

Law No. 2-00 For copyright and neighboring rights

It is recognized from our decree that:

Pursuant to the constitution, particularly chapters 26 and 58 thereof,
We issued our following honorable decree:

Law No. 2-00 of copyrights and neighboring rights shall be enforced and published in the official gazette as approved by the Parliament and the Consulting Board.

Executed in Markesh on, 9 Dhul - Qada, 1420 (February 15, 2000).

Signed by:

The Prime minister

Signature: Abd-El Rahman Youseffy

Law No. 2-00

For copyright and neighboring rights

Part one

Copyright

Chapter one

Introductory rulings

Definitions

Article 1

The expressions used in this law and their different substitutes shall have the following meanings:

- 1- "The author": The natural person who innovated the work. Each referral to the financial rights of the authors in this law, when the original owner of these rights is a natural or a juridical person other than the author, shall mean the right of the original owner of the rights.
- 2- "The work": Each literary or artistic innovation according the meaning specified in the rules of article 3 below.
- 3- "The collective work": Every work innovated by a group of authors under the direction of a natural or juridical person who publishes it under his responsibility and his name. The personal contributions of the different authors who contributed to the innovation of the work are dissolved in the whole of the work so as it is not possible to differentiate the different contributions and determine their authors.
- 4- "The joint work": Every work innovated by two or more authors.
- 5- The "derived works": Every new innovation imagined or produced starting off an already existing work or works.
- 6- It is considered "a collected work": Every new work, which has incorporated in it an already existing work without the cooperation of the author of the prior work.
- 7- "The audio-visual work": Every work which is a series of pictures interconnected as to give the impression of movement whether or not accompanied by sound, which is meant to be visible, and if accompanied by sound it would be meant to be heard. It includes cinematic works.
- 8- It shall mean "a work of applied arts" every artistic innovation, which has a utility function or incorporated into a utility device whether it concerns conventional industry or was produced according

to industrial methods.

9- It is considered "a photographic work" any recording of light or any other radiation on a support which produces a picture or which a picture can be produced thereof, no matter what the technical nature of the technique by which this recording was executed (chemical, electronic, ... et).

Every picture extracted from an audio-visual work shall not be considered a photographic work. It will be considered a part of an audio-visual work.

10- "Folkloric expressions": Are productions of distinctive elements of the traditional artistic heritage which was continuously developed and preserved within the Moroccan soil by groups or persons known to be responsive to the traditional artistic aspirations of this group. These productions include:

A- Popular narrations, poetry and riddles.

B- Popular songs and music accompanied by musical instruments.

C- Popular dances and performances.

D- Products of popular arts such as drawings, oil paintings, engravings, pottery, porcelain, faience, engravings on wood, metal utensils, jewelry, textile and fashions.

11- The expression "a work derived from folklore" shall mean every work composed of element adapted from the Moroccan traditionally cultural heritage.

12- The expression "producer of an audio - visual work" shall mean the natural or juridical person who assumes the initiative and the responsibility for accomplishing the said work.

13- The expression "software" shall mean every group of instructions expressed in words, symbols, drawings, or any way which enables, when incorporated into a support capable of deciphering its symbol by a machine, to execute or effect a specific task or obtain a result through the computer or any other electronic means capable to processing data.

14- The expression "data bases" shall mean the group of results, data or other independent elements arranged in a systematic classified method, which can easily be automatically reached by electronic means or all the other means.

15- The expression "publication" shall mean every work or audio recording whose copies are available to the public with the consent of the author in the case of the work and with the consent of the producer in case of the audio recording, for the purpose of sale, rental, public lending, assignment, possession in enough quantities to satisfy the usual needs of the public.

16- The expression "radio broadcasting" means the conveyance to the public of a work, the performance of a work, or an audio recording through wireless transmission including satellites.

17- The expression "reproduction" means making a copy or several copies of a work or of an audio recording or a part of either in any form including an audio-visual recording or a permanent or temporary recording in an electronic form of a work or an audio recording.

18- The expression "exact reproduction" of a work means a facsimile copy of the original work or marking reproductions of the work by any other means other than oil painting, such as photocopying. The reproduction through the fax machine whether by making smaller or larger copies is also considered an exact reproduction.

19- The expression "rental" shall mean the transfer of ownership of a work, a copy of a work or an audio recording for a limited period for the purpose of financial profit.

20- The expression "public acting or performing" means recital, playing of an instrument, dancing or performing the work directly or through an instrument or an apparatus. In the case of an audio - visual work it means displaying, the work in a continuance or conversion of the accompanying voices into something audible whether done in one place or in different places where there are or may be people outside the circle of the family and its direct perimeter. It is of no importance if those persons are in the same place at the same time or in different places or times where they can view the acting or performance and not necessarily with the notification of the public as specified in item 22 below.

21- The expression "acting or performing a work" means recital, personification and personification through dancing, or the direct performance thereof or through an instrument or any other means. In case of an audio-visual work the display of the picture in any arrangement or the conversion of the accompanying picture into an audible object.

22- The expression "transmitting to the public" means transmission through wire or wireless means of picture, sound or both picture and sound, acting or performing an audio recording in a way which enable persons outside the circle of the family and its direct perimeter to receive the transmission in one place or several places away from the original location of transmission so that without this transmission the picture and sound could not be received in the said place or places. It is not important in this case if the said persons can receive the picture or sound in the same place and the same time or in different places or times selected by them individually.

23- The expression "performing artists" means the actors, singers, musicians and other persons which stage, recite, sing, chant, or perform in any other way the literary and artistic works and the folkloric expressions.

24- The expression "copy" means the product of any reproduction process.

25- The expression "audio recording" (phonogram) means every physical support containing sounds taken directly or indirectly from an audio recording "phonogram" containing all or part of the sounds fixated on this audio recording.

26- The expression "producer of an audio recording" means the natural or juridical person who takes the initiative and assumes the responsibility in the first fixation of the voices resulting from singings, performing, or presenting a show or any other voices or audio displays.

27- The expression "fixation" means every embodiment of pictures or pictures and sounds or every representation thereof, which starting from it (the fixation), they can be perceived, reproduced or transferred by a device.

Chapter two

Subject of protection

Article 2:

Every author shall benefit from the rights stipulated in this law with respect to his literary or artistic work.

The protection based on the rights referred to in the previous paragraph, which shall be referred to later as "protection" shall begin as soon as the filing of the work takes place even without being fixated on a physical support.

The works

Article 3:

This law shall be applied to literary and artistic works, which shall hereinafter be referred to as "works" which are original innovations in the literary and artistic fields such as:

A- Works expressed in writing.

B- Software.

C- Lectures, words, speeches, sermons and other works, which are put down in writing or expressed orally.

D- Musical works whether or not accompanied with lyrics.

E- Plays and musical plays.

F- Works of dance and mime.

G- Audio - visual works including movies and videogames.

H- Fine art works including drawings, oil paintings, products, works of engraving, printed leather, and all other fine art works.

I- Architecture works.

J- Photographic works.

K- Works of applied arts.

L- Illustrative pictures and drawings, geographical maps, designs, diagrams and three- dimensional works of geography, topography architecture and science.

M- Folkloric expressions and works derived from folklore.

N- Innovative drawings of fashion.

The protection is not associated with the type of expression, the type of work or its purpose.

Protection of the title of the works

Article 4:

The title of the work shall enjoy the same protection of the work if it has an original nature.

Derivative works and groups of works

Article 5:

The following works shall be considered among the protected works and shall enjoy the same protection:

- A- Translations, adaptations, musicals adaptations as well as the conversions of works and folkloric expressions.
- B- Groups of folkloric works or expressions or mere groups of works or data such as encyclopedias, selections and data bases whether reproduced on a support which can be used by a machine or by any other form such that they become due to their selection, arrangement or organization of their material intellectual innovations. The protection stipulated in the first paragraph above can not prejudice the protection of the proceedings works which are used in preparing these works.

Old manuscripts

Article 6:

Protection is granted according to the intent of this law to the publication of old manuscripts kept in public archives. However the executor of the publication shall not be able to oppose the publication of the same manuscript anew based on the original text.

Protection of folkloric expressions

Article 7:

1- The folkloric expression are protected against the following uses, when such uses are for commercial purposes or outside the traditional or conventional circumstances:

- A- Reproduction.
- B- Communication to the public through display, performance, broadcasting, cable distribution or any other means.
- C- Adaptation, translation or any other alteration.
- D- Fixation of any folkloric expression.

2- The rights entitled in the first part do not apply if the acts referred to in this part deal with:

- A- Uses of a natural person for personal (private) purposes only.
- B- Use of summarized sections for daily events if this use is justified by the subject of the summary.
- C- Use only for direct education or scientific research.
- D- Cases where it is possible according to part four of the first section to use a work without the consent of the author or the right holder.

3- Reference shall be made in all publications and in every communication to the public, to the source of the folkloric expressions in a suitable way and in conformity with fair practices by mentioning the group, or geographic locality wherefrom the folkloric express was derived.

4- The grant of license for the acts referred to in the first part of this article shall be from the competent copyright and neighboring rights authority.

5- The revenues collected based on this article shall be allocated to professional purposes as well as to the development of culture.

Unprotected works

Article 8:

Protection stipulated in this law shall not include the following:

- A- Official texts, which are of legislative, administrative or judicial nature as well as their translation.
- B- Daily news.
- C- Ideas, techniques, systems, flow diagram, concepts, principles, discoveries and simple data even if they have been disclosed, described, explained, drawn or incorporated into a certain work.

Chapter three

Protected rights

Moral rights

Article 9:

The author of the work regardless of his financial rights and even if he abandons them, shall own the right in the following:

- A- To attribute his work to himself especially to have his name put on all copies of the work to the extent that this is possible and using the customary methods associated with every public use of the work.
- B- To keep his name unknown or to use a pseudonym.
- C- To object to any distortion, deletion, or change in his work or any interference which cause injury to his honor or reputation.

Financial rights

Article 10:

The author has absolute right to perform the following acts or to license them provided that the articles 11 and 12 below are taken into consideration:

- A- Republication and reproduction of his work.
- B- Translation of his work.
- C- Preparation of excerpts, modifications or other alterations of his work.
- D- Rental of his work, licensing such rental, public lending of the original of his audio-visual work or a copy thereof, or of his work which is incorporated into an audio recording, into a software, into a data base or into a musical work in a form of a combination no matter who is the owner of the original or the counterpart which is subject to rental or public lending.
- E- Distribution or authorization of the distribution to the public through sale, rental, public lending or any other form of assignment or possession of the original work or a copy thereof, which were not the subject of a prior authorized distribution.
- F- Acting or performance of his work in front of the public.
- G- Importation of a copy of his work.
- H- Broadcast of his work.
- I- Communication of the work to the public through cable or any other means.

The rights of rental or lending stipulated in the forth item of the first section do not apply to computer programs (software) if the program is not the main subject of the rental.

Exercise of the physical rights by the author's successors

Article 11:

The rights stipulated in the preceding article shall be exercised by the author's successors or by any natural or juridical person entitled to these rights.

In the case of absence of the persons stipulated in the previous paragraph, the competent copyright and neighboring rights authority shall exercise these rights.

Chapter four

Limitations of financial rights freedom of reproduction for personal use

Article 12:

Regardless of the requirements of article 10 above and taking into consideration the second paragraph of

this article, it is permissible without the author's consent and without payment of recompense to reproduce a lawfully published work for personal use only.

The requirements of the previous paragraph do not apply to:

A- Reproduction of architecture works embodied in the form of apartment buildings or other similar buildings.

B- Reproduction of a full exact copy of a book or a musical work in the form of a combination.

C- Reproduction of data bases fully or partially in a digital form.

D- Republication of computer programs (software) except in the cases stipulated in article 21 below.

E- Any reproduction of a work, which does harm to regular exploitation of this work or which unjustifiably injures the legitimate interests of the author.

Temporary reproduction

Article 13:

Regardless of the requirements of article 10 above, it is permissible to temporally reproduce a certain work provided that:

A- This process takes place during a digital transmission of the work or during a act aiming at making a work which is digitally stored perceivable.

B- This process is completed by a natural or a juridical person authorized by the holder of the copyright or by force of law to effect the transmission of the work or the act aiming at making it perceivable.

C- This process gains a secondary importance with respect to the transmission and takes place in the framework of the usual use of the equipment and it will be automatically wiped out without allowing its retrieval electronically for reasons other than those stated in items A and B of this article.

Temporary reproduction for quotation purposes

Article 14:

Regardless of the requirements of article 10 above, it is authorized without the consent of the author and without payment of a compensation to quote a lawfully published work into another work, provide that the name of the source is indicated as well as the name of the author if it is listed in the source and the quotation should be used for a good purpose as within the limits which justify the sought purpose.

Freedom to reproduce for educational purposes

Article 15:

Regardless of the requirements of article 10 above, it is authorized without the consent of the author and without payment of compensation, provided that the name of source is mentioned as well as the name of the author if it is listed in the source:

A- To use a work lawfully published in the course of clarification in publications, broadcasting programs, audio recordings or video recording directed for education.

B- Reproduction by photocopying means for education or examinations inside educational institution in activities, which are not oriented either directly or indirectly towards commercial gain and within the limits justified by the pursued objectives, of separate articles published lawfully in a newspaper or a periodical, or short extracts of a work lawfully published.

Freedom to reproduce exact copies by archives and documentation authorities

Article 16:

Regardless of the requirements of article 10 above it shall be authorized without the permission of the author or any holder of a copyright for archives and documentation institutions whose activities do not either directly or indirectly seek commercial gain, to reproduce a separate exact copy of a certain work:

A- If the reproduced work is an article, a short work, or small section of writings other than computer programs, whether or not containing drawings, which are published among a series of works or in an issue of a newspaper, a periodical or if the objective of the reproduction is the fulfillment of the request of a natural person.

B- If the reproduction is aiming at preserving the work if this is necessary (in case the work is lost, damaged or is unusable) or replacing it among a permanent series for another archive or another documentation authority for the purpose of replacing copies which were lost, damaged or were unusable.

Filing the reproduced copies in the official archives

Article 17:

The reproduced copies which have exceptional documentational nature as well as the recordings which have a cultural value may be filed at the official archives specified for this purpose by the competent cultural affairs governmental authority without prejudice to the author's right of obtaining a fair compensation.

The competent communication governmental authority together with the competent cultural affairs governmental authority shall issue a joint decree specifying the list of the reproduced work and recordings referred to above.

Freedom to use for judicial or administration purposes

Article 18:

Regardless of the requirements of article 10 above, it shall be authorized without the consent of the author and without the payment of compensation to reproduce a certain work for the purpose of fulfilling judicial or administration procedures to the extent that the desired objectives are justified.

Freedom to use the works in the news

Article 19:

Regardless of the requirements of article 10 above, it shall be authorized without the consent of the author and without the payment of compensation provided that the name of the source is mentioned as well as the name of the author if contained in the source:

A- To reproduce in the newspapers through broadcast, or through statements directed to the public reproduction of economical, political or religions articles, which are published in the newspapers or in periodical publications of the same nature provided that they are not explicitly protected.

B- To reproduce, summarize or provide a summary to the public in the daily news through photography, cinema, video, broadcast, or cable of a work, which was viewed or heard during a certain event within the limits that are justified by the purpose of the news.

C- To reproduce in the press, through broadcast, or through conveyance to the public of political speeches, lectures, interpositions, speeches or other works of the same nature which are directed to the public in addition to the speeches directed to the public during legal trials within the limits justified by the devised goals with the authors maintaining their right of publishing collections of these works.

Freedom to use works which are permanently available in public places

Article 20:

Regardless of the requirements of article 10 above it shall be authorized without the consent of the author and without payment of a compensation to reproduce, broadcast, convey to the public through cable a copy of a work of architecture, fine arts, photography and applied arts which is permanently filed in a place which is open to the public unless the copy of work is the main topic of the reproduction, broadcast, or conveyance to the public and it was used for commercial purposes.

Freedom to use computer programs and extracts there from

Article 21:

Regardless of the requirements of article 10 above, the lawful owner of a copy of a computer program may without the permission of the author and without payment of a separate compensation make a copy of the program and extract there from provided that the copy or the extract process are:

A- Necessary to use the computer program for the purposes for which it was acquired.

B- Necessary for documentation purposes and for replacement of the lawfully available copy in case it is lost, damaged or becomes unusable.

No copy shall be made and no extraction shall be allowed for other purposes than those stipulated in the previous two items of this article and every copy and every extract should be destroyed in the case where the prolonged possession of the copy of the computer program becomes unlawful.

Freedom for temporary recording By broadcasting organizations

Article 22:

Regardless of the requirements of article 10 above, broadcasting organization may without the consent of the author and without the payment of a separate compensation, make a temporary recording using its special means for its special programs of a work it has the right to transmit.

The broadcasting organization has to destroy the recording after six months from its execution unless an agreement is reached between it and the author about a period exceeding this period.

In case such agreement is not available, the organization may keep a single copy for documentation purposes only.

Freedom to publicly act or perform

Article 23:

Regardless of the requirements of article 10 above it is authorized without the consent of the author or the payment of compensation to publicly act or perform a work:

A- During official or religious celebrations within the limits justified by the nature of these celebrations.

B- In the framework of the activities of an educational institution for the benefit of workers and students of the institution if the public consists only of the workers, students of the institution or the parents, guards and the rest of the persons closely and directly associated with the activities of the institution.

Importation for personal purposes

Article 24:

Regardless of the requirements of item (G) of article 10 above, it is allowable to import a copy of a certain work by a natural person for personal purposes without the permission of the author or any other owner of the copyright in this work.

Chapter five

Protection period General rules

Article 25:

Regardless of the contradictory requirements to what is contained in this part, the financial rights of the author of a certain work is protected during his life as well as for fifty years after his death.

The moral rights are not limited by time and can not prescribed or cancelled and are transferred after his death to his right holders.

The protection period of joint works

Article 26:

The financial rights of a joint work shall be protected during the life of the last survivor of the contributing authors of the work as well as 50 years after his death.

The protection period for works whose authors are unknown or those published under a pseudonym

Article 27:

The financial rights of works of unknown authors or those published under a pseudonym are protected for fifty years beginning from the end of the calendar year in which the work was lawfully published for the first time. If this is impossible to establish, then within fifty years from accomplishing the work beginning from the end of the calendar year in which the work was displayed to the public. If this was impossible to prove, then fifty years from the date of accomplishing the work, fifty years beginning from the end of the calendar year in which this accomplishing took place.

If the identity of the author was revealed without a doubt before the end of this period, the requirements of articles 25 and 26 above shall be applied.

The protection period for collective works and audio-visual works

Article 28:

The financial rights of collective works or audio-visual works are protected for fifty years starting from the end of the calendar year in which the work was lawfully published for the first time. If such an event was unfeasible, then within fifty years starting from the date of accomplishing the work, fifty years beginning from the end of the calendar year in which the work was displayed to the public. If such an event was unfeasible, then within fifty years starting from the date of accomplishing the event, fifty years from the end of the calendar years in which the work was accomplished.

The protection period for the works of applied arts and computer programs.

Article 29:

The financial rights for works of applied arts and computer programs are protected until the end of twenty five (25) years beginning from the date of accomplishing the work.

Calculation of terms

Article 30:

Every term in this part of the law shall terminate by the end of the calendar year in which the terms usually end.

Chapter six

General provisions

Article 31:

The author shall be considered the first owner of the moral and financial rights of his work.

Chapter six

Ownership of rights in joint works

Article 32:

The authors contributing to a joint work are considered the first owners of moral and financial rights of the said work. However if the joint work can be divided into independent parts (i.e. the parts of the work may be reproduced, performed, acted or otherwise used in a separate fashion) then the contributing authors can exploit these parts independently while remaining owners of the rights of the work as a whole.

Ownership of the rights in collective works

Article 33:

The natural or juridical person, who took the initiative and assumed the responsibility of innovating the work in his name, shall be considered the first owner of the moral and financial rights in the collective work.

Ownership of the rights in collected works

Article 34:

The author who affected the collected work shall be considered the owner of the rights while preserving the rights of the owner of the prior work.

Ownership of the rights of works produced in the frame of work contracts

Article 35:

In case of a work, which was produced by an author for the benefit of a natural or juridical person to be called hereinafter "the employer" in the scope and within a work contract, unless the contract contains contradicting requirements about the work, the author shall be considered the first owner of the moral and financial rights. However the financial rights of the work shall be considered transferred to the employer within the limits justified by the usual activities of the employer during the innovation of the work.

Ownership of rights in the audio-visual works

Article 36:

The first owners of moral and financial rights in the scope of any audio-visual work are the joint authors of the work (such as the director, the scenarist and the composer of the music). The authors of the previously existing works and which are the bases of the processes of adaptation and use in the audio-visual works shall be considered as the contributing authors.

Except where there are conflicting provisions, the contract ratified between the producer of an audio-visual work and the authors of the said work -other than the authors of the encompassed musical works- as it concerns the contributions of the authors in accomplishing the work, means relinquishing the financial rights of the authors regarding their contributions to the producer.

However the contributors, unless the requirements of the contract stipulate otherwise, shall keep their financial rights regarding other uses of their contributions within the limits for which these contributions may be used separately through the audio-visual work.

Article 37:

The compensations of the contributing authors of an audio-visual work with respect to every mode of the modes of its exploitation shall be defined during the ratification of the contract of the production or exploitation thereof.

If the audio-visual work was displayed in an open place to the public or was directed by any means in return for paid fees or by rental for private use, the contributing authors shall have the right to receive from the exploiter, a remuneration compatible with the expenses incurred by the exploiter.

If the work was displayed for free, the remuneration in this case is to be determined randomly. The competent copyright and neighboring rights authority shall determine the proportional or random remunerations according to the exploitation methods stipulated in the first and second paragraphs of this article.

Assumption of ownership right : The authors

Article 38:

For the author of a certain work and in the absence of contrary evidence, to be considered the author and accordingly in a position to be able to undertake legal action, it is enough to affix his name so as to be viewed on the work.

In the case of an unknown work or a work published under a pseudonym, unless the pseudonym does not leave any doubt about the identity of the author, the publisher whose name appear on the work, and in the absence of contrary evidence, shall be considered the representative of author and as such has the right to seek protection and observance of the rights of the author. The requirements of this section shall not apply when the author reveals his identity and justify his capacity.

Chapter seven

Abandoning rights and licenses

Abandoning rights

Article 39:

The financial right may be abandoned by assignment among living persons and by force of law in case of death.

The moral rights may not be abandoned among living persons, but by force of law in case of death.

The full or partial abandonment of the copyright in a work extracted from the folklore and the exclusive license associated with this work shall not be of any legal value unless it is approved by the competent authority for the protection of copyright and neighboring right.

The full abandonment of the futuristic works shall be revoked and shall be considered as null and void.

Licenses

Article 40:

The owner of a certain work may grant other persons licenses of acts included within his financial rights. These licenses may be exclusive or non - exclusive.

The non-exclusive license shall allow its owner using allowable methods as well as the author and other holders of the licenses to engage in actions covered by the license.

The exclusive license shall allow its owner by the methods available to him and excluding others including the owner, to engage in the actions covered by the license.

The form of abandonment of rights and licenses contracts

Article 41:

Apart from contrary requirements, the contracts for the abandonment of financial rights and the abandonment of licenses for engaging in actions covered by financial rights shall be made in writing. Range of abandonment of rights and licenses.

Article 42:

The abandonment of financial rights and licenses for engaging in actions covered by these rights may be limited to some special rights, as well as limited to the level of objectives, the duration, the range of location, the range or means of exploitation.

The non stipulation of the range of location in which these rights have been abandoned or in which license has been granted to engage in actions included in the financial rights is considered is a definition of this abandonment or this license to include the country in which the abandonment or license has be granted.

The non-stipulation of the extent (range) and the means of exploitation of the financial rights which has been abandoned or for which a license has been granted for engaging in acts included in the financial rights is to be considered a definition of the abandonment or license to be in the range and the necessary exploitation means necessary for the achievement of the objectives intended during the grant of abandonment or license.

Abandoning an original or a copy of works Abandoning and licenses associated with copyrights of these works

Article 43:

The author who abandons an original or a copy of his work shall not be considered as abandoning any right of his financial rights or granting any license to engage in any actions included among these rights unless the contract stipulate otherwise.

In contrast to the requirements of the previous paragraph and excepting when the contract stipulates otherwise, the lawful possessor of an original or a copy thereof may enjoy the right of displaying this original or copy directly to the public.

The rights stipulated in the second paragraph of this article shall not include the persons who possess the originals or the copies of a certain work through rental or any other means without obtaining ownership thereof.

Chapter Eight

Rules related to the publication contract

Definition

Article 44:

The publication contract is the contract by which the author or his successors abandon for the benefit of a person called "the publisher" and according to certain conditions, the right to produce or engage in producing a number of copies provided that he attends to their publication and distribution.

General rules

Article 45:

If shall be subject to nullification, if the contract is not put down in writing or does not stipulate a compensation, for the benefit of the author or his right holders, which is proportional with the exploitation revenues or a random compensation.

The personal approval of the author shall take on a mandatory nature even in case of an author who is a minor by force of law except in case of physical handicap, taking into consideration the requirements of the provision applicable with respect to contracts ratified by minors and those under guardianship. The requirements of the second paragraph of this article do not apply if the contract was ratified by the successors of the author.

Obligations of the author

Article 46:

The author is obliged towards the publisher to do the following:

- Assuring the exercise of the publisher of the abandoned right alone and without a dispute from others unless agreed otherwise.
- Working towards respect of this right and its protection from anything that may jeopardize it.
- Helping the publisher in making and promoting the work.

Except when agreed otherwise, the object subject of publication, which is supplied by the author, remains his property, and the publisher shall remain responsible for this object for a period of one year after completion of the production of the publication.

Obligations of the publisher

Article 47:

The publisher shall be obliged of the following:

- Completion or working towards completion of the production according to the provisions stipulated in the contract.
- Making no modifications in the production without the written consent of the author.
- Indicating the name of the author or his pseudonym or his mark in every copy unless agreed otherwise.
- Submitting all proofs needed to confirm the correctness of his accounts.

The publisher may upon the author's request submit at least once a year a statement including the following:

- A- The number of published copies during the fiscal year with reference to the date and importance of withdrawal.
- B- Number of stored copies.
- C- Number of copies sold by the publisher and the number of unused or damaged copies due to accidental compelling reasons.
- D- The amount of due money that must be paid and when applicable the amount of the due money paid to the author.
- E- The applicable price.

Remuneration

Article 48:

The contract may stipulate either a remuneration proportional with the revenue of the exploitation or a random remuneration.

With respect to the publication of works, the remuneration may be random with respect to the first edition with the explicit approval of the author in the following cases:

- 1- Scientific and technical works.

2- Selections and encyclopedias.

3- Preambles, comments, introductions and presentations.

4- Illustrative drawings of the work.

5- Special deluxe editions, which attracts a limited demand.

With respect to the works published in newspapers or periodicals of any kind and the works of news agencies, it is possible for the remuneration to be random for the author associated with the information agency by a contract of rental of works or services.

Cases of revocation of the publication contract

Article 49:

The contract is not revoked in the case of the bankruptcy of the publisher or the judicial liquidation of his account.

If the receiver (liquidator) or the person entrusted with the judicial liquidation continues the exploitation according to the conditions stipulated in the commercial register, he will replace the publisher with respect to his rights and obligations.

If the abandonment of the commercial asset was based on the request of the liquidator or the person responsible for the judicial liquidation according to the commercial register, the buyer shall replace the abandoner.

If a period of a year starting from the issuance of the bankruptcy ruling lapsed without the continuation of the exploitation or the abandonment of the commercial asset, the author may request the revocation of the contract.

The publication contract will automatically be terminated when the publisher destroys all copies due to losses in sale or any other reasons.

The contract may be revoked by the author, regardless of the cases determined in the normal right if the publisher did not, after receiving a notice giving him a reasonable deadline, publish the work or did not reproduce it in case the first edition was out of print.

The first edition is considered out of print if the publisher received two orders for copies which he did not fulfill within three months.

If the author died and the production remains incomplete, the contract becomes revoked as it concerns the incomplete part of the work except in case an agreement is reached between the publisher and the successors of the author.

Part two

The rights of performers, producers of audio recordings and broadcasting organizations

(neighboring rights)

Chapter one

Licensing rights

Licensing rights of performing artists

Article 50:

Regardless of the rules of articles 54 to 56, only the performing artist shall have the right to perform or license the following processes:

A- Broadcasting of the facets of his performance unless in the case where the broadcasting originated from fixation of facets of performances other than those stipulated in article 55 hereinafter or a rebroadcast authorized by the broadcasting organization, which had the lead in broadcasting the facets of performance.

B- Conveyance of the facets of his performance to the public except when this conveyance originated from a fixation of the facets of the performance or from a broadcast of the facets of performance.

- C- Modes of performances as of yet not fixated.
- D- Reproduction of a fixation of his facets of performances
- E- The first distribution to the public of his facets of performance through sale or any other method of transfer of ownership.
- F- Rental or lending to the public of his facets of performance.
- G- Putting his fixated performance on an audio recording by wire or wireless means for circulation among the public in such a way as to make everyone able to attain it in the location and time he chooses in an individual manner.

In case of the absence of a different agreement:

- A- The authorization of the broadcasting does not imply permitting other broadcasting organizations to broadcast the facets of performances.
- B- The authorization for broadcasting does not imply authorization for fixation of the facets of performance.
- C- The authorization for broadcasting and the fixation of the facets of performance does not imply the authorization for the reproduction of the fixation.
- D- The authorization for the fixation of the facets of performance and the reproduction of this fixation does not imply the authorization of the broadcasting of the facets of performances based on the fixation or from a copy.

Regardless of the financial rights and even after abandoning them, the performing artist shall keep his right as it relates to his live audio performance fixated on a audio recording which has to be referred to by this phrase, unless when the usage of the facets of performance necessitates the removal of this phrase. He also has the right to object to every distortion, severing or any alteration, which may affect the facets of his performance, which may damage his reputation. The requirements of the second paragraph of article 25 and the second paragraph of article 39 shall apply to the moral rights of the performing artists.

Licensing rights of the producers of audio recordings

Article 51:

Regardless of the rules of articles 54 to 56, the producer of audio recordings shall alone have the rights to engage in or license the following processes:

- A- Direct or indirect reproduction of his audio recordings.
- B- Importation of copies of his audio recordings for the purpose of distributing them to the public.
- C- Making copies of his audio recordings available to the public through sale or any other method of transfer of ownership, which have not previously been the subject of a distribution authorized by the producer.
- D- Rental or public lending of copies of his audio recording.
- E- Making his audio recordings available to the public by wire or wireless means in a way that makes everyone able to attain them in the place and time he individually chooses.

Authorization rights of broadcasting organizations

Article 52:

Regardless of the rules of articles 54 to 56, the broadcasting organization alone is authorized to engage in or license the following processes:

- A- Retransmission of its radio programs.
- B- Fixation of its radio programs.
- C- Reproduction of the fixation of its radio programs.
- D- Conveyance to the public of its television programs.

Chapter two

Fair remuneration for usage of audio recordings

Fair remuneration for radio broadcasting or conveyance to the public

Article 53:

If a published audio recording was used for commercial purposes or a copy of this audio recording was used directly for radio broadcasting or for the conveyance of any information to the public, the user shall pay a fair compensation one time to the performing artists or the producers of the audio recordings.

The revenue resulting from the usage of any audio recording shall be divided as 50% for the producer and 50% for the performing artists. The performing artists shall divide this amount, received from the producer, among themselves or use it according to the agreement existing between themselves.

Chapter three

Free uses

General rules

Article 54:

Regardless of the requirements of articles 50 to 53, the following processes are allowable without payment of a remuneration and without the consent of the successors referred to in these articles:

A- A summary of the current events provided that only short excerpts of the performance, the audio recordings or the radio broadcast are used.

B- Reproduction for scientific research only.

C- Reproduction in the framework of the education activities, unless the performances or the audio recordings were produced as tools targeted for education.

D- Quotation of small excerpts from the performances the audio recording or the radio broadcast provided that these quotations are used for good objectives and within the limits justified by the news objective needed to be fulfilled.

E- All other uses which are considered exceptions with respect to the works protected according to the requirements of this law.

Free use of the performances

Article 55:

As soon as the consent of performing artist regarding the inclusion of his performance in an audio or an audio-video fixation is received, the requirements of article 50 shall be non-applicable.

Free use by the broadcasting organizations

Article 56:

The broadcasting organizations shall be exempted from obtaining the required licenses according to the requirements of articles 50 to 52 for the fixation of performances and radio broadcast programs, reproduction of these fixation, and reproduction of audio fixations which were published for trade, when a broadcasting organization engages in the fixation or reproduction using its own means for its own programs provided that:

A- The broadcast organization has obtained the right in the radio broadcast or the performance every time a fixation of the performance or its reproduction is broadcasted according to the requirements of this item.

B- The broadcasting organization obtains the broadcast right every time a fixation of a radio program or a reproduction of this fixation is broadcasted according to the requirements of this section.

C- With respect to every fixation or its reproduction which was effected according to the requirements of this paragraph, the fixation or its reproduction must be destroyed within a period of time which is the same period of time specified for the fixations and reproductions of the works protected by the

copyright law according to article 22 of this law, except a single copy which can be kept for documentation purposes only.

Chapter four

Protection period

Protection period of performances

Article 57:

The protection period provided by this law to performances is fifty years starting from:

A- End of the year of carrying out the fixation with respect to the performances fixated on the audio recordings.

B- End of the year in which the performance took place, with respect to performance not recorded on audio recordings.

Protection period for audio Recordings

Article 58:

The protection period provided by this law for audio recordings is fifty years starting from the end of the year in which the audio recordings were published.

If they were not published within fifty years starting from the date of fixation of the audio recordings, the protection period shall be fifty years starting from the end of the fixation year.

Protection period for broadcasting programs

Article 59:

The protection period that should be provided according to this law to broadcast programs is twenty-five years starting from the end of the year in which the program was carried out.

Part three

Collective management

Article 60:

The protection and exploitation of copyrights and neighboring rights displayed in this text shall be entrusted to the author's guild.

Part four

Arrangements, appeals and penalties against piracy and other violations

Preventive arrangements

Article 61:

The competent court empowered to adjudge civil lawsuits according to the requirements of this law and taking into consideration the law of civil procedures and the law of criminal procedures according to

the conditions its sees fit may:

A- Issue a ruling prohibiting, or an order to end the infringement of any right protected under this law.

B- Order the seizure of copies of works or audio recordings suspected to have been effected or imported without the consent of the holder of a right protected under this law whereas the effecting or importation of the copies requires obtaining a license. The same also applies to envelopes of these copies, the tools (instruments) which may have been used to produce these copies, documents, accounts, administrative papers associated with these copies, their envelopes, tools (instruments) which may have been used to produce these copies, their envelopes, accounts and the administrative papers associated with these copies.

The requirements of the civil law and the criminal laws related to the inspection and seizure shall be applied in the case of violation of the rights protected by this law.

The author right (copyright) as well as the works which were not published before the death of the author can not be seized. Only copies of works, which have already been published, can be seized.

The customs requirements related to the suspension of free circulation of commodities suspected of being illegal shall be applied to objects or instruments protected by this law.

Civil penalties

Article 62:

In case of a violation of a recognized right of a holder of rights protected by this law, the right holder is entitled to obtain, from the violator, compensations for the damages suffered because of this violation.

The amount of the compensation for the damage shall be determined according to the requirements of the civil law taking into consideration the extent of the financial and moral damage suffered by the right holder as well as the extent of profits gained by the violator due to the violation.

The judicial authorities may limit the compensation to the profits obtained by the violator or the payment of a compensation for the damages in the form a predetermined amount in case the violator did not know that he is engaged in an activity violating a protected right according to this law or did not have enough reasons to know.

In case of the existence of copies resulting of from the violation of established rights, the judicial authorities are entitled to issue an order for the destruction of these copies or disposing of them in another reasonable way outside the commercial sphere in a way that avoid the occurrence of damage to the right holder, unless the right holder requests otherwise. This requirement does not apply to copies obtained by others in good faith or their windings.

In case there is a possibility of using equipments for committing or continuing committing a violation, the judicial authorities shall issue, within justifiable limits, an order for the destruction of these equipments or otherwise deal with them outside the commercial sphere in a way which minimizes the occurrence of new violations, or order the equipments to be handed over to the right holder.

In case of fear of continuation of actions, which represent a violation, the judicial authorities shall issue an explicit order for the stoppage of these actions and well as determine a sum of money equals at least 50% of the value of the process.

Violation of folkloric expressions

Article 63:

Everyone who uses without authorization from the competent authority a folkloric expression in a manner unauthorized in the first item shall be committing a violation which makes him liable to payment of compensations of the damage and notices or any compensation the court may see fit in this regard.

Criminal penalties

Article 64:

Any violation of a right protected under this law to be committed intentionally or due to negligence for the purpose of profit shall make its perpetrator liable for the penalties stipulated in the criminal law.

The court shall determine the amount of the compensation taking into consideration the gains obtained by the defendant as a result of the violation.

The judicial authorities are authorized to increase the maximum penalty three folds when the defendant is convicted for a second time for committing a act which is a violation of the rights before the lapse of five years from be convicted of a prior violation.

The judicial authorities shall apply the procedures and penalties stipulated in chapters 59 and 60 of the law of criminal procedures provided that no decision regarding these penalties has already been taken by a civil court.

Procedures and compensations for damage and penalties in case of transgression in usage of technical means and falsifying of information related to the system of rights

Article 65:

The following acts shall be considered unlawful and shall be considered a violation of the authors' rights and other copyright holders according to articles 61 to 63:

A- Manufacture or importation, for sale or rental, of an apparatus or instrument which has been especially prepared or adapted to disable any apparatus or instrument whose use aims at the stoppage or the reduction of the reproduction of a work or the damage of the quality of the produced copy or copies.

B- Manufacture or importation, for the purpose of sale or rental, of an apparatus or instrument which enables or facilitates the reception of a coded program, transmitted or otherwise conveyed to the public by any other means, by persons who are not entitled to receive it.

C- Deletion or alteration without authorization of any information associated with the system of rights presented in an electronic form.

D- Distribution or importation for the purpose of distribution, broadcast and conveyance to the public or making available to the public without authorization of works of performances and audio recordings or radio transmission, knowing that the information of the system of rights presented in a electronic form has been deleted or altered without authorization.

E- According to the requirements of this article the phrase "information related to the system of rights" shall mean the information which enable the determination of the identity of the author, the work, the performing artist, facets of performance, the producer of the audio recordings, the audio recording, the broadcasting organization, the radio program, every right holder according to this law, any information related to the conditions and how to use the work, the other productions meant by this law and every number or symbol representing such information, when any element of the elements of this information is appended to a copy of a work, fixated performances, a copy of an audio recording, a fixated radio broadcasting or the conveyance of work, performances, audio recordings or a radio program for the public or made available for circulation.

Pursuant to the requirements of articles 61 to 63, every apparatus or instrument referred to in the first paragraph and every copy which has its information related to the system of rights deleted or altered shall be considered a counterfeit copy of the work.

Part five

Domain of application of the law Application of the law on literary and artistic works

Article 66:

The rules of this law related to the protection of literary and artistic works shall apply to:

- A- Works whose author or other original right holder is a citizen of the Moroccan kingdom, or has his usual residences or main headquarters are in the kingdom of Morocco.
 - B- Audio - visual works whose producer is a citizen of the kingdom of Morocco or has his usual residence or his main quarters in the kingdom of Morocco.
 - C- Works, which are published for the first time in the kingdom of Morocco, or was published for the first time in another country and was also published in the kingdom of Morocco within 30 days.
 - D- Architecture works which were constructed in the kingdom of Morocco as well as the pieces of fine arts, which are incorporated into a building in the kingdom of Morocco.
- The rules of this law related to the protection of literary and artistic works apply to the works which may be covered by protection according to an international treaty ratified by the kingdom of Morocco.

Application of the law on the rights of the performing artists, producers of audio recordings and broadcasting organizations

Article 67:

The rules of this law related to the protection of performing artists apply to the facets of performances when:

- The performing artist is a citizen of the kingdom of Morocco,
- The performance was presented on the soil of the kingdom of Morocco;
- The performance was fixated on audio recordings protected according to this law, or
- The performance, which was not fixated in an audio recording, is incorporated in a broadcast transmission protected by this law.

The rules of this law related to the protection of the producers of audio recordings shall apply to audio recordings when:

- The producer is a citizen of the kingdom of Morocco,
- The first fixation was carried out in the kingdom of Morocco, or
- The production of the audio recording was carried out for the first time in the kingdom of Morocco.

The rules of this law related to the protection of broadcasting organization shall apply to broadcast transmission when:

- The social quarters of the organization is located in the kingdom of Morocco, or
- The broadcast transmission originated from a station located on the soil of the kingdom of Morocco.

The rules of this law also apply to the performances, audio recordings, radio broadcasts protected according to international treaties ratified by the kingdom of Morocco.

Applicability of international treaties

Article 68:

The requirements of any international treaty related to copyrights and neighboring rights, which was ratified by the kingdom of Morocco is applicable with respect to cases stipulated in the law.

In case there is a conflict between the requirements of this law and the requirements of an international treaty ratified by the kingdom of Morocco, the requirements of the international treaty shall be applied.

Part six

Final and concluding provision

Transitional rules

Article 69:

The rules of this law shall also apply to the works which were produced and the performances which were effected or fixated, the audio recordings which were fixated and the radio broadcasts which were transmitted before this law took effect, provided that these works, performances, audio recordings and radio programs have not fallen into public domain after the lapse of their protection period stipulated

for them in the previous legislature text or in the legislation which are in effect in their original country.

The acts and contracts, which are ratified or stipulated before this law taking affect shall remain valid without any violation.

The law taking effect

Article 70:

The requirements of this law shall take effect after the lapse of a period of six month after its publication in the official gazette.

Cancellation

Article 71:

The honorable decree No. 1.69.135 dated Gumada Elaula (July 29, 1970) regarding the protection of literary and artistic works is cancelled.