

INTELLECTUAL WORKS AND WORKS OF ART

Law no: 5846, dated 05/12/1951 (d-m-y)

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Description:

Article 1:

According to this law, a work of art is every kind of intellectual products and products of art that carry the characteristics of its owner and which are accepted as works of science and literature, music, fine art works and cinema according to the provisions below.

Varieties of the Intellectual Art and Works of Art:

I- Science and literature works of art:

Article 2:

Science and literature works of art are the followings:

1. (Amendment: 7.6.1995-4110/art.1) Works of art expressed by speech of writing in any way and computer programs expressed in any way and preparation plans of these on condition that they shall bring the result of the program in the next process;
2. (Amendment: 1.11.1983-2936/art.1) Any kind of dances, written choreography works of art, pantomimes and these kind of stage works of art without lyrics.
3. (Amendment: 7.6.1995-4110/1) Every kind of photograph works of art without esthetic qualification, models belonging to topography, architecture and town planning representations and projects, architectural models, industry, environment and stage planning projects.

Thoughts and principles that have been formed by including the basic thoughts and principles shall not be accepted as works of art.

II- Musical Works of Art

Article 3:

Musical works of art are compositions with and without lyrics.

III- Fine Art Works:

Article 4:

(Amendment: 7.6.1995-4110/2)

Fine art works that have esthetic qualification are the followings:

1. Oil paint and water paint tableaus, every kind of paintings, designs, pastels, engravings, works of art drawn or determined by mine, stone, wood or other materials, calligraphy, serigraphy.
2. Statues, relieves, carvings.
3. Architectural works of art.

4. Handicrafts and small works of art, miniatures and decorative works of art and textile, fashion designs.
5. Photographic works of art and slides.
6. Graphic works of art.
7. Caricatures.
8. Every kind of typecasting. The usage of works of art such as sketches, pictures, models and projects as industrial models and pictures shall not affect their characteristic of being an intellectual art and work of art.

IV- Cinema Works of Art:

Article 5:

Cinema works of art are the followings:

1. Cinema films,
2. Films with educative and technical characteristic or films determining the daily events,
3. Any kind of projection diapositives with scientific, technical or esthetic characteristic.

In case the films mentioned above are displayed by projection, they shall be included in the group of cinema works of art, even if they have been fixed on a substance other than film or glass.

Films that are only to convey compositions, speeches, conferences, etc. shall not be accepted as a cinema work of art.

V- Processing:

Article 6:

Intellectual art and works of art that the main ones are written below, which have been created by benefiting from another work of art and which are not independent in comparison with it, are

1. Translations,
2. Translation of works of art such as novels, stories, poems and theatre plays into a kind other than these mentioned kinds.
3. Making the musical works, fine arts, science and literature works of art film or making them appropriate to be filmed and broadcast in radio and television.
4. Musical arrangements and compositions.
5. Changing the fine arts from one form into other forms.
6. Making the works of art of an artist collected works.
7. Arrangement of selected or collected works of art for a purpose or within a special plan.
8. Making a work of art that hasn't been published appropriate for publication at the end of scientific researches and studies (ordinary transcriptions and facsimiles that are not productions of scientific researches and studies shall be excluded from this).
9. Explanation or expounding or abbreviation of a work of art belonging to another person. The processing that has the characteristic of the processor shall be accepted as a work of art according to this law.

10. (Annex: 7.6.1995-4110/3) Adaptation, arrangement or any kind of change in a computer program.

11. (Annex: 7.6.1995-4110/3) Databases that have been created by selecting and collecting the materials for a certain purpose and within a special plan. (However, the protection provided here cannot be enlarged to the protection of data and material that are included in the in the database).

VI- Works of art that have become public and that have been issued:

Article 7:

A work of art that has been presented to public with the approval of its owner shall be accepted as publicized. A work of art shall be accepted as issued in case its copies achieved by copying from its original with the approval of its owner are presented to the public by offering to sale or distributing or by offering for trade. The provision of 2nd paragraph of Article 3 of press law numbered 5680 is reserved.

Owner of the Work of Art

A) Description:

I- In General

Article 8:

(Amendment: 7.6.1995-4110/4)

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

The financial right owners of the works of art created by the officials, charged workers while they were doing their duties are the persons employing them or appointing them, unless the otherwise is comprehended due to the special agreement between them or because of the character of the work. This rule shall be implemented on the members of the legal persons. The real owner of the work of art of the processing owner is the person processing it on condition that the rights are preserved. The producer or publisher of a work of art is entitled to use the financial rights only in accordance with the agreement to be made with the owner of the work of art.

In cinematography works of art; the director, the composer of the original music and the scenarist are together the owners of the work of art. The co-owners of the work of art are entitled to transfer the financial rights to the producer with an agreement to be made and with an adequate price.

After the co-owners of the cinematography work of art have transferred their financial rights, they are not entitled to object to the copying, distribution, public presentation, cable broadcasting, broadcasting with television or other mediums, subtitle writing or dubbing by the

producer unless there is a contrary or special provision.

II- Owners of the Works of Art being more than one

Article 9:

In case it is possible to classify the work of art created by persons more than one, each of these persons are accepted the owner of the part he has created.

Unless the contrary has been agreed, each of the persons who have created the work together is entitled to demand the change or the participation of the others for the publication of the work.

Unless the other party participates with no cogent grounds, the court shall be entitled to give permission. The same provision shall be implemented on the use of financial rights.

III- Association between owners of work of art

Article 10:

In case the work of art created by participation of more than one person forms an inseparable whole, the owner of the work of art is the association of the persons creating it. The provisions on common company shall be implemented to the association. In case one of the owners of the work of art does not approve the transaction that shall be realized together without any cogent ground, the court shall be entitled to give this approval. Each of the owners of the work of art is entitled to act individually in case their common benefits have been violated. Technical services or aids belonging to details made in the creation of a work of art shall not form a principle to participation.

Conjectures on owners of the work of art

IV- In works of art that the owner of the work of art has been stated:

Article 11:

In copies of an issued work of art or in the original of a work of art, the person using a name or a known pseudonym as the owner of it, shall be accepted as the owner of the work of art until the opposite is firm.

(Amendment: 7.6.1995-4110/5)

In conferences and presentations made in public places or made by radio-television, the person habitually introduced as the owner of the work of art shall be accepted as the owner of the work of art, unless another person is accepted as the owner of the work of art via the conjectures in the first paragraph.

V- In works of art in which the name of the owner is not stated:

Article 12:

Unless the owner of an issued work of art is not determined according to Article 11, the person publishing or if it is also unknown the person copying is entitled to use the rights and authorities of the owner of the work of art on behalf of himself.

These authorities belong to the person giving lecture or making it performed by a representative

in cases when the owner of the work of art is not known.

According to this article, common representation provisions shall be implemented to the relations between the authorized persons and the real right owners unless the otherwise is agreed upon.

Intellectual Rights

A) The Rights of the Owner of the work of art

I- In General

Article 13:

Financial and moral benefits of the owners of the intellectual works and works of art shall be protected within the framework of this law. The rights and authority acquired by the owners of the works, includes the whole and parts of the work.

II- Moral Rights

1. Authority of public presentation

Article 14:

The owner of the work shall exclusively determine whether the work will be presented to public or not, its publishing date and its methods.

Only the owner of the work shall be entitled to give information about the contents of a work whose whole or most of its parts have been publicized or has not been presented to public with its basically.

The owner of the work shall be entitled to prohibit the original or the processed forms of a work to be presented to the public or its publishing, despite his giving authority to another person, in case the presentation of the work to public or its publishing methods have a characteristic of harming his honor and dignity. Renouncing this right with a contract shall be invalid. Right of indemnity of the counter-part shall be reserved.

2. Authority of emphasizing the name

Article 15:

The owner of the work shall exclusively have the authority of deciding on the work to be presented to public and its publishing with the name of the owners, with his pseudonym or without his name.

Indicating the name or the mark of the real owner of the work, in line with the decision or the customs, on the copies of a fine art work obtained with copying or on the original or copied samples of a process, shall be an obligation.

In case there are controversies about the person who made the work come into being or there is any person claiming that he is the owner of the work, the real owner shall be entitled to demand the proof of his right from the court.

(Annex: 7.6.1995-4110/6)

On the architectural constructions, having the qualifications of a work, name of the owner of the

work shall be written with the written request of the owner on a visible side of the work.

3. Prohibiting making changes in the works

Article 16:

Without the written permission of the owner of the work, abbreviations, additions and other changes on the name of the owner shall not be made.

The person processing, presenting to public, copying, publishing, representing and distributing the works in different ways, the works, with the permission of the law and the owner of the work, shall be entitled to make changes, deemed as necessary with regards to the techniques of processing, copying, presentation and publishing without the particular permission of the owner of the work.

The owner of the work shall reserve the right of opposition for changes harming his honor and dignity or damaging the nature and characteristics of the work, despite his permission, which is without any condition or restriction. Renouncing this right with a contract shall be invalid.

4. The rights of the owner of the work against the owner and the possessor

Article 17:

The owner of the right of copying and processing shall be entitled to demand to benefit from the work in necessary proportions from the possessor of the original and as a result the owner of the right shall not be entitled to demand the work to be entrusted to him.

(Amendment: 7.6.1995-4110/7)

The owner of the work shall be entitled to demand to take the work provided that he shall return it back, in case of the work's being single and original, for using it in his studies and exhibitions including all of his own periods.

5. Using the rights

a) In General

Article 18:

Even if the continuation period of the financial rights have ended, the owner of the work shall be entitled to use the rights he possesses as per articles 14,15 and 16 in his lifetime if he is the real person, in his continuing period if he is the legal person. The distinctive young and limited people shall not depend on the approval of the legal representatives.

b) Persons who shall be entitled to use the rights

Article 19:

In case the owner of the work has determined the methods of using the authority he had acquired as per the first paragraphs of articles 14 and 15, or he hasn't left this subject to another person; using this authority and his will shall belong to the executing officer, if this authority is not determined, they shall belong to his surviving wife, his children, his relative inheritors, his

mother and father and his brothers or sisters, respectively.

The persons stated within the paragraph above shall be entitled to use the rights given to the owner of the work, stated within the third paragraphs of articles 14,15 and 16, after the death of the owner of the work, on behalf of them, during the continuation of the financial rights and within 50 years pursuant to the death of the owner of the work. In case the owner of the work or the authorized persons according to the first and second paragraphs, do not use their authorities, the person who has acquired a financial right from the owner of the work or from his successor, proving his legal benefit, shall be entitled to use the rights of the owner given by the third paragraphs of the articles 14, 15 and 16 on behalf of himself.

In case the authorized persons being more than one do not agree on the intervention, the court shall solve the controversy properly in line with simple judgement methods.

(Amendment: 1.11.1983-2936/art. 2)

The Ministry of Culture shall be entitled to use the rights given to the owner of the work as per the third paragraphs of articles 14,15 and 16, on behalf of the Ministry; in case non of the authorized persons stated in the article 18 do not exist or do not use their authority, despite they exist or in case the duration determined in the second paragraph has ended or it is considered as important for the culture of the country.

III- Financial Rights

1. In General

Article 20:

(Amendment: 1.11.1983-2936/art.13)

The right of benefiting from a non-publicized work in any way or methods shall exclusively belong to the owner of the work. The right of benefiting from a publicized work given exclusively to the owner of the work, shall consist of the financial rights within this law. Financial rights shall not depend on each other. Possessing or using one of them shall not affect the other.

In case of the owner's membership of a Vocation Union, his work stated within the written qualification certificate, following the related financial rights, collection of the copyright costs, the distribution of this costs and the work shall be made by the Vocation Union.

The essentials and methods related with the qualification certificate shall be determined with the regulation to be prepared by the Ministry of Culture.

2. Varieties

a) The right of processing

Article 21:

The owner of the work shall exclusively have the right of benefiting from the work by processing it.

b) The right of copying**Article 22:**

(Amendment: 7.6.1995-4110/art.

The owner of the work shall exclusively have the right of copying the processing of a work as a whole or in parts. Making a second copy of the original work, recording a work on any kind of equipment used for transferring a sign, sound and vision of a work that is known or that will be developed in the future, any kind of audio and music records or applications of sketches of plans and projects related with architectural works shall be considered as copies. The same rule shall be valid for the relief and perforated moulds. The right of copying includes loading, visualization and operating, sending and storing activities of a program, within the conditions of a temporary copying of a computer program.

c) The right of distributing**Article 23:**

(Amendment: 7.6.1995-4110/art. 9)

The right of distributing the copies of a work obtained by copying from its original or its processing, hiring them out, offering them for sale or making them commercial subjects in any way and the right of benefiting from them in this way shall exclusively belong to the owner of the work. The right of prohibiting the importation of the copies which were made without the permission of the owner of the work shall exclusively belong to the owner of the work.

The right of distribution that the owner of the work acquires shall not be violated as a result of the transfer of his possession by using the right owner's right, distribution of the copies and their being offered for sale for the first time and their being rented out in the country, provided that the right of renting out and loaning to public shall be reserved.

ç) The right of presentation**Article 24:**

The right of benefiting from a work, by signing, playing, performing or displaying its copies and processing directly or with the equipment used for sign, sound and picture transfer which can be deemed as presentations shall exclusively belong to the owner of the work.

The right of transferring a work with technical equipment from its occurrence place to another for its presentation to public shall exclusively belong to the owner of the work.

(Annex: 1.11.1983-2936/art. 4)

In case of the membership of the owner of the work of a Vocation Union, the right of presentation shall not be used by other real and legal persons within the qualifications stated in the qualification certificate, without the written permission of the Vocation Union. However, the provisions within the articles 33 and 44 shall be reserved.

d) The right of broadcasting by radio**Article 25:**

The right of benefiting from a work by distributing its originals or processing with radios or similar technical equipment used for transferring signs, sounds or pictures and so taking the distributed work from another radio establishment by transfer and re-distributing it wired or wireless or presenting them with loudspeakers or presenting signs and sounds with similar equipment, in public places, shall exclusively belong to the owner of the work.

3. Duration

a) In General

Article 26:

The financial rights given to the owner of the work shall be restricted with time. Any person shall be entitled to benefit from the financial rights of the owner of the work after the end of the protection period except the situations stated in the articles 46 and 47.

The protection periods of a work or its processing shall not depend on each other.

This provision shall be applied for the works stated in the first paragraph of article 9. The protection shall not start before the publicizing of a work.

For the works that are not published in sheets and fascicles, the publishing date of the last sheet or fascicle shall be deemed as publicity date of the work.

The publicity date of several volumes published in intervals, of the works such as periodicals and annuals, shall be the publishing date of these works.

The periods beginning from the date of publication, shall be examined pursuant to the end of the year in the beginning of which a work was publicized or deemed as publicized as per the fourth paragraph.

In the examination of the periods beginning from the death of the owner of the work, the first day of the year following the year of the death of the owner of the work shall be considered as the beginning date.

The period mentioned in the first paragraph of article 10 shall begin from the date of the death of the last surviving person of the owners of the work.

b) The continuation of the periods

Article 27:

(Amendment: 7.6.1995-4110/art. 10)

The protection period continues within the lifetime or 70 years pursuant to the death of the owner of the work.

The protection periods of the works that have been publicized after the death of their owners shall be 70 years.

The protection period shall be 70 years after the publicity date of the work within the situations stated in the first paragraph of article 12, provided that the owner of the work has announced his name before the end of this period.

In case the first owner of the work is a legal person, the protection period shall be 70 years pursuant to the publication of the work.

c) Protection period on Turkish translation

Article 28:

(Amendment: 7.6.1995-4110/art. 11)

In case a scientific or a literary work is published in a language other than Turkish, is published as translated into Turkish by the owner of the work or by another person within 70 years pursuant to its publication, 70 years should pass for its translation into Turkish.

ç) Periods of the handcrafts, small sized works of art, works of photograph and cinema

Article 29:

(Amendment: 7.6.1995-4110/art. 12)

The protection periods for the handcrafts, small sized works of art, works of photograph and cinema shall be 70 years pursuant to their publication.

B) Limitations

I- Considering the public order

Article 30:

The rights of the owner of the work shall be used for proving the work in the presence of the court and of other formal positions in the undiscriminating police and fine affairs, to constitute a subject for a conduct. The photographs shall be copied and distributed in any way by the formal positions and with their orders, by other persons, with the consideration of public license for legal purposes, without the permission of their owner.

The rules of public law; prohibiting, allowing or controlling the work's having a commercial situation, its being presented or its being used in different ways shall be reserved.

II- Considering the General Benefits

1. Regulations and Jurisprudence

Article 31:

Augmenting, distributing, operating the formally published or announced laws, rules, regulations, communications, circulars, judicial decisions and benefiting them shall be unconstrained.

2. Speeches

Article 32:

Copying the speeches and talks made in the Turkish Grand National Assembly, within other formal assemblies and congresses, in the courts and public meetings, in order to give news and information, reading these in public places, broadcasting these by radios and other mediums shall be unconstrained.

The owners of the talks and speeches shall not be mentioned in case the nature of the event and the situation do not require.

The owner of the work has the right to copy or distribute the talks and speeches for a purpose other than the ones mentioned in the first paragraph.

3. Freedom of Presentation

Article 33:

Gratis presentation of a published work, exclusively for education and instruction and not aiming a benefit, in the public places shall be unconstrained.

The same rule shall be implemented for the performances whose complete profits will merely be assigned to charities. In addition to this, the name of the work shall be customarily mentioned.

4. Works selected and collected for education and instruction

Article 34:

(Amendment: 7.6.1995-4110/art. 13)

Creating selected and collected works within righteous proportions, by taking quotations, from the published works of music, science and literature and from the publicized works of art, which will be assigned for the purpose of education and instruction. The kinds of works stated in the third paragraph of article 2 and in the first and fifth sub-paragraph of the fourth paragraph shall only be quoted for explaining the content of the selected and collected works. However, this freedom shall not be used in case it harms the legal benefits of the owner of rights, unjustly or it contradicts with benefiting from the work, normally.

The provisions of the first paragraph shall be implemented for the publishing (school radio) that have exclusively prepared for schools and that have been approved by the Ministry of Education.

In all these situations, the name of the work and the name of the owner of the work shall be customarily mentioned.

5. Freedom of Quotation

Article 35:

Taking quotations from a work shall be acceptable within the situations below:

1. Taking some of the sentences or paragraphs of a publicized work, to be put into an independent work of science and literature.
2. Taking the themes, motives, passages at most and parts of intellectual type of a publicized composition, to be put into an independent music works.
3. Taking the publicized works of fine art and other published works with rightful proportions to be put into a scientific work, for explaining the content.
4. Showing the publicized works of fine art in the scientific conferences lectures in the classes to explain the subject with projectors and other similar means and the quotations shall be made definitely. The quoted part of the scientific work shall be stated other than the name of the work

and the name of the owner of the work.

6. Newspaper Content

Article 36:

Daily news and information broadcast to public by press or radio shall be freely quoted provided that the article 15 of the Press Law shall be reserved. In case the right of quotation of the articles or paragraphs, concerning social, political and economic events, published in the newspapers and magazines, is not explicitly reserved, its being taken by other newspapers and magazines in the same form or in a form that is processed and its being broadcast by radio or other means shall be unconstrained. Taking the mentioned articles and paragraphs as shortened press summarizes and broadcasting them by radio or other means shall be acceptable although the right of quotation is reserved.

For all of these situations, mentioning the name of the quoted newspaper, magazine or agency or, if these quoted, the name of the source from which they quoted, the name of the owners of the articles besides their number, or mentioning the pseudonyms and signs of them shall be essential.

7. Interview

Article 37:

Recording, some fragments of the intellectual works and works of art related with daily events, on the equipment used for sign, sound and picture transfer, shall be acceptable, provided that they have the qualifications of interview. Copying, distributing, presenting and broadcasting these fragments, taken by this way, shall be unconstrained.

Broadcasting some of the fragments of publicized scientific and literary works by radio shall be acceptable provided that they have the limits of an interview.

III- Considering the personal benefit

1. Using Personally

Article 38:

(Amendment: 7.6.1995-4110/art. 14)

Copying all of the intellectual works and works of art for using them personally without aiming to publish and profit, shall be possible. However, this copying, without a rightful reason, shall not harm the legal benefits of the owner of the right or shall not be contrary to benefiting from the

work normally.

Every person shall be entitled to process the musical, scientific and literary works and shall be entitled to have them processed, within the framework of the provision of the first paragraph.

In case of a non existence of determining provisions, including the correction of mistakes, copying and processing a computer program by the person who has legally obtained it, shall be unconstrained.

A computer program's being loaded, operated or being corrected by the person who has legally obtained it shall not be prevented with a contract. Having the right of using the computer program, a person's making a reserve copy shall not be prevented with a contract provided that it is necessary for using the program. Having the right of using the computer program, a person's observing, examining or testing the program for the determination of thoughts and principles forming the base of an element of the program, shall be unconstrained while he is performing the acts of loading, visualization, operation, sending and storing the computer program.

1. Performance of these acts by the owner of the license, the owner of the right of using the copy of a computer program, another computer owner and by another person or by the person having the authority to make this on behalf of them,
2. Not offering the necessary information, to usage, for the performance of interoperation, for the people stated in the paragraph number 1.
3. These acts' being limited with the parts of the programs for performing the interoperation.

The provisions of the paragraph above shall not allow:

1. Using the independently created computer program for different purposes other than performing its interoperation,
2. Giving the independently created computer program to others except for the necessary situations of interoperation,
3. Developing, producing or marketing a computer program similar with its basic expressing methods or using the information for acts violating the intellectual rights, with the information that is obtained by its application.

The provisions of the sixth and seventh paragraphs shall not be considered as; the program is

allowed to be used contrarily to normal benefits of it or is allowed to be used improperly, interfering the legal benefits of the owner of the right.

2. The rights acquired by the composers

Article 39:

(Amendment: 7.6.1995-4110/art. 14)

A literary work shall be used in a musical work only with the written permission of the owner of the work. When every kind of texts for music, librettos or other works that are used in a musical work are composed, the permission shall be documented in every phrase before the joint work's being put into recording, registration and commercial circulation and shall be controlled by the owner of the rights and by the other related persons.

The gratis distribution of the texts for music by including them in the programs of radio and television and by printing in order to give them on or with the sound-carriers shall be possible. The person making use of these possibilities shall be obliged to emphasize the name of the work or the name of the owner of the work.

3. Copying and Exhibition

Article 40:

The fine art works that are permanently placed on public roads, streets and public squares shall be copied with pictures, graphics, photographs and other means, shall be distributed, displayed by projecting, broadcast by radio or other means. This authority shall exclusively be valid for exterior forms in architectural works.

In case there is no restriction of prohibition put explicitly on the work of art by its owner, these shall be exhibited by its possessors or by other persons, with their approbation, in public places.

The works of art to be sold by auctioning shall be exhibited to public. A work exhibited or auctioned in public places shall be copied and distributed in catalogues, booklets and similar printings by the persons organizing an exhibition or auction of a work. Mentioning the name of the owner of the work shall not be an obligation in these situations in case there is no contrary custom.

4. Using records, videocassettes and audio cassettes in public places

Article 41:

(Amendment: 1.11.1983-2936/art. 6)

With the permission of the owner of the work, works of music, science and literature, which have been recorded with the equipment used for repeating sound-visions, sounds or visions and which have been exclusively marked to be presented in public places shall be presented by playing or displaying them in public places. In case the records, videocassettes and audio cassettes haven't been exclusively marked, the owner of the work or the professional organization that the owner authorized, shall have the reserved right of demanding a proper substitute as indemnity. The procedures and principals related with; determining the amount of the indemnity, implementing it, its division among the owners of the work and the vocation union shall be determined, after asking the viewpoints of the Turkish Radio and Television Company and of the vocation union, by the regulations to be offered by the Ministry of Culture.

IV- Authority acquired by the government

1. Establishing the vocation unions

Article 42:

(Amendment: 7.6.1995-4110/art. 16)

The owners of the work or the owners of the neighboring rights shall establish professional organizations, to protect the common interest of its members, to provide the following of their rights acquired by this law and to provide the collection and division of the payments to be made, among their owners with the suggested rules and procedures of the legislation, in accordance with the regulations and type status offered by the Ministry of Culture and approved by the Council of Ministers. The determination of the field shall be defined with the regulations and vocation unions, more than one, in the same field shall be established. Each of the unions shall be able to work by establishing branch-offices in line with the necessities.

Vocation unions shall be entitled to establish a superior establishment in accordance with the type status which is offered by the Ministry of Culture and which is approved by the Council of Ministers.

Vocation unions and federations are legal persons that are dependent on social laws. Their members shall not be obliged to invest capital and to have the responsibilities related to profit

and loss.

The general, administrative, controlling, technical-scientific boards and the board of honor shall be organized as the obligatory offices within the type status of the vocation unions and federations.

The points related with founding, controlling, checking the unions and federations and the minimum number of the members necessary for their first general assembly, their other optional offices, the foundation methods of their boards, the number of the members and their functions, the conditions of being included to the membership, getting out of it or being expelled from a membership, the determination of the regions where their branch offices shall be established, public institutions and foundations in or out of the country, their relations with the real and legal persons of the special law, their rights and authorities in these relations, their financial relations with their members, the obtained royalty and distribution of indemnities and the points related with other procedures and principles; shall be defined by the regulation offered by the Ministry of Culture, after asking the viewpoints of the related foundations.

The second paragraph of article 21 of the Law of Associations and articles 30,37,40,42,43,44,45,48,65,66,67,68,69,70 and 90 of this law shall be applied, with the criminal provisions, to the vocation unions and also the federations to be established in accordance with this article.

The financial rights of the owner of the work of Turkish nationality shall not be followed by other unions, association and similar foundations except the vocation unions established in accordance with this article, in the country.

2. Copyrights in Radio and Television Broadcasts:

Article 43:

(Amendment: 7.6.1995-4110/art.17)

The copyright shall be paid for the intellectual works and works of art, used in the broadcasts of radio and television.

The permission of the owner of the work and paying a price shall not be necessary for the short fixings, used for introduction and those do not harm the rights of the whole work, in any type of broadcasts.

Using the word and music programs of a part of the work aiming to introduce them and using them as the helper dramatic elements, signals, credits, transition music and using them for other purposes shall be deemed as short fixings.

No price shall be paid to the owner of the work for the works benefited during their being broadcast abroad by the short-wave radio stations of the Turkish Radio and Television Company.

3. The Signing of The Intellectual Works and Works of Art

Article 44:

(Amendment: 7.6.1995-4110/art.18)

The owner of the financial rights, the persons producing the equipment used for repeating the signs, sounds of the intellectual works and works of art and the persons publishing these shall jointly be obliged to have the signs and serial numbers of the works to be offered for sale, to be distributed or to be put into a commercial situation, by copying in accordance with this law.

Real and legal persons producing or importing any kind of empty video cassettes, audio cassettes, compact discs, computer discs shall be obliged to transfer the amount of money they have collected in a month on the special account to be opened on behalf of the Ministry of Culture in a national bank until the half of the following month excluding the quantity to be determined by the Council of Ministers, not exceeding five percent of the price of production and importation.

The Ministry shall divide $\frac{3}{4}$ of the collected amount in the account, among the vocation unions in order to make the vocation unions distribute it among the owners of the rights, which they present. Vocation unions distribute this money to its owners according to the distribution plan to be approved by the Ministry. approving these plans, the Ministry shall take the amount of copying of the work , represented by the vocation unions, into consideration. The Ministry shall use the remaining amount, $\frac{1}{4}$ for cultural and social purposes and for preventing the transgression of the intellectual rights.

The procedures and principles related with; the signs and serial numbers to be put on the copies of intellectual works and works of art aiming to be presented in public places, to whom the number of copied samples or distributed shall be informed and other points shall be determined by the regulations to be offered by the Ministry of Culture.

4. Sharing out the selling price of the fine art works

Article 45:

In case the originals of the works stated in the paragraph 1 and 2 of article 4 and the originals of the works handwritten by the writers or composers as stated in the paragraph 1 of the article 2 and in article 3; is sold once by the owner of the work or his inheritors, the work within its protection period is transferred once to the other as a selling subject in exhibitions, auctions and in stores selling these kinds of goods and in case of disproportion between the previous and latter selling prices, the seller shall be obliged to give the loans by a decree to the owner of the work, to his legal inheritors of the 3rd degree (except this degree) as per the provisions of inherit; to his wife, if she is dead or non of these exists, to the vocation union.

In the decree:

1. Sharing tariff for the proportion of the difference provided that this shall not exceed the ten percent of the difference of the price.
2. The price of the sales not exceeding the determined amount shall be exempted from loaning the share.
3. The branch of the vocation union that shall be concerned with regard to the types of works.

The owner of the establishment in which the selling took place and the seller shall be jointly responsible.

In cases of compulsory selling, the share shall only be paid after the claims are completely paid.

The prescription of loaning the share is five years pursuant to the selling date.

5. Benefiting Authority of the Country

Article 46:

(Amendment: 1.11.1983-2936/art. 10)

The works explicitly prohibited to be copied or distributed by its owner, the works that are kept in museums and in similar institutions and not publicized yet shall belong to the public institution in which it is kept; provided that the protection period related with the financial rights has come to an end.

The points related with the public institutions and foundations and persons demanding to benefit from them for scientific and other purposes, from whom the permission shall be taken by the persons or institutions and the costs to be paid, and for which purposes these costs shall be spent; shall be determined by the regulations to be offered by the Ministry of Culture and after asking the viewpoints of related institutions.

6. Making it Public

Article 47:

With a decree, the authority of benefiting from the financial rights of the work, considered as important for the culture of the country, it shall be made public before the end of the protection period provided that a proper substitute is paid to the owners of the rights.

For deciding on this point, the work shall be published in Turkey or by Turkish citizens out of Turkey and the copies of the work shall be sold out in two years and the publishing of it in a new form by the owner of the work shall be considered as impossible within a proper period.

In this decree:

1. The name of the work and its owner
2. The substitute to be paid to the people whose vested interests have been transgressed
3. The office or the institution to use the financial rights
4. The net profit to be obtained after the redemption of the paid substitute and for which cultural purposes it shall be assigned, is written.

CONTRACT AND POWER OF DISPOSAL

A) Current Existing Power of Disposal

I- Fundamental Acquisition

Article 48:

The owners or the inheritors of the work shall be entitled to transfer their own legal financial rights limited or unlimited, reciprocal or unrequited with regard to time, place and content.

He shall leave the financial rights to another person with regard to the authority of using them.

(License)

If the procedures of possessions stated below in the paragraph concern a work that has not brought into being or a work to be completed, they shall be invalid.

II- Acquisition by Transfer

Article 49:

A person who had been acquired to use a license of a financial or a related right as the owner or an inheritor, shall be entitled to transfer these rights or license usage only with a written approbation, to another person.

III- Contracts

1. Works of Art to be brought into being

Article 50:

A work of art shall be notable even if the undertakings on power of disposal procedures stated in article 48 and article 49 have been completed before it has been brought into being.

Possible undertakings concerning all of the works of an owner or a certain kind of them shall be annulled in 1 year after the date of denunciation by each of the parties, as an expression of their decision.

If the owner of the work of art dies or loses his capability before the completion of the work or if the completion of the work is impossible without an excuse, the mentioned commitments shall automatically be annulled. On the other hand, the same provision shall be valid in case of the owner's bankruptcy or his being unable to use the financial rights, in accordance with the contract, or his incapability of using them without an excuse.

2. Possibilities of benefiting in the future

Article 51:

The contracts relating to the transferring of the financial rights that shall be given to the owner of the work of art or use of them by another person with the regulation that may be brought out in the future shall be invalid.

The same provision shall be valid for the contracts that comprise the extension of the comprehension of the financial rights with the regulation that may be brought out in the future or renouncing the authority resulting from the prolonging of the protection or their transfers.

IV- Singular

Article 52:

The contracts and possessions including the financial rights shall be written and the rights constituting the subject shall be shown one by one.

V- Surety

1. Non existence of the right

Article 53:

The person who has transferred a financial right or has given his using license to another, shall be the guarantor of the existence of the right of the acquired person in accordance with article 169 and article 171 of the law of obligations.

Demands resulting from unjust actions or gratuitous property acquisitions shall be reserved.

2. Existence of the Authority

Article 54:

The person who had acquired a financial right or right of using license from an unauthorized person shall not be defended despite his good will.

The person who has transferred a financial right or using license to another without authority shall be bound with indemnity of invalidity of the power of disposal if he does not prove that the counter part is aware or should be aware of his not having authority. In case of a fault, the court shall judge on an extensive indemnity if justice is requisite.

Demands resulting from unjust actions or gratuitous property acquisitions shall be reserved.

VI- Commentary Principles

1. Comprehension

Article 55:

In case there is no contrary decision, transfer of a financial right or being given a license, shall not include the work's translation and other procedures.

2. License

Article 56:

If the license may be given to others by the financial rights possessor, it is the ordinary license; if it is reserved for one person it is the consummate license. Every license shall be considered as ordinary license if a law or a contract has not been perceived contrarily.

3. Transfer of property

Article 57:

The transfer of property on the original or copied samples shall not include transfer of intellectual rights if no contrary decision is made. Person possessing the right of copying a work of fine art or have acquired being the possessor of copying equipment such as molding etc. shall also have acquired the copying right, if no contrary decision is made.

A person who shall have acquired the possession of the copies of a cinema work, shall also have acquired the representation right of it, if no contrary decision is made.

VII- Right of Renunciation

Article 58:

Owner of the work of art shall renounce the contract, in case the person who acquired the financial right and license shall not make use of time, rights and authority properly following the requirements during the agreed period or if no period is determined and if the benefits of the owner of the work of art is thoroughly neglected.

The owner of the work of art requesting to use his renunciation right shall be obliged to send a proper permitted delay through notary for using the rights existing in the contract. Determination of permitted delay shall not be required in case the right of using it is impossible for the acquired person or is rejected by his own or being sent a permitted delay and if the benefits of the work's owner are thoroughly in danger. Renunciation shall be completed with a denunciation through notary if permitted delay is not resulted or there is no need for a permitted delay. Within 4 weeks pursuant to the denunciation of renunciation, no objection shall be brought against the renunciation. In case there's no fault of the acquired person in using his financial right or if the owner of the work has more faults, the acquired person shall be entitled to demand indemnity from the owner for justice if necessary.

Quitting the decision of renunciation beforehand is unacceptable, as the restrictions forbidding these rights being under discussion for more than 2 years, shall be invalid.

VII- Return of the Right to the Owner of the Work

Article 59:

If the owner of the work or its inheritors transferred a financial right for a certain implied purpose or for a certain period, the rights related with the removal of the purpose or the end of the period, shall return back to the owner. This provision shall be invalid in case of a death or bankruptcy of the person who has not been acquired the right of the transferring a financial right to another person with a contract; provided that using the right depends upon the acquired person as the necessity of the nature of the work.

Licenses given for a certain implied purpose or for a certain period shall be ended within the conditions stated in the first paragraph.

B) Quitting

Article 60:

The owner of the work of art or his inheritors shall quit their legally acquired financial rights without violating their actual possessions by an official bond arrangement and by the publication of this matter on the Official Gazette.

Quitting shall bring out the legal results resulting from the ending of the period of protection pursuant to the date of its publication.

Distrain and Mortgage

I- Unacceptable Situations

Article 61:

On condition that article 24 and article 30 of Law on Execution and Bankruptcy be protected;

1. Drafts or copies of a work, which has not been publicized yet, under the possession of a owner of a work or his inheritors,
2. The financial rights of the works mentioned in the first paragraph except for cinema works,
3. Claims of the owner of the work related with financial rights besides money, shall not be a subject for a legal or contractual mortgage right, for a compulsory execution or right of imprisonment.

II- Acceptable Situations

Article 62:

Within the framework of the provisions below:

1. A draft or a copy of a publicized work
2. Copies of a published work
3. Financial rights of the owner of the work of art provided that his moral benefits, which are worth to be protected, shall not be violated
4. Money owing of owner of the work resulting from legal procedures related to financial rights may be constituted as the subject for a legal or contractual right of mortgage, for a compulsory execution or right of imprisonment.

The mortgage contract related with the themes stated in the 1st paragraph shall only be notable with its written form. The mortgaged shall be shown on the contraction one by one.

Copying equipment such as moulds and etc. belonging to the works of fine art shall be taken from

the possessors temporarily, for the application of compulsory execution, if necessary, in connection with the financial rights written in article 3 of the 1st paragraph.

The originals of the works of fine arts except architectural works and copies of music, science and literature works belonging to the owner of the work of art or his inheritors shall be taken from the possessors temporarily, for the application of compulsory execution, if necessary, in connection with the financial rights written in article 3 of the 1st paragraph.

C) Inheritance

I- In General

Article 63:

Financial rights obtained with this law shall be passed through inheritance. Possessions related to the death in financial rights shall be acceptable.

II- Death of one of the co-owners of the work

Article 64:

In case one of the persons who have made the work come into being, dies before the completion or publicizing of the work, his share shall be divided among the others; these persons shall be obliged to pay a proper price to the inheritors of the dead. If they do not agree on the amount, the court shall determine it.

In case one of the persons who have made the work come into being, dies after the completion of the work, the others shall be free to continue the union with the inheritors or not. In case of their decision on continuation, the surviving owners of the work shall be entitled to demand a nomination of a representative from the inheritors on the matter of using their rights within the union.

III- The Inheritors being more than one

Article 65:

These financial rights obtained with this law exist in the heritage of the owner of the work and in accordance with article 581 of Civil Code, a representative shall be obliged to take the opinion of the inheritors for the procedures related with these rights.

Trials of Law and Penalty

A- Trials of Law

I- Annulment trial of transgression:

1. In general

Article 66:

Person whose moral and financial rights have been transgressed shall bring a suit against the transgressor for annulling the transgression.

A suit shall be brought against the owner of the establishment in case the transgression is made by a representative or the employees of an establishment during the fulfillment of their obligations. The fault of the transgressor or of the people stated in the article 2 shall not be a stipulation.

The court decides on the application of the necessary measures for the annulment of transgression according to the situation, by evaluating the moral and financial rights of the owner of the work of art, comprehension of the transgression, existence or non-existence of a fault or its seriousness if exists and transgressors' damages that shall be possibly affected in case of the refusal of transgression.

(Annex: 7.6.1995-4110/19)

The owner of the work of art shall bring a suit for annulment of the transgression and prohibition, in his place of residence.

2. In case of transgression to financial rights

Article 67:

Annulment trial of transgression shall only be sued in case of the presentation of a non-publicized work to public without the will and wish of its owner and actual publication of the copies of the work to public. The same provision shall be valid in conditions of naming the work against the wish of the owner of the work.

The transgressor shall be obliged to include the name of the owner of the work both on the multiplied copies in circulation and on the originals, in case the owner of the work demanded declaratory action mentioned in article 15 or annulment of transgression, if the name of the owner of the work is not added or incorrectly added or ambiguously added on the work. On the condition that expenses will concern the transgressor, announcements at most on 3 newspapers shall be demanded according to the law.

The provision of the second paragraph shall be applied in case the sources are incorrectly, inadequately indicated or not indicated in the articles 32,33,34,35,36,39,40.

In case of an unjust alteration in the work, the owner shall be entitled to demand the followings:

- 1) The owner of the work shall be entitled to demand the prohibition of the copying of the work, in amended form, its publication and presentation, its radio broadcast, and to demand the correction of the alterations in the copied samples that are in circulation or to demand them to be brought into their original form. If the alteration of the work has been made during the publication of newspapers, magazines and broadcasting or radios; the owner shall be entitled to demand the correction of alteration by announcement from the management of newspapers, magazines and radios that have published and broadcast the altered form of the work on condition that expenses shall concern the transgressor.
- 2) (Amendment: 7.6.1995-4110/20) In fine art works, the owner of the work shall be entitled to claim that the alteration in the original is not made by himself or shall be entitled to demand his name on the work to be removed or to be changed. If the restitution of the previous form is possible and if the removal of the alteration does not do any harm to the benefits of the public and the owner thoroughly, the owner of the work shall be entitled to bring the work into its original form.
- 3) In case of transgression to financial rights

Article 68:

(Amendment: 7.6.1995-4110/21)

In case the work is transferred without the permission of the owner of the right, published more than the number stated within or out of the contract, processed in a different form or broadcast by television and radio, presented; the owner, whose permission isn't granted, shall be entitled to demand at most three folds of his loss with regards to the current value.

In case a work is benefited from and if its copies are offered for sale, the owner of the work shall be entitled to demand the extermination of the copies, equipment used for copying such as films, moulds and etc.; or he shall be entitled to demand the copies and equipment used for copying such as films, moulds and etc. to be sold to him with a proper price not exceeding the cost price; or he shall be entitled to demand three folds of the quantity he shall demand in case of a contract. This matter shall not eliminate the legal responsibilities of the person copying without permission. In case copies of a work, made without permission, are offered for sale or the sale is considered as an unjust transgression, the owner of the work shall choose one of the alternatives written in the second paragraph.

In case the substitute demanding person makes a contract with the transgressor, he shall put forward all of his rights and authority against the transgressor.

II- Prohibition Trial of Transgression

Article 69:

The owner of the work exposed to the danger of transgression of his moral and financial rights shall be entitled to sue the prohibition of the possible transgression. The same provision shall be valid for the conditions of possible continuation or repetition of an actual transgression.

The provisions of the second, third and fourth paragraphs of article 66 shall be implemented within this situation.

III- Suit for Damages

Article 70:

(Amendment: 7.6.1995-4110/22)

The person whose moral rights have been damaged shall be entitled to sue for his loss of moral rights, for the damages to be paid. The court shall be entitled to decide on different types of moral damages instead of these or in addition to these.

The person whose financial rights have been damaged shall demand for the damages to the department concerning to unjust actions in case the transgressor has a fault.

The person who has been transgressed shall be entitled to demand the assured profit besides the damages, within the conditions stated in the first and second paragraphs.

Within this condition, the demanded substitute shall be reduced as per article 68.

B) Trials of Penalty

1. Transgression to moral rights

Article 71:

(Amendment: 1.11.1983-2936/art. 11)

Contrary to the provisions of this law, intentionally:

Presenting or publishing a work without a written consent of the owner or the successor of the work that is publicized or not, to the public.

Naming a work or its copied samples without the written consent of the owner or the successor of the work.

Designating a person's work as his or designating his work as another's, or acting contrary to the second paragraph of Article 15.

Not indicating or indicating incorrect, inadequate or delusive sources for the situations in the articles 32,33,34,35,36,37,39 and 40.

(Amendment: 7.6.1995-4110/23)

Persons are condemned to imprisonment of three months to one year and to a heavy fine of 300 million liras to 600 million liras.

2. Transgression to financial rights

Article 72:

(Amendment: 1.11.1983-2936/art.12)

Without the written permission of the owner of the right, intentionally:

Processing a work in any form.

Copying a work in any form. Selling, offering for sale or putting into circulation of the copies of a work or its versions.

Presenting, displaying or showing in public or broadcasting by radios and other similar ways, the work or its versions.

5- (Annex: 7.6.1995-4110/24)

Renting out a work or its versions.

6- (Annex: 7.6.1995-4110/24)

Persons importing the copies made without permission of the owner shall be condemned to imprisonment of three months to one year and to pay a heavy fine of 300 million liras to 600 million liras.

3. Other offences

Article 73:

(Amendment: 1.11.1983-2936/art. 13)

Intentionally:

Offering the copies of a work for sale which is known or should be known that they are copied contrarily to the provisions of this article or presenting in public places or broadcasting by radios or benefiting from the copies of a work with the aim of making profit. Selling the copies of a work to others which is known or should be known that they are offered for sale contrarily to this provision or presenting in public places or broadcasting by radios or benefiting from the copies of a work with the aim of making profit.

Transferring, giving, mortgaging or making the subject of possession, a financial right or a license that does not exist or which is known or should be known that possession authority does not exist.

4. Copying or being copied more than the number permitted by the contract or law.

5. (Annex: 7.6.1995-4110/25)

Keeping the copies of a work in reserve for commercial purpose, which is known or should be known that they are copied contrarily to the provisions of this article.

6. (Annex: 7.6.1995-4110/25)

Keeping or distributing any kind of a technical vehicle used for invalidating or removing a technical equipment without permission which is mainly applied for protecting a computer program, for commercial purposes.

Persons shall be condemned to imprisonment of three months to one year and to heavy fine of 300 million liras to 600 million liras.

II-Offender

Article 74:

In case the offences stated within the articles 71,72,73 are committed by the representative or the employees of an establishment during the fulfillment of their obligations; the owner of the establishment or the manager or the person managing the establishment in act with a name and qualification, not preventing the offence while being committed, shall be fined as the offender.

In case the punishable act is commanded by the owner the manager of the establishment or by the person managing the establishment in act, these persons shall be fined as the offenders; in case it is commanded by the representatives or employees these persons shall be fined as the helpers.

The person assigning a reciprocal or an unrequited occasion for displaying a work that is known that its presentation to public is contrary to the law, or the person having a duty or charge in the presentation of this type of work, shall be fined as the helper.

In case one of the offences stated in the articles 71,72,73 are committed during the completion of the matter of a legal person, the legal person with the other offenders shall jointly be responsible for the expenses and fine.

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

III-Prosecution

Article 75:

Prosecution resulting from the offences stated in the articles 71,72 and 73 depends on the complaint.

(Amendment: 1.11.1983-2936/art. 14)

The persons who shall be exposed to complaint other than the transgressed are these stated below:

1) The Ministries of Education and Culture or the Vocation Union which the transgressed is connected with, in case of any contrary acts against the obligation of proving the source in the paragraph number four of the article 71.

2) The Ministry of Culture, The General Directorate of Press and Information and associations representing the Turkish press in case of contrary acts against the obligation of proving the source as per article 36 within the conditions stated in the paragraph number four of article 71.

Trails of fine shall be opened within one year pursuant to its actual performing.

Duties related to the comprehension of this law are the urgent duties included in the article 423 of Law of Criminal procedure.

C) Various Provisions

I- Duty

Article 76:

Court of first instance shall be the competent authority in charge without regarding to the quantity of the subject claimed or without regarding the grade of the penalty stated in the law in case of trials resulting from the legal relations arranged by this law.

The article 358 of Law of Criminal Procedure is implemented in case a personal suit is brought.

The document shall be transferred by one's own accord to the Civil Court for the solutions of the matters in case of acquittal, if personal right is demanded within the trial of fine.

II- Precautionary Measures

Article 77:

For preventing an important damage or an unexpected danger or preventing a fait accompli or in case the asserted claims are deemed as necessary and strongly possible, the court shall be entitled to command the counter part to continue or not to continue the work before or after the suit is brought against, or shall be entitled to decide on the temporary forcible seizure of the copied samples of a work or the copying equipment, used for production such as moulds as precautionary measure; pursuant to the demand of the transgressed person whose rights given by this law shall be violated and threatened. Oppositions against the command shall have penal results as per article 343 of Law of Execution and Bankruptcy.

III- Declaration of the Provision

Article 78:

The rightful party shall be entitled to demand the whole or the summary of the certain resolution to be declared in newspapers and etc., expenses belonging to the counter part, in case the rightful party has a valid reason or a benefit other than the situation stated in the second paragraph of article 67.

IV- Legal Proceedings, Confiscation and Annihilation)

Article 79:

For the legal proceedings, confiscation and annihilation of copied samples whose production and distribution shall be punishable and of the equipment used for copying these such as moulds, the provisions of article 36 of Criminal Law and articles 392,393,394 of Law of Criminal Procedure shall be implemented.

Different Provisions:

A) Neighboring rights and prevention of transgression

I- The neighboring rights of the owner of the work of art

Article 80:

(Amendment: 7.6.1995-4110/2b)

Performer artists originally performing and interpreting intellectual works and works of art, the producers of sound-carriers determining the performance or sounds for the first time and Establishments of Radio and TV shall have the rights neighboring the rights of the owner on the condition of not harming the moral and financial rights of the owner of the work.

The performer artist shall exclusively have the right of benefit and his written permission is necessary for determining a performer artist's performance, copying this performance, renting it out, broadcasting it with any wired or wireless means or its presentation. The performer artist shall transfer these rights to the producer with a proper substitute by a contract.

In case the presentation is performed by an orchestra, chorus or a theatre group, only the chief's permission shall be adequate.

In case the artist or group is hired for singing, performing or presentation by an establishment, the permission of the enterprise shall be essential.

Without the written permission of the Establishments of Radio and television, no one or no establishment shall copy a part or whole of the broadcast work, shall broadcast them again by wired or wireless means, shall present them in public places with entry-fees.

The written permission of the possessor of the neighboring rights shall be essential for the conditions stated blow:

1. The performance or the public presentation of the intellectual works and works of art aiming the public order, education and instruction, scientific researches or interview and without aiming profit,
2. Copying the intellectual works and works of art and Radio Television programs for broadcasting and for personal usage without aiming profit,
3. Temporary fixation made for own broadcastings of the Establishments of Radio and TV with their own possibilities,
4. The situations stated in the articles 30, 32, 34, 35, 43 and 46 of this law,

However this application shall not harm the legitimate benefits of the owner of the right without a rightful reason or shall not be contrary to benefiting from the work normally,

Artists, chiefs and soloists of the chorus or orchestras, the actors who are chiefs or have the

leading roles in theatre groups shall demand their names to be emphasized in the means used for picture and sound transfer.

As the owners of the works the owners of the neighboring rights shall benefit from the rights of the annulment of transgression, the prohibition of transgression and the right of Action for damages.

Without having the written permission stated in this article the person transgressing the rights of the owner of the neighboring rights, shall be condemned to the imprisonment from three months to one year, or to a heavy fine of 300 millions TL to 600 millions TL.

II- Prevention of Transgression of Intellectual Rights

Article 81:

(Amendment: 7.6.1995 - 4110/27)

For a work, to be copied, the owner of the work of art or the owner of the right shall be proved, with the notary certified contract, conforming with article 52 and certificate of qualification, to the printing house, workshop and to the recording Establishment. Person, copying the work, shall fill the order form and the letter of consignment that are certified by the Ministry of Finance and shall prove these with the invoices.

Stamping the bands, to be taken from the Ministry of Culture, on the non-periodical publications shall be obligatory.

For the bands to be taken, presenting the documents indicated in the 1st paragraph shall be essential. In fifteen days pursuant to this presentation, bands shall be given without any other procedure. The essentials and methods, related to the acceptance of the documents, will be determined by the regulations prepared by the Ministry of Culture.

In case of the usage of the financial and neighboring rights, without permission, by the person except the owners of the intellectual works and works of art and the owners of the rights; the office of the chief Public Prosecutor shall demand from the authorized judge, the seizure of the irregularly multiplied or presented copies of the work and sealing of the technical equipment used for this purpose, pursuant to the application, of the owners of Professional Associations, related to the place where transgression is made or where its results took place.

In case of the situations whose delay shall be inconvenient the chief Public Prosecutor, on his

own accord, shall decide on seizure and sealing, to be presented to the approval of the authorized judge, within 3 days. The owner of the rights shall apply to the office the Chief Public Prosecutor within six months pursuant to their being informed of transgression and the offender with the condition of the offence's being in the duration of prescription, with the documents proving their rights. The provisions of the Law Procedure of Witnessed Crimes numbered 3005 are applied relating with this offence.

The person copying the works with the equipment and methods used for repeating signs, pictures and sounds; without having the written permission stated in this article and without having the bands; shall be condemned to imprisonment of three months to one year or to a heavy fine of 300 millions TL to 600 millions TL.

III. The content of neighboring rights and their duration:

Article 82:

(Amendment: 7.6.1995 - 4110/28)

Provisions of this law related to the performer artists;

These are applied for the performer artists:

1. Being a citizen of Republic of Turkey,
2. As well as being a citizen of the Republic of Turkey, the performances shall be performed in the Republic of Turkey, added within the sound-carriers that the provisions of this law requires and shall not be determined by a sound carrier and broadcast by Radio - Television broadcasts for which the provisions of this law shall be applied,

The provisions of this law related to the sound-carriers;

1. Whose producers shall be the citizens of Republic of Turkey,
2. Which shall exist within the borders of the Republic of Turkey.

The provisions of this law related to the broadcasts of Radio-Televisions

These shall be deemed appropriate for the Radio-Television programs;

1. Whose centers shall exist within the borders of the Republic of Turkey

2. Which shall be broadcast with the reflectors within the borders of the Republic of Turkey.

The provisions of B law related to the neighboring rights shall be applied to the performer artists, producers and Establishments of Radio-Television who shall be protected by the provisions of an International Agreement in which the Republic of Turkey shall take part.

The rights of the performer artists shall continue for 70 years beginning from the date of publishing the demonstration of the performance;

In case the performance is not published, this duration starts with its first publicity.

The rights of the producers shall continue for 70 years beginning from the date of the first publication of the sound carriers.

The rights of Establishments of Radio-Television shall continue for 70 years beginning from the date of programs first broadcast.

B) Unfair Competition

I- Name and characteristics

Article 83:

The forms of the copies of a work copied with the name characteristics shall not be used in another work or in its copies, which may cause ambiguity.

The provision of the 1st paragraph shall not be applied for generally used names, characteristics and outer figures having no distinctive quality.

Application of this article shall not depend on the verification of the conditions stated in the first, second and third parts.

The provision related to the Periodical names indicated in the article 14 of the Press Law shall be reserved.

The person acting contrarily to the provision of the first paragraph shall be applied to the provisions concerning unjust competition, even though the transgressor is not the dealer.

II. Sign, picture and sound

Article: 84

The person fixing a sign, picture and sound on an equipment used transferring these, or rightfully copying and distributing these for commercial purposes, shall prohibit the distribution or publishing of the same sign, picture and sound by a third person using the same means.

The person acting contrarily to the provision of the first paragraph shall be applied the provisions concerning unfair competition, even though the transgressor is not the dealer.

The provision of this law shall also be applied for any type of photographs not having the characteristics of a work, and shall be applied for pictures and cinema works established with the same methods.

C) Letters:

Article 85:

Letters, remembrances and writings similar to these shall not be published without the approbation of the writers or of the person stated in the first paragraph of article 19; in case the writers are dead, even though these writings do not have the characteristics of a work, provided that 10 years have passed after the writer's death.

Letters shall not be published without the written permission of the second person or of the person stated in the first paragraph of the article nineteen, in case the second person is dead, other than the condition stated in the first paragraph, provided that 10 years passed after the death of the second person. The provisions of article 49 of law of obligations and articles 197 and 199 of criminal code shall be applied for the person acting contrarily to the provisions stated above.

In case of acceptable publishing according to the provisions of the first and second paragraphs, the provision of article 24 of the civil code is reserved.

D) Pictures and Portraits

I) In General

Article 86:

Pictures and portraits, even though they are not having the characteristics of a work, shall not be resented to public for exhibition or for another reason without approbation of the portrayed person or of the person stated in the first paragraph of Article 19, if the portrayed person is dead, provided that after 10 years passed the death of the portrayed person.

Having the approbation, stated in the first paragraph, is not required for the followings:

1. The pictures of the person having o role in the political and social life of the country.
2. The pictures of the portrayed persons showing their participation in parades, formal celebrations or general meetings.
3. Pictures concerning the daily events for news of radio and films shall not be necessary.

Person acting contrarily to the provision of the first paragraph shall be applied the provisions of the article 49 of Law of Obligations and articles 197 and 199 of the Turkish Criminal Code.

In case of acceptable publishing according to the provisions of the first and second paragraphs, the provision of article 24 of Civil Code is reserved.

II- Exceptions

Article 87:

In case there is not a contrary decision, a photograph shall be taken by the person ordering or by the person portrayed or his inheritors, from the picture or a portrait of the person who shall order them to be made.

This provision shall not be valid for the printed portraits or pictures. In case the person stated in the first paragraph shall not provide or have important difficulties in providing these kind of photographs, their photographs can be taken.

E) Controversies against the law

Article 88:

The provisions of this law shall be applied for:

1. The works presented to public for the first time in Turkey and all of the works, existing in Turkey that have not been presented to public yet and all the letters and pictures existing in Turkey, without regarding the citizenship of the owner of the work.

2. The works of Turkish citizens whose works have not been presented to public yet or all of their works that shall be presented to public out of Turkey for the first time.

3. All of the works of foreigners that have not been presented to public or that are presented to public out of Turkey for the first time, provided that there are appropriate provisions within an international agreement in which Turkey takes a part.

The Council of Ministers shall decide on making exceptions as per the first and third paragraphs of this law, in case the country of the owner of the work shall sufficiently protect the rights of the Turkish owner of the work or in case the country does not answer the exceptions or evaluations according to their provisions, concerning the foreign owners of a work.

Additional Article 1- (is the provisions of article 18 of 1.11.1983 - 2936 number law and transformed as additional article and numbered for joint liability)

Rules and regulations in accordance with this law shall be prepared and published in the official gazette within six months.

Additional Article 2- (7.6.1995 - 4110/29)

After this law come into force, related to the protection periods of neighboring rights, cinema works, computer programs and data bases; the work-ups and products of these publicized works shall be applied.

Additional Article 3 - (7.6.1995 - 4110/30)

The essentials related to the applications of neighboring rights should be determined with the regulations that shall be offered within six months after the law come into force.

F) Temporary Provisions

I- Provisions of Transfer

1. Generally

Provisional Article 1:

In case there is no contrary decision, provisions of this article shall be applied for the works that have been presented to public for the first time or for the works that have entered into the register before the regulations. The work's or its product's being included within the Law of Copyrights dated May 8 1326, or not, shall not affect the situation.

The protection periods, concerning the works being publicized before this law come into force, shall be estimated according to this law. With the terms that shall be used in legislation and contracts such as copyright, literary possession, possession of fine arts and etc, the rights and competence given by this law in similar situations shall be understood.

In case a part or the whole of the rights and their usage is transferred to another person before this law comes into force, these rights shall not be considered as transferred with the new and extensive rights and competence.

The same provision shall also be applied for the works and its products having a longer period of protection than the previous or for the works and its products that the previous law did not protect.

2. Protection of the vested interest.

Provisional Article 2:

In case the periods in the previous law are longer, these periods take place of the works published before the publication of this law.

In case a rightful interpretation or a work up of a work was published before the publication of this law, the rights and competence acquired by the person who interpreted or worked up shall not be harmed.

The publication of the interpretation, which shall be acceptable in the provisions of the previous law and which shall be abolished by this law, shall be completed in case the publishing began before the date of this law come into force. It should be stated that the duration of the publishing shall not exceed one year. The same provision shall be applied to the interpretations of works to be presented in public places by this kind of representation establishments. Copying shall be completed or the multiplied copies shall be published in case the copying has been started on the date of the publication of this law, despite the copying was acceptable within the

provisions of the previous law is abolished by this law.

The publishing of the copies, present on the date which this law come into force, and was acceptable in the provision of the previous law, can be continued.

The same provision shall be applied to the equipment used for sign, picture and sing transfer and the means such as moulds and etc., used for copying the fine art works.

The person demanding the authority that can be acquired by this law, shall be obliged to inform and to have sealed the copies and equipment by the authorized office within 6 months, pursuant to this law's coming into effect. Details shall be determined by a regulation if necessary.

Provisional Article 3:

(Annex: 1.11.1983 - 2936/17)

The president and members of obligatory subdivisions shall be determined by the decision of the Ministry of Culture until the Federation of Professional Organizations completes the number of the members as stated in the regulation.

Provisional Article 4:

(Annex: 1.11.1983 - 2639/17)

The decree dated 15.3.1980 and numbered 8/423 of the Council of Ministers offered as per article 43 of 5846 number law of intellectual works and works of art and the price list that shall be offered in this law, shall be applied from the beginning of its validity on 15.3.1980 until 31.12.1985.

According to the price list to be offered by the council of ministers, the payments of the works transferred to the professional organization with the certificate of authority, shall be made to the related Professional Organization in order to divide them among the owners of the right, and in other situations the payment is made directly to the owners of the financial rights.

Eliminating their own shares on the payroll given by the Turkish Radio and Television Company, the Professional Organizations shall pay the remaining to the owners of the rights within 2 years pursuant to their being paid.

The prices that shall not be demanded by the members within 2 years shall be on a private

account to be opened on behalf of the Ministry of Culture.

Provisional Article 5:

(Annex: 6.7.1995.4110/31)

The professional organizations founded before this law's coming into effect shall be transferred to new professional organizations under the provision of Ministry of Culture and in line with the related provisions of the law within one year and shall form their new subdivisions by a plenary session within this duration. The Professional Organizations not confirming with the provisions of the first paragraph shall be considered automatically disintegrated.

II Annulled Provisions

Article 89:

The provisions of Copyrights Law dated May, 8, 1326 that are contrary and the provisions of other laws that are contrary to the provisions of this law are annulled.

G) The Last Provisions

I- Coming Into Force of the Law

Article 90:

The provisions of articles 42 and 43 of this law shall come into effect beginning from its date of publication and other provisions of this law shall come into force on January 1, 1952

II- The office charged with the execution of the law

Article 91:

The provisions of this law shall be carried out by the Council of Ministers.