necessary for:

1. The pictures of the persons who play roles in the political and social life of the country;
2. The pictures illustrating the military reviews or official ceremonies or general meetings where the illustrated persons have participated;
3. Radio and film news on the pictures concerning daily events.

The provisions of article 49 of the debts law and articles 197 and 199 of Turkish Penal Code are applied for the persons acting in contradiction to the provision of the first paragraph.

The provision of article 24 of the Civil Law is still reserved in cases where promulgation is allowed under the provisions of the first and second paragraph.

II. EXCEPTIONS

87. Unless otherwise agreed, the person giving the order or the illustrated person or the heir of the same can make photographs of a picture or portrait of a person created upon his order.

This provision does not apply to the portraits and pictures created by pressing method. However, in case the pictures and portraits so created are not available or difficult to supply for the ones stated in the first article, these may also be photographed.

(E) Difference of Laws

88. The provisions of this law apply to:

1. All the works presented to the public in Turkey for the first time and present in Turkey but not presented to the public yet and all the letters and pictures in Turkey, notwithstanding the citizenship of the owner of the work;
2. All the works of the Turkish citizens not presented to the public yet or presented to the public abroad for the first time;
3. All the works of the foreigners not presented to the public yet or presented to the public in Turkey for the first time, provided that they are relevant provisions in an international agreement to which the Republic of Turkey is a party.

In case the state where the owner of the work belongs to protect the rights of the Turkish owners of the works sufficiently or an international agreement allows exceptions and restrictions on the matters concerning foreign owners of works, the Board of Ministers may decide to make exceptions from the provisions of the first and third indent of this article.

Supplementary Article 1. (this is the provision of article 18 of Law No. 1.11.1983 — 2936 and was converted into a supplementary article and numbered for succession).

The laws and regulations to be introduced under this law are prepared within six months and published in the Official Journal.

Supplementary Article 2. (7.6.1995—4110/29)

The protection periods in this law apply to the works, adaptations and products that become publicized after the enforcement of the Law, with respect to neighbouring rights, cinematograph works, computer programs and databases. The provisions of this law related with the ownership of cinematograph works apply to the cinematograph works started to be produced after the enforcement of this Law.

Supplementary Article 3. (7.6.1995—4110/30)

The principles related with the applications regarding the neighbouring rights are determined by the regulations to be introduced within 6 months from the effective date of this law.

(F) Provisional Articles

I. PROVISIONS FOR TRANSFER

1. General

Provisional Article 1. Unless otherwise determined in the articles below, the provisions of this article are also applied to the works presented to the public or registered within the country prior to enforcement. The inclusion or non-inclusion of the work or product within the provisions of the Copyright Law dated 8 May 1951 does not change the situation.

The protection periods concerning the works publicized prior to the enforcement of this law are recalculated according to this law. The terms copyright, rights of possession, literal possession, possession of fine arts and similar mean the rights and authorities granted by this law in similar cases.

In case the rights pertaining to a work or the use of such rights have been handed over to someone else in whole or in part prior to the enforcement of this law, the new and wider rights granted to the owner of the work by this law are not considered to be transferred, as well. The same provision applies to a longer protection period when compared to the older one of the works and products not protected under the former law.

2. Protection of Acquired Rights

Provisional Article 2. If the periods in the former law are longer, such periods are valid for the works promulgated prior to the enforcement of this law.

In case a lawful translation or adaptation of a work is promulgated prior to the promulgation of this law, the rights and authorities that the translator or adapter has acquired under the provisions of the former law are not prejudiced.

In case the promulgation of a translation allowed under the provisions of the former law but prohibited by this law has commenced prior to the effective date of this law, such promulgation may be completed. However, the period of such promulgation cannot exceed one year. The same provision applies to the translated works delivered to the performance organizations for performance at public places.

In case a duplication allowed under the provisions of the former law but prohibited by this law has been commenced on the promulgation date of this law, such duplication may be completed and the duplicated copies may be promulgated.

The promulgation of copies present at the time of enforcement of this law and allowed to be duplicated under the provisions of the former law may continue. The same provision applies to the devices used for sign, image and sound transmission and shapes and similar means used for the duplication of the works of fine arts.

Any person who wants to exercise the authority granted by the above paragraph is obliged to notify such copies and devices to the competent authority and have them sealed within 6 months from the enforcement of the law. If required, the details may be determined by a regulation.

Provisional Article 3. (Supplemented: 1.11.1983 — 2936/article 17)

The chairman and members of the compulsory organs of professional unions and the federation are determined by the decision of the Board of Ministers upon the recommendation of the Ministry of Culture, until they complete the required number of members set forth in the regulations and hold elections.

Provisional Article 4. (Supplemented: 1.11.1983 — 2936/article 17)

The Decree of the Board of Ministers No. 8/423 dated 15.3.1980 introduced under article 43 of the Law No. 5846 on Intellectual and Artistic Works and the price tariff to be introduced under this decree are applied as of 15.3.1980 until 31.12.1985.

Payments for the work transferred to the professional union through authorization certificate under the price tariff to be introduced by the Board of Ministers are effected to the relevant professional union to be distributed to the owners of the rights and in other cases, directly to the owners of the financial rights. Such payments are established by the Turkish Radio and Television Organization until 31.12.1985 at the latest.

The professional union deducts its share from the payroll given by Turkish Radio and Television Organization and pays the balance to the owners of the rights who are members of such professional union within two years following the payment made to itself.



The amounts not demanded by the members within two years are deposited in a special account to be established in a national bank in the name of the Ministry of Culture under article 44.

Provisional Article 5. (Supplemented: 6.7.1995—4110/article 31)

The professional unions established prior to the enforcement of this law are converted into new professional unions in line with the relevant provisions of the Law and the type status principles under the supervision of the Ministry of Culture within one year from the promulgation of their type statutes and form their new organ through the general assembly meeting that they will hold within this period.

The professional unions which do not comply with the provisions of the first paragraph are considered to have been abolished at the end of the first year.

II. ANNULLED PROVISIONS

89. The provisions of the Copyright Law dated 8 May 1326 and the other laws contradictory to this law have been annulled.

(G) Final Provisions

I. ENFORCEMENT OF THE LAW

90. Articles 42 and 43 of this law enter into force as of the promulgation date of the law and the other provisions enter into force on 1 January 1952.

II. COMPETENT AUTHORITY IN THE ENFORCEMENT OF THE LAW

91. The provisions of this law are enforced by the Board of Ministers.

* Law No. 5846 on Intellectual and Artistic Works
Date of Acceptance: 5.12.1951
Date and No. of Official Journal: 13.12.1951/7931
Law No. 2936 on the Amendment of Some Articles of Law No. 5846 and the Annexing of Two Provisional Articles
Date of Acceptance: 1.11.1983
Date and No. of Official Journal: 3.11.1983/18210
Law No. 4110 on the Amendment of Some Articles of the Law on Intellectual and Artistic Works
Date of Acceptance: 7.6.1995
Date and No. of Official Journal: 12.6.1995/22311