

## **LAW OF UKRAINE**

### **On Amendments of Certain Legislative Acts of Ukraine regarding Protection of Intellectual Property**

The Supreme Rada of Ukraine **hereby resolves:**

I. To amend the following legislative acts of Ukraine:

1. Paragraph 4 of Part 2 in Article 1 of the Law of Ukraine “On Investment Activities” (Vidomosti Verkhovna Rady Ukrainy, 1991, No. 47, page 646) shall be restated as follows:

“property rights to intellectual property”.

2. In the Law of Ukraine “On Printed Mass Media (Press) in Ukraine” (Vidomosti Verkhovna Rady Ukrainy, 1993, No. 1, page 1; as amended by the Law of Ukraine, dated 10 July 2003, No. 1107-IV):

1) Part 1 in Article 36 shall be restated as follows:

“The editor’s office shall be obligated to use authors’ materials, works of literature, science and art subject to laws on intellectual property”;

2) Part 2 in Article 41 shall be supplemented with Clause 10 as follows:

“10) violations of law on intellectual property”.

3. In the Law of Ukraine “On Television and Radio Broadcasting” (Vidomosti Verkhovna Rady Ukrainy, 1994, No. 10, page 43; 1996, No. 5, page 18; 1997, No. 15, page 115; 1999, No. 41, page 373):

1) in Part 3 of Article 30, the words “without a consent from the subject [holder] of copyright” shall be substituted with the words “without a consent from the subject [holder] of copyright and (or) related rights”;

2) Article 36 shall be restated as follows:

#### **“Article 36. Personal Non-Property and Property Rights of TV/Radio Organizations**

TV/radio organizations and their legal successors are subjects of related rights.

TV/radio organizations shall have the right to request that their names be mentioned by other TV/radio organizations in connection with recording, reproduction, distribution of their programs and repeated public broadcasting thereof by another TV/radio organization.

Property rights of a TV/radio organization shall include its exclusive right to use its programs in any manner and its exclusive rights to allow or prohibit other entities to:

broadcast to the public its programs through transmission and re-transmission;

record its programs on material carriers and their reproduction;

perform in public and demonstrate in public its programs at places charging entrance fees.

A TV/radio organization shall also have the right to prohibit distribution on the territory of Ukraine or from the territory of Ukraine a signal from a satellite, which is transmitting its programs, if the signal from a satellite is transmitted by a transmitting body, for which this signal was not designated.

Property rights of the TV/radio organization may be transferred (alienated) to other entities on the basis of an agreement, which stipulates the manner and the term for using the program of broadcasting, the rate and the procedure for paying out compensation, the territory, to which the transferred rights apply, etc.

Property rights of the TV/radio organization may be also transferred (alienated) to other entities according to the procedure set forth by the law as a result of termination of the legal entity – the subject of related rights.

It shall be possible to use programs and broadcasts of TV/radio organizations without their consent in cases as are envisaged in Article 42 of the Law of Ukraine “On Copyright and Related Rights”;

3) paragraph 16 in Part 1 of Article 46 shall be restated as follows:

“violations of rights of subjects [holders] of copyright and (or) related rights”.

4. In the Law of Ukraine “On Publishing” (Vidomosti Verkhovna Rady Ukrainy, 1997, No. 32, page 206):

1) in Article 17:

paragraphs 8 and 9 in Part 2 shall be restated as follows:

“translations, adaptations, annotations, resumes, reviews, stagings, other remakes of works and adaptations of folklore (derivative works) with no damage inflicted to protections of works, which have been translated, adapted or otherwise re-made;

collections of works, collections of adaptations of folklore, encyclopedias and anthologies, collections of regular data, other integrated works, provided that they are a result of creative work performed with regard to selection, arrangement and compilation of materials without violation of copyright to works constituting them as component parts thereof”;

Part 5 shall be restated as follows:

“Terms of performing an order for published products, rights and liabilities of parties shall be stipulated by agreements between an author (co-authors), their heirs or persons, to whom the authors or their heirs have transferred their copyright and property rights to the subject matter of the order, and the customer, the publisher, the producer and the distributor entered into pursuant to law”;

2) Part 1 in Article 20 shall be restated as follows:

“Rights and obligations of the publisher in its relations with the author (co-authors) of a work in the field of science, literature and art, as well as with their heirs or the person, to whom the authors or their heirs have transferred their copyright property rights, or with persons, who hold rights to other objects of intellectual property, shall be determined by Ukrainian law on intellectual property”;

3) the last paragraph of Part 2 in Article 28 shall be restated as follows:

“sell published products without a permit from their owner (co-owners), as well in violation of Ukrainian law on intellectual property”.

5. In the Law of Ukraine “On Professional Creative Workers and Creative Unions” (Vidomosti Verkhovna Rady Ukrainy, 1997, No. 52, page 312; 2001, No. 41, page 199):

1) paragraph 5 of Part 2 in Article 4 shall be restated as follows:

“guarantee professional and social status of members of creative unions, protection of their copyright and related rights”;

2) Part 1 in Article 9 shall be supplemented with the following paragraph:

“manage property rights of members of a union who are subjects [holders] of copyright and (or) related rights pursuant to the Law of Ukraine “On Copyright and Related Rights”;

3) paragraph 3 and 7 in Article 21 shall be restated as follows:

“fees for management of property rights of subjects of copyright and (or) related rights pursuant to the Law of Ukraine “On Copyright and Related Rights”;

“special deductions to funds of creative unions, if such funds are prescribed by the Cabinet of Ministers of Ukraine, for use within Ukraine’s territory of works that are in the public domain”.

6. Article 42 of the Law of Ukraine “On Scientific and Scientific-Technical Activities” (Vidomosti Verkhovna Rady Ukrainy, 1999, No. 2 - 3, page 20) shall be restated as follows:

#### **“Article 42. Protection of Intellectual Property Rights**

Intellectual property rights shall be protected pursuant to laws and other regulatory acts by Ukrainian governmental authorities.

If a right to intellectual property is infringed upon, such right shall be protected pursuant to procedures as are laid down by administrative, civil and criminal law.

The mandatory conditions and terms of an agreement (contract), on which basis scientific research and R&D works that are financed with funds from the State Budget of Ukraine are carried out, shall include designation of subjects [holders] of intellectual property rights, obligations of the parties to ensure protection of rights to created objects of intellectual property, indication of a party who will pay fees to subjects of the intellectual property right pursuant to Ukrainian law”.

7. Section VI of the Law of Ukraine “” (Vidomosti Verkhovna Rady Ukrainy, 1999, No. 31, page 246) shall be restated as follows:

## **“Section VI COPYRIGHT TO ARCHITECTURE OBJECTS**

### **Article 29. Objects and Subjects of Copyright in the Area of Architecture**

Relations that arise in the course of creation and use of objects of architecture as objects of copyright [objects subject to copyright protection] shall be governed by the Law of Ukraine “On Copyright and Related Rights”, this Law and other legislative acts of Ukraine.

Works of architecture, urban development planning, and lawn and parking art, as well as plans, drawings, plastic works, illustrations, maps and sketches relating to architecture shall be deemed as objects of copyright in the area of architecture.

The person (persons), with whose creative work the objects of architecture as objects of copyright have been created, shall be considered as an author (co-authors) of these objects.

Persons, who provide technical, consulting or organizational assistance to the author of an object of architecture, or persons, who arrange for organization of designing and construction (reconstruction, restoration, capital repairs) and control performance of the said works, may not be co-authors.

### **Article 30. Property Rights to Objects of Architecture**

Property rights to an object of architecture as an object of copyright created in connection with performance of an employment agreement shall belong to the employee, who has created this object, and to the legal entity or natural person, where or for whom such employee works, jointly, unless otherwise provided by the agreement.

Property rights to an object of architecture as an object of copyright created per an order shall belong to the creator of this object or to the client jointly, unless otherwise provided by the agreement.

Mandatory conditions and terms of agreements for handling of property rights to an object of architecture as an object of copyright shall be defined by the Civil Code of Ukraine and the Law of Ukraine “On Copyright and Related Rights”.

The author of a project of a work of architecture, urban development planning, lawn and park art shall have the exclusive right to take part in its further implementation, unless otherwise provided in terms and conditions of an agreement with a client or a legal entity or a natural person, where or for whom he/she works, as well as to make changes to the work of architecture, urban development planning, lawn and park art whose construction has not been completed or to the constructed work of architecture, urban development planning, lawn and park art in the event of a change in its functional designation or its reconstruction.

It shall be permitted to use a project of a work of architecture, urban development planning, lawn and park art for realization only once, unless otherwise provided by the agreement, pursuant to which the project has been created. Such project and documentation developed on the basis thereof may be used for the second time exclusively pursuant to the consent of the author, subject to payment to the author or his successors of an author’s fee.

The author of an object of architecture as an object of copyright shall have the right to obtain an author's fee for the creation and use of the object pursuant to procedures provided by law.

### **Article 31. Personal Non-Property Rights of the Author (Co-authors) of the Object of Architecture**

The author (co-authors) of an object of architecture as an object of copyright shall hold personal non-property rights as are defined in the Law of Ukraine "On Copyright and Related Rights".

Personal non-property rights to an object of architecture as an object of copyright shall belong to its author (co-authors), irrespective of terms and conditions of the agreement (contract) between the author and the client or the legal entity or natural person, where or for whom he/she works".

8. Part 2 in Article 4 of the Law of Ukraine "On Folklore Art Crafts" (Vidomosti Verkhovna Rady Ukrainy, 2001, No. 41, page 199) shall be supplemented with the following paragraph:

"ensure protection of author's rights of subjects of folklore art crafts".

9. In the Law of Ukraine, dated 11 July 2003, "On Advertising":

1) Article 4 shall be restated as follows:

#### **"Article 4. Use of Copyright and (or) Related Rights in Advertising**

Objects of copyright and (or) related rights in advertising shall be used pursuant to requirements of Ukrainian law on copyright and related rights";

2) Article 6 shall be restated as follows:

"Languages in advertising shall be used pursuant to effective Ukrainian law on languages.

Marks for goods and services shall be indicated in advertising in such form in which they have acquired legal protection in Ukraine pursuant to effective law, in particular, Article 6<sup>quinquies</sup> of the Paris Convention for the Protection of Industrial Property".

10. To exclude Item 5 in Article 5 of Decree No. 46-93 of the Cabinet of Ministers of Ukraine, dated 10 May 1993, "On Standardization and Certification" (Vidomosti Verkhovna Rady Ukrainy, 1993, No. 27, page 289; 2000, No. 5, page 34; 2003, No. 16, page 128).

II. This Law shall enter into force as on the date of publication hereof.

**L. KUCHMA**  
**President of Ukraine**

**Kyiv**  
**3 February 2004**  
**No. 1407-IV**