

Chapter 7

Special Provisions Concerning Computer Programs

Article 74.

1. **Computer programs** are subject to protection as literary works, unless the provisions of this chapter specify otherwise.
2. The protection granted to a computer program encompasses all forms of its expression. The ideas and principles forming the basis of any element of the computer program, including the basis of interfaces, are not subject to protection.
3. Economic rights to the computer program created by an employee within the scope of employment duties, vest in the employer, unless the employment contract specifies otherwise.
4. With the exception of Articles 75, paragraphs 2 and 3, **the economic rights to computer program comprise the right to:**
 - 1) permanent or temporary reproduction of the program in its entirety or in part, by any means and in any form; to the extent to which its installation, display, application, transmission and storage requires its reproduction, these operations require the consent of copyright holder.
 - 2) translation, adaptation, alteration of the system, or any other changes in the computer program, without prejudice to the rights of the person performing these changes.
 - 3) Public dissemination, including rental or lease, of the computer program or its copies.

Article 75.

1. Unless the contract provides otherwise, activities referred to in Article 74, Paragraph 4, Items 1 and 2 do not require the copyright holder's consent if they are necessary for the use of the computer program in accordance with its purpose, including correction of errors by its rightful owner.
2. The rightholder's permission is not required for:
 - 1) presentation of an archival copy, if this is indispensable in usage of the computer program. Such copy may not be used concurrently with the computer program, unless otherwise provided in the contract.
 - 2) observation, study, and testing the functioning of the computer program, for the purpose of learning its ideas and principles by the person holding the right to use a copy of the computer program, provided the authorized person performs it during the installation, display, application, transmission or storage of the computer program.
 - 3) reproduction of the code or translation of its form in the meaning of Article 74, Paragraph 4, Items 1 and 2, if this is indispensable in obtaining information necessary for achieving interoperability of an independently developed computer program with other computer programs, provided the following conditions are fulfilled:
 - a) these operations are performed by a licensee or other person authorized to use a copy of the computer program, or a person acting on his or her behalf,
 - b) the information needed to achieve interoperability was not previously readily accessible to persons referred to in Item a),
 - c) these activities pertain to such parts of the original computer program that are necessary for achieving inter operability.
3. Information referred to in Paragraph 2 item 3 may not be:
 - 1) Utilised for purposes other than achieving interoperability of independently created computer program.

- 2) Transmitted to other people, unless this is needed to achieve interoperability of an independently created computer program.
- 3) Used to develop, manufacture, or introduce into circulation a computer program of essentially similar form of expression, or to pursue other activities infringing the copyright.

Article 76.

Contract provisions conflicting with Article 75, Paragraphs 2 and 3 are void.

Article 77.

Provisions of **Article 16, Items 3-5, Articles 20, 23, 23¹, 27, 28, 30, 33¹-335, Article 49, Paragraph 2, and Articles 56, 60, and 62** do not apply to computer programs.

Article 77¹

The holder of rights may demand that the user of a computer program destroy all technical means in his or her possession (including computer programs) whose single purpose is to facilitate unlawful removal or circumvention of technical protection of the program.

Article 77²

The protection granted to databases which bear the characteristics of a work does not include computer software used for the creation and maintenance of the databases accessible with the use of electronic means.

Protection of Copyright

Protection of Personal Copyright

Article 78.

1. A author, whose personal copyright is threatened by actions of another person or entity may demand termination cessation of that action. In the event an infringement has been committed, the author may demand that the person or entity responsible for the infringement take steps towards elimination of the consequences of the infringement and, in particular, make a public declaration of a suitable form and content. If the infringement is intentional, the court may award the author a suitable pecuniary compensation for the incurred harm, or, upon the author's demand, oblige the infringer to donate a specified amount of money for a social cause indicated by the author.

Protection of Economic Rights

Article 79.

1. The author may demand that the infringer of his or her economic rights discontinue the infringement and return the profits made, or pay the double, and in the event the infringement was intentional, triple the amount of the suitable compensation as of the time the suit was filed; if the infringer's actions are intentional, the author may also demand that compensation for the harm sustained be paid.

2. Irrespective of the claims referred to in Paragraph 1, the rightholder may also demand of the perpetrator of a culpable infringement committed while engaging in a commercial activity in one's own or on behalf of another person or entity, the payment of an appropriate amount of compensation to the Fund referred to in **Article 111**. That amount may not be less than double the probable profits gained by the infringer from the infringement.

3. The provision of Paragraph 1 is applied mutatis mutandis with respect to removal or circumvention of technical protection against access, reproduction or dissemination of a work, if these actions are intended to enable unlawful use of the work.
4. The provisions of Paragraphs 1 and 2 are applied mutatis mutandis in cases of unauthorized removal or modification of any electronic information referring to collective management of copyright or neighbouring rights, as well as culpable dissemination of works with regard to which such information had been unlawfully removed or modified.

Article 80.

1. The court with jurisdiction over an action for infringement of economic rights, located in the territory where the infringing party conducts business activities or where the infringing party's assets are located, shall consider, even prior to filing the complaint, but not later than three days from the time the complaint is filed, the motion of one having legal interest in filing such:
 - 1) to secure evidence, without the necessity of proof that obtaining it later may become infeasible or too difficult,
 - 2) to oblige the infringer of the economic rights to provide the information and documentary evidence, requested by the court, relevant to the claims referred to in Article 79, Paragraph 1,
 - 3) (repealed)
2. The court may condition its ruling on securing the evidence or claims referred to in Paragraph 1, Item 1, on submission of appropriate security.
3. The court shall order forfeiture, for the State Treasury, of illegally manufactured copies of works.
4. The court may order forfeiture, for the State Treasury, of devices used in illegal production of copies of works or devices which used in the infringement.
5. At the request of the injured party, the court may award the devices mentioned in Paragraph 4 to the injured party as part of the damages award.
6. It is presumed that the objects referred to in Paragraph 4 belong to the infringer.
7. An appeal from the court's ruling in matters referred to in Paragraph 1, Item 1 and 2 shall be considered by the court within seven days.

Criminal Liability

Article 115

1. Whoever appropriates the authorship of another or misleads others as to the authorship of the entirety or a part of another's work or artistic performance shall be liable to a fine, restriction of liberty or imprisonment of up to three years.
2. The same penalty applies to anyone who disseminates, without identifying the author by name or pseudonym, the original or derivative version of a work, an artistic performance or who publicly distorts such work, an artistic performance, phonogram, videogram or broadcast.
3. Whoever, for purposes of economic gain, infringes a copyright or neighbouring rights specified in Articles 16, 17, 18, Article 19 Paragraph 1 or 2, Article 20 Paragraphs 1-4, Article 40 Paragraphs 1 and 2, Article 86, Article 94 Paragraph 4, and Article 97, in a manner other than that defined in Paragraph 1 or 2, shall be liable to a fine, restriction of liberty or imprisonment of up to 1 year.

Article 116.

1. Whoever, without authorization or acting contrary to its terms, disseminates a work of another in its original or derivative version, or artistic performance, phonogram, videogram or broadcast, shall be liable to a fine, restriction of liberty or imprisonment of up to 2 years.
2. If the infringer commits an act referred to in Paragraph 1 for purposes of economic gain, he or she shall be liable to imprisonment of up to 3 years.
3. If the infringer turns the offence specified in Paragraph 1 into a regular source of income or a criminal commercial activity specified in Paragraph 1, organizes or directs such activity, he or she shall be liable to imprisonment of from 6 months to 5 years.

4. If the infringer commits an act specified in Paragraph 1 not willfully he or she shall be liable to a fine, restriction of liberty or imprisonment of up to 1 year.

Article 117.

1. Whoever, without authorization or acting contrary to its terms, fixes or reproduces a work of another in the original or its derivative form, artistic performance, phonogram, videogram, or broadcast, for the purpose of their dissemination, shall be liable to a fine, restriction of liberty or imprisonment of up to 2 years.
2. If the infringer turns the offence specified in Paragraph 1 into regular source of income or a criminal commercial activity, specified in Paragraph 1, organizes or directs such an activity, he or she shall be liable to imprisonment of up to 3 years.

Article 118.

1. Whoever, for purposes of economic gain purchases, helps in its vending, accepts or helps to hide an object which serves as a carrier of a work, artistic performance, phonogram or videogram reproduced, or disseminated without authorization or against its terms, shall be liable for imprisonment of from 3 months to 5 years.
2. If the infringer turns the offence referred to in Paragraph 1 into a regular source of income or criminal commercial activity referred to in Paragraph 1, organizes or directs it, he or she shall be liable to imprisonment of up to 5 years.
3. If, on the basis of attendant circumstances the perpetrator of the offence specified in Paragraph 1 or 2 should and may suppose that the object was acquired by means of a prohibited act, he shall be liable to a fine, restriction of liberty or imprisonment of up to 2 years.

Article 1181

1. Whoever manufactures devices or their components used for illegal removal or circumvention of technical protection against playback, copying or reproduction of a work or objects of neighbouring rights, or circulates such devices or their components or advertises them shall be liable to a fine, restriction of liberty or imprisonment of up to 3 years.
2. Whoever is in possession, stores or uses the devices or their components referred to in Paragraph 1 is liable to a fine, restriction of liberty or imprisonment of up to 1 year.

Article 119.

Whoever prevents or obstructs the exercise of the right to control the use of a work, an artistic performance, a phonogram or a videogram, or refuses to provide information referred to in Article 47, shall be liable to a fine, restriction of liberty or imprisonment of up to 1 year.

Article 120 (deleted)

Article 121.

1. In case of a conviction for offences specified in Articles 115, 116, 117, 118, or 1181 the court shall order the forfeiture of all infringing objects linked to the offence, even if they do not belong to the infringer.
2. In case of a conviction for offences specified in Articles 115, 116, 117, and 118, the court may order the forfeiture of objects used to commit the offence, even if they do not belong to the infringer.

Article 122.

Actions against offences specified in Article 115, Article 116 Paragraphs 1, 2 and 4, Article 117 Paragraph 1, Article 118 Paragraph 1, Article 1181 and Article 119 shall begin upon the motion of the injured party.

Article 1221

In cases against offences defined in Articles 115-119 the injured party is also the competent organization for the administration of copyrights or neighbouring rights.