1. On what terms will a work (of art, music, literature) from a foreign country enjoy copyright protection in your country?

See extract of Copyright Law below – articles 2, 4, 5 (answer on q.2) +

Section 3. Scope of Copyright

(1) Copyright to works that have or have not been communicated in Latvia, but which exist in Latvia in any material form, shall belong to the authors or their heirs, as well as to other successors in title.

(2) Copyright to works that are simultaneously published in a foreign state and in Latvia shall belong to the authors and their heirs, as well as to other successors in title.

(3) In accordance with Paragraph two of this Section, a work shall be deemed published simultaneously in a foreign state and in Latvia if it has been published in Latvia within 30 days after its first publication in a foreign state.

(4) Copyright to works that have been communicated in a foreign state in any material form shall be recognised as to citizens of Latvia and as to persons who are entitled to a non-citizen passport, or as to persons whose permanent residence (domicile) is in Latvia, as well as to the successors in title to such persons. Copyright to works that have been communicated or otherwise made known in a foreign state in any material form shall be recognised as to other persons, in accordance with the international agreements binding on Latvia.

2. What works of art are covered by copyright in your country?

See extract of Copyright law below.

Section 2. Principles of Copyright

(2) Copyright shall apply to works of literature, science, art and other works referred to in Section 4 of this Law, also unfinished works, regardless of the purpose of the work and the value, form or type of expression.

Section 4. Protected Works

The objects of copyright, regardless of the manner or form of expression, shall comprise the following works of authors:

1) literary works (books, brochures, speeches, computer programs, lectures, addresses, reports, sermons and other works of a similar nature);

2) dramatic and dramatico-musical works, scripts and treatments of audio-visual works;

3) choreographic works and pantomimes;

4) musical works with or without lyrics;

5) audio-visual works;
Section 5. Protected Derivative Works

(1) Without prejudice to the rights of authors as to the original work, the following derivative works shall also be protected:

1) translations and adaptations, revised works, annotations, theses, summaries, reviews, musical arrangements, screen and stage adaptations and similar works; and

2) collections of works (encyclopaedias, anthologies, atlases and similar collections of works), as well as databases and other compiled works which, in terms of selection of materials or arrangement, are the result of creative activity.

(2) Derived works shall be protected irrespective of whether the works from which they are derived or which are included within them can have copyright protection applied to them.

(3) Databases the creation, obtaining, verification or presentation of which has required a substantial qualitative or quantitative investment (financial resources or consumption of time and energy), whether or not they are the objects of copyright shall be protected pursuant to Chapter IX of this Law.

3. Are there other actionable claims which can be brought to protect the reputation of the architect or any artists and authors, other than claims based on infringement of copyright? Can he obtain compensation by virtue of the "unlawful enrichment" laws?

In civil cases the plaintiff can claim for, and if the fact of infringement has been established, the Court may order one or several of the following remedies:

A final injunction (to stop and prohibit the utilisation of unlawful Intellectual Property objects; stop and prohibit measures, which are recognised as preparation for the unlawful utilisation of Intellectual Property objects; stop and prohibit the provision of services, which are utilised for unlawful activities with Intellectual Property objects by persons:

a) The services of whom are utilised in order to infringe the rights of the Intellectual Property holder of the right, or
b) Who make possible the performance of such infringements;

**Damages**, including compensation for moral detriment;

**Recall** or definitive removal of goods from the channels of commerce;

**Destruction** of the infringing goods and/or materials and implements, principally used in the creation or manufacture of those goods;

**Publication** of the Court judgment in full or in part (Art. 250.17 of Civil Procedural Law).

When there is a criminal case initiated and a judgement is passed under Criminal Law, then a fine, an imprisonment or a community service can be imposed.

4. If damages can be claimed for loss of, or injury to, reputation:

   (a) What type(s) of damages can be awarded – eg. compensatory or punitive?

   (b) How are the damages to be proved and measured?

Latvian Civil law does not provide for punitive damages. However, the Court may also order the infringer to recompense the moral damage caused. There are two types of monetary relief: for real damage and for moral prejudice. Both types of damage may be incurred at the same time.

Section 69 of the Copyright Law, Section 28 of the Law on Trade Marks and Geographical Indications and Section 64 (2) of the Patent Law stipulate that the profit unfairly gained by the infringer may be taken into consideration when determining the amount of damages.

Section 69 of the Copyright Law, Section 28 of the Law on Trade Marks and Geographical Indications and Section 64 (3) of the Patent Law stipulate that if the amount of real damages cannot be determined in accordance with Paragraphs two of these Sections, the amount of compensation for real damages shall be determined in accordance with the amount of fees which would have been received by the right holder for the issue of a licence to use the intellectual property right in question.

Recovery of the licence fee is the best choice for the claimant to pursue, due to the difficulty of proving real damages; the claimant must provide evidence of the actual fee, however.

Compensation of moral prejudice Latvian courts so far have taken into account the flagrancy of the infringement, as well as infringer’s insolent attitude towards the infringement.

Issues that should be taken into account by courts upon selecting the most appropriate remedy and application thereof to an appropriate extent: the characteristic features of intellectual property and the resultant unlimited possibilities to multiply the objects of intellectual property, the vast possibilities of illegal use, the terminable nature of the rights, the nature of exercising these rights, liability that is established without reference to the degree of fault or the so called strict liability.
5. What permitted uses can be made of a protected work or reputation without constituting infringement of copyright? What is fair use?

See the regulation of Copyright Law:

**Section 18. Principles of Restrictions on Economic Rights of an Author**

(1) The right of an author to permit or prohibit the use of his or her work and receive remuneration for its use may be restricted in cases specified by this Law.

(2) The restrictions on the economic rights of an author referred to in this Chapter shall be applied in such a way that they are not contrary to the provisions for normal use of the work of an author and may not unjustifiably limit the lawful interests of the author.

(3) In case of doubt, it shall be considered that the right of an author to the use of the work or to the receipt of remuneration is not restricted.

(4) If a user of the work has the right to use the work in the cases specified in Section 20, Paragraph one, Clause 1, Sections 21-24 and 27, but he or she cannot implement these rights due to the effective technological measures used by the author, he or she has the right to request that the author gives access to such works taking into account the restrictions of the rights of an author. The author may refuse to provide such a possibility if the use of the work is contrary to the provisions of Paragraph two of this Section.

(5) If the user of the work and the author cannot reach an agreement in respect of the provisions of Paragraph four of this Section, they may apply to a mediator.

**Section 19. Use of a Work of an Author without the Consent of the Author and without Remuneration**

(1) Copyright shall not be considered infringed if a work of an author is used without the consent of the author and without remuneration pursuant to the procedures specified by this Law:

1) a work is used for informational purposes taking into account the provisions of Section 20 of this Law;

2) a work is used for educational and research purposes taking into account the provisions of Section 21 of this Law;

3) a work is reproduced in order that the visually impaired or the hearing-impaired may use it;

4) a work is used for the needs of libraries, archives and museums;

5) a work is reproduced for the purposes of judicial proceedings;

6) a work is used in a public performance during official or religious ceremonies, as well as in teaching institutions as part of a face-to-face teaching process;

7) a work is used ephemerally by broadcasting organisations;

8) a work is used without remuneration;

9) a work is parodied or caricatured;

10) computer programs are used for reproduction, translation and other transformations pursuant to Section 29 of this Law;

11) to ensure the interoperability of a computer program; and

12) the alienation of a work to another person occurs repeatedly, except as provided for in Section 17 of this Law.

**Section 19. Public Lending of a Work**
(1) Copyright shall not be deemed to be infringed if without the consent of the author, but with the payment of just remuneration to him or her, the published work is used for public lending.

(2) The procedures for the calculation of the amount of remuneration referred to in Paragraph one of this Section in relation to the libraries of the State, local government or other derived public persons and in relation to private libraries, as well as the procedures for the payment of the remuneration and the proportional distribution among authors, performers, phonograph producers and film producers shall be determined by the Cabinet.

(3) Remuneration for the use of a published work for public lending in libraries of the State, local government or other derived public persons and in private libraries shall be paid into the account in a credit institution indicated by the organisation for collective management of economic rights.

Section 29. Restrictions Regarding the Rights of Reproduction, Translation, Adaptation and any other Transformation of Computer Programs

(1) If not specified otherwise by contract, and the right to use a computer program has been lawfully obtained, its reproduction, translation, adaptation or any other transformation and the reproduction of the results of such activities shall not require any special permission from the rightholder, as long as such activities (including correction of errors) are necessary for the purpose of the intended use of the computer program.

(2) A contract entered into with a person who has lawfully acquired the right to use a computer program may not prohibit the making of a back-up copy, if such copy is necessary for the use of the computer program.

(3) A person who has the right to use a computer program may, without the permission of the holder of the copyright, observe, study or test the functioning of the program in order to discover the ideas and principles which underlie any element of the computer program, if such person does so while demonstrating, using, broadcasting or storing.

B. The Court’s use of experts or assessors:

1. Does your country have a specialist Court or Tribunal that hears intellectual property disputes?

Latvia have no specialist Court or Tribunal. Judges have specialization, for instance, Riga regional court is special Court (it has three specialized judges) for Patent cases and Trade Mark/Geographical indications cases.

2. Does the Court/Tribunal which hears intellectual property disputes in your country use experts or assessors:
   (a) to assist in determining liability; and/or
   (b) to assist in quantifying damages or determining the appropriate form of remedy?
Evidence shall be submitted by the parties and by other participants in the matter. If the parties or other participants in the matter are unable to submit evidence, the Court shall, at their motivated request, require such evidence (Art. 93(2) of the Civil Procedure Law). Evidence shall be submitted regarding the IP right of the owner and the infringement itself. Evidence could be expert opinion. It is possible to use not only Court appointed experts but also *ex parte* experts.

A court shall order expert-examination in a matter, pursuant to the request of a party, where clarification of facts relevant to the matter requires specific knowledge in science, technology, art or another field.

3. If not, does the Court/Tribunal have the power to refer the dispute or part of the dispute to an independent expert or assessor who has relevant specialist knowledge? If so, is this power often used and how effective is it?

For general provisions - see answer on q.2. It is possible to solve a case (for instance, trade mark case, copyright case) without expert opinion as evidence.

There is special regulation for Patent cases. Under the article 66 of Patent Law The Patent Office shall provide information or opinions to court if they are necessary for taking a decision regarding the conformity of an invention with the requirements of Sections 5 (Novelty) and 7 (Inventive step) of this Law, in the cases related to patents and limitation of the scope of a patent in accordance with Section 58, Paragraph one (Limitation of a Patent) of this Law. Opinion is provided in each Patent case.

4. Do specialists (that is, non-lawyers with specialist training in the field of intellectual property) sit on the Court/Tribunal? If so, what is the role of the specialist? E.g. solely to assist the Court/Tribunal to understand the specialist subject matter of the intellectual property dispute or does the specialist have a decision-making role?

Specialists never sit on the Bench and have no decision-making role.

5. Does the Court/Tribunal hear expert evidence on specialist subject matters in intellectual property disputes? How is the evidence given? E.g. in writing, in person or by both means?

The opinion of expert is given in writing (opinion).

But if there is a court ordered expert-examination, the expert have to appear before court. An expert opinion shall be read at the court sitting. The court and the participants in the matter may put questions to the expert regarding his/her opinion (Art. 175 of the Civil Procedure Law).

6. What other processes are used by the Court/Tribunal to assist in understanding specialist subject matter in an intellectual property dispute, and where experts have differences of opinion on a topic, to assist in deciding which opinion to accept?
A court shall assess the evidence in accordance with its own convictions, which shall be based on evidence as has been thoroughly, completely and objectively examined, and in accordance with judicial consciousness based on the principles of logic, scientific findings and observations drawn from every-day experience. No evidence shall have a predetermined effect as would be binding upon the court (Art. 97 of the Civil Procedure Law).

The court shall assess expert opinions in accordance with the provisions of Section 97 of Civil Procedure Law. If the expert opinion is not clear enough or is incomplete, a court may order a supplementary expert-examination, assigning performance thereof to the same expert. Where an expert opinion is not substantiated, or the opinions of several experts contradict one another, the court may order a repeated expert-examination, assigning performance thereof to another expert or experts. (Art.125 of the Civil Procedure Law).

7. What processes do you think would be useful for the Court/Tribunal to adopt or implement to assist in deciding intellectual property disputes where the making of the decision requires specialist knowledge on a non-legal topic?

Specialists as lay judges.