

OFFICIAL GAZETTE OF THE REPUBLIC OF DJIBOUTI

Law No.114/AN/96/3e L on the protection of copyright.

Courtesy translation provided by WIPO, © 2012

The National Assembly has adopted;

The President of the Republic hereby enacts the following law,:

Whereas the Constitution of September 15,1992;

Whereas Decree No. 96-0016/PRE of March 27,1996, modifying the structure of the Government of Djibouti and establishing its responsibilities.

Whereas the Law organizing the Ministry of Youth, Sports and Cultural Affairs.

CHAPTER I

Object, scope and beneficiaries of copyright

Article 1 - The author of a work of the mind shall enjoy in that work, by the mere fact of its creation, an exclusive incorporeal property right that shall be enforceable against all persons.

This right shall include attributes of an intellectual and moral nature as well as attributes of an economic nature, as determined by this Law.

Art. 2. – The provisions of this Law shall protect copyright in all original literary, scientific or artistic works of any kind, form of expression, merit or purpose, without this protection being subject to any formality whatsoever.

Art. 3: Protected works

The following, in particular, shall be considered works of the mind within the meaning of this Law:

- (1) books, pamphlets and other literary, artistic and scientific writings;
- (2) lectures, addresses, sermons, pleadings and other works of such nature;
- (3) works created for the stage or for (sound or visual) broadcasting, including both dramatic and dramatico-musical works and choreographic and mimed works the production of which is fixed in writing or otherwise;
- (4) musical compositions with or without words, set down in writing or not;
- (5) works of drawing, painting, engraving and lithography;
- (6) tapestries, articles of artistic handiwork and works of applied art including both the drawings or models and the work itself;
- (7) works of architecture, comprising also designs, models and the building itself;

- (8) sculptures, bas-relief and mosaics of all kinds;
- (9) photographic works, to which are assimilated, for the purposes of this Law, works expressed by a process analogous to photography;
- (10) cinematographic works, to which are assimilated, for the purposes of this Law, works expressed by a process analogous to cinematography;
- (11) geographical maps, illustrations, plans, sketches and three-dimensional works relative to geography, topography, architecture and science;
- (12) works of national folklore and works derived from this folklore.

Art. 4.- Derived works

The authors of translations, adaptations, transformations or arrangements of works of the mind shall enjoy the protection afforded by this Law, without prejudice to the rights of the author of the original work.

The same shall apply to the authors of anthologies or collections of miscellaneous works that, by reason of the selection or the arrangement of their contents, constitute intellectual creations.

Art. 5.- A work shall be deemed to have been created, irrespective of any public disclosure, by the mere fact of realization of the author's concept, even if incomplete.

Art. 6. - The title of a work of the mind shall enjoy the same protection as the work itself in so far as it is original in character.

Art. 7.- Non-protected works

Notwithstanding the provisions of Articles 3 and 4, protection shall not apply to:

- (a) laws, judicial decisions, decisions of administrative bodies, and also official translations of such texts,
- (b) news published, broadcast or communicated to the public.

Art. 8.- Works of national folklore

Folklore shall belong originally to the national cultural heritage. For the purposes of this Law:

- (1) "folklore" means all literary, scientific and artistic productions created by authors presumed to be of Djiboutian nationality, handed down from generation to generation and constituting one of the basic elements of the Djiboutian traditional cultural heritage;
- (2) "work inspired by folklore" means any work composed exclusively of elements borrowed from the Djiboutian traditional cultural heritage.

Public performance and direct or indirect fixation of folklore with a view to exploitation for profit-making purposes shall be subject to prior authorization by the Djibouti Copyright Office (BDDA) provided for in Article 66 of this Law,

Against payment of a royalty, the amount of which shall be equal to 50 per cent of royalties received for the use of similar protected works.

The proceeds from such royalties shall be used for cultural and social purposes for the benefit of national authors.

Art. 9. – The provisions of Article 8 above shall not apply when works of national folklore are used by a public entity for non-profit purposes. However, the public entity shall be required to make a declaration to the authors' organization provided for in Article 66 of this Law.

Art. 10. – Copies of works of national folklore, as well as copies of translations, arrangements and other transformations of such works, made abroad without the authorization of the organization referred to in Article 68, may not be imported or distributed on the national territory.

Art. 11.- Cinematographic works

In the case of a cinematographic work, the rights shall originally belong to the intellectual creators of the work.

Unless proved otherwise, the authors of a jointly produced cinematographic work shall be the authors of the screenplay, adaptation, script, musical compositions with or without lyrics produced specially for the work; director; and the main illustrator in the case of cartoons. When the cinematographic work is based on another protected pre-existing work, the author of the original work shall be included in the list for the new work.

Art. 12.- The producer of a cinematographic work shall be the natural or legal person who takes the initiative and responsibility for production of the work.

Art. 13.- The director of a cinematographic work shall be the natural person who assumes the management of, and the artistic responsibility for, the transformation into pictures and sound and the cutting of the cinematographic work, as well as the final editing thereof.

Art. 14.- A cinematographic work shall be deemed to have been completed as soon as the first master copy has been established by joint agreement between the director and the producer.

Art. 15.- If any contributor to a cinematographic work refuses to complete his contribution to the work or is unable to do so due to circumstances beyond his control, he shall not be entitled to oppose use of that part of his contribution already in existence for the purpose of completing the work.

Unless otherwise agreed, the contributors to a cinematographic work may dispose freely of their personal contribution for exploitation of the work in a different field, on condition that they do not prejudice exploitation of the work to which they have contributed.

Art. 16.- Before undertaking the making of a work, the producer shall be bound to enter into written contracts with all those whose works are to be used for the production.

Art. 17.- Written contracts, concluded with the intellectual creators of a work, shall stipulate, unless otherwise agreed, presumed assignment of the exclusive right of cinematographic exploitation of the work to the producer for a limited period that is specified in the contract, to the exclusion of other rights.

The above presumption shall not apply to pre-existing works that are used to produce the work, or to musical works that may or may not pre-exist, with or without words.

Art. 18.- The author of a radio or radio visual work shall be deemed to be the natural person or persons responsible for the intellectual creation of such a work. The provisions of Article 15 shall also be applicable to radio or radio visual works.

Art.19.- Works in the public domain

On the expiry of the terms of protection provided for in this Law, the author's works shall pass into the public domain.

Art 20.- The right to use works that have passed into the public domain shall be managed by the copyright management body referred to in Article 66 below.

Art. 21.- The public performance and reproduction of these works shall require an authorization from this body. If the performance is for profit, the authorization shall be granted in exchange for payment of a royalty calculated on the basis of the gross operating income. This royalty shall be equal to half that usually applied to works of the same category in the private domain.

Art. 22.- The proceeds from royalties from the use of a work in the public domain shall be used for cultural and social purposes for the benefit of national authors.

Art. 23.- Copyright

Copyright shall include attributes of an intellectual and moral nature as well as attributes of an economic nature.

(a) Moral rights

Moral rights shall consist of the author's right to:

- decide on the disclosure of his work;
- respect for his name, authorship and work.

The name of the author shall be given on each copy that reproduces a work and each time that a work is made available to the public, to the extent and in the manner that is customary.

A work may not undergo any modification without the author's consent given in writing. No person shall be entitled to make a reproduced work available to the public in a form or under circumstances that would be detrimental to the honor and reputation of the author.

The rights of the author recognized by the previous paragraphs shall be perpetual, inalienable and imprescriptible.

(b) Economic rights

The author shall enjoy the exclusive right to use his work in any way whatsoever and to make financial profit from it.

In particular, he shall have the exclusive right to carry out or authorize any of the following acts;

- (1) reproducing the work in any format whatsoever, including in the form of cinematographic films and sound recordings by any processes that enable it to be indirectly communicated to the public;
- (2) performing or reciting the work in public, by any means or process whatsoever, including sound or visual broadcast;
- (3) communicating the broadcast work to the public by cable, loudspeaker or any other process or means of transmitting sounds or images;
- (4) producing a translation, adaptation, arrangement or any transformation of the work.

Under the terms of this Article, the work shall mean a work in its original form and in any form derived from the original.

Third parties may only carry out one of these acts with the formal and written consent of the author. Any partial or complete reproduction or representation made without the consent of the author or his successors in interest or title shall be unlawful.

The same shall apply to the translation, adaptation, arrangement or transformation.

Art. 24. – The author of a work shall be the person who created it. A work shall be deemed to have been created, irrespective of any public disclosure, by the mere fact of realization of the author's concept, even if incomplete.

Unless proved otherwise, authorship shall belong to the person or persons in whose name the work is disclosed.

Subject to the provisions of Article 17 above, copyright, even in a work produced under an employment contract or a contract to make a work, shall belong to the author of the work, unless otherwise stipulated in the contract.

However,

((a) where the work is produced by administrative officers within the limits of their duties, the pecuniary rights deriving from the disclosure of that work may be distributed according to the specific rules of the administrative department in which they are employed;

((b) the pecuniary rights deriving from the disclosure of the works of pupils or trainees of a school or artistic establishment may be distributed according to the specific rules of the school or establishment.

Art. 25.- "Original work" means a work that, by its characteristic elements and its form, or by its form alone, enables its author to be identified. "Derivative work" means a work based on pre-existing elements.

Art. 26. - "Work of joint authorship" means a work, the creation of which is the result of contributions by two or more authors, irrespective of whether the work constitutes an indivisible whole or is composed of parts having independent creative character.

A work of joint authorship shall belong jointly to the co-authors. The co-authors shall exercise their rights by common consent, failing which the court shall decide.

When the contribution of each co-author is of a different kind, each may, in the absence of an agreement to the contrary, exploit his personal contribution separately, without, however, prejudicing the exploitation of the joint work.

Art. 27. - "Composite work" means a new work in which a pre-existing work is incorporated without the collaboration of the author of that work.

A composite work shall belong to the author who created it, without prejudice to the rights of the author of the pre-existing work.

Art. 28.- "Collective work" means a work created on the initiative of a natural person or legal entity who or which discloses it under his or its supervision and name, where the personal contributions of the various authors who participated in its creation are merged in the whole for which it was made, so that it is impossible to attribute to each author a separate right in the whole work once completed.

A collective work shall belong to the natural person or legal entity who or which initiated its creation and disclosed it.

Art. 29.- "Posthumous work" means a work made accessible to the public after the death of its author.

Art. 30.- The authors of pseudonymous and anonymous works shall enjoy in such works the rights recognized by Article 23. They shall be represented, in the exercise of these rights, by the original publisher until such time as they declare their identity and prove their authorship, unless the pseudonym adopted by the author leaves no doubt as to his identity.

Art. 31.- Transfer of copyright

With the exception of the right to modify the work, copyright as defined in Article 23 shall be transferable by succession. The exercise of moral rights shall belong jointly to the successors and to the Djibouti Copyright Office (BDDA).

Authors' economic rights which have escheated shall accrue to BDDA, and the proceeds of royalties resulting therefrom shall be used for cultural and welfare purposes, without prejudice to any rights of creditors and to the enforcement of such assignment contracts as may have been entered into by the author or his successors in title.

Art. 32.- Total or partial assignment of any one of the rights specified in Article 23 above shall not imply assignment of any other of the said rights.

When a contract entails total assignment of one right, the effects of that assignment shall be limited to the methods of exploitation provided for in the contract.

Art. 33.- Transfer of ownership of the sole copy or of one or more copies of a work shall not imply transfer of the copyright in the work.

Where manifest abuse by the copyright owner prevents the exercise of the right of disclosure, the Minister responsible for culture may apply to the civil court for the court to order any appropriate measure.

Art.34.- A clause in an assignment contract that confers the right to exploit the work in a manner that was unforeseen or unforeseeable at the time the contract was entered into shall be explicit and shall specify a proportionate share in the profits from the exploitation.

Art. 35.- Authors of graphic and three-dimensional works shall, notwithstanding any transfer of the original work, have an inalienable right to share in the proceeds from any sale of the work by auction or through a dealer.

After the author's death, this *droit de suite* (resale royalty) shall subsist to the benefit of his heirs during the term of protection provided for in Article 59 below.

The right shall be constituted by a levy, in favor of the author or his heirs, of five per cent of the proceeds from the sale.

Art. 36.- Total transfer of future works shall be void, unless it is transferred to BDDA.

It shall be lawful, however, to conclude a contract commissioning graphic or three-dimensional works that confers temporary exclusive rights of a duration not exceeding five years and respects the author's independence and freedom of expression.

Art. 37. - Unless otherwise stipulated, authorization to broadcast the work shall cover all free communications made by Djibouti Radio and Television subject to its own means and under its own responsibility.

In accordance with Article 23, paragraph B, 2, this authorization shall not extend to the communication of broadcasts made in places open to the public, or to any cable or wireless transmissions made by third parties.

Performance, reproduction, adaptation and translation rights may be assigned free of charge or for consideration. Assignment by the author of the rights in his work may be total or partial. Assignment for consideration must confer on the author a proportionate share of the proceeds of sale, hire or exploitation of the work in any form whatsoever.

However, the remuneration of the author may be a lump sum payment in cases where:

- (1) the basis for calculating proportionate participation cannot be practically determined in practical terms;
- (2) the cost of controlling would be out of proportion to the desired results;
- (3) the use of the work is only of an accessory nature in relation to the object exploited.

Notwithstanding the assignment of his right of exploitation, the author shall, even after the publication of his work, enjoy, the right to reconsider or to withdraw in relation to the assignee. He may only exercise this right, however, on condition that he indemnifies the assignee beforehand for any loss that this reconsideration or withdrawal may cause him.

When the author decides to have his work published after exercising the right to reconsider or withdraw, he shall be bound to offer his exploitation rights first to the assignee he originally chose, under the conditions originally specified.

Art. 39. Ephemeral recording

Notwithstanding the provisions of Article 33 b, the national broadcasting organization may, for the purposes of a broadcast delayed for technical or timing reasons and by means of its own technical and artistic resources, make an ephemeral recording of one or more copies of any work that it is authorized to broadcast.

All copies of the work shall be destroyed within a period of not more than six months from the date of the making of such copies, unless the author agrees to extend the period. However, where the recording is exceptionally of a documentary nature, one copy of it may be preserved in official records. This is nonetheless subject to the application of the provisions of Article 23 a.

Art. 40. Reproduction using sound or audiovisual recording on physical media of works protected under this Law, intended for strictly personal and private use as provided for in Article 41 below, shall result in remuneration for Djiboutian authors, of a sum to be based on the nature and recording length of these blank physical media.

The remuneration shall be paid to BBDA provided for in Article 66 by the natural or legal persons who produce or import these physical media, on presentation of documents suitable for defining the remuneration and checking the amount.

The sum shall be set as follows:

- blank sound medium 60 mn: at least 10 DJF
- longer blank sound medium: 15 to 60 DJF
- blank visual or audiovisual medium: 100 DJF.

The proceeds from such royalties shall be used for cultural and social purposes for the benefit of national authors.

CHAPTER II

Limitations on copyright

Art. 41. - Notwithstanding the provisions of Article 23 b, the following uses of a protected work, in its original language or in translation, shall be permissible without the author's consent:

1. In the case of any work that has been lawfully published:

- (a) the reproduction, translation, adaptation, arrangement or other transformation of such a work exclusively for the user's own personal or private use;
 - (b) the inclusion of non-substantive quotations from another work, including quotations from newspaper articles and periodicals in the form of press summaries, provided that such quotations are compatible with fair practice and their extent does not exceed that justified by the intended purpose, and the source and the name of the author of the cited work are mentioned in the work in which the quotation is included;
 - (c) the use of the work by way of illustration in publications, broadcasts or sound or visual recordings for teaching to the extent justified by the intended purpose, or communication for teaching purposes of the work broadcast for use in schools, educational establishments, universities and vocational training, provided that such use is compatible with fair practice and that the source and the name of the author of the work are mentioned in the publication, broadcast or recording;
 - (d) the reproduction by a photographic or similar process by public libraries, non-commercial documentation centers, scientific institutions and educational establishments, of literary, artistic or scientific works which have already been lawfully made available to the public, provided that such reproduction and the number of copies made are limited to the needs of their regular activities and that such reproduction does not conflict with the normal uses of the work nor unreasonably prejudices the legitimate interests of the author;
 - (e) the reproduction in the press or the communication to the public of:
 - any political speech or any speech delivered during legal proceedings; or
 - any lecture, address, sermon or other work of the same nature delivered in public, provided that the use is exclusively for the purpose of current information.
- The author shall retain the right to publish a collection of such works.

(2) In the case of an article published in newspapers or periodicals on current economic, political or religious topics, and in the case of the broadcast of any work of the same character: the reproduction of such an article or such a work in the press, or the communication thereof to the public, shall be subject to the source of the work being clearly indicated when used in such a manner. However, such use shall not be permissible if the Article, when published, or the broadcast work, when broadcast, is accompanied by any express condition prohibiting such use;

(3) For the purpose of reporting on current events by means of photography, cinematography or communication to the public, the reproduction or making available to the public, to the extent justified by the informative purpose, of any work that can be seen or heard in the course of the said current event;

(4) The reproduction of works of art or of architecture through cinematography or television and the communication of such works to the public if such works are permanently located in a place where they can be viewed by the public or are included in the film or program by way of background or as incidental to the essential matters represented.

Exceptions to copyright

Art. 42.- Translation license

If, after the expiry of a period of three years from the date of the first publication of a writing, a translation of such writing has not been published in the Republic of Djibouti, by the owner of the right of translation or with his authorization, any national of Djibouti may obtain a non-exclusive license from the Ministry responsible for culture to translate and publish the work. The license shall only be issued if the applicant establishes that, after due diligence on his part, he was unable to find the owner of the right of translation or obtain his authorization. A license may also be granted if all previous editions of a translation are out of print. The owner of the right of translation shall receive compensation that is just and conforms to international standards.

Any license granted under this Article must be intended for school, university or research use.

Art. 43.- Djibouti Radio and Television may also be granted a license to translate any work protected by this Law, provided that the translation is used only in broadcasts intended exclusively for teaching or for the dissemination of specific information to experts in a particular profession. A translation license may also be awarded for Djibouti Radio and Television to translate any text incorporated in audiovisual fixations made and published for school and university use.

Art. 44.- Reproduction license

If, after the expiry of the period established in Article 45 below, a literary, scientific or artistic work published in print or as an audiovisual reproduction or in any other analogous form of reproduction has not been offered for sale in the Republic of Djibouti to satisfy the requirements of school and university teaching and research, any national of the Republic of Djibouti may obtain a non-exclusive license from the Ministry responsible for culture to reproduce and publish the work.

The same shall apply if all previous editions of a work are out of print.

The owner of the right of reproduction shall receive compensation that is just and conforms to international standards.

Art. 45.- The exclusive right of the copyright holder that is referred to in Article 44 above shall be for five years. This period shall be reduced to three years in the case of a work of natural and physical sciences and technology. For works that belong to the realm of the imagination, such as novels and poetic, dramatic and musical works, as well as art books, encyclopedias and anthologies, the period shall be extended to seven years.

Art. 46.- The conditions for the award and exercise of the translation license itself and the translation for broadcast purposes, as well as the reproduction license, shall be established by the Minister responsible for Culture, and in accordance with the international commitments undertaken in such matters by the Republic of Djibouti, pursuant to Articles 74 and 75 paragraph 3 below.

CHAPTER IV Authors' contracts

Art. 47.- Contracts under which the author or his successors in title authorize the performance or publication of his works must be evidenced in writing, on pain of nullity. The same shall apply to authorizations for free performances.

Such contracts must specify the method of exploitation and the mode of remuneration, which shall be determined by the author or his successors in title.

The transfer of copyrights shall be subject to the condition that each of the rights assigned be mentioned separately in the instrument of assignment, and that the field of exploitation of the rights assigned be defined with respect to scope, purpose, place and duration.

When special circumstances so require, the contract may be validly concluded by exchange of telegrams or fax, on condition that the field of exploitation of the rights assigned is defined in the manner provided for in the third paragraph of this Article.

Art. 48.- (a) Publishing contract

The publishing contract shall be the contract under which the author of a work or his successors in title assign to the publisher, under specified conditions, the right to manufacture or have manufactured in quantity graphic, mechanical or other copies of the work, on condition that he ensures publication and dissemination thereof.

The form and mode of expression, the conditions for the making of the publication and the termination clauses shall be specified in the contract.

Art. 49. - The publishing contract must indicate the minimum number of copies constituting the first printing.

However, this obligation shall not apply to contracts providing for a minimum of royalties guaranteed by the publisher.

The contract must also provide for remuneration proportionate to the proceeds of exploitation, except in the cases of lump-sum payment provided for in Article 38 of this Law.

Art. 50. - The publisher shall not transfer the benefits of a publishing contract to a third party, either free of charge or for a consideration, or as a contribution to the assets of a partnership, independently of the transfer of his business, without first having obtained the authorization of the author.

Where, in the event of disposal of the business, the material or moral interests of the author are likely to be seriously prejudiced, he shall be entitled to obtain reparation, even by means of termination of the contract.

In the case of a fixed-term contract, the rights of the assignee shall lapse automatically on expiry of the respective term, without the need for any formal notice.

However, for three years after the expiry of this term, the publisher may undertake the disposal at the normal price of the copies remaining in stock, unless the author prefers to purchase these copies at a price which, in the absence of an amicable agreement, shall be fixed by expert opinion, provided that this right conferred on the first publisher shall not prevent the author from having a new edition made within a period of 30 months.

Art. 51.- Once a year, the publisher shall be required to provide the author with all the documentary evidence necessary for establishing the accuracy of his accounts.

Any contrary clause shall be considered non-existent.

Neither the bankruptcy of the publisher nor a settlement approved by the court shall terminate the contract.

Once the author has been informed by the court administrator by registered letter with acknowledgement of receipt, he shall have a right of preemption on all or some of the copies. In the absence of an agreement, the purchase price shall be determined by expert opinion.

Art. 52.- The publishing contract shall end, regardless of the cases provided for in the general rules of law or in the foregoing articles, when the publisher destroys all the copies.

Termination shall take place automatically when, after receiving a formal notice from the author fixing a suitable period, the publisher has not published the work or, if it is out of print, has not republished it.

The edition shall be considered out of print if two orders for delivery of copies addressed to the publisher have not been met within three months.

In the event of the author's death, if the work is incomplete, the contract shall be terminated in respect of the unfinished part of the work, in the absence of an agreement between the publisher and the author's successors in title.

Art. 53.- The author shall, within the period provided for in the contract, deliver the work to be published to the publisher in a form that permits manufacture. In the absence of an agreement to the contrary, or if technical difficulties render compliance impossible, the work to be published, supplied by the author, shall remain his property. The publisher shall be responsible for it during a period of one year after the completion of manufacture.

Art. 54.- A contract for publication at the author's expense shall not constitute a publishing contract within the meaning of Article 48. Under such a contract, the author or his successors in title shall remit an agreed sum to the publisher, on condition that the publisher manufacture copies of the work in quantity, in the form and according to the modes of expression specified in the contract, and ensure its publication and dissemination.

Such a contract constitutes a business contract, governed by agreement, usage and the relevant provisions of ordinary law.

Art. 55.- A "shares" contract shall not constitute a publishing contract within the meaning of Article 48.

Under such a contract, the author or his successors in title shall commission a publisher to manufacture, at his expense and in quantity, copies of the work in the form and according to the modes of expression specified in the contract, and to ensure their publication and dissemination, subject to a reciprocally contracted agreement to share the profits and losses of exploitation in the proportion specified.

Art. 56.- (b) Performance contract

A performance contract shall be a contract under which the author of a work of the mind and his successors in title authorize a natural person or legal entity to perform the work under conditions determined by them.

A contract under which the Djibouti Copyright Office confers on an entertainment manager the right to perform, for the duration of the contract, the existing or future works constituting the repertoire of that Office under conditions determined by the author or his successors in title shall be known as a general performance contract.

Art. 57.- An entertainment organizer who performs protected works within the meaning of this Law, or causes them to be performed, shall be obliged to secure the prior authorization provided for in Article 23 b and to pay the corresponding royalties.

The performance contract shall be concluded for a limited term or for a specified number of communications to the public.

Unless exclusive rights are expressly stipulated, no exploitation monopoly shall be conferred on the entertainment organizer. The entertainment organizer may not transfer the benefits of his contract without the formal, written consent of the author or his representative.

The validity of the exclusive rights accorded by a dramatic author may not exceed five years. Any interruption of performances for two consecutive years shall terminate the contract as of right.

Art. 58.- The entertainment manager shall be required:

- (1) to inform the author or his representatives of the exact program of public performances;
- (2) to provide them with a documented statement of his receipts;
- (3) to pay them the amount of royalties provided for;

(4) to ensure that the public performance takes place under technical conditions which guarantee the author's intellectual and moral rights, in accordance with the provisions of Article 23(a) above.

CHAPTER V

Term of protection

Art. 59.- The rights mentioned in Article 23(b) shall be protected during the life of the author and 25 years following his death.

Art. 60.- For a work of joint authorship, the rights shall be protected for the lifetime of the last surviving co-author and 25 years after his death.

Art. 61.- For an anonymously or pseudonymously published work, the rights shall be protected until the date when such a work has been lawfully published for the first time. However, Article 59 shall apply if the identity of the author is revealed or if there is no doubt about the real identity of the author before the expiry of that period.

Art. 62.- For a cinematographic work, the rights shall be protected until the expiry of a period of 25 years from the production of the work or, if the work is made accessible to the public with the author's consent during that time, 25 years from its communication to the public.

Art. 63.- For a photographic work or work of applied art, the rights shall be protected for 25 years from the production of the work.

Art. 64.- For posthumous works, the rights shall belong to the author's successors in title for the period provided for in Article 61 above, provided that the work has been disclosed during the period provided for in Article 59.

If the work is disclosed after the expiry of this period, the right shall belong to the owners of the manuscripts or originals associated with the work and who carry out the publication or arrange for it to be carried out.

Posthumous works must be published separately, except where they represent just a fragment of a previously published work.

Art. 65.- The periods provided for in the previous articles relating to author protection shall run to the end of the calendar year when they are normally due to expire.

CHAPTER VI

Authors' organizations

Art. 66.- The management and protection of the moral and economic rights and interests of authors and composers shall be entrusted to a body of authors and composers known as the Djibouti Copyright Office (BDDA), the responsibilities and operation of which shall be laid down by decree of the Council of Ministers.

Art. 67. - That body, to the exclusion of any other natural person or legal entity, shall be qualified to act as intermediary for the issue of authorizations and the collection of related royalties in dealings between the author or his heirs and the users of literary or artistic works.

The body shall manage on the national territory the interests of the various foreign authors' societies under such reciprocal representation conventions or agreements as it may enter into with them.

Art. 68. The Djibouti Copyright Office shall be placed under the authority of the Minister responsible for cultural affairs

CHAPTER VII

Procedures and sanctions

Art. 69.- It shall be prohibited to import onto the territory of the Republic of Djibouti copies of a work that constitute in that territory an infringement of copyright within the meaning of this Law.

Art. 70. - Any person who infringes recognized copyright in any protected work as set out in this Law shall be required to pay to the owner of such right damages, of which the amount shall be determined by the competent court.

Proof of infringements of the provisions on the protection of copyright may derive either from the reports of officers of the judicial police, agents of the customs authorities, or from reports drawn up by sworn agents of the Djibouti Copyright Office.

Art.71.- Any person who has done or caused to be done any act whatsoever that infringes the provisions of this Law shall be liable to a fine of between 50,000 and 200,000 Djibouti francs.

In the event of a repeat offense, the fine may be increased to between 100,000 and 400,000 Djibouti francs, to which may be added a term of imprisonment of between one and six months. Under this Law, repeat offense is understood to mean when the infringer has already been convicted for an identical offense in the five years prior to the current offense.

Art. 72. At the request of an author, the competent court may, as necessary, order the seizure, confiscation or destruction of copies that are the subject of the copyright infringement or violation, as well as any other measures deemed necessary.

CHAPTER VIII

Scope of application of the Law

Art. 73. : 1. This Law shall apply to:

((a) the works of nationals of the Republic of Djibouti;

- (b) the works of moral persons covered by Djiboutian jurisdiction;
- (c) the works of foreign nationals of which the first publication took place in the Republic of Djibouti;
- (d) works of foreign nationals who are resident in the Republic of Djibouti;
- (e) works of architecture erected on the territory of the Republic of Djibouti and any work of art incorporated in a building located on that territory;
- (f) works of national folklore as State property and works in the public domain.

Art. 74. – This Law shall also apply to all works that must be protected under bilateral or multilateral agreements to which the Republic of Djibouti is or will be a party.

Art. 75. - Works that do not fall into any of the abovementioned categories shall only enjoy protection under this Law if the country of which the original owner of the copyright is a national or resident affords equivalent protection to the works of nationals of Djibouti.

No derogatory action may, however, be undertaken with respect to the integrity or authorship of such works. The Minister responsible for the arts and culture and the Minister for Foreign Affairs shall jointly determine the countries for which the reciprocity condition provided for in the second paragraph above is deemed fulfilled.

Art. 76. – This Law shall repeal all contrary provisions and in particular the promulgation order of February 7, 1963, relating to Law 57-298 of March 11, 1957, on Literary and Artistic Property.

Done in Djibouti, September 3, 1996

By the President of the Republic

HASSAN GOULED APTIDON
