

UKRAINE
Law on Copyright and Related Rights*
(of 2001)

Section I
General Provisions

Definitions

1. For the purposes of this Law, the terms used shall have the following meaning:

"author"-an individual who created a work by his creative effort;

"audiovisual work"-a work fixed on a certain material carrier (cinema film, magnetic tape or magnetic disk, CD, etc.) in the form of a series of consecutive frames (images) or analog or discrete signals reproducing (encoding) moving images (with and without a sound track), the perception of which is possible exclusively by means of any sort of display (cinema screen, TV screen, etc.), on which the moving images are reproduced visually by certain technical means. The varieties of an audiovisual work are cinema films, TV films, video films, diapositive filmstrips, slide films, etc., that can be fiction, animation (cartoons), non-fiction or other;

"database (data compilation)"-a series of works, data or any other independent information in unrestricted form, including in electronic form, in which the selection and placement of components and its organization are the result of creative work, and the components of which are accessible individually and can be found via a special retrieval system based on electronic (computer) or other means;

"exclusive right"-a proprietary right of a person holding copyright and/or related rights in a work, performance, staging, a broadcasting organization's transmission, phonogram or videogram, entitling this person alone to use these objects of copyright and/or related rights, and entitling this person alone to permit or prohibit the use thereof by other persons within the term stipulated by this Law;

"performer"-an actor (theatre, cinema, etc.), singer, musician, dancer or other person who acts, sings, recites, declaims, plays a musical instrument, dances or otherwise performs works of literature, art or folklore, circus, variety and puppet shows, pantomimes, etc., as well as a conductor of musical and musical drama works;

"videogram producer"-an individual or a legal entity that initiated and is responsible for the first video recording of a performance or any moving images (both with and without a

sound track);

"phonogram producer"-an individual or a legal entity that initiated and is responsible for the first sound recording of a performance or any sounds;

"videogram"-video recording on the appropriate material carrier (magnetic tape, magnetic disk, CD, etc.) of a performance or any moving images (with or without a sound track), except for the images in the form of a recording that is part of an audiovisual work. A videogram is the original material for the making of its copies;

"reproduction"-making of one or more copies of a work, videogram, phonogram in any material form, and the recording thereof for temporary or permanent storage in electronic (including digital), optical or other computer-readable form;

"rights management information"-information, including in electronic (digital) form, that identifies an object of copyright and/or related rights and the author or another person holding the copyright and/or related rights to this object, or the information concerning the conditions of use for an object of copyright and/or related rights, or any figures or codes

in which such information is represented, when any of these elements of the information is attached to or incorporated into a copy of an object of copyright and/or related rights, or

appears in connection with its being communicated to the public;

"author's name"-a series of words or marks identifying an author: author's last and first names, author's last name, first name and patronymic, author's initials, author's pseudonym, a sign (series of signs) adopted by the author, etc.;

"recording (audio recording, video recording)"-fixation of sounds and/or moving images with the help of special technical means (including through digital presentation) on the appropriate material carrier that allows their perception, reproduction or communication via the appropriate device;

"transfer for property lease"-assignment of the right to use and/or possess an original or a copy of a work, phonogram or videogram for a certain period with the aim of deriving direct or indirect commercial benefit;

"computer software"-a set of instructions in the form of words, figures, codes, diagrams, symbols or any other form, expressed in a computer-readable form, that enable it to achieve a particular aim or result (this concept covers both an operating system and an application expressed in output or object codes);

"counterfeit copy of a work, phonogram or videogram"-a copy of a work, phonogram or videogram reproduced, published and/or distributed in violation of copyright and/or

related rights, including copies of the works, phonograms and videograms that are protected in Ukraine and are imported into the customs territory of Ukraine, without the consent of the author or other copyright and/or related rights holder, in particular from the countries in which these works, phonograms and videograms have never been or have ceased to be protected;

"disclosure (making available to the public) of a work"-an action accomplished with the consent of the author or other copyright and/or related rights holder that makes a work available to the public for the first time through publication, public performance, public display, public demonstration, broadcast, etc.);

"publication of a work, phonogram or videogram"-placement in circulation, with the consent of the author or other copyright and/or related rights holder, of copies of a work, phonogram, videogram produced by printing, electronic or other means, in a quantity that can satisfy, given the nature of the work, phonogram or videogram, the reasonable needs of the public, through their sale, transfer for property lease, home or commercial rental, granting access to them through electronic information systems such that any person can obtain it from any place and at any time of their own choosing, or by assigning the title thereto or the right to possess them by other methods. "Publication of a work, phonogram or videogram" also means depositing a manuscript of a work, phonogram, or videogram in an open-access storage area (depository), with the possibility of obtaining a copy of the work, phonogram or videogram therefrom;

"collective management organization (organization for collective management of proprietary rights)"-a non-profitmaking organization that manages the proprietary rights of copyright and/or related rights holders on a collective basis;

"broadcasting organization"-a wireless broadcasting organization or cable broadcasting organization;

"wireless broadcasting organization"-a TV and radio organization broadcasting radio or television transmissions and programs (produced by this organization or by other organizations) by transmitting on the air by means of radio waves (and laser beams, gamma rays, etc.) in any frequency band (including via satellite);

"cable broadcasting organization"-a TV and radio organization broadcasting radio or television transmissions and programs (produced by this organization or by other organizations) through remote transmission of a signal with the help of a surface, underground or underwater (conductor, optical fiber or other) cable;

"person"-an individual or legal entity;

"derivative work"- a work that is a creative remaking of another existing work without prejudicing the existing work's protection (annotation, adaptation, arrangement, version of a folklore item, other remaking of a work) or a creative translation thereof into another language (derivative works shall not include audiovisual works obtained by dubbing or

sound-tracking of other audiovisual works, or by adding subtitles thereto in Ukrainian or other languages);

"copy of a work"-a copy of a work produced in any material form;

"copy of a phonogram"-a copy of a phonogram on the appropriate material carrier produced directly or indirectly from this phonogram and containing all the sounds or a portion of the sounds fixed on the phonogram;

"copy of a videogram"-a copy of a videogram on the appropriate material carrier produced directly or indirectly from this videogram and containing all the moving images or a portion of the moving images (with or without a sound track) fixed on the videogram;

"producer of an audiovisual work"-a person that organizes or organizes and finances the creation of an audiovisual work;

"pseudonym"-a fictitious name selected by an author or a performer to identify his authorship;

"public performance"-presentation, with the consent of copyright and/or related rights holders, of works, performances, phonograms, broadcasting organization transmissions by declamation, playing, singing, dancing and other methods both directly (live performance) and via any devices and processes (except for wireless or cable transmission) in places that are or can be frequented by persons not belonging to a regular family circle or close acquaintances of this family, regardless of whether they are present in one place at the same time or in different places at different times;

"public demonstration of an audiovisual work or videogram"-single or multiple public presentation, with the consent of copyright and/or related rights holders, on premises that can be frequented by persons not belonging to a regular family circle or close acquaintances of this family, of an audiovisual work or a performance fixed on a videogram or any moving images;

"public display"-any demonstration of the original or copy of a work, performance, phonogram, videogram, or broadcasting organization transmission, with the consent of copyright and/or related rights holders, either directly or on a screen by means of a film, slide, television frame, etc. (except for wireless or cable transmission) or via other devices or processes in places that are or can be frequented by the persons not belonging to a regular family circle or close acquaintances of this family of the person making the display, regardless of whether they are present in one place at the same time or in different places at different times (public display of an audiovisual work or a videogram also means demonstration of individual frames of an audiovisual work or a videogram without their sequence being observed);

"broadcast (communication to the public)"-wireless transmission, with the consent of copyright and/or related rights holders, via radio waves (as well as laser beams, gamma rays, etc.) including via satellite, or remote transmission by wires or any type of surface or underground (underwater) (conductor, fiber optic or other) cable of works, performances, any sounds and/or images, their recordings in phonograms and videograms, broadcasting organization programs, etc., where said transmission can be received by an unlimited number of persons in different places located at a distance from the place of transmission in which the images or sounds cannot be received without said transmission;

"reprographic reproduction"-facsimile reproduction of any size (including enlarged or reduced) of the original of a written or other graphic work, or a copy thereof, by photocopying or other similar methods, except for recording in electronic (including digital), optical or other computer-readable form;

"distribution of objects of copyright and/or related rights"-any action whereby objects of copyright and/or related rights are offered to the public directly or indirectly, including notification for the public of these objects such that its representatives can access these objects from any place and at any time of their own choosing;

"work created in the course of employment"-a work created by an author in the course of his duty in accordance with his job or under an employment agreement (contract) between the author and employer;

"public domain"-works and objects of related rights, the copyright and/or related rights in which have expired;

"work of architecture"-a work of construction and landscape design (drawings, sketches, models, erected buildings and facilities, parks, populated area layouts, etc.);

"work of fine art"-a sculpture, painting, drawing, engraving, lithograph, a work of artistic (including stage) design, etc.;

"work of applied art"-a work of art, including art crafts, hand-made or created by industrial means for daily use, or one applied to objects so used;

"technical means of protection"-technical devices and/or technological means designed to create a technological obstacle to the infringement of copyright and/or related rights during reception and/or duplication of protected (encoded) recordings in phonograms (videograms) and broadcasting organization transmissions, or to control access to the use of objects of copyright and related rights;

"Agency"-the central executive body in the sphere of intellectual property;

"phonogram"-sound recording on the appropriate material carrier (magnetic tape or magnetic disk, gramophone record, CD, etc.) of a performance or any sounds, except for

the sounds in the form of a recording that is part of an audiovisual work. A phonogram is the original material for producing copies thereof;

"quotation"-a relatively brief excerpt from a literary, scientific or any other published work that is used, with a compulsory reference to its author and quotation sources, by another person in his work in order to make his statements more understandable or to refer to opinions of another author in the authentic wording.

Ukrainian Legislation on Copyright and Related Rights

2. Ukrainian legislation on copyright and related rights shall be based on the Constitution of Ukraine and shall consist of the relevant rules of the Civil Code of Ukraine, this Law, the Laws of Ukraine on Ownership, Cinematography, Television and Radio Broadcasting, Publishing, and Distribution of Copies of Audiovisual Works and Phonograms, as well as other laws of Ukraine protecting personal non-proprietary rights and the proprietary rights of copyright and related rights holders.

The Scope of this Law

3.-1. This Law shall apply to:

(a) works specified in part 1 of Article 8 of this Law, and objects of related rights specified in Article 35 of this Law, regardless of the place of their first disclosure (or non-disclosed items that are located in Ukraine in an objective form), the authors or holders of copyright and/or related rights in which are individuals (citizens of Ukraine), or those who are not citizens of Ukraine but have permanent residence on the territory of Ukraine, or legal entities with their principal place of business on the territory of Ukraine;

(b) works specified in part 1 of Article 8 of this Law and objects of related rights specified in Article 35 of this Law that were first disclosed on the territory of Ukraine, or those that were first disclosed outside Ukraine, but were thereafter disclosed on the territory of Ukraine within 30 days;

(c) transmissions of broadcasting organizations that are located on the territory of Ukraine and broadcast via transmitters located on the territory of Ukraine;

(d) works of architecture and sculpture objectively located on the territory of Ukraine;

(e) works and objects of related rights protected pursuant to the international agreements to which Ukraine is a party.

2. The provisions of this Law are aimed at protecting the personal non-proprietary rights and proprietary rights of:

(a) copyright holders specified in Article 7 of this Law and related rights holders specified in part 1 of Article 36 of this Law, who are Ukrainian citizens or those who are

not Ukrainian citizens but have permanent residence on the territory of Ukraine (for legal entities-locations on the territory of Ukraine), regardless of the territory on which their works or objects of related rights were first disclosed;

(b) copyright holders specified in Article 7 of this Law and related rights holders specified in part 1 of Article 36 of this Law, regardless of their citizenship and permanent residence (for legal entities-their locations), whose works or objects of related rights were first disclosed on the territory of Ukraine, or those that were not disclosed but are located on the territory of Ukraine in an objective form;

(c) copyright holders specified in Article 7 of this Law and related rights holders specified in part 1 of Article 36 of this Law, regardless of their citizenship and permanent residence, whose works or objects of related rights were first disclosed in another country and were disclosed thereafter on the territory of Ukraine within 30 days;

(d) other holders of copyright and/or related rights.

3. Copyright and/or related rights holders, whose works or objects of related rights were first disclosed on the territory of another State, or those that were not disclosed but are located in an objective form on the territory of another State, shall, irrespective of their citizenship, be granted legal protection in accordance with the international agreements to which Ukraine is a party.

The Powers of the Agency in the Sphere of Copyright and Related Rights Protection

4.-1. The Agency shall guarantee the implementation of State policy in the sphere of copyright and related rights protection, exercise its powers within the scope stipulated in the law, and carry out the following functions:

- monitor the application and observance of domestic legislation and international agreements in the sphere of copyright and related rights;
- keep records of collective management organizations once they have been registered, supervise the activity of these organizations and provide them with methodological assistance;
- supervise the observance of this Law in compliance with the procedure prescribed by the Cabinet of Ministers of Ukraine;
- act as an intermediary in negotiations and during the settlement of disputes between collective management organizations, and also between these organizations and copyright and/or related rights holders;
- organize the drafting of standards and schedules concerning minimum remuneration and its distribution among authors and other copyright and/or related rights holders, and submit them to the Cabinet of Ministers of Ukraine for approval;

- provide reproducers, importers and exporters of copies of audiovisual works and phonograms (videograms) with control stamps in accordance with the Law of Ukraine on Distribution of Copies of Audiovisual Works and Phonograms, and maintain the Uniform Register of Control Stamp Recipients;
- organize the receipt and examination of applications for the State registration of copyrights to works of science, literature and art, as well as the registration of contracts relating to copyright in the works, and the registration thereof;
- ensure that catalogs of all State copyright registrations are produced and published periodically;
- arrange for the publication of an official journal on the protection of copyright and related rights;
- guarantee the development and implementation of educational programs in the sphere of copyright and related rights protection;
- represent the interests of Ukraine in matters of the protection of copyright and related rights in international organizations, pursuant to the legislation in force;
- authorize the institutions of the State system of legal protection of intellectual property to perform, pursuant to their specialization, individual tasks stipulated in this Law, the Agency's Regulations, other standard-setting and legal acts in the sphere of legal protection of intellectual property;
- perform other functions pursuant to the Agency's Regulations, approved in compliance with the established procedure.

2. The Agency shall be entitled to request from collective management organizations the information stipulated in part 7 of Article 48 of this Law.

3. The Agency's activities shall be funded from the State Budget of Ukraine.

Application of the Rules of an International Agreement

5. If an effective international agreement, approved as binding by the Higher Council [Verkhovna Rada] of Ukraine, stipulates rules other than those set forth in the legislation of Ukraine on copyright and related rights, the rules of the international agreement shall be applied.

Rights of Foreign Persons and Stateless Persons

6. Foreign persons and stateless persons shall, in accordance with international agreements or on the basis of the principle of reciprocity, enjoy rights equal to those of the persons in Ukraine stipulated in this Law.

Section II

Copyright

Copyright Holders

7. Copyright holders are the authors of the works specified in part 1 of Article 8 of this Law, their heirs, and persons to whom the authors or their heirs have assigned their proprietary rights.

Objects of Copyright

8.-1. Objects of copyright shall be works in the fields of science, literature and art, i.e.:

- (1) written works of a literary, journalistic, scientific, technical or other nature (books, brochures, articles, etc.);
- (2) speeches, lectures, addresses, sermons and other oral works;
- (3) computer software;
- (4) databases;
- (5) musical works with or without lyrics;
- (6) dramatic, musical drama works, pantomimes, choreographic and other works created for stage presentation, and staging versions thereof;
- (7) audiovisual works;
- (8) works of fine art;
- (9) works of architecture, urban engineering and garden and park landscaping;
- (10) photographic works, including works made by methods similar to photography;
- (11) works of applied art, including works of decorative weaving, ceramics, carving, casting, art glass, jewelry, etc., if these are not protected by the laws of Ukraine on the legal protection of objects of industrial property;
- (12) illustrations, maps, plans, drawings, sketches and plastic works relating to geography, geology, topography, engineering, architecture and other spheres of activity;

(13) stage interpretations of works specified in point (1) of this part, and folklore versions that can be presented on stage;

(14) derivative works;

(15) collections of works, collections of folklore versions, encyclopedias and anthologies, collections of regular data, and other composite works, provided that they are the result of creative work involving the selection, co-ordination or arrangement of the content without prejudice to the copyright covering the integrated works;

(16) texts of translations for dubbing, sound-tracking of and adding Ukrainian and other language subtitles to foreign audiovisual works;

(17) other works.

2. Protection under this Law shall be granted to all works specified in part 1 of this Article, both disclosed and undisclosed, finished and unfinished, irrespective of their purpose, genre, volume, or aim (education, information, advertising, propaganda, entertainment, etc.).

3. The legal protection stipulated in this Law shall be extended only to the form of expression of a work, and shall not apply to any ideas, theories, principles, methods, procedures, processes, systems, means, concepts or discoveries, even if they are expressed, described, explained or illustrated in a work.

Protection of Copyright in a Portion of a Work

9. A portion of a work that can be used independently, including the original title of a work, shall be regarded as a work and shall be protected pursuant to this Law.

Objects Not Covered by Protection

10. The following items shall not be objects of copyright:

(a) daily news or details of current events that constitute regular press information;

(b) works of folk art (folklore);

(c) official documents of a political, legislative or administrative nature (laws, decrees, resolutions, court awards, State standards, etc.) issued by government authorities within their powers, and official translations thereof;

(d) State symbols of Ukraine, government awards; symbols and signs of government authorities, the Armed Forces of Ukraine and other military formations; symbols of territorial communities; symbols and signs of enterprises, institutions and organizations;

(e) bank notes;

(f) transport schedules, TV and radio broadcast schedules, telephone directories and other similar databases that do not meet the originality criteria and to which the sui generis right (a particular or special right) is applicable.

The drafts of the official symbols and signs specified in points (d) and (e) of part 1 of this Article shall, prior to their official approval, be regarded as works and shall be protected pursuant to this Law.

Emergence and Exercise of Copyright. Presumption of Authorship

11.-1. The author of a work shall be the primary holder with whom copyright rests.

Unless proven to the contrary, the person indicated as the author on the original or a copy of a work shall be deemed to be the author (presumption of authorship).

This provision shall also apply where a work is published under a pseudonym identifying the author.

2. Copyright in a work shall arise by virtue of the work's creation. No registration of a work or any other special formalization thereof, nor performance of any other formalities, shall be required for the emergence and exercise of copyright.

3. In order to give notice of his rights, the person holding copyright (author of a work or any other person who has been lawfully granted proprietary rights in the work) may use the copyright protection sign. The sign shall consist of the following elements:

- a circled Latin letter "C", ;
- the copyright holder's name;
- the year of first publication of the work.

The copyright protection sign shall be applied to the original and to each copy of a work.

4. If a work was published anonymously or under a pseudonym (except when a pseudonym unequivocally identifies the author), the publisher of the work (its name or denomination must appear thereon) shall be regarded as the author's representative and shall have the right to protect the latter's rights. This provision shall remain effective until the author of the work discloses his name and declares his authorship.

5. A copyright holder may, in order to certify his authorship (copyright) with respect to a disclosed or undisclosed work, the fact and date of publication of the work, or to certify

contracts relating to the author's rights in a work, have its copyright registered at any time during the copyright protection term in the appropriate State registers.

The State registration of copyright or of contracts relating to the author's rights in a work shall be implemented by the Agency in compliance with the procedure approved by the Cabinet of Ministers of Ukraine. The Agency shall draw up and periodically issue catalogs of all State registrations.

The fees prescribed by the Cabinet of Ministers of Ukraine shall be paid for the preparation by the Agency of the State registration of copyright and the contracts relating to the author's rights in a work.

The Agency shall issue a certificate concerning the registration of copyright in a work. A State fee shall be paid for the issue of the certificate, and the relevant proceeds shall be transferred to the State budget of Ukraine. The amount of the State duty charged for the issue of the certificate and the relevant payment procedure shall be stipulated by legislation.

A person possessing the material object in which a work is embodied (expressed) may not impede copyright registration by the person holding the copyright.

Copyright and Ownership Right to the Material Object in which a Work is Embodied

12.-1. Copyright and ownership right to the material object in which a work is embodied shall not be interdependent. The alienation of the material object in which a work is embodied shall not signify the alienation of copyright and vice versa.

2. The owner of the material object, in which the original of a work of art or architecture is embodied, shall not be allowed to destroy the object without first offering it to the author at a price which shall not exceed the cost of the materials used for the creation thereof. If it is impossible to preserve the object in which the original of a work is expressed, the owner of the material object in which the original of the work is embodied shall allow the author to make a copy of the work in the relevant form, and with respect to an architectural construction-to take a photograph thereof.

Coauthorship

13.-1. Coauthors are persons whose joint creative effort has resulted in a work being produced.

Copyright in a work created in coauthorship shall be vested in all the coauthors, irrespective of whether the work is a single inseparable item or is composed of parts each having independent significance.

Relations between coauthors shall be defined by agreement between them.

The right to publish or otherwise use a work as a whole shall be vested in all the coauthors.

If a work created in coauthorship is a single inseparable item, no coauthor shall, without sufficient grounds, deny permission to the other authors to publish or otherwise use or alter the work.

In the event of a violation of a joint copyright, each coauthor may prove his right by court procedure.

2. If a work created in coauthorship consists of parts each having independent significance, each of the coauthors shall be entitled to use the part he has created at his own discretion, unless otherwise stipulated by agreement between the coauthors.

3. Copyright in an interview shall also be regarded as coauthorship. The coauthors of an interview shall be the interviewee and the interviewer.

A recording of an interview can be published only with the interviewee's consent.

4. Remuneration for the use of a work shall belong to the coauthors in equal shares, unless otherwise stipulated by agreement between them.

An Author's Personal Non-Proprietary Rights

14. The following personal non-proprietary rights shall be vested in the author:

(1) the right to require recognition of his authorship by properly indicating the author's name on a work and its copies and during any public use of the work, if practicable;

(2) the right to prohibit the mention of his name during public use of a work, if the author wishes to remain anonymous;

(3) the right to choose a pseudonym, indicating and requiring an indication of a pseudonym instead of the author's real name on a work and its copies, and during any public use thereof;

(4) the right to require preservation of the integrity of a work, and to counteract any distortion, deformation or other alteration of a work, or any other encroachment thereon that may prejudice the author's honor and reputation.

2. The author's personal non-proprietary rights shall not be assigned (alienated) to other persons.

Proprietary Rights of an Author

15.-1. The proprietary rights of an author (or other copyright holder) shall include:

- (a) the exclusive right to use a work;
- (b) the exclusive right to allow or prohibit the use of a work by other persons.

The proprietary rights of an author (or other copyright holder) may be assigned (alienated) to another person in compliance with the provisions of Article 31 of this Law, whereupon this person shall become a copyright holder.

2. An author's (or other copyright holder's) exclusive right to use a work shall allow him to use the work in any form and in any manner.
3. The exclusive right of an author (or other copyright holder) to allow or prohibit the use of a work by other persons shall entitle him to allow or prohibit:
 - (1) reproduction of works;
 - (2) public performance and broadcast of works;
 - (3) public demonstration and public display;
 - (4) any repeated disclosure of works, if carried out by an organization other than that which carried out the first disclosure;
 - (5) translations of works;
 - (6) versions, adaptations, arrangements and other similar alterations to works;
 - (7) inclusion of works as components in collections, anthologies, encyclopedias, etc.;
 - (8) distribution of works by first sale or alienation by another method or by transferring for property lease or rental, and by other transfer prior to the first sale of copies of a work;
 - (9) communication to the public of his works such that its representatives may access the works in any place and at any time of their own choosing;
 - (10) transfer for property lease and/or commercial rental after the first sale, alienation by another method of the original or copies of audiovisual works, computer software, databases, musical works as sheet music, as well as of works fixed on a phonogram or videogram or in a computer-readable form;
 - (11) import of copies of works.

This list is not exhaustive.

4. Authors' exclusive rights to use works of architecture, urban engineering and garden and park landscaping shall also envisage their right to participate in the implementation of the relevant work projects.

5. Except for the cases stipulated in Articles 21 to 25 of this Law, an author (or other copyright holder) shall have the right to require payment of remuneration for any use of a work. The remuneration may be effected as a one-off (lump sum) payment, or as deductions for each copy sold or for each use of a work (royalty) or combined payments.

The amount of and procedure for paying the author's remuneration for the creation and use of a work shall be stipulated in an author's contract or contracts concluded on requests made by copyright holders, between collective management organizations and the users of works.

The Cabinet of Ministers of Ukraine may establish minimum rates for the author's remuneration and the procedure for their indexation.

6. The proprietary rights restrictions stipulated in Articles 21 to 25 of this Law shall be effected, provided that they do not prejudice the use of a work or unjustifiably limit the author's legitimate interests.

7. If copies of a lawfully published work are legally placed in public circulation through their first sale in Ukraine, it shall be permissible to bring them repeatedly into circulation through sale, bestowal, etc., without the consent of the author (or other copyright holder) and without payment of the author's remuneration, and with respect to works of fine art-subject to the provisions of Article 27 of this Law. However, in this case the right to transfer for property lease or commercial rental shall be reserved exclusively to the copyright holder.

Copyright in Works Created in the Course of Employment

16.-1. Personal non-proprietary copyright in a work created in the course of employment shall be vested in the author thereof.

2. The exclusive proprietary right in a work created in the course of employment shall be vested in the employer, unless otherwise stipulated by an employment agreement (contract) and/or civil law contract between the author and employer.

3. The amount of the author's remuneration for the creation and use of a work created in the course of employment, as well as the relevant payment procedure, shall be stipulated in the employment agreement (contract) and/or civil law contract between the author and employer.

Copyright in an Audiovisual Work

17.-1. The authors of an audiovisual work shall be:

- (a) the director-producer;
- (b) the author of the script and/or texts or dialogs;
- (c) the author of a musical work with or without lyrics, specially created for the audiovisual work;
- (d) art director;
- (e) cameraman.

One and the same individual may carry out two or more of the author's functions indicated in this part.

2. Unless otherwise stipulated in a contract for the creation of an audiovisual work, the authors who contributed or undertook to contribute to the creation of the audiovisual work and assigned the proprietary rights to an organization that ensures the production of the audiovisual work, or to the producer of the audiovisual work, shall not have the right to object to the performance of the work, reproduction, distribution, public display, public demonstration or broadcast thereof, or to the subtitling and dubbing of its text, apart from the right to carry out separate public performance of the musical works incorporated into the audiovisual work. All the authors of the audiovisual work shall retain the right to receive fair remuneration for the disclosure and each public performance, display, demonstration or broadcast of an audiovisual work, transfer thereof for property lease and/or commercial rental of its copies; the remuneration shall be distributed and paid out by collective management organizations or by another method.

3. Authors whose works have been incorporated into an audiovisual work (both those that existed before and those created in the process of working on the audiovisual work) shall each retain the copyright in their works, and can use it independently of the entire audiovisual work, unless otherwise stipulated in a contract with the organization that ensures the production of the audiovisual work, or with the producer of the audiovisual work.

Copyright in Computer Software

18. Computer software shall be protected as literary works. Such protection shall cover computer software irrespective of the method or form of its expression.

Copyright in Collections and Other Composite Works

19.-1. The author of a collection or other composite works (compiler) shall hold the copyright in his selection and placement of the works, and/or other data resulting from his creative effort (compilation).

The compiler of a collection shall hold the copyright provided that he observes the rights of the authors of each of the works incorporated in the composite work.

The authors of the works incorporated in a composite work shall be entitled to use their works independently of the composite work, unless otherwise stipulated by the author's contract with the compiler of the collection.

The copyright of the compiler of a collection shall not hinder other persons' independent selection or placement of the same works and/or other data for creating their own works.

The legal protection of databases stipulated in this part shall not apply to the data or information itself, nor shall it affect any copyright associated with the data or information contained in a database.

2. The publishers of encyclopedias, encyclopedic dictionaries, periodic collections, collections of scientific works, newspapers, magazines and other periodicals shall hold the exclusive rights to use such publications in their entirety. The publisher shall be entitled to indicate his name or to require indication thereof in the publications with respect to any use of such publications.

The authors of the works incorporated in such publications shall retain the exclusive rights to use their works irrespective of the entire publication, unless otherwise stipulated by an author's contract.

Copyright of Translators and Authors of Other Derivative Works

20.-1. Translators and authors of other derivative works shall hold a copyright in their translations, adaptations, arrangements or other reformulations.

The translators and/or authors of other derivative works shall hold the copyright in their work, provided that they observe the rights of the author whose work has been translated, adapted, arranged or otherwise reformulated.

2. The copyright of translators and/or authors of other derivative works shall not hinder other persons' translation and reformulation of the same works.

Free Use of a Work Where the Author's Name is Indicated

21. The following shall be permitted without the consent of the author (or other copyright holder), but with a mandatory indication of the author's name and the source of borrowing:

(1) using quotations (brief excerpts) from published works to the extent justified by the intended purpose, including quotations from newspaper and magazine articles in the form of

press reviews, if this is required by the critical, polemic, scientific or information-related nature of the work incorporating the quotations; freely using quotations in the form of brief excerpts from performances and works incorporated in a phonogram (videogram) or broadcast program;

(2) using literary works and works of art to the extent justified by the intended purpose as illustrations in publications, broadcasts, sound recordings or video recordings of an educational nature;

(3) reproducing in the press, carrying out a public performance or broadcast of previously published newspaper or magazine articles on current economic, political, religious and social issues, or broadcast works of the same nature, when the right to carry out such a reproduction, broadcast or other public communication has not been specially prohibited by the author;

(4) reproducing, in order to highlight current events by means of photography or cinematography, broadcasting or other public communication of the works seen or heard in the course of such events, to the extent justified by the information-related purpose;

(5) reproducing in catalogs works displayed at exhibitions, auctions or fairs, or in collections that are open to the public;

(6) publication in Braille for the blind of disclosed works;

(7) reproducing works for court and administrative proceedings, to the extent justified by this purpose;

(8) carrying out the public performance of musical works during official and religious ceremonies, as well as funerals, to the extent justified by the nature of such ceremonies;

(9) reproducing for information-related purposes in newspapers and other periodicals, transmitting by wireless means or otherwise broadcasting publicly delivered speeches, addresses, reports and other similar works, to the extent justified by the intended purpose;

(10) reproducing a work for the purposes and under the conditions stipulated in Articles 22 to 25 of this Law.

This list of freely usable works is exhaustive.

Free Reprographic Reproduction by Libraries and Archives of Copies of a Work

22. It shall be permissible for libraries and archives, the activities of which are not aimed, directly or indirectly, at generating profit, to reproduce reprographically, without the consent of the author or other copyright holder, one copy of a work, subject to the following:

(1) when a reproduced work is a separately published article and other small works or excerpts from written works (except for computer software and databases), with or without illustrations, and when the reproduction is made upon individuals' requests, provided that:

(a) a library or archive has sufficient reason to believe that such a copy will be used for the purposes of education, training or private research;

(b) reproduction of the work is a one-off, not a regular, event;

(c) there are no restrictions on the part of collective management organizations concerning the terms and conditions for producing such copies;

(2) when a reproduction is made to preserve or replace a lost, damaged or unusable copy in the library or archive, or to renew a lost, damaged or unusable copy from the collection of a similar library or archive, and it is impossible to obtain such a copy by other means, and when reproduction of the work is a one-off, not a regular, event.

Free Reproduction of Copies of a Work for Training Purposes

23. The following shall be permitted without the consent of the author or other copyright holder:

(1) reproducing excerpts from published written works or audiovisual works as illustrations for training, provided that the extent of the reproduction is consistent with the purpose indicated;

(2) for educational institutions reprographically reproducing for lectures, published articles and other small works and excerpts from written works, with or without illustrations, provided that:

(a) the extent of the reproduction is consistent with said purpose;

(b) reproduction of the work is a one-off, not a regular, event;

(c) there are no restrictions on the part of collective management organizations concerning the terms and conditions of the reproduction.

Free Copying, Modification and Decompilation of Computer Software

24.-1. A person lawfully possessing a copy of computer software shall be entitled to do the following, without the consent of the author or other person holding the copyright in the software:

(1) change (modify) the computer software with the aim of ensuring its operation when it is used with the user's technical equipment, and performing the actions related to the

operation of the computer software in accordance with its purpose, in particular, record and store in the computer memory and correct obvious errors, unless otherwise stipulated by an agreement with the author or other person holding the copyright;

(2) make one copy of the computer software, provided that the copy is made only for archival purposes or to replace a lawfully acquired copy in case the original computer software is lost, destroyed or becomes unusable. In this case, the copy of the computer software shall not be used for purposes other than those specified in this point and point (1) of this part, and shall be destroyed if possession of a copy of the computer software ceases to be lawful;

(3) decompile computer software (transform its object code into output text) with the aim of obtaining the information required for the achievement of its interaction with independently developed computer software, subject to the following conditions:

(a) this person previously had no other sources of access to the information necessary for the achievement of the interaction;

(b) said actions are performed only with respect to those computer software portions that are necessary for the achievement of the interaction;

(c) the information obtained as a result of decompilation shall be used only to achieve its interaction with other software, and shall not be transferred to other persons, except when this is necessary for the achievement of compatibility with other software, and shall not be used for the development of computer software that looks similar to the decompiled computer software, or for any other copyright-infringing action;

(4) observe, study and modify the functioning of computer software so as to understand the underlying ideas and principles, provided that this is done in the course of performing any action such as loading, display, functioning, transfer, or storing in the memory (saving) the computer software.

2. The enforcement of the provisions of this Article shall not prejudice the use of computer software nor restrict the legitimate interests of the author and/or of another person holding the copyright in the computer software.

Free Reproduction of Works for Personal Purposes

25.-1. It shall be permissible to reproduce exclusively for personal purposes or for a regular family circle without the consent of the author (or other copyright holder) and without payment of the author's remuneration, works previously disclosed lawfully, except for the following:

(a) works of architecture in the form of buildings and facilities;

(b) computer software, except in the cases stipulated in Article 24 of this Law;

(c) reprographic reproduction of books, sheet music and original works of fine art, except in the cases stipulated in Articles 22 and 23 of this Law;

(d) works, performances of which have been fixed on phonograms or videograms, and copies thereof.

2. It shall be permissible to reproduce works and performances fixed on phonograms, videograms and copies thereof, in the domestic environment, and exclusively for personal purposes or for a regular family circle and close acquaintances of this family, without the consent of the author(s), performers, producers of the phonograms, or producers of the videograms, but on payment of remuneration. The specific features of the payment of remuneration in this case are stipulated in Article 42 of this Law.

Right of Access to a Work of Fine Art

26. When transferring a work of fine art, or a material object in which this work is embodied, to the ownership of another person, the author shall be entitled to demand access to such a work for the purpose of using it for reproduction (making of copies, slides, post cards, revisions, etc.), provided that this does not prejudice the legitimate rights and interests of the owner of the work of fine art. The owner cannot deny the author access to the work without sufficient grounds. The owner of the work cannot be requested to deliver the work to the author.

Resale Royalty Right

27. The author of a work of fine art and, in the event of his death, his heirs, shall enjoy, for the period stipulated in Article 28 of this Law with respect to the original works of fine art sold by the author, the inalienable right to receive 5% of the price of every subsequent sale of the work via an auction, gallery, showroom, shop, etc., that follows the first sale thereof by the author of the work (resale royalty right). The remuneration shall be paid in this case by said auctions, galleries, showrooms, shops, etc.

The remuneration resulting from the exercise of the resale royalty right shall be collected by the author and paid to him personally, through his agent or through collective management organizations.

Period of Validity of Copyright

28.-1. Copyright on a work shall arise as a result of the fact that it is created, and shall be effective from the day on which the work is created.

2. Copyright shall remain in effect throughout the author's lifetime and for 70 years after his death, except in the cases stipulated in this Article.

3. With respect to works disclosed anonymously or under a pseudonym, the period of validity of copyright shall end 70 years after the disclosure of the work. If a pseudonym accepted by an author leaves no doubts as to the author's identity, or if the author of a work, disclosed anonymously or under a pseudonym, is disclosed not later than 70 years after the disclosure of the work, the term stipulated in part 2 of this Article shall apply.

4. Copyright in works created in coauthorship shall remain in effect throughout the coauthors' lifetimes and for 70 years after the death of the last coauthor.

5. If a whole work is published (disclosed), not in its entirety, but in consecutive volumes, parts, issues, series, etc., the period of validity of copyright shall be stipulated separately with respect to each published (disclosed) portion of the work.

6. Copyright in works of posthumously rehabilitated authors shall remain in effect for 70 years after their rehabilitation.

7. Copyright in a work that was first published within 30 years of the author's death shall remain in effect for 70 years after the date of lawful publication of the work.

8. Any person who discloses an undisclosed work for the first time, once the term of protection of copyright in the work has expired, shall enjoy protection equal to the protection of the author's proprietary rights. The term of protection, in this case, shall be 25 years from the time when the work was first disclosed.

9. The term of protection of copyright prescribed in parts 2 to 7 of this Article shall begin on January 1 of the year following the year in which the legal facts stipulated in those parts occurred.

10. The author's personal non-proprietary rights stipulated in Article 14 of this Law shall be protected in perpetuity.

Copyright Inheritance

29.-1. The proprietary rights of authors and other holders of the exclusive copyright shall be inheritable. An author's personal non-proprietary rights shall not be inheritable.

2. Heirs shall have the right to protect the authorship of a work and to counteract distortion, deformation or other alteration of a work, as well as any other encroachment on a work that may prejudice the author's honor and reputation.

Works Falling into the Public Domain

30.-1. As a result of the expiry of the period of validity of copyright in works, those works shall fall into the public domain.

2. Works that have fallen into the public domain can be used freely by any person without payment of the author's remuneration, subject to observance of the author's personal non-proprietary rights, as stipulated in Article 14 of this Law.

3. The Cabinet of Ministers of Ukraine may prescribe special payments to be made to the funds of artists' unions of Ukraine for the use on the territory of Ukraine of works that have fallen into the public domain.

Assignment (Alienation) of Proprietary Rights of Copyright Holders

31.-1. The author (or other copyright holder) may assign his proprietary rights, as specified in Article 15 of this Law, to any other person fully or partially. The assignment of the proprietary rights of the author (or other copyright holder) shall be formalized by means of an author's contract.

The proprietary rights that are assigned under an author's contract shall be stipulated therein. Proprietary rights not specified in the author's contract as alienated shall be deemed not to have been assigned.

2. The proprietary right of a copyright holder which is a legal entity may be assigned (alienated) to another person in compliance with the procedure stipulated by law following liquidation of the legal entity which was the copyright holder.

Assignment of the Right to Use a Work

32.-1. The author and any other person holding a copyright shall have the exclusive right to grant to other persons permission to use a work, by any single method or by all known methods, on the basis of an author's contract.

A work shall be used by any person exclusively on the basis of an author's contract, except in the cases stipulated in Articles 21 to 25 of this Law.

2. The right to use a work shall be assigned to other persons on the basis of an author's contract for the assignment of the exclusive right to use the work, or on the basis of an author's contract for the assignment of a non-exclusive right to use the work.

3. Under the author's contract for the assignment of the exclusive right to use the work, the author (or other exclusive copyright holder) shall assign the right to use the work to another person in a certain manner and within the prescribed scope only to one person to whom these rights are assigned, and shall authorize this person to permit or prohibit similar use of the work by other persons. The person assigning the exclusive right to use the work shall retain the right to use this work, only to the extent of the rights that are not assigned.

4. Under the author's contract for the assignment of the non-exclusive right to use the work, the author (or other copyright holder) shall assign the right to use the work to

another person in a certain manner and within the prescribed scope. The person assigning the non-exclusive right shall retain the right to use the work and to assign the non-exclusive right to use the work to other persons.

5. The right to assign to any person non-exclusive rights to use works shall be vested in the collective management organizations to which copyright holders have assigned the powers to manage their proprietary rights.

6. The rights to use a work that are assigned under an author's contract shall be deemed non-exclusive, if the contract does not stipulate that the exclusive rights to use the work are to be assigned.

Contracts Authorizing the Use of Works

33.-1. Contracts concerning the assignment of rights to use works shall be made in writing. A contract concerning the use (publication) of a work in periodicals (newspapers, magazines, etc.) can be made orally.

2. A contract concerning the assignment of rights to use works shall be deemed to have been concluded if the parties agree on all essential terms and conditions (contract term, the method of using a work, the territory covered by the assignable right, the amount and procedure for paying the author's remuneration, as well as other terms and conditions with respect to which an agreement should be reached at the request of one of the parties).

The author's remuneration shall be stipulated in the contract as percentages of the income derived from the use of a work, as a fixed amount, or otherwise. The author's remuneration rates shall not be lower than the minimum rates established by the Cabinet of Ministers of Ukraine.

3. Rights that did not exist at the time a contract is concluded cannot be the subject of the contract for the assignment of the rights to use a work.

4. The appropriate services and artists' unions may draft model author's contracts.

5. Contract conditions that worsen an author's (his legal successor's) situation as compared to the situation established by the legislation in force shall be invalid.

6. Under an author's contract of request, the author shall undertake to create a work in the future in accordance with the terms and conditions of this contract, and to deliver it to the customer. The contract may stipulate payment of an advance to the author by the customer as a portion of the author's remuneration.

7. Contract terms and conditions that restrict the author's right to create future works on a subject indicated in the contract or in the indicated sphere shall be invalid.

8. All proprietary rights concerning the use of a work that are assigned under an author's contract shall be stipulated therein. Proprietary rights not specified in the author's contract as assigned by a copyright holder shall be deemed not to have been assigned, and shall be retained by the copyright holder.

Liability for Default under an Author's Contract

34.-1. A party that fails to perform, or improperly performs, obligations under an author's contract, shall reimburse the other party for all damages, including lost profit.

2. If an author has not delivered a work to a customer in accordance with the terms and conditions set forth in an author's contract of request, he shall reimburse the customer for the damages, including lost profit.

3. Disputes concerning liability for defaults under author's contracts shall be resolved by the courts.

Section III Related Rights

Objects of Related Rights

35. Objects of related rights, irrespective of destination, content, value, or method and form of expression, shall be:

- (a) performances of literary, dramatic, musical, musical drama, choreographic, folklore and other works;
- (b) phonograms, videograms;
- (c) broadcasting organization transmissions (programs).

Related Rights Holders

36.-1. Related rights holders shall be:

- (a) performers of works, their heirs, and persons to whom related proprietary rights to performances have been assigned on legal grounds;
- (b) producers of phonograms, their heirs (successors), and persons to whom related proprietary rights to phonograms have been assigned on legal grounds;
- (c) producers of videograms, their heirs (successors), and persons to whom related proprietary rights to videograms have been assigned on legal grounds;
- (d) broadcasting organizations and their successors.

2. Performers shall exercise their rights subject to their observance of the rights of the authors of the works performed and of other copyright holders. Producers of phonograms and of videograms shall observe the rights of copyright holders and performers. Broadcasting organizations shall observe the rights of copyright holders, performers and producers of phonograms (videograms).

Emergence and Exercise of Related Rights

37.-1. The primary related rights holders shall be the performer, producer of a phonogram, producer of a videogram, and the broadcasting organization.

2. A related right shall arise by virtue of the performance of a work, the production of a phonogram, production of a videogram, and the disclosure of a broadcasting organization's transmission.

3. No formalities will be required for the emergence and exercise of related rights.

The performer, producer of a phonogram, or producer of a videogram may, in order to give notification of his related rights, use the related rights protection sign on phonograms, videograms and all copies thereof that are distributed among the public on legal grounds, or on the packaging thereof. This sign shall consist of the following elements:

- a circled Latin letter "P", (P);
- the name (denomination) of the persons holding related rights to these phonograms (videograms);
- the year of first publication of a phonogram (videogram).

Unless there is evidence to the contrary, the performer and the producer of a phonogram or videogram shall be deemed to be the persons whose names (denominations) are indicated on the phonogram, videogram, and copies or packaging thereof.

4. The Cabinet of Ministers of Ukraine may prescribe minimum rates of remuneration for the use of objects of related rights and the procedure for their indexation.

Performers' Personal Non-Proprietary Rights, and Rights to the Name that Can be Vested in the Producers of Phonograms, Videograms and Broadcasting Organizations

38.-1. The performer of a work shall hold the following personal non-proprietary rights:

- (a) require recognition that he is the performer of the work;

(b) require that his name or pseudonym be indicated or announced in connection with each of his appearances, recordings or performances (whenever possible);

(c) require provision of the proper recording quality of his performance and the right to counteract any distortion, deformation or other essential modification thereof that may prejudice his honor and reputation.

2. The producer of a phonogram or of a videogram shall be entitled to affix his name (denomination) to every recording carrier or its packaging along with an indication of the authors, performers and titles of works, and to require that he be mentioned when a phonogram (videogram) is used.

3. The broadcasting organization shall be entitled to require that its name be mentioned in connection with the recording, reproduction and distribution of its transmission, and repeated broadcasts thereof by another broadcasting organization.

Performers' Proprietary Rights

39.-1. Performers' proprietary rights shall be their exclusive right to permit or prohibit other persons from:

(a) broadcasting their non-fixed performances (live broadcast);

(b) fixing, in phonograms or videograms, their performances that have not been fixed before;

(c) reproducing (directly and/or indirectly) their performances which were fixed without their consent in a phonogram or videogram, or with their consent, if the reproduction is carried out for a purpose other than that for which they granted their consent;

(d) distributing their performances fixed on a phonogram or videogram through first sale or other title transfer where, during the first fixation of a performance, they did not authorize the producer of a phonogram (producer of a videogram) to reproduce it subsequently;

(e) renting for commercial purposes or property leasing their performances fixed on a phonogram or videogram, if, during the fixation, they did not grant their consent for the commercial rental and property lease, even after the performances have been distributed by or with the approval of the phonogram (videogram) producer;

(f) distributing their performances fixed on phonograms or videograms by any means of communication in a manner whereby any person may access them in any place and at any time of their own choosing if, during the first fixation of the performance, they did not grant consent for such distribution.

2. Performers' proprietary rights may be assigned (alienated) to other persons on the basis of a contract stipulating the method of using the performances, the amount of and procedure for paying the remuneration, the contract term and period of performance use, the territory within which the assigned rights are effective, etc. The remuneration rates stipulated in the contract shall not be lower than the minimum rates prescribed by the Cabinet of Ministers of Ukraine.

3. If a performance is used in an audiovisual work, the performer shall be deemed to assign to the organization producing the audiovisual work or to the producer of the audiovisual work all proprietary rights with respect to the performance, unless otherwise stipulated in the contract.

4. If, during the first fixation of a performance, the performer expressly permits further reproduction thereof by the producer of a phonogram or of a videogram, the performer shall be deemed to have assigned to the producer of the phonogram or of the videogram the exclusive right to distribute the phonograms, videograms and copies thereof by first sale or other transfer of ownership or possession, as well as by property lease, commercial rental and other transfer. However, the performer shall retain the right to receive fair remuneration for said types of use of his performance through collective management organizations or by another method.

Proprietary Rights of Phonogram and Videogram Producers

40.-1. The proprietary rights of producers of phonograms and of videograms shall include their exclusive right to use their phonograms, videograms and the exclusive right to permit or prohibit other persons from:

(a) reproducing (directly and/or indirectly) their phonograms and videograms in any form and by any method;

(b) distributing to the public phonograms, videograms and copies thereof through first sale or other title transfer;

(c) commercially renting phonograms, videograms and copies thereof, even after they have been distributed by a producer of a phonogram or videogram, or with their permission;

(d) broadcasting phonograms, videograms and copies thereof by any means of communication such that any person can access them from any place and at any time of their own choosing;

(e) remaking their phonograms or videograms in any way;

(f) importing into the customs territory of Ukraine phonograms, videograms and copies thereof for the purposes of public distribution.

2. The proprietary rights of producers of phonograms and of videograms may be assigned (alienated) to other persons on the basis of a contract stipulating the method of using a phonogram (videogram), the amount of and procedure for paying the remuneration, contract term, the term for using a phonogram (videogram), the territory within which the assigned rights are effective, etc. The remuneration rates stipulated in the contract shall not be lower than the minimum rates prescribed by the Cabinet of Ministers of Ukraine.

The proprietary rights of the producer of a phonogram or videogram, which is a legal entity, may also be assigned (alienated) to another person in compliance with the procedure prescribed by law, following the liquidation of a legal entity which was the related rights holder.

3. If phonograms, videograms or copies thereof are placed in public circulation by the producer of a phonogram (videogram) or with his consent through first sale thereof in Ukraine, further distribution thereof by sale, bestowal, etc., shall be permitted without the consent of the producer of the phonogram (videogram) or his successor and without payment of remuneration to him. In this case, however, the right to transfer such copies of phonograms (videograms) for property lease or commercial rental shall be retained exclusively by the producer of the phonogram (videogram).

Proprietary Rights of Broadcasting Organizations

41.-1. Proprietary rights of broadcasting organizations shall include their exclusive right to use their programs in any manner and the exclusive right to permit or prohibit other persons from:

- (a) publicly disclosing their programs by broadcast and rebroadcast means;
- (b) fixing their programs on a material carrier and reproducing them;
- (c) publicly performing and demonstrating their programs in places where admission is paid.

Broadcasting organizations shall also be entitled to prohibit the dissemination, on or from the territory of Ukraine, of a satellite signal carrying their programs, by a distribution body not authorized to handle this satellite signal.

2. A broadcasting organization's proprietary rights may be assigned (alienated) to other persons on the basis of a contract which shall stipulate the method and term of the use of a broadcast program, the amount of and procedure for paying remuneration, the territory within which the assigned rights are effective, etc.

A broadcasting organization's proprietary rights may also be assigned (alienated) to other persons in compliance with the procedure prescribed by the law, as a result of liquidation of a legal entity which was the holder of related rights.

Restriction of the Proprietary Rights of Performers, Phonogram and Videogram Producers, and Broadcasting Organizations

42.-1. It shall be permissible to use performances, phonograms, videograms or broadcast programs, and to fix, reproduce and present them for general notice, without the consent of the performers, phonogram or videogram producers, and broadcasting organizations, in the cases stipulated in Articles 21 to 25 of this Law concerning restriction of the proprietary rights of the authors of literary, artistic and scientific works, if the following conditions are met:

- (a) said objects are reproduced solely for training or scientific research purposes;
- (b) the right to carry out reproduction, stipulated in point (a) of this part, shall not apply to the export of reproduced copies of phonograms, videograms or broadcast programs outside the customs territory of Ukraine;
- (c) related rights holders shall retain the right to receive fair remuneration based on the quantity of reproduced copies.

The use of objects of related rights without the consent of the related rights holders, as stipulated in this part, shall be possible only if the personal non-proprietary rights of copyright and related rights holders, stipulated in Articles 14 and 38 of this Law, are observed.

2. It shall be permissible to reproduce the works and performances fixed on phonograms and videograms, and their copies in the domestic environment, and exclusively for personal purposes, without the consent of the author(s), performers and producers of phonograms (videograms), but remuneration shall be paid to them in the manner defined in part 4 of this Article.

3. The use of objects of related rights stipulated in parts 1 and 2 of this Article, without the consent of the related rights holders, shall not prejudice the normal use of performances, phonograms, videograms and broadcast programs, nor shall it affect the legitimate interests of the performers, producers of phonograms, videograms and broadcast programs, or other copyright and/or related rights holders.

4. The remuneration of producers of phonograms and videograms and other persons holding copyright and/or related rights with respect to the reproductions stipulated in part 2 of this Article, shall be paid as deductions (interest) on the value of equipment and/or material carriers by the producers and/or importers of the equipment and material carriers, through the use of which it is possible to reproduce works fixed on phonograms and videograms exclusively for personal purposes in the domestic environment, except for:

(a) professional equipment and/or material carriers not designed for use in the domestic environment;

(b) equipment and material carriers that are exported outside the customs territory of Ukraine;

(c) equipment and material carriers that are imported by an individual onto the customs territory of Ukraine exclusively for personal purposes and without a commercial purpose.

5. The amount of deductions (interest), indicated in parts 2 and 4 of this Article, to be paid by the producers and/or importers of the equipment and material carriers, shall be determined by the Cabinet of Ministers of Ukraine. This money shall be remitted by the producers and importers of the equipment and/or material carriers to the collective management organizations specified by the Agency (hereinafter-"authorized organizations"). The collected money shall be distributed among the collective management organizations registered with the Agency on the basis of contracts which authorized organizations shall enter into with all collective management organizations. The importers shall remit this money to an authorized organization when they import goods onto the customs territory of Ukraine, and the producers at the end of each month after the sale of equipment and material carriers.

6. The Agency and the authorized organizations specified by the Agency for the collection of money shall be entitled to require from producers and importers information concerning the production, import and realization (sale) of the equipment and material carriers indicated in part 4 of this Article.

7. The collected money specified in parts 2 and 4 of this Article shall be distributed among the authors, performers, and producers of phonograms and videograms. This money shall be distributed in the following proportions, unless otherwise stipulated in the contracts between the collective management organizations: authors-50%, performers-25% and producers of phonograms (videograms)-25%.

The Use of Phonograms and Videograms Published for Commercial Purposes

43.-1. The following direct or indirect commercial use of phonograms and videograms and copies thereof shall be allowed without the consent of the producers of phonograms (videograms), the phonograms (videograms) of which have been published for commercial use, or of the performers whose performances are fixed on these phonograms (videograms), but with payment of remuneration:

(a) public performance of a phonogram or a copy thereof, or public demonstration of a videogram or a copy thereof;

(b) live broadcast of a performance fixed on a phonogram or videogram and copies thereof;

(c) wire (cable) broadcast of a performance fixed on a phonogram or videogram and copies thereof.

2. The collection of remuneration for the use of phonograms (videograms) indicated in part 1 of this Article and the supervision of their lawful use shall be effected by the authorized collective management organizations specified by the Agency. The collected money shall be distributed among the collective management organizations that are registered with the Agency on the basis of contracts that shall be made by and between authorized organizations and all collective management organizations. The remuneration received from the authorized organization shall be distributed by the appropriate collective management organization in the following proportions: performers-50%, producers of phonograms (videograms)-50%.

3. The amount of the remuneration for the use of phonograms (videograms) indicated in part 1 of this Article, and the procedure and conditions for paying the remuneration shall be prescribed by the Cabinet of Ministers of Ukraine.

4. Persons using phonograms, videograms or copies thereof shall provide the organizations specified in part 2 of this Article with the exact information concerning the use thereof that is necessary for the collection and distribution of the remuneration.

Period of Validity for Related Rights

44.-1. Performers' proprietary rights shall be protected for 50 years from the date of the first recording of a performance.

Performers' personal non-proprietary rights, as stipulated in part 1 of Article 38 of this Law, shall be protected in perpetuity.

2. The rights of the producers of phonograms and videograms shall be protected for 50 years from the date of first publication of a phonogram (videogram), or from the first sound or video recording thereof, if the phonogram (videogram) was not published within said period.

3. Broadcasting organizations shall enjoy the rights granted under this Law for a period of 50 years from the date of the first broadcast of a transmission.

4. The term of protection of related rights shall expire on January 1 of the year following the year in which the period of protection stipulated in this Article expired.

5. Performers' heirs and the successors of producers of phonograms and videograms, and of broadcasting organizations shall inherit the right to permit or prohibit the use of performances, phonograms, videograms, or broadcasts, and also the right to receive remuneration within the term stipulated in this Article.

Section IV
Management of the Proprietary Rights of
Copyright and Related Rights Holders

Methods for Managing the Proprietary Rights of
Copyright and Related Rights Holders

45. Copyright and related rights holders may manage their rights:

- (a) personally;
- (b) through an agent;
- (c) through a collective management organization.

Managing Proprietary Rights Through an Agent

46. A copyright and/or related rights holder may entrust an agent to manage his proprietary rights on the basis of an agency contract concluded with him. While managing the proprietary rights, this person shall act within the powers assigned to him by the copyright and/or related rights holder.

Securing Collective Management of Proprietary Rights

47.-1. Copyright and/or related rights holders may entrust the management of their proprietary rights to collective management organizations.

2. Collective management organizations shall be set up by copyright and/or related rights holders, and shall have the status of legal entities in accordance with the law.

3. It shall be permissible to set up separate organizations managing certain categories of the proprietary rights of particular categories of copyright and/or related rights holders, or organizations managing various proprietary rights in the interests of various categories of copyright and/or related rights holders.

4. Persons using works, performances, broadcasts, and copies of phonograms (videograms) shall provide collective management organizations with an accurate list of the works, performances, copies of phonograms (videograms) and broadcasts used, together with the documented data concerning the profits derived from the use thereof. They shall pay remuneration to the collective management organizations within a stipulated term at the specified level.

5. Copyright and/or related rights holders may also entrust the management of their proprietary rights, on a collective basis, to the respective state organizations, the founding documents of which envisage such functions being carried out.

Activities of Collective Management Organizations

48.-1. A collective management organization shall, following its State registration, be registered with the Agency within 30 days. The Agency shall publish in its official bulletin information concerning the registration of collective management organizations.

Collective management organizations shall operate on the basis of charters, which shall be approved in compliance with the established procedure, and within the powers received from the holders of copyright and/or related rights.

2. Collective management organizations shall not have the right to carry out commercial activities or to use, in any manner, the objects of copyright and/or related rights entrusted to them for management purposes. The restrictions envisaged by anti-monopoly legislation shall not apply to the activities of such organizations.

3. The powers to exercise the collective management of proprietary rights shall be assigned to collective management organizations by the authors and other copyright and/or related rights holders on the basis of written contracts.

4. Collective management organizations may manage the proprietary rights of foreign copyright and/or related rights holders on the territory of Ukraine on the basis of agreements with similar foreign organizations, including agreements for the mutual representation of interests.

Collective management organizations may entrust, on the basis of agreements with similar foreign organizations, the management abroad, on a collective basis, of the proprietary rights of Ukrainian copyright and/or related rights holders, including agreements for the mutual representation of interests.

5. On the basis of powers received, collective management organizations shall grant to any persons, by entering into contracts with them, non-exclusive rights to use objects of copyright and/or related rights.

6. A collective management organization shall be entitled to require the users of objects of copyright and related rights to submit documents containing precise information on the given use, required for the collection and distribution of remuneration.

7. A collective management organization shall provide the Agency with the following information:

(a) amendments to the organization's charter;

(b) conclusion by the organization of bilateral or multilateral agreements with other collective management organizations, including foreign ones;

- (c) management of the proprietary rights of persons who have not assigned to an organization the powers pursuant to part 3 of this Article;
- (d) resolutions of the general meeting of the organization's members, concerning the contracts for the management of rights of copyright and/or related rights holders;
- (e) an annual balance sheet, annual report and audit results;
- (f) the persons authorized to represent the organization.

Functions of Collective Management Organizations

49.-1. Collective management organizations shall perform the following functions on behalf of copyright and/or related rights holders on the basis of powers granted by them:

- (a) coordinate with the users of objects of copyright and/or related rights remuneration during the conclusion of a contract;
- (b) enter into contracts for the use of rights assigned for management. The terms and conditions of these contracts shall comply with the provisions of Articles 31 to 33 of this Law;
- (c) collect remuneration for the use of objects of copyright and/or related rights in the cases and on the grounds stipulated in this Law;
- (d) distribute and pay out collected remuneration to the copyright and/or related rights holders whose rights it manages, as well as to other rights holders pursuant to this Law;
- (e) perform other actions, stipulated in the legislation in force, necessary for the protection of the rights managed by the organization.

2. The holders of copyright and/or related rights who did not assign to collective management organizations the powers to manage their rights, including with respect to the collection of remuneration, shall have the right to demand the payment of the remuneration by the collective management organizations which collected the remuneration for the use of their works and objects of related rights, as well as to demand withdrawal of their works and objects of related rights from the permits for use that are issued by the collective management organizations through the conclusion of contracts with the persons who use these objects.

3. Collective management organizations shall be entitled to keep in their accounts any sums of unclaimed remuneration received from the users of objects of copyright and/or related rights. Three years after placement of the corresponding sums in the account of a collective management organization, the unclaimed remuneration may be used for regular payments to copyright and/or related rights holders, or for other purposes stipulated in their charters, in the interests of copyright and/or related rights holders.

Section V

Protection of Copyright and Related Rights

Infringement of Copyright and Related Rights

50. Copyright and/or related rights infringements that give grounds for judicial protection shall be:

- (a) actions by any person that infringe the personal non-proprietary rights of copyright and/or related rights holders, stipulated in Articles 14 and 38 of this Law, and their proprietary rights stipulated in Articles 15, 39, 40 and 41 of this Law, subject to the proprietary rights restrictions stipulated in Articles 21 to 25, 42 and 43 of this Law;
- (b) piracy in the sphere of copyright and/or related rights-publication, reproduction, import into the customs territory of Ukraine, export from the customs territory of Ukraine, and distribution of counterfeit copies of works (including computer software and databases), phonograms, videograms and broadcasting organization programs;
- (c) plagiarism-disclosure (publication), in full or in part, of another person's work under the name of a person who is not the author of the work;
- (d) import into the customs territory of Ukraine, without the permission of the persons holding the copyright and/or related rights, of copies of works (including computer software and databases), phonograms, videograms and broadcast programs;
- (e) actions that pose a threat of infringement of copyright and/or related rights;
- (f) any actions for the intentional circumvention of technical means of protection of copyright and/or related rights, in particular the production, distribution, import for distribution and use of means of circumvention;
- (g) forging, altering or eliminating rights-management information, in particular rights-management information in electronic form, without the permission of the copyright and/or related rights holders or the person carrying out such management;
- (h) the distribution, import into the customs territory of Ukraine for distribution purposes, and broadcast of objects of copyright and/or related rights from which rights-management information, in particular that in electronic form, has been eliminated or altered without the permission of the copyright and/or related rights holders.

Procedure for Protecting Copyright and Related Rights

51. Personal non-proprietary and proprietary rights of copyright and/or related rights holders shall be protected in compliance with the procedure prescribed by administrative, civil and criminal legislation.

Civil Law Remedies for the Protection of Copyright and Related Rights

52.-1. Persons holding copyright and related rights shall have the right to seek protection of their copyright and/or related rights by lodging claims in compliance with the established procedure with a court of law and other bodies, pursuant to their powers.

In the case of violation, by any person, of the copyright and/or related rights stipulated in Article 50 of this Law, non-observance of the conditions for using works and/or objects of related rights stipulated by contract, the use of works and objects of related rights in circumvention of technical means of protection or by forging of rights-management information and/or documents, or the creation of a threat of unlawful use of objects of copyright and/or related rights, as well as other infringements of personal non-proprietary and proprietary rights of the persons holding copyright and/or related rights, persons holding copyright and/or related rights shall have the right to:

- (a) require the recognition and renewal of their rights;
- (b) lodge claims with a court of law for the renewal of the infringed rights and/or the termination of actions infringing copyright and/or related rights, or posing a threat of their violation;
- (c) lodge claims for the reimbursement of moral (non-proprietary) losses;
- (d) lodge claims for the reimbursement of losses (material damage), including lost profit, or collection of the income derived by the infringing party as a result of his violation of copyright and/or related rights, or payment of compensation;
- (e) require the termination of preparations for an infringement of copyright and/or related rights, including the suspension of customs procedures, if there is a suspicion that counterfeit copies of works, phonograms, videograms or means of circumventing technical means of protection might be allowed to enter or leave the customs territory of Ukraine, in compliance with the procedure stipulated in the Customs Code of Ukraine;
- (f) participate in the inspection of the production premises, storage facilities, technological processes and business operations relating to the production of copies of works, phonograms and videograms, with respect to which there are grounds to suspect violation or threat of violation of copyright and/or related rights, in compliance with the procedure established by the Cabinet of Ministers of Ukraine;
- (g) require, including by court procedure, the publication in the mass media of information concerning infringements of copyright and/or related rights committed, and of court judgments with respect to such infringements;
- (h) require the provision, by the persons infringing the claimant's copyright and/or related rights, of information about third parties involved in the production and distribution of

counterfeit copies of works and objects of related rights, as well as means of circumventing technical means of protection, and the relevant distribution channels;

(i) require other measures envisaged by legislation, concerning the protection of copyright and related rights.

2. A court of law shall have the right to issue a resolution or award concerning:

(a) reimbursement of moral (non-proprietary) damages resulting from an infringement of copyright and/or related rights, specifying the amount of the reimbursement;

(b) reimbursement of damages resulting from an infringement of copyright and/or related rights;

(c) collection from the infringing party of copyright and/or related rights of income derived from the infringement;

(d) payment of compensation, to be prescribed by the court, ranging from 10 to 50,000 minimum salaries, in lieu of damage reimbursement or income collection;

(e) prohibition on the publication of works, their performance or staging, the issue of copies of phonograms, videograms, their broadcasts, termination of their distribution, removal into protective custody (confiscation) of counterfeit copies of works, phonograms, videograms or broadcast programs, as well as equipment and materials for the production and reproduction thereof, publication in the press of information about the infringement, etc., if, in the course of court proceedings, the fact of copyright and/or related rights infringement, or the fact of actions posing a threat of infringement of these rights, is proven;

(f) provision, by the persons infringing the claimant's copyright and/or related rights, of information about third parties involved in the production and distribution of counterfeit copies of works and objects of related rights, or means of circumvention of technical means, and the distribution channels.

When determining damages to be reimbursed to a person whose rights have been infringed, and when reimbursing moral (non-proprietary) damages, the court shall proceed on the merits of an infringement, the proprietary and moral damages suffered by the person holding the copyright and/or related rights, and the estimated income that could have been derived by this person. The damages suffered by a person whose rights have been infringed may also include this person's court expenses and attorney's fees.

When determining compensation to be paid in lieu of damage reimbursement or income collection, the court shall determine, within the scope stipulated in point (d) of this part, a compensation sum, taking into account the extent of the infringement and/or the defendant's intentions.

3. A court may resolve to impose upon an infringing party a fine of 10% of the amount awarded to the claimant by the court. Fines shall be transferred to the State budget of Ukraine in compliance with the established procedure.

4. A court may resolve to remove into protective custody or confiscate all counterfeit copies of works, phonograms, videograms or broadcast programs, in relation to which it has been established that they were produced or distributed in contravention of copyright and/or related rights, as well as means of circumventing technical means of protection. This shall also apply to all cliches, matrices, moulds, originals, magnetic tapes, photo negatives and other items used for the reproduction of copies of works, phonograms, videograms and broadcast programs, as well as the materials and equipment used for their reproduction and for the production of means of circumventing technical means of protection.

Pursuant to a court resolution, counterfeit copies of works (including computer software and databases), phonograms, videograms and broadcast programs that have been removed into protective custody, may be transferred to the copyright and/or related rights holder whose rights have been infringed, at the holder's request. If this person does not request such transfer, the counterfeit copies shall be destroyed, and the materials and equipment used for the reproduction of the counterfeit copies shall be alienated and the relevant proceeds remitted to the State Budget of Ukraine.

Claim Preservation Measures in Proceedings Concerning Infringements of Copyright and Related Rights

53.-1. Prior to completing consideration of a case on its merits, a judge shall have the right to issue, *sua sponte*, an order prohibiting the performance by a defendant, with respect to whom there are sufficient grounds to believe that he is an infringing party of copyright and/or related rights, of certain actions, until the court issues its resolution or order, i.e.: production, reproduction, sale, transfer for property lease, rental, import into the customs territory of Ukraine and other uses stipulated in this Law, as well as transportation, storage or possession, for the purposes of placing in public circulation, of copies of works, including computer software and databases, as well as recorded performances, phonograms, videograms and broadcast programs that are believed to be counterfeit, as well as means of circumventing technical protection means.

2. If there is sufficient evidence of such an infringement of copyright and/or related rights, which results in criminal liability pursuant to the law, the inquiry body, investigation body or court shall take measures to search for and levy an attachment on:

(a) copies of works (including computer software and databases), recorded performances, phonograms, videograms and broadcast programs that are believed to be counterfeit, as well as means of circumventing technical means of protection;

(b) materials and equipment for the production and reproduction thereof;

(c) documents, invoices and other items that can serve as evidence of unlawful actions.

3. If a defendant in proceedings concerning an infringement of copyright and/or related rights denies access to the requisite information, or does not arrange for the submission thereof within an acceptable period, or hinders court procedures, or with the aim of preserving the appropriate evidence of the alleged violation, especially when any delay may result in irreparable damage to the person holding the copyright and/or related rights, or when there is an obvious risk that the evidence will be destroyed, the court or judge shall have the right to impose sua sponte, at the request of the applicant, interim measures until a claim is lodged or until proceedings are initiated with the participation of the other party (defendant) by:

(a) issuing an order authorizing inspection of the premises in which the events relating to an infringement of copyright and/or related rights are allegedly occurring;

(b) levying attachment on and removing into protective custody all copies of works (including computer software and databases), recorded performances, phonograms, videograms and broadcast programs believed to be counterfeit, and of means of circumventing technical means of protection, as well as materials and equipment used for the production and reproduction thereof;

(c) levying attachment on and removing into protective custody invoices and other documents that may serve as evidence of actions infringing or creating a threat of infringement of (or certifying an intention to infringe) copyright and/or related rights.

An application for the use of interim measures shall be considered only with the applicant's participation within two days of the day of its submission.

The court order concerning the application of the interim measures shall be executed immediately, with the applicant's participation, by the government executive service body.

Prior to the issue of a judgment concerning the application of the interim measures indicated in the first paragraph of this part, the court shall have the right to require provision by the applicant of justification that he is a holder of copyright and/or related rights and that these rights have been infringed or will inevitably be infringed, and shall issue to the applicant a court judgment setting a pledge or an equivalent security sufficient to prevent abuse of interim measures. The pledge shall consist of a deposit of money by the applicant or other persons with the court, or the transfer of other material valuables. The amount of the pledge (security) shall be set by the court, based on the circumstances of the case; it shall not, however, be less than 100 minimum tax-free citizens' incomes, nor shall it exceed the amount of the damage claimed.

If the interim measures specified in the first paragraph of this part are applied, the defendant shall have the right to demand their alteration or cancellation, and the applicant shall lodge a claim with the court requiring protection of the infringed copyright and/or

related rights not later than 15 calendar days from the day on which interim measures were applied.

The pledge shall be returned in full to the applicant, if the court rejects the claim or grants the claim fully or in part. Otherwise, the pledge shall be used to implement the resolution concerning compensation for the defendant of the damage resulting from the application of the interim measures.

Upon cancellation of the interim measures stipulated in the first paragraph of this part, or if the proceedings reveal that no infringement was committed or there is no threat of an infringement of copyright and/or related rights, the court shall have the right to issue, at the defendant's request, a judgment concerning appropriate compensation by the claimant for the defendant of any damages resulting from these measures.

Section VI

Final Provisions

1. This Law shall come into force on the day of its publication, and shall apply to the legal relations that arise after it has taken effect.
2. Within four months of the entry into force of this Law, the Cabinet of Ministers of Ukraine shall submit to the Higher Council of Ukraine its proposals concerning amendments to the laws of Ukraine in connection with the adoption of this Law, and shall also adopt the required standard-setting acts and bring its standard-setting acts into conformity with this Law.
3. The laws and other regulations shall apply until the legislation of Ukraine is brought into conformity with this Law, unless such acts conflict with this Law.
4. It shall be established that as from the day on which this Law enters into force, the terms of copyright protection, stipulated in Article 28 of this Law and parts 1 and 2 of Article 44 of this Law, shall apply in all cases where the 50-year period of copyright validity after the author's death or the period of validity of related rights has not expired prior to the date of entry into force of this Law.
5. It shall be established that this Law shall apply to performances and phonograms created or first published prior to the day on which this Law enters into force, if, as of that day, 50 years have not elapsed since their first recording or publication.
6. It shall be established that objects of copyright and related rights which are the subject of an international treaty, to which Ukraine has acceded and that has been approved as binding by the Higher Council of Ukraine, and which were created or first published prior to the day on which this Law enters into force, shall be protected under this Law from the day of its entry into force, if, as of that day, those objects have not fallen into the public domain in the country of origin since the term of their protection in that country has expired.

7. The Resolution of the Higher Council of Ukraine of December 23, 1993 on the Procedure for Bringing into Force the Law of Ukraine on Copyright and Related Rights (Vedomosti Verkhovnoi Rady Ukrainy, 1994, No. 13, p. 65) shall be recognized as null and void.

8. In Article 2 of the Law of Ukraine on Ukraine's Accession to the Berne Convention for the Protection of Literary and Artistic Works (Paris Act of July 24, 1971, as amended on October 2, 1979) (Vedomosti Verkhovnoi Rady Ukrainy, 1995, No. 21, p. 155), the words "notifying that said Convention shall not apply to works which, as of the date of entry into force of this Convention for Ukraine, have already fallen into the public domain on its territory" shall be deleted.

9. The Ministry of Foreign Affairs of Ukraine shall notify the General Director of the World Intellectual Property Organization of the fact that Article 18 of the Berne Convention for the Protection of Literary and Artistic Works (Paris Act of July 24, 1971, as amended on October 2, 1979), from the date of entry into force of this Law, is in full effect on the territory of Ukraine.

10. The following sentence shall be added to paragraph two of the Law of Ukraine on the Accession of Ukraine to the Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms of October 29, 1971 (Vedomosti Verkhovnoi Rady Ukrainy, 1999, No. 32, p. 265):

"In order to meet the requirements of said Convention, the national treatment of protection of related rights stipulated in the Law of Ukraine on Copyright and Related Rights shall be applied, on a mutual basis, to phonogram producers from the States parties to the Convention and their phonograms, if the term of protection of these phonograms has not expired in the country of origin."

11. The Ministry of Foreign Affairs of Ukraine shall notify the Secretary General of the United Nations of the addendum to the Law of Ukraine on the Accession to the Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of their Phonograms of October 29, 1971.

* Entry into force: August 23, 2001.

Source: Communication from the Ukrainian authorities.

Note: Editing by the International Bureau of WIPO on the basis of the English and Russian texts communicated by the Ukrainian authorities.