

THE LAW OF AZERBAIJAN REPUBLIC "ON COPYRIGHT AND NEIGHBOURING RIGHT"

Title I General Provisions

Article 1. The purpose of the law. (subject of the law)

This law governs the relations arises on territory of the Azerbaijan Republic from the creation and exploitation of scientific, literature and artistic works (copyright) and of performances, phonograms, programs of broadcasting or cable distribution (relaying) organizations (neighbouring rights).

Article 2. Legislation on Copyright and Neighbouring Rights

The legislation on Copyright and Neighbouring rights consists of this Law, Civil Code of the Republic of Azerbaijan, and other legislation acts of Azerbaijan Republic adopted in accordance to this law.

Where an International treaty to which Azerbaijan is party contains the rules different from those specified in this law, the provisions of the international treaty shall be applied.

Article 3. Scope of the Law

The concepts of the law could be applied to:

1. works of science, literature and art, performances and phonograms, which copyright or neighbouring rights holder is citizen of Azerbaijan Republic, or is constant living on the territory of the Azerbaijan Republic, or legal entity being those in accordance to the legislation of Azerbaijan Republic;
2. works of science, literature and art, first time produced on the territory of the Azerbaijan Republic. Works or phonograms also are considered first time published in case of producing during 30 days on the territory of Azerbaijan Republic after first publishing outside of Azerbaijan Republic;
3. performances which had first time performed on the territory of Azerbaijan Republic, or recorded on phonogram, which protected in accordance to the paragraph 2 of this Article, or which had not been recorded on phonogram, but included in broadcast program, protected in accordance to the paragraph 4 of this Article.
4. broadcasts of legal entities registered in accordance to the legislation of Azerbaijan Republic, which provide broadcasting by own equipment on the territory of Azerbaijan Republic;
5. architectural works on the territory of Azerbaijan Republic;
6. other works of literature, science, performance, phonograms, broadcasting programs, protected in accordance to the treaties, which Azerbaijan Republic joined.

Article 4. Basic Concepts

For the purposes of this Law, the terms given below shall have the meanings specified:

- **author** - means the natural person whose creative effort has brought about the creation of a work;
- **audiovisual work** - means a work consisting of a fixed series of interconnected images (with or without sound accompaniment) which is intended to be made visible and (where the images are accompanied by sound) audible with the aid of appropriate technical equipment; audiovisual works include cinematographic works and all works expressed by means comparable to cinematography (television films, video films, fixed projections, slide shows and the like), regardless of the manner in which they are initially or subsequently fixed;
- **data base** - means an objective form for the representation and organization of a body of data (relating to articles, accounts, etc.), so systematized as to be susceptible of retrieval and processing with a computer;
- **reproduction** - means the making of one or more copies of the work or of a part of a work in any form, including the form of a sound or visual recording, or the making of one or more three-dimensional copies of a two-dimensional work, or one or more two-dimensional copies of a three-dimensional work; the storage of a work in a computer memory shall also constitute reproduction;
- **recording** - means the fixing, with technical aids, of sounds or images or both in a material form that permits them to be repeatedly perceived, reproduced or communicated;
- **producer of an audiovisual work** - means the natural person or legal entity that has taken the initiative of and responsibility for the production of the work; in the absence of proof to the contrary, the natural person

or legal entity named in the customary manner on an audiovisual work shall be considered the producer of that work;

- **phonogram producer** - means the natural person or legal entity that has taken the initiative of and responsibility for the first recording of the sounds of a performance or of other sounds; in the absence of proof to the contrary, the natural person or legal entity named in the customary manner on the phonogram or on the sleeve or inlay card thereof shall be considered the producer of the phonogram;
- **property(economic) rights** - means rights, stipulated by article 15 of this Law;
- **performer** - means the actor, singer, musician, dancer or any other person who performs, recites, declaims, sings, plays on a musical instrument or in any other way presents a literary or artistic work (including a variety turn, circus act or puppet show), and also the producer or director of a show and the orchestra conductor;
- **computer** - electronic or other analogues technology capable to process information;
- **computer program** - means the complex of represented instructions, code's, schema's and etc. in an machine-reading form, designed to make a computer or other data processing machine operate to produce a specific result or purpose; computer program also includes preparatory literature produced while the computer program is being developed and the audiovisual displays generated by the program itself;
- **collective work** - means a work that is the product of the joint creative work of two or more persons under initiative and administration of legal entity, with the condition of publishing of work by last one under his name;
- **derivative work** - means creation, a work of creative activity based on other work(translation, adaptation, dramatization, alteration and etc.)
- **disclosure of a work** - means the act performed with the author's consent which first makes the work accessible to the public by publication, public presentation, public performance, broadcasting or another means
- **publication** - means the putting into circulation of copies of the work or phonogram with the consent of the author of the work or phonogram producer and in sufficient quantity to meet the reasonable needs of the public. Also is considered giving access to work, phonogram by electronic information systems;
- **broadcasting by a broadcasting organization** - means the broadcast created by the broadcasting or cable distribution organization itself, or, on its instructions and with its funds, by another organization;
- **creation work** - means works of science, literature and art, which met requirements of article 5 of this Law;
- **work of applied art** - means a work of art in two or three dimensions applied to objects intended for practical use, craft works or works produced in an industrial process;
- **photographic work** - means fixation of light or other radiation by method, which could produce image without dependence on technology (chemical, electronic and other). The separately taken still of audiovisual work is not consider "photographic work";
- **public presentation** - means presentation works, phonograms, performances, other productions or broadcasts of broadcasting organizations by recitation, playing, singing or other method both directly alive performance and by technical aids and process (excepting broadcasting or cable distribution) thus they could be percept by large number of persons not belonging to the usual family circle or closely friends of family;
- **public performance** - means demonstration of original or copy o creative work, performances, directly broadcasts of broadcasting organizations, or on the screen by film, slide, still or through other technical aids or process(excepting broadcasting or cable distribution) thus they could be percept by number of persons not belonging to the usual family circle or closely friends of family; demonstration of separated images of audiovisual works without sequence also consider public performance;
- **communication to the public** - means broadcasting, cable distribution and other performance of images or voices of works, performances, phonogram, broadcasts of broadcasting organisations for perception by persons not belonging to the usual family circle or closely friends of family for distances which remoteness is so, that without such communication of image or voices they could not be perceived;
- **public rent (free of charge utilisation)** - transferring of property rights on original or copy of work for fixed time for libraries, archives and other organisations which provide public services free of charge;
- **reprographic reproduction** - means the facsimile reproduction in one or more copies, regardless of the dimensions and form thereof, of originals or copies of written or other graphic works by means of photocopying or with the aid of other technical means different from publishing; reprographic reproduction shall not include the storage or reproduction of the said copies in electronic (including digitised) or optical form, or in any other machine-readable form;
- **rental** - means making a copy of a work or phonogram temporarily available for direct or indirect commercial profit;
- **joint work** - means a work that is the product of the joint creative work of two or more persons, except collective works, stipulated in this article;
- **broadcasting** - means the communication to the public of works, phonograms, performances or programs of broadcasting or cable distribution organizations (including broadcasts of the presentation or performance) by means of transmission by radio or television (with the exception of cable television); where works, phonograms, performances or programs of broadcasting or cable distribution organizations are relayed by satellite, broadcasting means the act whereby the satellite receives signals from the ground station and retransmits those signals in such a way that works, phonograms, performances or programs of broadcasting or cable distribution organizations may be communicated to the public, independently of their actual reception by the said public;

- **communicate to the public by cable** - means to communicate works, phonograms, performances or programs of broadcasting or cable distribution organizations to the public by cable, wire, optic fibre or comparable means;
- **phonogram** - means any exclusive sound recording of performances or of other sounds;
- **copy of a work** - means an exemplar of the work, regardless of the material form in which it is made;
- **copy of a phonogram** - means the duplicate of a phonogram, on whatever material medium, made directly or indirectly from the phonogram and incorporating all or some of the sounds recorded thereon;
- **Relaying (retransmission)** - means simultaneous broadcasting (cable distribution) by broadcasting organisation programs which implement (translate, realize) by another organization.

Title II Copyright

Chapter I

Article 5. Scope of Copyright

1. Copyright extends to scientific, literary and artistic works that are the product of creative work, disclosed or undisclosed but being in any objective form, regardless of the purpose, the merit and the manner of expression thereof.

The origin and exercise of copyright shall not require either registration of the work or the performance of any other act or formality.

2. Copyright protects disclosed works and also undisclosed works that exist in an objective form, namely:

- written form (manuscript, typewritten text, musical score, etc.);
- oral form (public recitation, public performance, etc.);
- sound or visual recording (mechanical, magnetic, digital, optical, etc.);
- figurative form (drawing, sketch, painting, plan, industrial design, still picture from a cinematographic or television or video film, photograph, etc.);
- three-dimensional form (sculpture, model, mock-up, structure, etc.);
- any other form.

3. Ideas, methods, processes, systems, means, concepts, principles, discoveries and fact may not be protected by copyright.

4. The copyright in a work is independent of the ownership of the material object in which the work is expressed.

The transfer of the ownership of the material object or of the right of possession of the material object shall not in itself constitute transfer of any copyright in the work embodied in that object.

Article 6. Works Which are Subjects of Copyright

1. The following are subjects of copyright:

- literary works (books, articles, including computer programs and other);
- dramatic or dramatic-musical works and other works with a scenario;
- choreographic and mimed works;
- musical works with or without accompanying text;
- audiovisual works (cinematographic, television and video films, static projections, slide shows and other cinematographic and television productions);
- works of painting and sculpture, graphic and design works, cartoon strips and other works of figurative art;
- works of applied art and stage design;
- works of architecture, urban planning and park and garden design;
- photographic works and works obtained by processes analogous to photography;
- geographical, geological and other maps, plans and sketches, and also three-dimensional works relating to geography, topography and other sciences;
- derived works (translations, adaptations, annotations, analyses, summaries, reviews, stage adaptations, arrangements and other transformations of scientific, literary and artistic works);
- collections (encyclopaedias, anthologies, data bases) and other composite works which, by reason of the selection or arrangement of their contents, constitute the result of creative effort;
- other works.

Derived works and composite works shall be protected by copyright whether or not the works on which they are based, or which they themselves include.

2. The protection of computer programs shall extend to all types of computer program, including operating systems, regardless of the language and form in which they are expressed, including the source code and the object code.

Article 7. Works Which are not Objects of Copyright

The following are not subjects of copyright:

- official documents (laws, court decisions, other texts of legislative, administrative or judicial character) and official translations thereof;
- State emblems and official signs (flags, armorial bearings, decorations, monetary signs and other State symbols and official signs);
- works of folklore, which have no signs of Article 5 of this Law;
- communications concerning events and facts that have informational character.

Article 8. Origin of Copyright. Presumption of Authorship

1. Author of the work consider a person, which create work. In the absence of proof to the contrary, the person named as the author on the original of the work shall be deemed the author thereof.

2. In order to have his rights recognized, the owner may use a copyright notice which should be placed on every copy of the work and should consist of the following three elements:

- a circled capital letter C: (C);
- the name of the owner of the exclusive rights;
- the year of first publication of the work.

3. Where a published work is anonymous or pseudonymous (unless the author's pseudonym leaves his identity in no doubt), the publisher named on the work shall be presumed, in the absence of proof to the contrary, to represent the author in accordance with this Law and, in that capacity, shall be empowered to defend and exercise the author's rights. This provision shall remain in force until such time as the author of the work reveals his identity and claims authorship of the work;

4. An exclusive rights holder for disclosed or undisclosed works shall register the work in appropriate authorized body of the Azerbaijan Republic which provide activity in field of copyright, during validity of copyright;

5. To the person registered work is granted certificate; this certificate could not be consider presumption of authorship;

In disputable situations in case of absence of the proofs the registration of work is recognized by court as presumption of authorship.

Article 9. Works of Joint Authorship(co-authorship)

The copyright in a work that is the product of the joint creative work of two or more persons (work of joint authorship) shall belong jointly to the co-authors, regardless of whether it constitutes an indivisible whole or is composed of parts, each with a relevance of its own.

The right to exploit the whole work shall belong jointly to the co-authors.

None of co-authors shall be entitled to prohibit the exploitation of the work without valid reason, if the work of the co-authors could be used independently from other parts of work.

A part of a work shall be deemed to have a relevance of its own if it can be exploited independently with the other parts of the same work.

Unless otherwise agreed between them, each of the co-authors may exploit as he sees fit that part of the work with a relevance of its own that he has created.

The relations between the co-authors may be the subjects of an agreement between them.

Article 10. Copyright on Compile (compilation) Works and Collection Works

1. The author of a collection or any other composite work (compiler) shall enjoy copyright in the selection or arrangement of subject matter that he has made insofar as that selection or arrangement is the result of a creative

effort of compilation.

The compiler shall enjoy copyright subject to respect for the rights of the authors of each work included in the composite work. Each of the authors of the works included in the composite work shall have the right to exploit his own work independently of the composite work unless the author's contract provides otherwise.

Notwithstanding the copyright of the compiler, any third party may make an independent selection or arrangement of the same subject matter for the purposes of the creation of a composite work of his own.

2. The exclusive right to exploit encyclopaedias, encyclopaedic dictionaries, collections of scientific works published in either one or several instalments newspapers, reviews and other periodical publications shall belong to the editor thereof.

The editor shall have the right to mention his name (name of organisation) or to demand such mention whenever the said publications are exploited.

The authors of the works included in the said publications shall retain the exclusive rights to exploit their works independently of the publication of the whole work.

Article 11. Copyright on Derived Works

Translators and other authors of derived works shall enjoy copyright in translations, adaptations, arrangements or any other transformations made by them.

The translator or other author of a derived work shall enjoy copyright in the work created by him, subject to the rights of the author of the work that he has translated, adapted, arranged or otherwise transformed.

Notwithstanding the copyright of the translator or other author of a derived work, third parties may make their own translations or transformations of the same work.

Article 12. Copyright in Audiovisual Works

1. The following shall be recognized as authors of an audiovisual work:

- The director or maker;
- The author of the scenario;
- Artistic director;
- Camera director;
- The author of the musical work (with or without words) that has been specially created for that audiovisual work (composer).

2. The conclusion of a contract for the making of an audiovisual work shall constitute assignment, by the authors of the work to the producer thereof, of the exclusive rights of reproduction, public performance, communication to the public by cable, broadcasting, or any other public communication of the work, and also the exclusive subtitling and dubbing rights, unless otherwise provided in the contract. The said rights shall operate throughout the period of validity of the copyright in the audiovisual work.

The producer of the audiovisual work shall have the right to mention his name or to demand such mention whenever the work is exploited.

3. The authors of the works constituting the audiovisual work (with or without words) shall retain the right to remuneration of his musical work from each public performance, informing and also rent of copies.

Article 13. Copyright on works created in the course of duty obligations or in the performance of an assignment expressly given by the employer

1. The copyright on work created in the course of duty obligations or in the performance of an assignment expressly given by the employer (service-related work) shall belong to the author of the said work.

2. The exclusive right to exploit the service-related work shall belong to the person, to whom the author is bound by employment relations (employer), unless otherwise provided in the contract concluded by the said person with the author.

The amount of the remuneration of the author for each form of use of the service-related work, and the manner of the payment thereof, shall be specified in the contract concluded by the author and employer.

3. The employer shall have the right to mention his name or demand such mention in connection with any exploitation of the service-related work.

4. The provisions of this Article shall not apply to the making, in the course of duty obligations or the performance of an assignment expressly given by the employer. (Article 10 of this Law).

Chapter II

Article 14. Moral (non-property) Rights

1. The author of work shall enjoy the following moral (non-property) rights:

- the right to have his authorship of the work recognized (right of authorship);
- the right to exploit the work or to authorize the exploitation thereof, either with the mention of his true name or his pseudonym or without any name being given, that is to say anonymously (right to be named);
- the right to the protection of the work, including the title thereof, against any distortion or other derogatory act liable to prejudice his honour or dignity (right to the protection of the author's reputation);
- the right to disclose the work or to authorize the disclosure thereof in any form (right of disclosure), including the right to disavow or withdraw.

2. Moral rights being indivisible and not alienated shall belong to the author independently of his economic rights, and the author shall retain them even where right to exploit the work is assigned to third parties.

3. The author shall have the right to renounce a decision taken earlier to disclose the work (right to disavow or withdraw), provided that the user is indemnified for any damages, including lost earnings, attributable to the said decision. If the work has already been disclosed, the author shall be bound to make the said withdrawal known to the public. He shall then have the right to withdraw from circulation, at his own expense, those copies of the work that have already been made.

The provisions of this paragraph shall not apply to service-related works.

Article 15. Property (economic) Rights

1. The author or other legal holder shall enjoy the exclusive right to exploit this works in any form and by any means, except cases according to the law.

2. The author's exclusive right to exploit the work shall be construed to mean the right to perform, authorize or prohibit the following acts:

- reproduction of the work (right of reproduction);
- distribution of copies of the work by any means, including sale, rental and other means (right of distribution);
- importation of copies of the work for the purposes of distribution, including that of copies made with the permission of the owner of exclusive rights (right of importation);
- presentation of the work in public (right of public presentation);
- performance of the work in public (right of public performance);
- communication of the work to the public including first broadcast or rebroadcast (right of broadcasting);
- communication of the work to the public (including showing, performance or broadcasting) by cable, wire or comparable means (right of communication to the public by cable);
- translation of the work (right of translation);
- adaptation, arrangement or other transformation of the work (right of adaptation).

The exclusive rights of the author in relation to the project for a design work; an architectural work, a work of urban planning or a work of park or garden design shall extend also to the practical realization of the project. Unless otherwise provided by contract, the author of an accepted architectural project shall have the right to demand that the party who commissioned the work allow him to take part in the realization of his project at the stage of the production of the documentary material relating to the construction or at the stage of the actual construction of the building or other structure.

3. Where copies of a lawfully published work have been put into circulation by means of sale, their subsequent distribution shall not require authorization by the author and shall not give rise to the payment of remuneration to the author.

The right to distribute original of the work or copies of the work by means of rental shall belong to the author without regard to the ownership of the said copies.

4. The amount and the manner of payment of remuneration to the author for each form of exploitation of the work shall be determined by the author's contract and by the contracts that organizations for the collective administration of economic rights conclude with users.

5. The rights of authors specified in paragraph 2 of this Article shall be subject to the limitations specified in Article 17 to Article 25 of this Law, which shall apply insofar as the uses in question do not unjustifiably prejudice the normal exploitation of the work and do not without valid reason violate the legitimate interests of the author.

Article 16. Right of Access to Works of Fine Art. Resale Royalty

1. The author of a work of fine art shall have the right to demand of the owner of the work that he allows him to exercise the right of reproduction of his work (right of access), provided that the owner of the work may not be bound to deliver the work to the author to that end.

2. The transfer of ownership of a work of fine art (whether for consideration or free of charge) from the author to a third party shall constitute the first sale of that work.

For each public resale of a work of fine art (sale by auction or at an art gallery or exhibition, in a shop, etc.), effected at a price at least 20% in excess of that of the previous sale, author or his legal heir has right for receiving the remuneration representing 5% of the resale price (resale royalty).

That right is inalienable for want of the author's life and is transferable only to the author's legal heirs under the law or under the testament for the duration of copyright.

Article 17. Use of Works and Phonograms for Personal Purposes

1. The reproduction of a lawfully disclosed work for exclusively personal purposes shall be authorized without need for the author's consent or payment of remuneration, except in the cases provided in 3rd paragraph of this article.

2. The provisions of paragraph 1 of this Article shall not apply:

- to the reproduction of works of architecture in the form of comparable buildings and structures;
- to the reproduction of data bases or substantial parts of data bases;
- to the reproduction of computer programs, except in the cases provided for in Article 24 of this Law;
- to the reprographic production (reproduction) of books (in their entirety), musical scores and originals of art works.

3. Author or legal holder for audiovisual works, produced from phonograms by entities, has rights for receiving royalty. Author's royalties shall be paid by manufactures and importers of equipment (sound recording equipment, videocassette recorders, etc.) and recording material (tape and cassettes for sound or video recording, optical discs, compact discs, etc.) used for this reproduction.

4. The collection and distribution of the remuneration, indicated in paragraph 3, shall be effected by one of the organizations for collective administration of the economic rights of authors, phonogram producers and performers under an agreement concluded with the said organization (Article 42 of this Law). Except where otherwise provided in the agreement, the remuneration shall be distributed as follows: 40% to the authors, 30% to the performers and 30% to the phonogram producers.

The amount of the remuneration and the manner of its payment shall be determined by agreement between the aforementioned manufacturers and importers on the one hand and the organizations for collective administration of the economic rights of authors, phonogram producers and performers on the other hand, and, if the parties fail to agree, by The Copyright Agency of the Azerbaijan Republic especially empowered to do so.

The remuneration for reproduction in personal purpose indicated in 1st paragraph of this article is distributed between authors or other legal holders, performers and phonogram producers as usual.

5. No remuneration shall be paid for the recording equipment and material referred to in the 3rd paragraph of this Article that are exported or constitute professional equipment and material not intended to be used for home recording.

No remuneration also shall be paid in import of named equipment and materials by entities in private purpose.

Article 18. Reprographic Reproduction by libraries, archives and educational institutions

1. It shall be permissible, without the author's consent and without payment of remuneration, but provided that the name of the author whose work is used and the source of the borrowing are mentioned and without gainful intend, to make a reprographic reproduction in value justified by the intended purpose:

a) of a lawfully published work insofar as the reproduction is the work of a library or archive service and its purpose is to restore or replace lost or damaged copies, or to place copies at the disposal of other libraries that for any reason have lost works from their own collections, if publication of such copy is impossible by same way;

b) of isolated articles or succinct works lawfully published in periodical publications, or of short extracts from lawfully published written works (excepting computer programs), if the reproduction is the work of a library or archive service and it is done to meet the requirements of natural persons who will make use of the copies so obtained for study or research purposes;

c) of isolated articles or succinct works in periodical publications, or of short extracts from lawfully published written works (excepting computer programs), if the reproduction is the work of an educational establishment and the copy obtained is intended for classroom use.

2. Reprographic reproduction indicated in paragraph a and b of this article admitted in case of absence of licence for reprographic reproduction, issued by organisation which collectively manage property rights of authors.

Article 19. Use of Works for informational, scientific, educational and other purposes

The following shall be authorized without the author's consent and without payment of remuneration, but provided that the name of the author whose work is used and the source of the borrowing are mentioned:

1. the quotation, in the original language or in translation, for scientific or for research, polemic, critical or informational purposes and to the extent justified by the intended purpose, of extracts from lawfully disclosed works, including the reproduction of extracts from newspaper and magazine articles in press reviews;
2. the use of lawfully disclosed extracts from works in publications, radio or television broadcasts or sound or visual recordings of educational character to the extent justified by the intended purpose;
3. the reproduction in newspapers, the broadcasting or communication to the public by cable of articles published in newspapers or magazines on economic, political, social or religious topics, or of broadcast works of the same nature, insofar as the author has not expressly prohibited such reproduction, broadcast or cable communication;
4. the reproduction or communication to the public, in connection with the reporting of current events by means of photography, broadcasting or public cable communication, of works that are seen or heard in the course of such events, to the extent justified by an informational purpose. The author shall nevertheless retain the right to publish such works in collections;
5. the reproduction in newspapers, the broadcasting or communication to the public by cable of political speeches, addresses, lectures and other works of the same nature given in public, to the extent justified by an informational purpose. The author shall nevertheless retain the right to publish those works in collections;
6. the reproduction in Braille or by other special means for the benefit of the blind, done without gainful intent, of lawfully disclosed works, with the exception of works created especially for such means of reproduction.

Article 20. Use of Works Permanently Located in a Public Place

The reproduction, broadcasting or communication to the public by cable of architectural works, photographic works and works of fine art permanently located in a public place shall be permissible without the author's consent and without payment of remuneration, except where the presentation of the work constitutes the main feature of the said reproduction, broadcast or communication to the public by cable, if it is used for commercial purposes.

Article 21. Public Performance in official and other ceremonies

The public performance of musical works in the course of official or religious ceremonies and at funerals shall be permissible without the author's consent and without payment of remuneration, to the extent justified by the nature of the said ceremonies.

Article 22. Reproduction for Judicial Purposes

The reproduction of works for the purposes of judicial proceedings, to the extent justified by the said purposes, shall be permissible without the author's consent and without payment of remuneration.

Article 23. Ephemeral short-term Recording by a Broadcasting Organization

A broadcasting organization may, without the author's consent and without payment of any additional remuneration, make an ephemeral recording of the work for which it has obtained the right of broadcasting, on condition:

- a)** that the organization makes the recording with its own equipment and facilities and for the purposes of its own broadcasts;

b) of obligation to destroy the recording within six months after it was made, except where a longer period has been agreed upon with the author of the work recorded; the recording may be preserved in official archives without the author's consent if it is of purely documentary character.

Article 24. Reproduction of Computer Programs and Data Bases. Decompilation of Computer Programs

1. Any person lawfully in possession of a copy of a computer program or data bases has right, without permission from the author or any legal holder, and without paying any remuneration, to carry out following:

- make alterations to the computer program or data base, where the purpose thereof is solely to ensure their operation on the user's material, and perform any act in relation to the operation of the computer program or data base according to its intended purpose, including any inputting or storing in a memory (that of an individual computer or that of one of the computers in a network), and also correct obvious errors, except where otherwise provided in the contract concluded with the author;
- make a copy of the computer program or data base, provided that the copy is intended solely for archiving and for the replacement of a lawfully acquired copy in the event of the latter having been lost, destroyed or rendered useless.

2. The copy of the computer program or data base may not be used for purposes other than those specified in paragraph 1 of this Article, and that it must be destroyed should the possession of the copy of the computer program or data base cease to be lawful.

3. Any person lawfully in possession of a copy of a computer program may, without permission from the author or any other owner of exclusive rights, and without paying any additional remuneration, reproduce or convert the object code making it into a source code (decompile the program) or have such acts performed by third parties, if they are essential to ensure the interactive capabilities of a computer program independently created by that person with other programs compatible with the program so decompiled, in which case the following conditions have to be fulfilled or observed:

a) the person concerned must not previously have had access to other sources capable of providing him with the information necessary to ensure the interactive capability;

b) the acts mentioned must only be performed in relation to the parts of the computer program the decompilation of which is essential to the achievement of the interactive capability;

c) the information obtained by decompilation may only be used for the achievement of the interactive capability of the independently created computer program with other programs; the information may not be passed on to third parties, except where necessary to ensure the interactive capability of the independently created computer program with other programs and it may not be used for the development of a computer program of a type essentially comparable to the decompiled computer program, or for the performance of any other act prejudicial to copyright.

Chapter III Term of Copyright

Article 25. Term of Copyright

1. Copyright arises from creation of work and shall have effect throughout the lifetime of the author and for 50 years after his death, except as provided in Article 26 of this Law.

The author's moral rights shall be protected without limitation in time. Protection of a copyright after authors death provide in accordance to the article 29 of this Law.

2. Any period under paragraph 1 of this Article and Article 26 of this Law shall be calculated as from the beginning of the year following that in which the legal act occurred that marks the starting point of the period.

Article 26. Special Terms of Copyright

1. The copyright for anonymous or pseudonymous work shall have effect for 50 years following the date of the lawful disclosure thereof.

If, in the course of that period, the author of the anonymous or pseudonymous work reveals his identity, or if that identity is no longer in doubt, the provisions of the first subparagraph of paragraph 1 of Article 25 of this Law shall be applicable.

2. The copyright for work of joint authorship shall have effect until the death of the last surviving co-author and for 50 years thereafter.

3. Copyright for posthumous work, published at first time during 30 years, shall have effect for 50 years following the first publication of the work.

4. The copyright for work of collective authorship, in accordance to the Article 10 of this Law, shall have effect for 50 years from the date of publishing, in case unpublishing from date of creation.

Article 27. Public Domain

1. On the expiration of the term of the copyright for work, the work shall fall into the public domain. Works that have never enjoyed protection on the territory of the Azerbaijan Republic shall likewise be deemed fallen into the public domain.

2. Works that have fallen into the public domain may be freely used by any person without payment of remuneration, except cases stipulated in paragraph 3 of this Article. However, the author's rights, stipulated in Article 14 of this Law, shall be respected.

3. The works of Azeri creators, deemed fallen into the public domain, could be recognized public domain and for its utilization could be established special payments by specially authorized body. That royalty shall be paid into authority body's account, which provide activity in copyright and could be spent for provision policy in copyright.

Chapter IV

Transferring of Copyright. Copyright Contract.

Article 28. Transfer and assignment of Copyright

The copyright is transferable by succession and assignable by author's contract.

Article 29. Transfer of Copyright by Succession

1. Copyright is transferable by succession and by inheritance under the Law.

The rights for works indicated in article 14 of this Law shall not be transferable by succession.

The heirs of the author may ensure the defence of those rights. These authorities of heirs shall provide without limitation.

2. Author has rights for indication the person whom he transfers the rights for protection, in way of assigning the heir executor. Such person (heir) provides authorities for life.

If there is no such indication the protection of private rights of author shall provide by heirs, if author has no heirs or protection term has expired, the defence of the rights in question shall be ensured by Copyright Agency of the Azerbaijan Republic especially empowered to do so.

Article 30. Assignment of Rights by Authors' Contracts

1. The assignment or licensing of economic rights referred in Article 15 of this Law shall be effected by authors and other legal holders by author's contract.

Economic rights may be the subject of an author's contract for the assignment of exclusive rights or an author's contract for the licensing of non-exclusive rights.

2. The author's contract for the assignment of exclusive rights (exclusive license) shall allow only that person to whom the rights have been assigned to exploit the work by a specified means and within the limits set by the contract, and shall confer on that person the right to give licence for or prohibit any comparable exploitation of the work by third parties.

3. The author's contract for the licensing of non-exclusive (non-exclusive licence) rights shall allow the licensee to exploit the work under the same conditions as the owner of the exclusive rights who has granted those rights to him, or as other persons who have obtained permission to exploit the work by the same means.

4. The rights to which an author's contract relates shall be deemed non-exclusive where the contract contains no express provisions to the contrary.

Article 31. Conditions Governing the Author's Contract

1. The author's contract shall specify:

- the modes of exploitation of the work (the specific rights assigned or licensed under the contract),
- the period and the territory for which the rights are assigned or licensed,
- the amount of the remuneration payable for each of the modes of exploitation of the work, or the methods for the calculation of the amount of that remuneration,
- the procedures and the periods for the payment of the remuneration and such other conditions as the parties may consider essential for the contract concerned.

If the author's contract does not specify the modes of exploitation of the work (the specific rights assigned or licensed by the contract), contract shall consider signed for modes of exploration, which are necessary for achievement the purpose of sides, available for the time of conclusion.

If the author's contract does not specify the period for which the rights are assigned or licensed, the author may terminate it in the expiration of a period of five years, following its conclusion, if user will be informed in written form six months before cancellation of contract.

If the author's contract does not specify the territory for which the rights are assigned or licensed, the rights concerned by the contract shall have effect only on the territory of the Azerbaijan Republic.

2. The author's contract shall specify remuneration in the form of a percentage of the revenue derived from exploitation of the work by the intended means or, where that is not possible in view of the nature of the work or the particular circumstances of the exploitation thereof, in the form of a lump sum or in any other manner.

3. Any clause in an author's contract that imposes limits on the author regarding the future creation of works on a particular subject or in a particular field, and also terms contradicted this Law, shall be deemed invalid.

4. The author's contract shall be in written form.

Title III Neighboring Rights

Article 32. Subjects of Neighbouring Rights

1. The subjects of neighbouring rights are performers, producers of phonograms and broadcasting organizations. Neighbouring rights shall provide without damaging on copyright, indicated in 2nd title of this Law.

2. The producer of a phonogram and the broadcasting organization shall exercise their rights as specified in this Title within the limits of the rights that the performer and the author of the work recorded on the phonogram or broadcast or transmitted by cable have granted them by contract.

3. The performer shall exercise the rights specified in this Title, with the term of observance the rights of the author of the work performed.

4. The origin and exercise of neighbouring rights shall not be subject to compliance with any formality. The producer of a phonogram and the performer may, in order to publicize their rights, make use of a reserved rights notice which should be placed on every copy or on every sleeve or inlay card of the phonogram and should consist of the following three elements:

- a circled capital letter P: (P);
- the name of the owner of the exclusive rights;
- the year of first publication of the phonogram.

Article 33. Rights of the Performer

1. The performer has following moral (non-property) and economic (property) rights:

- the right to be named;
- the right to the protection of the performance from any distortion, change or encroachment which is capable to damage the honour or dignity of the performer (the right for respect of reputation);
- the exclusive right for exploit the performance in any form, including right for receiving remuneration for every form of use, except cases indicated in this Law.

2. The exclusive right for exploit the performance means the right to perform or authorize the following acts:

- recording of a hitherto unrecorded performance;
- reproduction of the recording of a performance, except cases of reproduction made by agreement of performer with the same purposes for which was received the consent of performer for this record;
- broadcasting or cable communication of the performance or public communication of performance except cases of using records of performances made under agreement of performer, or performance had been broadcasted previously;
- rental of a published phonogram including participation of the performer.

3. The authorizations referred in paragraph 2 of this article are provide by performer, in case of collective performance - by administrator of the collective by written contract with user.

4. The conclusion of the contract between performer and broadcasting organization for broadcasting or cable distribution shall constitute transferring of rights by performer (subparagraph 1 and 2, of 2nd paragraph of this article), if it has not been stipulated by contract between performer and broadcasting organisation. The amount of the remuneration payable to the performer for such use shall likewise be specified in the contract.

5. The conclusion of the contract for the making of an audiovisual work by the performer and the broadcast organization shall constitute licensing by the performer of the rights referred to in paragraph 2 of this Article; in this case performer has rights for remuneration from rental of copies of audiovisual works.

Licensing such rights is limited by using of audiovisual work and, if it has not been indicated in contract, is not include the right for separate using of voices or images, fixed in audiovisual work.

6. The conclusion for the recording of performance on phonogram between performer and phonogram producer shall constitute transferring by performer the rights for rent (4th subparagraph of paragraph 2 of this Article) in this case performer has rights for remuneration for rental of copies of the phonogram.

7. Concerning the performances, created by performer in the course of duty obligations or of an assignment expressly given by the employer, the performer has right to be named and right for protection of reputation. Employer, who has labour relations to employee, has an exclusive right for exploit such performance, if other is not stipulated by contract.

8. An exclusive rights of performer specified in paragraph 2 of this Article are transferable to the third parties by contract.

Article 34. Rights of the Phonogram Producer

1. Except cases, provided in this Law, the phonogram producer shall enjoy the exclusive right to exploit his phonogram in any form, including the right to remuneration for every such form of use.

2. The exclusive right to exploit the phonogram shall mean the right to perform or authorize the following acts:

- reproduction of the phonogram;
- distribution of copies of the phonogram in any way: by sale, rental and etc.;
- in accordance to the current legislation importation of copies of the phonogram for the purposes of distribution, including copies made with the authorization of the producer of the phonogram;
- adaptation or any other transformation of the phonogram.

3. Where copies of a lawfully published phonogram have been placed to the civil turnover by sale, their subsequent distribution may take place without the consent of the producer of the phonogram and without payment of remuneration. The right to distribute copies of the phonogram by rental shall belong to the phonogram producer independently of the ownership to the copies.

4. The exclusive rights of phonogram producer specified in paragraph 2 of this Article may assign to third parties by contract.

Article 35. Rights of the Broadcasting Organization

1. The broadcasting organization shall enjoy the exclusive right in relation to its program, to exploit it in any form and to grant authorization to use it, including the right to remuneration for such grant.

2. The exclusive right to authorize use of its program shall mean the right of the broadcasting (cable distribution) organization to authorize:

- the recording of the program;
- the reproduction of the recording of the program, excepted cases in which the program has been recorded with the consent of the broadcasting organization and the program is reproduced for the same purposes as those for which it was recorded.

- the simultaneous broadcasting of the program by another broadcasting organization;
- the communication of the program to the public by cable;
- the communication of the program to the public in places where a charge is made for admission.

Article 36. Limits of the Rights of the Performer, the Phonogram Producer and the Broadcasting Organization

1. The limitations provided of Article 33 to Article 35 of this Law, shall be established by Article 36 to Article 38 of this Law in case of this limitations are not discriminate normal using of performance, phonogram, broadcasting programs and its records, and also included scientific, literature, art works and not groundless infringe legal interests of performer, phonogram producer, broadcasting organizations and authors of indicated works.

2. The following shall be authorized without consent from the performer, the phonogram producer and the broadcasting organization, and without payment of remuneration, to make use of the performance, phonograms and the broadcast program or the recording thereof:

- a) as a means of quoting, in the form of short extracts, from the performance, the phonogram or the broadcast program, on condition that the quotation is for information purposes and in value, determined by an object in view;
- b) for the purposes of teaching or scientific research as illustrations in the form of short extracts, in value, determined by an object in view;
- c) for the inclusion in a report on current events of short extracts from the performance, the phonogram or the broadcast program;
- d) in the other cases provided in Title II of this Law for the limitation of the property rights of the authors of literary, scientific and artistic works.

Article 37. Use of Phonogram Published with Commercial Purposes

1. The following shall be authorized without consent from the producer of a phonogram published for commercial purposes and from the performer whose performance is recorded on the phonogram, but against payment of remuneration:

- public performance of the phonogram;
- broadcasting of the phonogram;
- communication of the phonogram to the public by cable.

2. The collection, distribution and payment of the remuneration provided for in paragraph 1 of this Article shall be effected by one of the organizations for the collective administration of the rights of producers of phonograms and performers (Article 40 of this Law) under an agreement concluded between those organizations. (Except where otherwise provided in the said agreement, the remuneration shall be distributed equally between the phonogram producer and the performer.)

3. The amount of the remuneration and the manner of its payment shall be determined by agreement between the user of the phonogram or the unions (associations) of users on the one hand and the organizations that manage the rights of phonogram producers on the other, or, where the parties fail to agree, by Copyright Agency of the Azerbaijan Republic specially empowered to do so.

The amount of remuneration shall be set for each form of use of the phonogram.

Article 38. Short Term Recording of Performances and Programs by Broadcasting Organizations

Concerning the authorization of the performer, the phonogram producer and the broadcasting organization shall not be applicable to the broadcasting organisation for making of an ephemeral recording of a performance or program and to the reproduction of that recording on condition that:

- the broadcasting organization has obtained prior authorization to broadcast the performance or the program of which an ephemeral recording is made or performed;
- the ephemeral recording or the reproduction is made by a broadcasting organization using its own equipment and facilities and for the purposes of its own broadcasts;
- the ephemeral recording is destroyed within the period laid down for ephemeral recordings of literary, scientific and artistic works made by broadcasting organizations under the provisions of Article 23 of this Law;

Article 39. Term of Neighbouring Rights

1. The rights of the performer under Article 33 of this Law shall have effect for 50 years following the first performance.

The performer's rights to be named and rights to protection of performers reputation are protected permanently. Protection of performer's rights after his death shall be provided in accordance to the Article 29 of this Law, concerning the author's private rights on works of science, literature and art.

2. The rights of the phonogram producer under Article 34 of this Law shall have effect for 50 years following the first publication of the phonogram, or for 50 years following the first recording thereof if it has not been published in the course of that period.

3. The rights of the broadcasting (cable distribution) organization laid down in Article 35 of this Law shall have effect for 50 years following the date of the first broadcast (cable transmission) effected by the organization.

4. Any period indicated in paragraphs 1, 2 and 3 of this Article shall be calculated as from January 1 of the year following that in which the legal act occurred that marks the starting point of the period.

5. The right to authorize specified in this title shall pass to the heirs and to the successors, in case of a legal entity, of the performer, phonogram producer or broadcasting or cable distribution organization for the duration of the non-elapsed portion of the terms specified in paragraphs 1,2 and 3 of this Article.

The performers rights to be named and right of protection the reputation should not be pass to the heirs. Its protection after the death of performer is provided in accordance to the article 29 of this Law for protection of private rights.

Title IV

The State Policy and Administration in Copyright and Neighboring Rights Sphere

Article 40. The State policy and administration in copyright and neighbouring rights sphere

The state policy directions in copyright and neighbouring rights are follows:

1. Creation of conditions and stimulation of creative activities in science, literature and art, and also augmentation of spiritual values,
2. Creation legislative basis for determination and protection copyright in accordance to international experience,
3. Creation governmental administration in copyright and neighbouring rights,
4. Provision policy in protection of copyright on the territory of other states based on development of international collaboration.

The state authorized body establish minimum amount of author's royalty.

The state appropriate body of executive authority of Azerbaijan Republic provides follow functions in copyright sphere:

- provide the state policy and administration in copyright and neighbouring rights sphere,
- preparation of the offers on improvement legislation in the field of copyright and neighbouring rights,
- provide control on observance of the legislation in copyright and neighbouring rights sphere,
- represent Azerbaijan Republic in international copyright and neighbouring rights organizations and provide collaboration in this sphere,
- provide the state registration of scientific, literature and art works,
- provide registration of organisations (state registered) on management private rights on collective basis, and provision control on their activity,
- provide other functions in accordance to the law.

The financing of appropriate authorised body on copyright and neighbouring rights of Azerbaijan.

Republic is provide at the expense from a state budget, accumulation from own activity, sums, received from organizations on management by proprietary interests on a collective basis and receipts from other sources, without prohibition of the law.

Article 41. Creation the Organizations for the Collective Administration of the Economic Rights.

1. Organizations for the collective administration of the economic rights of authors, performers, phonogram producers and other owners of copyright or neighbouring rights may be created in accordance to the Law on Public Association

for the exercise of the economic rights of those persons or entities in cases where the individual exercise thereof is impossible (as with public performance, including on radio and television, the reproduction of the work by means of a mechanical, magnetic or other recording, reprographic reproduction, etc.).

Such organizations shall pass state registration in appropriate order and privileges presented to the organisations of culture are distributed to them.

2. It shall be permissible to create either separate organizations for various rights and various categories of owners, or organizations that administer various rights on behalf of one category of owners, or again one organization managing of one category of rights for various category of owners.

The organization for the collective administration of the economic rights of authors shall not entitled to engage in a business activity, and also use the rights received for collective administration.

The restrictions under the legislation on monopolies shall not apply to the activities of such an organization.

The mandate for the collective administration of economic rights shall be entrusted either direct, by the owners of copyright or neighbouring rights in written contracts, or under appropriate contracts.

Article 42. Functions of Organizations for the Collective Administration of Economic Rights

1. An organization for the collective administration of economic rights shall on the basis of the mandates entrusted to it, perform the following functions:

- negotiation, with users, of remuneration amounts and other conditions to which the grant of licenses is subject;
- licensing of users for the exploitation of rights the administration of which forms part of its activities;
- negotiation, with users, of remuneration amounts where it is responsible for collecting such remuneration without granting a license;
- collection of the remuneration provided for in licenses or that referred to in subparagraph (3) of this Article;
- allocation and payment of the remuneration collected to the owners of copyright and neighbouring rights;
- performance of any legal act essential to the defence of the rights the administration of which forms part of its activities;
- performance of any other activity under mandates received from the owners of copyright or neighbouring rights.

2. An organization for the collective administration of economic rights has rights to entitled demand granting the programs and other properly certified documents about incomes and use of products, and also rights to demand payment of compensation in established terms.

Article 43. Obligations of Organizations for the Collective Administration of Economic Rights

1. An organization for the collective administration of economic rights shall discharge the following obligations:

- it shall use the remuneration collected for allocation and payment to the owners of copyright or neighbouring rights; however the organization has the right to deduct from the amount of the remuneration collected a sum intended to cover expenditure actually incurred by it in the collection, allocation and payment of the remuneration, and also a sum payable to a special fund established by it for the benefit of the owners of copyright and neighbouring rights that it represents, and with their agreement;
- it shall allocate the remuneration collected, after deduction of the sums referred to in subparagraph (1) of this paragraph, and ensure the regular payment thereof in proportion to the actual use of the works and subject matter of neighbouring rights concerned;
- at the same time as the remuneration is paid, it shall report to the owners of copyright or neighbouring rights on the use of their rights;
- transferring annual payments to account of the state authorized body on copyright of Azerbaijan Republic at a rate determined by this body.

2. Owners of copyright or neighbouring rights who have not mandated the organization to collect the remuneration provided for in Article 42, 4th subparagraph of paragraph (1), of this Law shall be entitled to demand that the organization pay them the remuneration accruing to them according to the allocation made, or alternatively that it exclude their works or subject matter of neighbouring rights from the licenses that it grants users.

3. An organization for the collective administration of economic rights shall discharge to the state authorized body in copyright and neighbouring rights of Azerbaijan Republic the obligations in granting given data's:

- about changes introduced in the charter, and about decisions concerning sizes of the fees and deductions;
- about signed contracts, including contracts with foreign organisations which administrate analogue rights;

- about year balance, year reports and results of audit;
- about persons, who authorized to represent this organisation;
- other documents, which are necessary to checking conformity activity of such organisation to this Law, other legislation acts and to its charter.

Title V Protection of Copyright and Neighboring Rights

Article 44. Protection of Copyright and Neighbouring Rights. Counterfeit Copies of Works and Phonograms

1. Holders of copyright and neighbouring rights and also authorized collective administration organisations shall entitled to demand discontinuance of activity which infringe copyright and neighbouring rights or create threat for infringement of the rights.
2. Copies of a work or phonogram that are manufactured or distributed in violation of copyright or neighbouring rights shall be deemed counterfeit copies.
3. Copies of works or phonograms protected in the Azerbaijan Republic under this Law that are imported into the Azerbaijan Republic without the consent of the owner of the copyright or neighbouring rights from a State in which the said works or phonograms have never been protected or lost the terms of protection shall also constitute counterfeit copies.

Article 45. Sanctions for the Protection of Copyright and Neighbouring Rights

1. For the defence of his exclusive rights the owner of copyright or neighbouring rights may bring action a court.
2. For want of consideration of disputes connected with the copyright the court has the right to apply on demand of the claimant the following measures, besides general methods of civil-law protection:
 - a) the surrender, in place of the payment of damages (losses), of revenue derived by the infringer from the infringement;
 - b) payment, in place of damages or the surrender of revenue, of an indemnity in an amount between 10 and 50,000 times the minimum salary

Article 46. Provision Restoration of Infringed Copyright and Neighbouring Rights

1. In case of action to court for protection of copyright and neighbouring rights the authorized body on copyright of Azerbaijan Republic shall not pay state taxes.
2. With the purpose of provision restoration of infringed copyright and neighbouring rights the authorised bodies are obliged to take measures in accordance to the civil process code and crime process code and other legal acts of the Azerbaijan Republic.

Article 47. The Responsibility for Defiance of the Law

For violations of copyright and neighbouring rights, which stipulated by this Law comes civil, administrative and criminal responsibilities in accordance to the legislation of the Azerbaijan Republic.

The President of Azerbaijan Republic
Heydar ALIYEV

Baku, June 5, 1996
No.: 115-1Q