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Act No. 22 of the Year 2006

Protection of Copyright and Neighboring Rights

We, Hamad Bin Isa Al Khalifa, King of the Kingdom of Bahrain, having examined:

- The Constitution
- The Civil and Commercial Procedures Act issued by Decree Law No. 12 of 1971, and amendments
- The Penal Code issued by Decree Law No. 15 of 1976, and amendments
- Decree Law No. 10 of 1993 regarding the Protection of Copyrights
- Decree Law No. 7 of 1994 regarding Ratification of the Document Establishing the World Trade Organization
- Decree Law No. 30 of 1996 approving Accession to the Berne Convention for the Protection of Literary and Artistic Works
- The Civil Code issued by Decree Law No. 19 of 2001
- The Code of Criminal Procedure issued by Decree Law No. 46 of 2002
- Decree Law No. 47 of 2002 regulating the Press, Printing and Publishing
- Act No. 14 of 2004 approving the Accession of the Kingdom of Bahrain to the WIPO Copyright Treaty
- Act No. 15 of 2004 approving the Accession of the Kingdom of Bahrain to the WIPO Performances and Phonograms Treaty
- Act No. 1 of 2005 approving the Accession of the Kingdom of Bahrain to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations
- Decree No. 1 of 1995 regarding the Accession of the Kingdom of Bahrain to the Convention Establishing the World Intellectual Property Organisation (WIPO),

Do, with the approval of the Consultative Council and the Council of Representatives, ratify and issue the following Act:

Section I

Definitions

Article 1

For the purposes of applying the provisions of this Act, the following words and expressions shall have the meanings given below, unless the context requires a different meaning:

- **Kingdom:** The Kingdom of Bahrain.
- **Competent Authority:** The Authority responsible for protecting copyrights and neighboring rights.
- **The Minister:** The Minister in charge of the competent Authority.
- **Author:** The natural person who creates the work.
- **A work:** Any created composition in the fields of literature, the arts or science.

- **Audiovisual work:** Any work made up of a sequence of interconnected images which gives the impression of movement, whether or not accompanied by sound.
- **Collective work:** A work created with the participation of more than one author, at the initiative and under the guidance of a natural or juridical person who pledges to publish it in his name, and in which the contribution of each author is assimilated into achieving the overall goal sought by that person.
- **Joint work:** A work created with the participation of more than one author, whether or not each individual contribution can be distinguished from the others, and which cannot be classified as a collective work.
- **Derived work:** A work which derives its origin from a previously existing work, or from folklore.
- **Folklore:** Any composition taken from inherited tradition - be it oral, musical or of movement - as expressed in distinct elements reflecting a popular traditional heritage which arose, developed and is conserved in a specific geographical area, and which cannot be attributed to a known author, particularly including the following:
 - A. Popular stories, sayings, riddles and slogans.
 - B. Popular songs accompanied by music.
 - C. Popular dances and shows.
 - D. The products of popular art, such as sketches or coloured drawings, sculptures, pottery and ceramics, wood and metal carvings, ornamentation, needlework, textiles, rugs and tapestries, clothing, musical instruments and building styles.
- **Phonogram:** The fixation of any sounds, whether or not emitted by a performer, or the fixation of any representation of those sounds. This does not include the fixation of sounds accompanying an audiovisual work.
- **Neighboring rights:** The rights of performers, of producers of phonograms, and of broadcasting organisations.
- **Performers:** Actors, singers, musicians, dancers and other parties, who act, sing, recite, chant, or in any way perform any of the following:
 - A. Works, whether protected or unprotected by the provisions of this Act, or which have passed into the public domain due to the expiry of the period of protection.
 - B. Folklore.
- **Producers of phonograms:** The natural or juridical persons who, on their own initiative and responsibility, first fix sounds or first fix any representation of those sounds.
- **Producer of audiovisual works:** The natural or juridical persons who take initiative and responsibility for preparing an audio or audiovisual work.
- **Broadcasting Organisation:** The authority which transmits sounds, or images and sounds, by wireless means.

- **Broadcasting:** The transmission by wireless means for public reception of sounds, or of images and sounds, or of any representation thereof. This also includes transmission via satellite. Broadcasting is considered to include the transmission of encrypted signals, in cases where the public is granted the means to decode those signals by and with the consent of broadcasting organisations. Broadcasting is not considered to include transmission over a computer network, or any other transmission whereby individual members of the public can choose when and where to receive the signal.
- **Public performance:** This includes playing, acting, singing, dancing, reciting or narrating any work, either directly, via some device or by any other means, if this takes place in a location in which parties other than family members and friends can be present.
- **Public Communication:** The transmission, either by cable or by wireless means, of a work, performance or phonogram. This includes making them available in such a way that individual members of the public can access that work, performance or phonogram in the place and at the time they choose.
- **Fixation:** Any physical embodiment of images and/or sounds, and any physical embodiment of a representation of images and/or sounds, by which they can be perceived, reproduced or conveyed using suitable means.
- **Publication:** Making physical copies of a work, recorded performance or phonogram legally accessible to the public, in a way that meets reasonable public requirements and takes account of the nature of the work, recorded performance or phonogram. Copies are made legally accessible to the public when this is done with the agreement of the rightful party.
- **Reproduction:** The making of one or more copies of a work, performance or phonogram, either directly or indirectly, and in any form or using any means, including printing, photography, recording, or permanent or temporary electronic storage.
- **Rights Management information:** The information which the rightful party of his own volition attaches to a copy of the work, recorded performance or phonogram, or which emerges when the work, recorded performance or phonogram is conveyed or made available to the public: This includes the following:
 - A. Identification to the work, its author and the holder of any rights to the work.
 - B. Identification of the performance, the performer, the phonogram, the program producer and the owner of any rights over the performance or phonogram.
 - C. Conditions and rules for utilizing the work, performance or phonogram.
 - D. Any numbers or codes symbolizing the above information.
- **Effective technical measures:** Any technique, means or component which, in the course of normal use, control access to a work, recorded performance or phonogram, or which protect any of the copyrights or neighboring rights stipulated under this Act.

Section II The Scope of Copyright Protection

Article 2

Protection under this Act is accorded to literary, artistic and scientific works, merely by virtue of their having been created and with no need for any formal measures, irrespective of the value, type or purpose of those works, or their form or manner of expression. In particular, protection includes the following works:

- A. Books, pamphlets, articles and other writings.
- B. Computer programs, whether in source language or machine language.
- C. Works that are delivered orally, such as lectures, speeches, sermons and other similar works.
- D. Dramatic works, dramatic musical works, works of dance, works of mime and other works created to be performed.
- E. Musical works, either with or without words.
- F. Audiovisual works such as works for cinema and television.
- G. Sketches or coloured drawings, sculpture, carving and printing on stone, cloth, wood or metal, and any other similar works.
- H. Works of the applied arts.
- I. Works of photography and similar works.
- J. Illustrations, geographical maps, plans and designs (sketches), three-dimensional works relative to geography, topography, building or science.

The title of the work enjoys the same protection as the work itself, if that title has been created.

Article 3

Protection under this Act is accorded to derived works. In particular this includes:

- A. Translations, musical arrangements or adaptations.
- B. Collections of works or of folklore such as encyclopedias or anthologies, and databases, readable either by computer or other means, as long as creativity exists in the selection or arrangement of the contents of those collections and databases.

None of this shall infringe the protection accorded to the original works from which these works were derived.

Article 4

Protection is not accorded to the following:

- A. Mere ideas, procedures, working methods, mathematical concepts, principles, discoveries or data.
- B. Legislation, judgments and judicial decrees, the judgment of arbitrators, decisions issued by administrative committees possessing judicial prerogatives, international treaties and all other official documents and official translations thereof.

- C. News of current affairs when of a purely informative nature. Nevertheless, collections of the above elements do enjoy protection if creativity exists in the selection or arrangement of the contents.

Section III

The Author's Literary and Economic Rights

Article 5

1. The author enjoys perpetual literary rights which are non-prescribable and inalienable. These are:

- A. The right to decide on the first publication of his work, and to designate the means and timing of such publication.
- B. The right to have the work attributed to him; specifically, the right to have his name placed on all copies of the work - when that is possible - in the customary manner.
- C. The right for his name to remain unknown, or to use a pseudonym.
- D. The right to prohibit any distortion, defacement, modification or infringement of his work which could damage his honor or reputation.
- E. The right to prohibit his work being put into circulation, or to withdraw it from circulation, even if he has already surrendered his economic rights, if serious reasons arise which justify such an action. In this case, the author must request the competent court to issue a judgment to prevent his work being put into circulation, or to withdraw it therefrom. If the court accepts the author's application it shall require him to pay adequate advance compensation to the party to whom the rights have devolved, within a deadline established by the court. If he fails to do so, the court's judgment shall be null.

Alienation, either with or without compensation, of any of the author's literary rights is invalid.

2. The aforementioned rights shall also be exercised by the author's descendants or by the competent Authority if the author has no descendants.

Article 6

The author and his descendants enjoy the following exclusive economic rights:

- A. To reproduce the work.
- B. To translate the work into another language, to arrange it musically or to adapt it into another form.
- C. To distribute the original or copies of the work to the public, via sale or any other form of transfer of ownership.
- D. To rent, for commercial purposes, the original or copies of a work in the form of a phonogram, a cinematic work or a computer program.
- E. To perform the work in public.
- F. To display the original or copies of the work to the public, by any means.
- G. To broadcast the work.
- H. To convey the work to the public.

Article 7

Exclusive rental right is not applicable to a computer program unless the program itself is the essential object of the rental.

Article 8

Taking due account of article 36 of this Act, the rightful party or his descendants may transfer any of their economic rights either all together or singly to a third party, or authorize that party to utilize them on the basis of a written contract.

Article 9

Taking due account of article 36 of this Act, the author or his descendants may agree to accept remuneration in cash or in kind, in exchange for transferring any of the economic rights of the work to a third party, or for allowing that party to utilize them. This may be on the basis of a relative share in the revenue resulting from the utilization of those rights, or the author or his descendants may agree on a designated sum, or a combination of these two solutions.

Article 10

The mere fact that an author disposes of the original or of a copy of his work, whatever form such disposition may take, does not mean he cedes any of his economic rights to that work. Nevertheless, the party to whom such disposition is made may not be compelled to allow the author to reproduce the work, to exhibit the original or to convey it to the public, unless written agreement exists to the contrary.

Article 11

An author's economic rights to his published works may be seized. However, economic rights to a work the author of which dies before its publication may not be seized, unless it is decisively proved that he intended to publish it before his death.

Article 12

Taking due account of article 36 of this Act, any disposition an author makes of his future intellectual opus is invalid.

Article 13*

The competent Authority shall establish a register into which shall be entered, following a request made by the rightful party of his own volition, any dispositions made vis-à-vis the author's economic rights stipulated in this Act.

The effectiveness of any of these dispositions shall not be dependent upon their being entered into the register.

* This article was amended by Act No. 12 of 2008, annexed at the end of this volume.

Entry into the register shall be regulated by a decision issued by the Minister. Such entry shall necessitate payment of a fee, the categories of which are defined by decision of the Minister, after having obtained the agreement of the Council of Ministers.

Section IV Neighboring Rights

Article 14

1. Performers enjoy perpetual literary rights which are non-prescribable and inalienable. These are:

- A. The right to have the performance, whether live or recorded, attributed to them, except in cases dictated by the manner in which the performance is used.
- B. The right to prohibit any distortion, defacement, modification or infringement of their performance which could damage their honor or reputation.

Alienation, either with or without compensation, of any of these rights is invalid.

2. The aforementioned rights shall also be exercised by the performer's descendants, or by the competent Authority if the performer has no descendants.

Article 15

Performers enjoy the following exclusive economic rights:

- A. To broadcast their unrecorded performance and convey it to the public, unless the performance has already been broadcast with their consent.
- B. To record their unrecorded performance.
- C. To reproduce their recorded performance.
- D. To distribute the original or copies of their recorded performance to the public, via sale or any other form of transfer of ownership.
- E. To rent to the public, for commercial purposes, the original or copies of their recorded performance.
- F. To convey their performance to the public.

The provisions of this article do not apply if the performers agree to the inclusion of their performance in an audiovisual work.

Article 16

Producers of phonograms enjoy the following exclusive economic rights:

- A. To reproduce their phonograms.
- B. To distribute the original or copies of their phonograms to the public, via sale or any other form of transfer of ownership.
- C. To rent to the public, for commercial purposes, the original or copies of their phonograms.
- D. To convey their phonograms to the public.
- E. To broadcast their phonograms.

Article 17

Broadcasting organisations enjoy the following exclusive economic rights:

- A. To record their programmes.
- B. To reproduce their recorded programmes.
- C. To retransmit their programmes.
- D. To convey their television programmes to the public.

Article 18

1. The provisions of articles 8 to 13 of this Act apply to any dispositions made relating to the economic rights of holders of neighboring rights, to the registering of those rights and the seizure of thereof.
2. Without detriment to the rights laid down in this Act, producers of phonograms and broadcasting organisations have the right to adequate compensation, on one occasion, for the live or non-live utilization of phonograms or radio or television programmes, made public for commercial purposes by broadcasting or conveyance to the public in any way, unless written agreement exists to the contrary.

Section V Free Usage

Article 19

It is lawful to make a single copy of a legally published original work, or of a legal copy thereof, for purely personal use without the consent of the author and without paying compensation. This does not apply to the following:

- A. Reproducing works of architecture in the form of buildings or any other construction.
- B. Making a photocopied reproduction of a (written) work, either in its entirety or a fundamental part thereof.
- C. Making a photocopied reproduction of a work of sheet music, either in its entirety or a large part thereof.
- D. Making a total or partial reproduction of databases in digital format.
- E. Reproducing computer programs, unless pursuant to the provisions of article 26 of this Act.

Article 20

It is lawful to make a temporary reproduction of any work without the consent of the author and without paying compensation, under the following conditions:

- A. That the reproduction is an incidental and integral part of the process of transmitting a work between different parties over a network, or is part of a process that involves enabling access to a legal copy of a digitally stored work.
- B. That the reproduction is made by a person authorized, by the rightful party or by law, either to transmit or to undertake the process indicated in the preceding clause.
- C. That the reproduction takes place in the context of steps which, from a technical standpoint, are incidental and inevitable in order to accomplish a lawful action, and in a way which guarantees the automatic cancellation of the copy, with no possibility of retrieving it for any purpose other than those mentioned in the two preceding clauses.

Article 21

It is lawful to undertake the following actions without the consent of the author and without paying compensation, on condition that mention is made of the source, and of the name of the author if it appears in the source:

- A. Reproducing a short segment of a legally published work in order to cite it in another work, as long as the citation is used for a legal purpose and in the degree necessary to achieve that purpose.
- B. Using a legally published literary or artistic work in publications, radio or television programmes or audiovisual recordings, as a means of clarification for purposes of education, if undertaken by non-profit educational institutions.
- C. Making a photographic reproduction of an article, brief extracts of a work, or a short work, all of which have been legally published, for educational purposes within non-profit educational institutions, on condition that this involves only a single copy, or separate occasions, and in the degree necessary to achieve those purposes.

Article 22

In the following two circumstances, it is lawful for non-profit archives or libraries to make one photocopy of a work without the consent of the author and without paying compensation:

- A. If the reproduction is made for the benefit of any of those institutions, and the new copy replaces an original which has been lost, destroyed, or is unfit for use, and if it is difficult to obtain a replacement original under reasonable conditions.
- B. If the reproduction is of a published article, brief extracts of a work, or a short work, when the archive or library is satisfied that the purpose of the reproduction is to respond to a request by a natural person who wishes to use it for non-commercial study or research, that the reproduction is made just once or on separate and unrelated occasions, and that no collective license is available to authorize such copying.

Article 23

It is lawful, without the consent of the author and without paying compensation, to make a reproduction from a work to be used in judicial or administrative procedures, within the limits necessary for such procedures and on condition that mention is made of the source, and of the name of the author if it appears in the source.

Article 24

It is lawful, without the consent of the author and without paying compensation, and on condition that mention is made of the source, and of the name of the author if it appears in the source:

A. To reproduce in the press, to broadcast or to convey to the public by means of cable any of the following:

1.Extracts from articles published in newspapers or periodicals about current economic, social or religious affairs.

2. Extracts from broadcast works having the same characteristics as those mentioned in the preceding clause.

This applies to cases where the right to authorize such reproduction, broadcasting or conveyance to the public by means of cable is not explicitly reserved to the rightful party.

B. To reproduce or make publicly available - in order to provide coverage of current events by still or moving images, or analogue broadcasting - brief extracts of a work which has been seen or heard in the context of those events, within limits that can be justified by the stated informative purpose.

C. To reproduce in a newspaper or periodical, or to convey to the public, speeches, lectures, seminars and discussions that take place during public sittings of parliamentary councils, legislative or administrative bodies, or public meetings on scientific, literary, artistic, political, social or religious topics. This includes public court proceedings and must remain within limits that can be justified by the stated informative purpose.

Article 25

It is lawful, without the consent of the author and without paying compensation, to broadcast to the public for non-commercial purposes, works of the fine, applied, visual or architectural arts, if those works are permanently located in a public place.

Article 26

The legal owner of a computer program may, without the consent of its author and without paying compensation:

A. Make a single copy of the program for use in the case that the legally possessed original copy is lost, destroyed or becomes non-operational.

B. Make an adapted or modified copy of the program, or one translated into a different computer language, if this is necessary to make it compatible with another computerized device and if it is restricted to the personal use of the legal owner of the original copy.

The original copy and the other copy must be destroyed as soon as legal possession of the original expires.

Article 27

It is lawful in any of the following circumstances to undertake a public performance, without the consent of the author and without paying compensation, of a dramatic, musical or dramatic musical work, a work of dance or a work of mime, or any other work created to be so performed:

- A. In religious festivals, to a degree that can be justified by the nature of those festivals.
- B. In face-to-face educational activities within recognized non-profit educational institutions.

This must take place in classrooms or other similar places allocated for teaching, and in all cases there must be no direct or indirect financial recompense.

Article 28

Broadcasting organisations may, without the consent of the author and without paying compensation, temporarily record a work using their own equipment, for the purposes of using it in their programmes, on the following conditions.

- A. That the broadcasting organisation concerned has the right to broadcast that work.
- B. That the broadcasting organisation concerned destroys the recording six months after using it, unless the rightful party agrees to an extension of that period. This does not apply to a single copy of the recording, which may be kept for archiving purposes.

Article 29

The provisions of articles 19 to 24 of this Act apply to the free usage of performances, phonograms, and radio and television programmes.

Article 30

The free usage of any work or performance shall not infringe the literary rights of authors and performers.

Section VI

Holders of Rights to Works and of Neighboring Rights

Article 31

1. Taking due account of articles 33 and 36 of this Act, the author, performer, producer or publisher owns the rights to the work, performance or phonogram.
2. For the purposes of any administrative, civil or criminal measures:
 - A. The natural or juridical person whose name appears in the customary way on the work, recorded performance or phonogram as its author, performer, producer or publisher, is considered to hold the rights to that work, performance or phonogram, unless proven otherwise.
 - B. If the work bears no name, or bears a pseudonym, the publisher whose name appears on the work in the customary way is considered to be the author's representative. As such, he practices the author's literary and economic rights, until the author reveals himself or his identity is proven.

This provision does not apply if the pseudonym an author has chosen leaves no room for any doubt as to his real identity.

Article 32

1. If more than one party has contributed to the compilation of a joint work, all of them are considered to have an equal right over the work, and no one of them can exercise the author's rights to that work alone, unless written agreement exists to the contrary.
2. If the contribution of each of the authors of a joint work represents a different and distinct form of art, such that the contributions can be distinguished from one another, each author has the right to utilize individually the part he contributed, provided that this does not damage the utilization of the joint work and unless written agreement exists to the contrary.

Each of the partners in a joint work has the right to file a case before the competent court for any preventive measures to be taken or to prohibit the violation of any copyright associated with that work.

3. If the rights to a work embodied in a phonogram apply to both the author and the performer (or producer) then, according to law, use of that work requires authorization from them both, and such use is not legitimate if authorized by only one of them. This authorization has no effect on the other party's use of his rights.

Article 33

The natural or juridical person at whose initiative and under whose guidance a collective work is created, and who undertakes to publish it in his name, owns the literary and economic rights to that collective work, unless written agreement exists to the contrary.

Article 34

The author who creates a derived work is considered to own the literary and economic rights to that work, without infringement to the rights of the author of the original work.

Article 35

1. Anyone who participates in the creation of an audiovisual work is considered to be a joint author of that work, in particular the following:

- A. The scriptwriter or the originator of the written idea for the work.
- B. The party who modifies an existing literary work to make it compatible with an audiovisual format.
- C. The dialogist.
- D. The composer of the musical score, if his composition is specifically for the work in question.
- E. The director, if he exercised effective supervision and played an active intellectual role in the completion of the work.

2. If one of the parties contributing to the compilation of an audiovisual work fails to complete his part, the remaining contributors are not prohibited from utilizing the part he has completed, without prejudice to the rights accruing to the first party from his participation in the compilation of the work.

3. The producer of an audiovisual work is the representative of the authors of that work with the exception of authors of musical works - in the utilization of the rights to that work, unless written agreement exists to the contrary.

Article 36

The economic rights laid down in this Act belong to the employer, or to the party who appointed by the employer and in his interests - undertakes to create the work, performance or phonogram, if this is the result of implementing a contract or a pledge to create the work, performance or phonogram, unless written agreement exists to the contrary.

The provisions of this article apply to civil and military State functionaries, and to parties of equivalent status

Section VII

The Period of Protection of Economic Rights

Subsection One: The Period of Protection of the Author's Economic Rights

Article 37

An author's economic rights are protected throughout his lifetime and for seventy years beginning on the first day of the calendar year following the year of his death, except where other provision is made in this subsection.

Article 38

The economic rights of authors of joint works are protected throughout their lifetime and for seventy years beginning on the first day of the calendar year following the year in which the last surviving author dies.

Article 39

The economic rights to collective works and audiovisual works are protected for a period of seventy years beginning on the first day of the calendar year following the year in which those works were first legally published. If such publication does not take place within fifty years of the date the works were created, the economic rights to those works are protected for seventy years beginning on the first day of the calendar year following the year in which they were created.

Article 40

The economic rights of works published anonymously or under a pseudonym are protected for seventy years beginning on the first day of the calendar year following the year in which those works were first legally published. If such publication does not take place within fifty years of the date the works were created, the economic rights to those works are protected for seventy years beginning on the first day of the calendar year following the year in which they were created. If the author is known and identified, or if he reveals his identity, during the aforesaid period, the period of protection is calculated according to the rules contained in articles 37 or 38 of this Act, depending on the circumstances.

Article 41

The economic rights to works of the applied arts are protected for seventy years beginning on the first day of the calendar year following the year in which those works were first legally published. If such publication does not take place within fifty years of the date the works were created, the economic rights to those works are protected for seventy years beginning on the first day of the calendar year following the year in which they were created.

Subsection Two: The Period of Protection of Neighboring Rights

Article 42

The economic rights of performers are protected for a period of seventy years beginning on the first day of the calendar year following the year in which the recorded performance was first legally published. If such publication does not take place within fifty years of the date the performance took place, the economic rights thereto are protected for seventy years beginning on the first day of the calendar year following the year in which the performance took place.

Article 43

The economic rights of producers of phonograms are protected for seventy years beginning on the first day of the calendar year following the year in which the phonogram was first legally published. If such publication does not take place within fifty years of the date the phonogram was made, the economic rights thereto are protected for seventy years beginning on the first day of the calendar year following the year in which the phonogram was made.

Article 44

The economic rights of broadcasting organisations over their radio and television programmes are protected for twenty years beginning on the first day of the calendar year following the year in which the programme was first broadcast.

Section VIII Effective Technological Measures, Rights Management Information and Programme Carrying Signals

Article 45

1. Without authorization from the rightful party, it is forbidden for anyone to disable or impair any effective technological measures.
2. In all the following cases, it is forbidden for anyone to display or present to the public, manufacture, import, distribute or circulate any methods, products or components, or to display or present any service to the public:
 - A. If they are distributed, advertised or marketed for the purpose of evading any effective technological measures.
 - B. If they have a secondary commercial goal or use in addition to that of disabling any effective technological measures.
 - C. If they are principally designed, produced or intended to enable or facilitate disabling or impairing any effective technological measures.
3. It is forbidden for anyone to perform any of the following actions without authorization:
 - A. Knowingly to delete or alter any rights management information.

B. To distribute rights management information, or import it for distribution, knowing that the rights management information has been deleted or altered without authorization.

C. To distribute, or import for distribution, to broadcast, to convey or make available to the public copies of works, performances or phonograms, knowing that the rights management information has been deleted or altered without authorization.

4. It is forbidden for anyone to manufacture, assemble, modify, import, export, sell, rent or distribute any tangible or intangible system or method, if the party concerned knows or has reason to believe that the system or method is principally used to decode encrypted programme carrying signals transmitted by satellite, without permission from the rightful party.

5. It is forbidden for anyone deliberately to receive or distribute an encrypted programme carrying satellite signal, if he know that the signal was decoded without the authorization of the party holding the right to distribute that signal.

6. The provisions of paragraphs 1 and 3 of this article do not apply to legal activities carried out by functionaries, representatives or contractors of the government for the purposes of enforcing the law, investigating crimes, basic security or other similar governmental activities.

7. Violation of the provisions contained in articles 1 to 5 of this article involves criminal or civil liability (according to circumstance), separate from and independent of any violation to any of the rights stipulated in this Act.

Section IX

The Responsibility of Online Service Providers

Article 46

For the purposes of this section, the following words and expressions shall have the meanings given below, unless the context requires a different meaning:

Material: Any work, recorded performance or phonogram in electronic format protected by this Act.

Service provider: This means any of the following:

A. For category one operations: Anyone who provides transmission, routing or connections for online digital communications, between or among points specified by a user, of material of the user's choosing, without modification to the contents of the material in its transmission or reception.

B. For category two, three and four operations: Any provider or operator of online utilities and services, or of services accessible online.

Service provider's network or system: Any network or system which is controlled or activated by the service provider, or in his interests.

Category one operation: This means any of the following:

- A. Any transmission, routing or provision of connections for material by the service provider via his network or system.
- B. Any provisional or incidental storage of the material by the service provider in the context of the transmission, routing or provision of connections indicated in the preceding clause.

Category two operations: Any reproduction and subsequent temporary storage, undertaken by the service provider on his network or system, of material made available online by a party (other than the provider) and transmitted by that party via the provider's network or system to another party at the latter's request. Such storage must be part of an automatic technical process that has the aim of making the copy of the material available to other network or system users who ask the first party to access the material, after he has transmitted it as explained above.

Category three operations: Any storage of the material by the service provider on his network or system, due to routing by the user of that provider's network or system.

Category four operations: Any link or referral of users by the service provider using information location tools such a hyperlink or a directory, or information location services such as a search engine, to an online location containing infringing material or infringing activity.

Rightful holder: The holder of any of the exclusive rights described in this Act.

Economic compensation: This includes all economic compensation, including the expenses and fees of any experts or lawyers, court fees, and any other monetary sums which have to be paid.

Article 47

1. Taking due account of the provisions of this section, and without detriment to the rules of responsibility established by the Civil Code, service providers who consort in violating the rights stipulated in this Act are subject to civil liability if it is proven that, via their network or system, they deliberately instigated such violation, participated in it to a significant degree, or were responsible for it, if they were aware of the infringing activity.

2. Service providers shall not be obliged to pay economic compensation for violating any of the rights stipulated in this Act, if such violation takes place in the context of carrying out operations one, two, three or four, on the following conditions:

- A. That the service provider fulfills the general conditions described in article 48 of this Act.
- B. That the service provider fulfills the specific conditions for the category into which the operation falls, described in article 49 of this Act.

The provisions of this paragraph do not infringe the right to request a court order against a service provider, pursuant to article 50 of this Act.

3. In order to apply the provisions of the preceding paragraph, it is not necessary for service providers to monitor the services they provide, or for them to strive affirmatively to discover anything indicating the

presence of infringing activities, beyond the limits laid down for standard technological measures in article 49 D of this Act.

Article 48

Taking due account of article 49 of this Act, the following conditions must exist in order for service providers not to be liable to pay economic compensation for violating any rights under this Act in the context of category one, two, three or four operations:

- A. That the transmission of the material was not at the initiative or under the guidance of the service provider.
- B. That the service provider did not choose the material or its recipients, beyond the degree involved in choosing information in category four operations.
- C. That the service provider has adopted and reasonably applied measures, including the termination (in appropriate cases) of accounts of subscribers who repeatedly commit violations.
- D. That the service provider abides by and does not violate standard technological measures which identify and protect the material, which enjoy multi-industry acceptance, which are applied widely voluntarily, openly and by mutual consent among exclusive rights holders and service providers, which are available on reasonable and non-discriminatory terms, and which do not impose substantial costs on service providers or substantial burdens on their systems or networks.

Article 49

Taking due account of article 48 of this Act, the following conditions must exist in order for service providers not to be liable to pay economic compensation for violating any rights under this Act in the context of category one, two, three or four operations:

1. Specific conditions for category one operations:

- A. That in the process of transmitting the material via his network or system, the service provider does not make any change to the contents of that material.
- B. That the service provider does not choose the recipient of the material, except as an automatic response to a request from another party.

2. Specific conditions for category two operations:

- A. That the service provider does not make any change to the contents of the material when stored in a temporary memory before its subsequent transmission to other users.
- B. That the service provider speedily undertakes to cancel from his network the material stored in the temporary memory, or to disable access thereto, upon receiving notification pursuant to article 55 of this Act that the material was cancelled or access to it disabled by the originating site.
- C. That the service provider guarantees not to allow access to any significant part of them material stored in the temporary memory, except to users who fulfill the conditions, in cases where that material is subject to specific access conditions in the originating site.
- D. That the service provider complies with the rules for refreshing, reloading, or updating the material stored in the temporary memory, if this is a requirement of the party who made the material available online, in accordance with a generally accepted industry standard data transmission protocol for the system or network through which the material was made available.

- E. That the service provider does not violate any technology consistent with multi-industry standards used by the site which made the material available, in order to obtain information about the use of that material.

3. Specific conditions for category three operations:

- A. That the service provider does not derive any economic benefit directly ascribable to an activity that infringes the rights of the material pursuant to this Act, if the service provider has the right and the capability to control the offending operation.
- B. That the service provider speedily undertakes to cancel the material present in his system or network, or to disable access thereto, upon receiving notification pursuant to article 55 of this Act alleging that the material involved is infringing, or that it is the object of infringing activity.
- C. That the service provider speedily undertakes to cancel the material present in his system or network, or to disable access thereto, if he discovers that the material in question is infringing, that infringing activity using that material is taking place, or if he discovers any facts or circumstances which suggest the existence of infringing activity.
- D. That the service provider appoints a representative to receive the notifications sent to him as per clause B of this paragraph, pursuant to article 52 of this Act.

4. Specific conditions for category four operations:

- A. That the service provider does not derive any economic benefit directly ascribable to a violation of the rights of the rightful holder of the material as laid down by this Act, that comes about by or through a link or referral to the material, if the service provider has the right and the capability to control the offending operation.
- B. That the service provider speedily undertakes to cancel or disable access to any links or referrals to the material present in his system or network, upon receiving notification pursuant to article 55 of this Act alleging that the material involved is infringing, or that it is the object of infringing activity.
- C. That the service provider speedily undertakes to cancel any links or referrals to the material present in his system or network, if he discovers that the material in question is infringing, that infringing activity using that material is taking place, or if he discovers any facts or circumstances which suggest the existence of infringing activity.
- D. That the service provider appoints a representative to receive the notifications sent to him as per clause B of this paragraph, pursuant to article 52 of this Act.

Article 50

1. If the service provider fulfills the general conditions described in article 48, and the specific conditions for the category into which the operation falls described in article 49, the court may, at the request of interested parties, issue one or more of the following orders:

A. As regards category one operations:

- (i) Order the service provider to take reasonable steps to disable access to an online site physically located outside the Kingdom.
- (ii) Order the service provider to terminate the account of a specific subscriber.

B. As regards category two, three or four operations:

(i) Order the service provider to cancel infringing material or to disable access thereto, as concerns category two or category three operations.

As concerns category four operations, order the service provider to cancel the link or referral to that material.

(ii) Order the service provider to terminate the account of a specific subscriber.
(iii) Any other non-economic, less burdensome and comparably effective order.

None of the orders mentioned in this paragraph may be issued against a service provider until he has been informed of the judicial measures taken to issue the order, and has been granted the opportunity to present his defense before the court. This does not include orders issued for the preservation of evidence, or other orders which have no material adverse effect on the operation of the service provider's communications network.

2. In issuing an order pursuant to paragraph 1 of this article, the court shall take account of the following:

- A. The harm that the plaintiff will or may suffer.
- B. The burden that the service provider will have to bear as a result of the order.
- C. The extent to which implementation of the order would be technically feasible.
- D. The degree of effectiveness of the order.
- E. Any possible adverse effect to the activities or operations of the service provider.
- F. The possibility of issuing any other less burdensome and comparably effective order.
- G. Any other matters the court may consider appropriate.

3. The service provider shall not be responsible for paying any expenses or costs for lawyers or experts, or any court fees for any judicial measures related to requesting the issue of an order under this article. The party making such a request is obliged to play all expenses, charges and costs.

Article 51

1. Taking due account of paragraph 2 of this article, if the service provider undertakes in good faith to cancel or disable access to material or activities on his network or system, following claims that the material or activities in question are involved in infringements, or following facts or circumstances which suggest the existence of infringing activity, the service provider shall not be liable for any claims made by any party on this matter, irrespective of whether the material or activity is ultimately determined to be infringing.

2. If the service provider undertakes to cancel or disable access to material on his network or system, following notification pursuant to article 55 of this Act vis-à-vis any category three or four operations, he shall not be liable for any claims made by any party on this matter, on condition the service provider abides by the following:

A. Immediately undertakes to inform the party who made the material available on the service provider's network or system, that the material has been cancelled or access thereto disabled.

B. If the service provider receives counter notification pursuant to article 56 of this Act, it is incumbent upon the provider immediately to supply the party who presented the original notification with a copy of the counter notification and inform that party of the provider's intention to restore the material that was cancelled or to cease disabling access thereto, unless that party informs the service provider or his representative within ten working days that it has taken judicial measures to request an order preventing the party who presented the counter notification from carrying out the infringement.

C. Undertakes, within a period of not less than ten and not more than fourteen working days from receipt of the counter notification, to restore the cancelled material or to cease disabling access thereto, unless the service provider or his representative are informed within ten working days that the judicial measures indicated in clause B of this paragraph have been taken.

Article 52

Service providers must make public announcement of the representative they have appointed to receive notifications on their behalf, publishing that representative's name, geographical address, electronic mail address and telephone number in a publicly accessible part of their own website, and in a general directory accessible to the public through the Internet or through any other means established by decision of the Minister.

Article 53

If, pursuant to this section, any party makes any notification or counter notification which he knows to be fraudulent or to include false information, he is liable to pay compensation for any damage accruing to third parties as a result thereof.

Article 54

In any of the rights laid down in this Act are violated and the rightful party sends notification pursuant to article 55, the competent Authority shall, following a written request from the rightful party, issue a written order obliging the service provider to supply the Authority and the rightful party, within a time limit stipulated by the order, with any information in the possession of that service provider which establishes the identity of the alleged violator. This does not infringe the right to resort to the competent court.

Article 55

In order to be effective, notification presented under this section, regarding categories three and four, must be written and signed by the rightful party, and sent to the representative appointed by the service provider pursuant to article 52 of this Act. Such notification may be sent by electronic mail if accompanied by an electronic signature.

In all cases, notification must substantially include the following:

- A. The identity, geographical address, electronic mail address and telephone number of the rightful party or his representative.
- B. Information reasonably sufficient to enable the service provider to identify the allegedly infringing material.

If notification includes multiple online materials located at, or linked via, a single site on the service provider's network or system, a representative list of that material may be provided.

- C. Information reasonably sufficient to enable the service provider to identify the location on his network or system of the material involved in infringement, or that is the object of infringing activity, the cancellation or disablement of which has been requested. If the notification concerns information location tools of category four operations, the information supplied must be reasonably sufficient to enable the service provider to identify the location of referral or linkage on his network or system. If the notification concerns a large number of referrals or links located on a single site on the provider's network or system, a representative list of the referrals or links on that site may be provided. If a single notification concerns multiple works present and linked at a single site on the service provider's network or system, a representative list of those referrals or links may be provided, if accompanied by sufficient information to enable the service provider to identify the referrals and links.
- D. A statement to the effect that the information contained in the notification is correct and accurate.
- E. A statement by the rightful party or his representative to the effect that neither of them has authorized the use of material in the manner alleged.
- F. A statement from the party presenting the notification to the effect that he is the rightful party to the object of the alleged infringement, or that he is the representative of the rightful party.

Article 56

In order to be effective, counter notification presented under this section, regarding categories three and four, must be written and signed by the party concerned, and sent to the representative appointed by the service provider. Such notification may be sent by electronic mail if accompanied by an electronic signature.

In all cases, counter notification must substantially include the following:

- A. The identity, geographical address, electronic mail address and telephone number of the subscriber.
- B. Identification of the material which has been cancelled or to which access has been disabled.
- C. Location at which the material appeared before it was cancelled or access to it was disabled.
- D. A statement to the effect that the information contained in the counter notification is correct and accurate.
- E. A statement to the effect that the subscriber accepts the jurisdiction of the competent courts in the Kingdom.
- F. A statement to the effect that the subscriber agrees to receive notification of any case brought against him at the geographical address he has supplied.
- G. A statement to the effect that the subscriber believes in good faith that the material was cancelled or disabled as a result of an error or mistake in its identification.

Section X

The Collective Administration of the Economic Rights of Authors and Holders of Neighboring Rights

Article 57

Authors and holders of neighboring rights may delegate professional corporations or other entities to administer all or some of their economic rights, on the basis of exclusive licenses and in exchange for a fee which the corporation or entity detracts from the authors' or holders' dues, in accordance with agreed conditions.

Article 58

The corporations and entities which administer the economic rights of authors and neighboring rights holders shall within the limits imposed by their agreement have the following functions:

- A. Granting third parties authorization to utilize some or all of the economic rights to a work, performance, or phonogram, and agreeing the economic recompense due for such utilization.
- B. Collecting the economic recompense and distributing it to the rightful parties, after deducting what is due to those corporations or entities for administering those rights.
- C. Performing any other functions laid down in the contract for the administration of those rights.

Article 59

Any activity involving the administration of the economic rights of authors and neighboring rights holders may only be practiced with the authorization of the competent Authority.

Such authorization shall necessitate payment of a fee, the categories of which are defined by decision of the Minister, after having obtained the agreement of the Council of Ministers.

Article 60

Activities involving the administration of the economic rights of authors and neighboring rights holders are subject to the supervision and monitoring of the competent Authority.

The corporations and entities which practice such activities must keep records containing the names and descriptions of their members, the rights they are authorized to utilize, and the agreed fee and duration. They must also allow the authors and holders of neighboring rights, or their representatives, to examine the information in those records which concerns them.

The competent Authority may withdraw authorization if the corporations or bodies violate the provisions of this Act or the decisions issued to implement it.

Article 61

The minister shall issue a decision regulating the practice of activities involving the collective administration of the economic rights of authors and neighboring rights holders, and regulating the supervision and monitoring of those activities.

Section XI

Border Controls and Precautionary Measures

Article 62

1. If the rightful party has compelling reasons to believe that goods are being imported which violate any of the rights laid down in this Act, he may present a written petition to the customs authorities requesting that clearance be denied to those goods, and that they not be released into circulation.

The request must be accompanied by sufficient evidence to convince the customs authorities of the existence of an evident violation to the applicant's rights. The request must likewise include sufficient information, which the applicant could reasonably be expected to possess, to enable the authorities reasonably to identify the goods concerned.

2. The customs authorities must provide the applicant with written notification of their decision on his request within seven days from the date the request was made. If the request is accepted, the decision remains valid for one year from the day the request was made or for the remaining protection period of the goods concerned, whichever is the less, unless the applicant has requested a shorter period.

3. The customs authorities may require the applicant to deposit suitable surety, or an equivalent guarantee, sufficient to protect the defendant and the authorities, and to prevent misuse of the right to request denial of customs clearance.

4. Without detriment to the provisions of preceding paragraphs, the customs authorities may, of their own volition and without the presentation of a complaint or request from the rightful party or others, issue a decision to deny customs clearance to imported goods, goods in transit or goods ready for export, as soon as they reach the customs area, if they possess sufficient obvious evidence for the existence of a violation to any of the rights laid down in this Act.

5. If, in applying the provisions of this article, the customs authorities' decide to deny customs clearance to any goods present in the customs area, they must:

- A. Immediately inform the exporter of those goods and the rightful party of the decision taken.
- B. Inform the rightful party, at his written request, of the names and addresses of the sender, importer and the addressee of the goods, and the quantities involved.
- C. Allow interested parties to inspect the goods, in accordance with customs procedures followed in such cases.

The rightful party must file a legal case on the matter under dispute before the competent court, and inform the customs authorities thereof, within no more than ten working days of receiving notification of the decision to deny customs clearance to the goods in question. If he fails to do so the decision is considered null and void, unless the authorities or the competent court decide, in such circumstances as they see fit, to extend this deadline by a further period of not more than ten days.

If a case on the matter under dispute is filed, the court may uphold, amend or cancel it.

6. If it is proven to the court that the goods to which customs clearance has been denied are involved in the violation of any of the rights laid down by this Act, those goods must be destroyed at the expense of the importer, or disposed of outside commercial channels if their destruction would cause unreasonable damage to public health or the environment.

7. The Minister of Finance, coordinating with the Minister, shall decide what information, conditions, regulations and procedures are involved in presenting and deciding on a request to deny customs clearance, and what documentation which must accompany such a request. In doing so, care must be taken to ensure that the result is not that people are deterred from recurring to such measures.

The Minister of Finance, with the agreement of the Council of Ministers, shall likewise issue a decision on the following:

- A. The rules for assessing the surety or equivalent guarantee which the applicant is required to deposit pursuant to the provisions of this article.
- B. Storage fees for the goods which have been denied customs clearance.

The surety or equivalent guarantee, and the amount of the storage fees, must not be so high as to unreasonably deter people from recurring to these measures.

8. The provisions of this article do not apply to small quantities, of a non-commercial nature, of works and phonograms contained in the personal effects of travellers or in small postal packages.

Article 63

In the case of the violation of any of the rights laid down in this Act, or to guard against their imminent violation; or in the case of the perpetration of any of the actions forbidden under paragraphs 1 to 5 of article 45 of this Act, or to guard against any such imminent perpetration, the rightful party may, by petition, request the president of the competent court to issue an order for one more appropriate precautionary measures to be taken, including the following:

- A. Making a detailed description of the violation or of the allegedly forbidden action, of the goods involved in the violation or in the allegedly forbidden action, and of the materials, machinery, means and equipment that were or will be used therein, and conserving pertinent evidence.
- B. Effecting precautionary seizure on the aforementioned items and on revenues ensuing from the allegedly forbidden action.
- C. Preventing the goods involved in the violation or in the allegedly forbidden action from entering commercial channels and from being exported, including imported goods immediately after they are cleared by customs.
- D. Stopping or preventing the violation or the forbidden action.

2. The president of the court may require the applicant to provide such evidence as he could reasonably be expected to possess indicating a probable violation, or the imminence of such a violation; or the perpetration of a forbidden act, or the imminence of such perpetration. He may likewise require the applicant to provide sufficient information to enable the competent authorities to execute the precautionary measure pertaining to the goods in question.

3. The president of the court shall, as a matter of urgency, decide on the petition within a period not exceeding ten days from the presentation of the petition, with the exception of such circumstances as he sees fit.

4. The president of the court may, if necessary, issue the order at the request of the plaintiff and without summoning the other party. He may do so in cases where there is a likelihood that a delay in issuing the order would harm the plaintiff in a manner difficult to compensate, or where he is afraid it would lead to the loss or destruction of evidence. The other party must be notified without delay as soon as the order is issued. In case of need, notification may take place immediately after the order has been executed.

5. If the president of the court has ordered a precautionary measure without summoning the other party then, having received notification thereof, the defendant may lodge a complaint against the measure before the competent court within ten days of receipt of that notification. In this case, the court may uphold, cancel or amend the order.

6. The president of the court may require the applicant to deposit suitable surety, or an equivalent guarantee, sufficient to protect the defendant and to prevent misuse of the right. The amount of the surety or equivalent guarantee must not be so high as to unreasonably deter people from recurring to these precautionary measures.

7. The rightful party must file a legal case on the matter under dispute within twenty days of the issue of the order for the precautionary measures to be taken, or of his being notified that the complaint stipulated under paragraph 5 of this article has been rejected, depending on the circumstances, otherwise the order is cancelled at the defendant's request.

Section XII

Civil Proceedings and Compensation

Article 64

1. Taking due account of paragraph 3 of this article, the rightful party may, if he suffers any direct harm as a result of the violation of any of the rights laid down in this Act, or as a result of the perpetration of any actions forbidden under paragraphs 1 to 5 of article 45 of the Act, file a case before the competent civil court requesting compensation sufficient to rectify the damages he has suffered as a result of the violation or the perpetration of the forbidden actions, including the profits accrued by the violator or the perpetrator of the forbidden actions.

The court shall determine the compensation it considers fit to rectify the harm, pursuant to Articles 161 and 162 of the Civil Code. In doing so, the court shall take account of the value of the goods or service involved in the violation, on the basis of the plaintiff's definition of their retail price or any other legitimately applicable parameter, or by expert evaluation.

2. Rather than requesting compensation to rectify the harm (including the profits accrued by the violator as per the preceding paragraph), the rightful party may, at any time before the case is decided, request compensation of between 500 and 9,000 dinars for each violation or forbidden action.

The court may decrease the amount of compensation to not less than 150 dinars for each violation or forbidden action, if it is satisfied that the defendant was not aware or did not have reason to believe that his activity involved a violation or constituted a forbidden action.

3. Without detriment to the provisions of paragraphs 1 and 2 of this article, non-profit libraries or archives, educational institutions or non-commercial public broadcasting organisations shall not be obliged to pay compensation for committing any of the actions described under paragraphs 1 to 3 of article 45 of this Act, if they were not aware or did not have reason to believe that such activity involved a violation or constituted a forbidden action.

4. In examining cases related to the violation of any of the rights laid down in this Act, or to the perpetration of any actions forbidden under paragraphs 1 to 5 of article 45 of the Act, the competent civil court may:

A. Order the seizure of the goods suspected of having been involved in the violation, and of any related materials or tools; the seizure of any means, components, tools, etc. used in the violation or the perpetration or the forbidden action, and the seizure of any corroborating evidence.

B. Order the violator to desist in the violation or the perpetration of the forbidden action. This may include prohibiting the export of goods involved in the violation of any rights laid down in this Act, and preventing any such imported goods from entering commercial channels following customs clearance.

C. Order the violator, or the perpetrator of the forbidden action, to provide the court and the rightful party with any information in their possession concerning any party, parties or entities involved in any aspect of the violation or the perpetration of the forbidden action, as well as information concerning the production methods or distribution channels for those goods or services. This shall include identifying any other party involved in the production or distribution of those goods or services, and their distribution channels.

5. Upon request from the rightful party the competent court shall, without compensation of any kind to the defendant, order the destruction of goods proven to have been involved in the violation. It may also order the immediate destruction of the materials and tools used in the manufacturing or production of the goods involved in the violation, without compensation of any kind. Moreover the court may, in circumstances it considers to be exceptional, order the disposal of those goods outside commercial channels, in such a way as to prevent the possibility of any further violation taking place.

Rather than destroying those goods, materials or tools, it may be decided to dispose of them outside commercial channels, if their destruction would cause unreasonable damage to public health or the environment.

6. The competent court shall determine the expenses and fees of the experts and specialists it assigns to a case, in a manner corresponding to the degree and nature of the assignment, providing that this does not unreasonably deter recourse to such procedures.

Section XIII Penalties

Article 65

1. Without detriment to any more severe penalty laid down in the Criminal Code or in any other law, imprisonment of between three months and one year and/or a fine of between 500 and 4,000 dinars shall be imposed upon anyone who:

- A. Deliberately and on a commercial scale violates any of the copyrights or neighboring rights defined under the provisions of this Act, including the following:
 - (i) Deliberate and material violation of any of the copyrights or neighboring rights defined under the provisions of this Act, even if the direct or indirect purpose was not to realize a material gain.
 - (ii) Deliberate violation for the purpose of commercial benefit or private material gain.
- B. Perpetrates any of the acts forbidden under paragraphs 1 and 2 of article 45 of this Act for the purpose of commercial benefit or private material gain.
- C. Perpetrates any of the acts forbidden under paragraph 3 of article 45 of this Act for the purpose of commercial benefit or private material gain, if the perpetrator was aware, or should have been aware that the forbidden action led to, enabled, facilitated or concealed any violation to any of the copyrights or neighboring rights defined under the provisions of this Act.
- D. Perpetrates any of the acts forbidden under paragraphs 4 and 5 of article 45 of this Act.
- E. Knowingly circulates counterfeit labels placed, or designed to be placed, on a phonogram, on a copy of a computer program, on the documents or packaging of a computer program, or on a copy of a film or any other audiovisual work.
- F. Knowingly circulates counterfeit documents or packaging for a computer program.
- G. Uses folklore in violation of article 68 of this Act.

The penalty assessed by the court must be sufficient to deter any future violation or perpetration of forbidden actions. It must likewise seek to eliminate the violator or perpetrator's material incentive.

The lower and upper limits of the penalties shall be redoubled for repeat offenders.

Moreover their commercial premises or the facility in which the offence was perpetrated shall be closed, or their activity interrupted (as applicable) for a period of between fifteen days and six months. The verdict shall be published on one or more occasions in a local daily newspaper, at the expense of the guilty party.

2. The court may issue an order for the seizure of goods suspected of having been involved in the violation of any of the rights laid down in this Act, as well as for the seizure of other related materials, any

tools used in committing the offence, assets ascribable to the offending activity or to the forbidden action liable to punishment under the provisions of this article, and any corroborating evidence connected with the offence. It is not necessary to identify each item individually in the seizure order, as long as the items fall into general categories specified in that order.

3. If it is proven that a violation took place or that a forbidden action was perpetrated, the court shall order the following provisions without compensation of any kind to the guilty party:

- A. The confiscation and destruction, at the expense of the guilty party, of all goods proven to have been involved in a violation, or the disposal of those goods outside commercial channels, if their destruction would cause unreasonable damage to public health or the environment.
- B. The confiscation and destruction, at the expense of the guilty party, of all materials, tools and equipment proven to have been deliberately used in the violation or in the perpetration of the forbidden action, or the disposal of those items outside commercial channels, if their destruction would cause unreasonable damage to public health or the environment. If the court is satisfied that a violation has taken place, or a forbidden action has been perpetrated, it may order the confiscation of any assets ascribable to the offending activity or to the forbidden action.

Article 66

Without detriment to any more severe penalty laid down in any other law:

- A. Imprisonment of up to one month or a fine of up to 1,000 dinars shall be imposed upon anyone who violates the order issued by the court under article 64 paragraph 4 (C) of this Act.
- B. A fine of up to 2,000 dinars shall be imposed upon any of the parties in the case, judges' assistants, or others who violate an order issued by the court for the protection of any secret information which is disclosed or exchanged in the course of any judicial proceedings.

Section XIV Miscellaneous Provisions

Article 65

Officials appointed by the Minister to enforce the provisions of this Act and the decisions issued to implement it shall have the authority to enter pertinent premises.

Officials delegated by the Minister of Justice, in agreement with the Minister, shall have the status of law enforcement officers' vis-à-vis the offences which fall under their jurisdiction and pertain to their functions.

Written records concerning those offences are to be transferred to the Public Prosecutor by decision of the Minister or his delegate.

Article 68

1. Without detriment to the provisions of article 45 of this Act, the rights of an author or neighboring rights holder are not deemed to be violated by the importation, use, possession, sale or distribution of copies of his work, performance or phonogram, when circulated on the markets of any State by, or with the agreement of, the rightful party to that work, performance or phonogram.
2. For the purposes of sections XI to XIII, in the course of any judicial proceedings regarding the provisions of this Act, the copyright or neighboring right to the work, performance or phonogram shall be presumed to stand, unless proven to the contrary.

Article 69

Folklore - which reflects the popular traditional heritage that arose developed and is conserved in the Kingdom - is public State property, and can only be employed appropriately and put to good use. This must not involve the defacement of that folklore and must make mention of its source. The competent Authority has the right to issue a judicial order to prevent any use of folklore that violates these provisions.

Article 70

Anyone taking a photograph of a third party has no right to publish, exhibit or distribute the original, or reproductions thereof, without the permission of the party portrayed in the photograph, unless written agreement exists to the contrary. Nonetheless, photographs may be published if they relate to events that take place in public, official or public figures of local or international renown, or if the public authorities have authorized such publication to serve the public good, on condition that the display or circulation of the photographs does not infringe the honor, reputation or standing of the person concerned.

The party portrayed in the photograph may authorize its publication in newspapers or other media, even without the photographer's permission, unless written agreement exists to the contrary.

Article 71

Buildings and any sculptures, paintings, decorations or other works they may incorporate cannot be seized, destroyed, changed in form or confiscated in order to preserve the rights of an author whose designs, drawings or other protected creative activities, have been used illegally, so long as this does not prejudice his right to fair compensation.

Article 72

The competent Authority shall exercise the following functions:

- A. Raising awareness among authors and neighboring rights holders to their literary and economic rights.
- B. Settling disputes that may arise concerning any of the rights laid down in this Act, by friendly means if the parties accept.
- C. Coordinating with the authorities concerned to protect copyrights and neighboring rights.

- D. Other functions as laid down in this Act, as necessary in order to implement the Act, or as allocated to the Authority by the Minister.

Section XV

Scope of Applicability of the Act

Article 73

The provisions in this Act concerning the protection of works apply to:

- A. Works by authors who are citizens of the Kingdom or who ordinarily reside there.
- B. Works first published in the Kingdom, or first published in another State then published in the Kingdom within thirty days of their publication abroad, irrespective of the author's nationality or place of residence.
- C. Audiovisual works, the producers of which have their principal headquarters or place of residence in the Kingdom.
- D. Architectural works constructed in the Kingdom, or other artistic works incorporated into a building or into any other installation located in the Kingdom.

Article 74

The provisions in this Act concerning the protection of performers apply to:

- A. Performers who are citizens of the Kingdom.
- B. Performers who are not citizens of the Kingdom, in the following cases:
 - (i) If the performance was presented on the territory of the Kingdom.
 - (ii) If the performance was included in a phonogram protected under the provisions of this Act.
 - (iii) If the performance was included in a broadcast transmission protected under this Act, and was not recorded in a phonogram.

Article 75

The provisions in this Act concerning the protection of producers of phonograms apply to:

- A. Phonograms the producers of which are citizens of the Kingdom.
- B. Phonograms the first fixation of which took place in the Kingdom.
- C. Phonograms first published in the Kingdom.

Article 76

The provisions in this Act concerning the protection of broadcasting organisations apply to:

- A. The programmes of broadcasting organisations which have their main office in the Kingdom.
- B. Programmes transmitted from transmitting stations situated in the Kingdom.

Article 77

Without detriment to articles 73 to 76 of this Act, the provisions of the Act apply to authors, performers, producers of phonograms and broadcasting organisations who enjoy protection pursuant to any bilateral or international treaty in force in the Kingdom.

Article 78

The provisions of this Act apply to works, performances, phonograms and radio and television programmes completed or transmitted before the date the Act came into force, unless the work has devolved to the public domain due to the expiry of the protection period established in earlier law or in the legislation in force in the country of origin.

Section XVI Concluding Provisions

Article 79

The Minister shall issue the decisions necessary to implement the provisions of this Act.

Article 80

Decree Law No. 10 of 1993 regarding the Protection of Copyrights is abrogated.

Article 81

It is incumbent upon Ministers, each according to his own functions, to implement this Act, which shall come into force on the day following its publication in the Official Gazette.

Hamad bin Isa Al Khalifa
King of the Kingdom of Bahrain
Issued at Riffa Palace on 29 Jumada I A.H. 1427
(25 June A.D. 2006)

**Act No. 12 of the Year 2008 amending article 13 of Act No. 22 of the Year 2006
relating to the Protection of Copyright and Neighboring Rights**

We, Hamad bin Isa Al Khalifa, King of the Kingdom of Bahrain, having examined:

- The Constitution
- Act No. 22 of 2006 relating to the Protection of Copyright and Neighboring Rights,

do, with the approval of the Consultative Council and the Council of Representatives, ratify and issue the following Act:

Article 1

The text of the last paragraph of article 13 of Act No. 22 of 2006 relating to the Protection of Copyright and Neighboring Rights shall be replaced with the following text:

The rightful party may deposit works protected under the provisions of this Act with the competent Authority, and enter those works into the register established for that purpose.

The deposit of depositions or of works, and their entry into the register, shall be regulated by a decision issued by the Minister. Such entry shall necessitate payment of a fee, the categories of which are defined by decision of the Minister, after having obtained the agreement of the Council of Ministers.

Article 2

It is incumbent upon Ministers, each according to his own functions, to implement this Act, which shall come into force on the day following its publication in the Official Gazette.

Hamad bin Isa Al Khalifa
King of the Kingdom of Bahrain
Issued at Riffa Palace on 21 Rabi II A.H. 1429