

# **LAW 2121/1993 COPYRIGHT, RELATED RIGHTS AND CULTURAL MATTERS**

## **SECTION I: OBJECT AND CONTENT OF COPYRIGHT**

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### **ARTICLE 1: COPYRIGHT**

(1) Authors shall have, with the creation of the work, the right of copyright in that work, which includes, as exclusive and absolute rights, the right to exploit the work (economic right) and the right to protect their personal connection with the work (moral right).

(2) The above-mentioned rights shall include the powers to authorize that are provided for in Articles 3 and 4 of this Law.

### **ARTICLE 2: OBJECT OF THE RIGHT**

(1) The term "work" shall designate any original intellectual literary, artistic or scientific creation, expressed in any form, notably written or oral texts, musical compositions with or without words, theatrical works accompanied or unaccompanied by music, choreographies and pantomimes, audiovisual works, works of fine art, including drawings, works of painting and sculpture, engravings and lithographs, works of architecture and photographs, works of applied art, illustrations, maps and three-dimensional works relative to geography, topography, architecture or science.

(2) The term "work" shall, in addition, designate translations, adaptations, arrangements and other alterations of works or of expressions of folklore, as well as collections of works or collections of expressions of folklore or of simple facts and data, such as encyclopedias and anthologies, provided the selection or the arrangement of their contents is original. Protection afforded to the works listed in this paragraph shall in no way prejudice rights in the preexisting works, which were used as the object of the alterations or the collections.

(2a.) Databases which, by reason of the selection or arrangement of their contents, constitute the author's intellectual creation, shall be protected as such by copyright. The copyright protection shall not extend to the contents of databases and shall be without prejudice any rights subsisting in those contents themselves. "Database" is a collection of independent works, data or other, materials arranged in a systematic or methodical way and individually accessible by electronic or other means (articles 3 and 1 par. 2. of Dir. 96/9)

(3) Without prejudice to the provisions of Section VII of this Law, computer programs and their preparatory design material shall be deemed to be literary works within the meaning of the provisions on copyright protection. Protection in accordance with this Law shall apply to the expression in any form of a computer program. Ideas and principles which underlie any element of a computer program, including those which underlie its interfaces, are not protected under this Law. A computer program shall be protected if it is original in the sense that it is the author's personal intellectual creation.

(4) The protection afforded under this Law shall apply regardless of the value of the work and its destination and regardless of the fact that the work is possibly protected under other provisions.

(5) The protection afforded under this Law shall not apply to official texts expressive of the authority of the State, notably to legislative, administrative or judicial texts, nor shall it apply to expressions of folklore, news information or simple facts and data.

### **ARTICLE 3: ECONOMIC RIGHTS**

(1) The economic rights shall confer upon the authors notably the right to authorise or prohibit: (a) the fixation and direct or indirect, temporary or permanent reproduction of their works by any means and in any form, in whole or in part

(b) the translation of their works

(c) the arrangement, adaptation or other alteration of their works

(d) concerning the original or copies of their works, the distribution to the public in any form by sale or otherwise. The distribution right shall be exhausted within the Community only where the first sale or other transfer of ownership in the Community of the original or copies is made by the rightholder or with his consent

(e) the rental or public lending concerning the original or copies of their works. Such rights are not exhausted by any sale or other act of distribution of the original or copies. Such rights are not applicable to architectural works and works of applied arts. The rental and public lending have the meaning provided by the Council Directive 92/100 of 19 November 1992 (Official Journal of the European Communities No. L 346/61-27.11.1992).

(f) the public performance of their works

(g) the broadcasting or rebroadcasting of their works to the public by radio and television, by wireless means or by cable or by any kind of wire or by any other means, in parallel to the surface of the earth or by satellite

(h) the communication to the public of their works, by wire or wireless means or by any other means, including the making available to the public of their works in such a way that members

of the public may access these works from a place and at a time individually chosen by them. These rights shall not be exhausted by any act of communication to the public as set out in this provision.

(i) the import of copies of their works produced abroad without the creator's consent or the import of copies from a country outside the European Community, when the right over such import in Greece had been retained by the author through contract" (articles 2, 3 par. 1 and 3, 4 of Directive 2001/29 OJEC L. 167/10 – 22.6.2001). As amended by article 81 par. 1 of law 3057/2002.

(2) The use, performance or presentation of the work shall be deemed to be "public" when the work thereby becomes accessible to a circle of persons wider than the narrow circle of the family and the immediate social circle of the author, regardless of whether the persons of this wider circle are at the same or at different locations.

(3) The author of a database shall have the exclusive right to carry out or to authorize: a) temporary or permanent reproduction by any means and in any form, in whole or in part, b) translation, adaptation, arrangement and any other alteration, c) any form of distribution to the public of the database or of copies thereof. The first sale in the Community of a copy of the database by the rightholder or with his consent shall exhaust the right to control resale of that copy within the Community, d) any communication, display or performance to the public, e) any reproduction, distribution, communication, display or performance to the public of the results of the acts referred to in (b). The performance by the lawful user of a database or of a copy thereof of any of the acts listed above which is necessary for the purposes of access to the contents of the databases and normal use of the contents by the lawful user shall not require the authorisation of the author of the database. Where the lawful user is authorized to use only part of the database, this provision shall apply only to that part. Any agreement contrary to the provisions of the previous two sentences shall be null and void" (articles 5, 6 para.1 and 15 of Directive 96/9). Paragraph 3 is added by article 7 par. 3 of Law 2819/2000.

(4) "Reproduction of electronic database for private use is not permitted". Paragraph 4 is added by article 81 par. 13A of Law 3057/2002.

#### **ARTICLE 4: MORAL RIGHTS**

The moral rights shall confer upon the author notably the following rights: to decide on the time, place and manner in which the work shall be made accessible to the public (publication); to demand that his status as the author of the work be acknowledged and, in particular, to the extent that it is possible, that his name be indicated on the copies of his work and noted whenever his work is

used publicly, or, on the contrary, if he so wishes, that his work be presented anonymously or under a pseudonym; to prohibit any distortion, mutilation or other modification of his work and any offense to the author due to the circumstances of the presentation of the work in public; to have access to his work, even when the economic right in the work or the physical embodiment of the work belongs to another person; in those latter cases, the access shall be effected with minimum possible nuisance to the right holder; in the case of a literary or scientific work, to rescind a contract transferring the economic right or an exploitation contract or license of which his work is the object, subject to payment of material damages to the other contracting party, for the pecuniary loss he has sustained, when the author considers such action to be necessary for the protection of his personality because of changes in his beliefs or in the circumstances.

(2) With reference to the last case of the preceding paragraph, the rescission takes effect after the payment of the damages. If, after the rescission, the author again decides to transfer the economic right, or to permit exploitation of the work or of a like work, he must give, in priority, the former other contracting party the opportunity to reconstitute the old contract with the same terms or with terms similar to those which were in force at the time of the rescission.

(3) The moral rights shall be independent from the economic rights and shall remain with the author even after the transfer of the economic rights.

#### **ARTICLE 5: RESALE RIGHT-DROIT DE SUITE**

(1) The author of an original work of art shall have a resale right, to be defined as an inalienable right inter vivos, which cannot be waived, even in advance, to receive a royalty based on the sale price obtained for any resale of the work, subsequent to the first transfer of the work by the author. This right shall apply to all acts of resale involving as sellers, buyers or intermediaries art market professionals, such as salesrooms, art galleries and, in general, any dealers in works of art. The royalty shall be payable by the seller. When an intermediary art market professional is involved, he shall share liability with the seller for payment of the royalty (article 1, paragraphs 1, 2 and 4 of Directive 2001/84).

(2) "Original work of art" means works of graphic or plastic art such as pictures, collages, paintings, drawings, engravings, prints, lithographs, sculptures, tapestries, ceramics, glassware and photographs, provided they are made by the artist himself or are copies considered to be original works of art. Copies of works of art, which have been made in limited numbers by the artist himself or under his authority, shall be considered to be "original works of art" for the purposes of the resale right. Such copies will normally have been numbered, signed or otherwise duly authorised by the artist. (article 2 of Directive 2001/84)

- (3) The royalty provided for in paragraph 1 shall be set at the following rates:
- (a) 5% for the portion of the sale price up to EUR 50,000.00;
  - (b) 3% for the portion of the sale price from EUR 50,000.01 to EUR 200,000.00;
  - (c) 1% for the portion of the sale price from EUR 200,000.01 to EUR 350,000.01; (d) 0,5% for the portion of the sale price from EUR 350,000.01 to EUR 500,000.00; (e) 0,25% for the portion of the sale price exceeding EUR 500,000.00.

However, the total amount of the royalty may not exceed EUR 12,500.00 (articles 3 and 4 of Directive 2001/84).

(4) The sale prices referred to in the previous paragraph are net of tax (article 5 of Directive 2001/84).

(5) The royalty provided above shall be payable to the author of the work and, after his death, to those entitled under him/her.

(6) The management and protection of the resale right may be entrusted to collective management organisations operating by resolution of the Ministry of Culture, for the category of works referred to in paragraph 2. (article 6 of Directive 2001/84)

(7) For a period of three years after the resale, beneficiaries and collective management organisations may require from any art market professional mentioned in paragraph 1 to furnish any information that may be necessary in order to secure payment of royalties in respect of the resale. The Greek Chamber of Visual Arts shall also be entitled to collect information. (article 9 of Directive 2001/84)

(8) The term of protection of the resale right shall correspond to that laid down in articles 29, 30, 31, para. 1 and 2, of this law. (article 8, paragraph 1, of Directive 2001/84)

(9) Authors who are nationals of third countries and their successors in title shall enjoy the resale right in accordance with national law only if legislation in the country of which the author or his/her successor in title is a national permits resale right protection in that country for Greek authors or authors from other EU Member States and their successors in title. Authors who are not nationals of a Member State but who have their habitual residence in Greece shall also enjoy the resale right (article 7, paragraphs 1 and 3, of Directive 2001/84)".

## **SECTION II: THE INITIAL SUBJECT OF COPYRIGHT**

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### **ARTICLE 6: THE INITIAL RIGHT HOLDER**

- (1) The initial holder of the economic right and the moral right in a work shall be the author of that work.
- (2) The above-mentioned rights shall be vested in the author of a work without resort to any formality.

### **ARTICLE 7: WORKS OF JOINT AUTHORSHIP, COLLECTIVE AND COMPOSITE WORKS**

- (1) The term "work of joint authorship" shall designate any work which is the result of the direct collaboration of two or more authors. The initial right holders in respect of the economic and moral rights in a joint work shall be the coauthors of that work. Unless otherwise agreed, the rights shall be shared equally by the coauthors.
- (2) The term "collective work" shall designate any work created through the independent contribution of several authors acting under the intellectual direction and coordination of one natural person. That natural person shall be the initial right holder of the economic right and the moral right in the collective work. Each author of a contribution shall be the initial right holder of the economic right and the moral right in his own contribution, provided that that contribution is capable of separate exploitation.
- (3) The term "composite work" shall designate a work which is composed of parts created separately. The authors of all of the parts shall be the initial co-right holders of the rights in the composite work, and each author shall be the exclusive initial holder of the rights of the part of the composite work that he has created, provided that that part is capable of separate exploitation.

### **ARTICLE 8: EMPLOYEE - CREATED WORKS**

Where a work is created by an employee in the execution of an employment contract the initial holder of the economic and moral rights in the work shall be the author of the work. Unless provided otherwise by contract, only such economic rights as are necessary for the fulfillment of the purpose of the contract shall be transferred exclusively to the employer. The economic right on works created by employees under any work relation of the public sector or a legal entity of public law in

execution of their duties is ipso jure transferred to the employer, unless provided otherwise by contract.

#### **ARTICLE 9: AUDIOVISUAL WORKS**

The principal director of an audiovisual work shall be considered as its author.

#### **ARTICLE 10: PRESUMPTIONS**

(1) The person whose name appears on a copy of a work in the manner usually employed to indicate authorship, shall be presumed to be the author of that work. The same shall apply when the name that appears is a pseudonym, provided that the pseudonym leaves no doubt as to the person's identity.

(2) In the case of collective works, computer programs or audiovisual works, the natural or legal person whose name or title appears on a copy of the work in the manner usually employed to indicate the right holder shall be presumed to be the right holder of the copyright in the particular work.

"(3) Paragraph 1 of this article shall apply mutatis mutandis to the holders of rights related to copyright with regard to their protected subject matter, as well as to database creators for the special right" (article 5, item b', of Directive 2004/48)

(4) The presumption referred to in paragraphs (1) and (2), above, may be rebutted by evidence to the contrary.

#### **ARTICLE 11: FICTITIOUS INITIAL RIGHT HOLDER**

(1) Any person who lawfully makes available to the public anonymous or pseudonymous works is deemed as the initial holder of the economic and moral right towards third parties. When the true author of the work reveals his identity, he acquires the above-mentioned rights in the condition they are in as a result of the actions of the fictitious right holder.

(2) In the case of the previous paragraph, the moral right shall belong to the fictitious right holder as that is compatible with his status.

## **SECTION III: TRANSFER, EXPLOITATION AND EXERCISE OF RIGHTS**

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### **ARTICLE 12: TRANSFER**

- (1) The economic right may be transferred between living persons or mortis causa.
- (2) The moral rights shall not be transferable between living persons. After the death of an author, the moral rights shall pass to his heirs, who shall exercise the rights in compliance with the author's wishes, provided that such wishes have been explicitly expressed.

### **ARTICLE 13: EXPLOITATION CONTRACTS AND LICENCES**

- (1) The author of the work may conclude contracts, by which he entrusts economic rights to the other contracting party (exploitation contracts). The other party to the contract undertakes the obligation to exercise the rights thus entrusted.
- (2) The author of the work may authorize another person to exercise economic rights (exploitation licenses).
- (3) Exploitation contracts and licenses may be exclusive or non-exclusive. Exclusive exploitation contracts and licenses shall empower the other contracting party to exercise the rights conferred by the contract or license excluding any third person. Non-exclusive exploitation contracts and licenses shall give the right to the other contracting party to exercise the rights conferred by the contract or license in parallel to the author and other contracting parties. In the absence of an agreement to the contrary, the other contracting party shall be entitled in his own name to seek legal protection against illegal infringements by third parties of the rights he exercises.
- (4) Where doubt exists about the exclusivity of an exploitation contract or license the contract or license shall be deemed to be non-exclusive.
- (5) The contract or license may in no circumstance confer any total right over the future works of the author, and shall never be deemed to refer also to forms of exploitation which were unknown on the date of the contract.
- (6) The rights of a person who undertakes to carry out the exploitation of a work or who acquires the possibility of exploitation may not be transferred between living persons without the consent of the author.



#### **ARTICLE 14: FORM OF LEGAL ACTS**

Acts dealing with the transfer of economic rights, with the assignment or licensing of the right of exploitation and with the exercise of the moral right shall be null and void, unless they are concluded in writing. Nullity may be invoked only by the author.

#### **ARTICLE 15: EXTENT OF TRANSFER AND OF EXPLOITATION CONTRACTS AND LICENSES**

(1) The transfer of the economic right and exploitation contracts or contracts licensing the exploitation of that right may restrict the rights they confer, their scope and duration, the geographical application and the extent or the means of exploitation.

(2) If the duration of the transfer or of the exploitation contract or license is unspecified, its duration shall be deemed to be limited to five years, provided conventional mores do not indicate otherwise.

(3) If the geographical application of the transfer or of the exploitation contract or license is unspecified, the said legal acts shall be deemed to apply to the country in which they were concluded.

(4) If the extent and the means of exploitation which the transfer concerns or for which the exploitation or the exploitation license is agreed are unspecified, it shall be deemed that the said acts refer to the extent and the means that are necessary for the fulfillment of the purpose of the contract or license.

(5) In all cases involving the transfer of the economic right or the granting of an exclusive exploitation license, the person who acquires the right or the license shall ensure that within a reasonable period of time, the work is accessible to the public via an appropriate form of exploitation.

#### **ARTICLE 16: CONSENT OF THE AUTHOR AS EXERCISE OF THE MORAL RIGHT**

The granting of consent by an author for an action or an omission which would otherwise constitute an infringement of his moral right shall be deemed to be a form of exercise of his moral right, and shall be binding upon him.

## **ARTICLE 17: TRANSFER OF THE PHYSICAL CARRIER**

Unless there exists prior agreement to the contrary, in writing, with the initial right holder of the economic right, the transfer of the ownership of the physical carrier into which the work has been incorporated, whether in the original form or in any form of copy, shall not constitute a transfer of the copyright or confer on the new owner any rights to exploit the work.

## **SECTION IV: LIMITATIONS ON THE ECONOMIC RIGHT**

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### **ARTICLE 18: REPRODUCTION FOR PRIVATE USE**

(1) Without prejudice to the following paragraphs, the reproduction of a lawfully published work shall be permissible without the author's consent and without remuneration, provided that this reproduction is intended for the user's own private use. The term 'private use' shall not include a use made by an enterprise, a service or an organization.

(2) The right to make a reproduction for private use shall not apply in cases where such an act conflicts with the normal exploitation of the work, or where the authors' legitimate interests are prejudiced, and notably:

a) in the case where an architectural work in the form of a building or any similar construction is reproduced, and,

b) when technical means are used for the reproduction of a work of fine arts which circulates in a restricted number of copies, or when the reproduction is a graphical representation of a musical work.

(3) If, for the free reproduction of the work for private use, technical means are used, such as audio or video recorders or audio and video recorders, magnetic tapes or other material suitable for the reproduction of sound or images or sound and images, including digital reproduction devices and media, in particular, CD-RW, CD-R, DVD and other storage media with a capacity of more than 4 GB, computers, portable electronic devices (tablets), smartphones, devices or components, irrespective of whether their operation falls within the context of computers and are used for the digital copying, transcription or reproduction by any other means, photocopying machines and paper suitable for photocopies, scanners and printers, a reasonable remuneration is due to the creator of the work and to the holders of related rights under this provision, with the exception of the items to be exported. The reasonable remuneration shall be determined as follows:

(a) The remuneration due for computers, portable electronic devices (tablets) and smartphones is set at 2% of their value. Such a remuneration shall be distributed between authors, performers or performing artists, producers of recorded magnetic tapes or other sound or image or sound and image recording medium, and publishers of printed material. The distribution of the reasonable remuneration rates in respect of the technical means referred to in the previous subparagraph to collective management organisations representing each category or subcategory of rightholders,

as well as the collection and methods of payment shall be determined in accordance with paragraph 9.

b) The remuneration due for sound or image or sound and image recording apparatus, magnetic tapes or any other media suitable for sound or image or sound and image reproduction, for digital reproduction devices and media, and other storage media with a capacity of more than 4 GB, as well as the remuneration due for devices or components irrespective of whether their operation takes place in the context of computers or not and are used for the purposes of digital copying, transcription or reproduction by any means, is set at 6% of their value. The remuneration due for digital reproduction devices and media, and other storage media, as well as for devices or components irrespective of whether their operation takes place in the context of computers or not and are used for the purposes of digital copying, transcription or reproduction by any means, shall be distributed among the collective management organisations representing copyright and related rights holders in accordance with the procedure set out in paragraph 9. The remuneration due for sound or image or sound and image recording apparatus shall be allocated to the respective rightholders as follows: 55% to authors, 25% to performers or performing artists, and 20% to producers of recorded magnetic tapes or any other sound or image or sound and image recording medium.

c) The remuneration due for photocopying machines, scanners, printers and for the paper suitable for photocopying, is set at 4% of their value. Such a remuneration shall be shared equally between authors and publisher of printed material. Any multifunctional machine capable of copying shall be also included within the meaning of 'photocopying machines'.

In any of the aforementioned cases, the value shall be calculated upon import or disposal from the factory. The remuneration shall be paid by the importers or the producers of those items, it shall be entered on the invoice and shall be collected by the collective management organisations operating on the basis of an authorization issued by the Minister of Culture and Sports and covering, either in whole or in part, the category of rightholders concerned.

(4) .a) Any person importing or obtaining through intra-Community acquisition or producing and providing technical equipment and/or paper suitable for photocopies which, in accordance with paragraph 3, are subject to the payment of a reasonable remuneration, shall, within thirty (30) days from the end of each calendar quarter, refer, by the means of a solemn declaration in writing pursuant to Law 1599/1986, to HCO:

(aa) the quantity and total value of the technical means and/or the paper suitable for photocopying that he/she imported or acquired within the Community or produced and provided within the immediately preceding calendar quarter per category and type of technical means, and;

(bb) that this is the actual quantity and total value without any concealment.

(b) Any collective management organisation shall have the right to request at any time from any debtor, by the means of a written notification, to solemnly declare in writing in accordance with Law. 1599/1986, to HCO:

(aa) the quantity and total value of the technical means and/or the paper suitable for photocopying per category and type of technical means in detail, which, in accordance with paragraph 3, are subject to the payment of a reasonable remuneration and which, on a case-by-case basis, he/she imported or acquired within the Community or produced and provided, and;

(bb) that this is the actual quantity and total value without any concealment.

Within one (1) month from the communication of such a request, the person liable to such a declaration shall submit to HCO the abovementioned solemn declaration, signed by itself in the case of sole proprietorship, or, if it is a company, by its statutory representative.

(5) If the person liable to submit the solemn declaration referred to in paragraph 4 fails to comply with that obligation, the Single-Member Court of First Instance shall, in accordance with the procedure of interim measures, sentence the person called on to proceed to the immediate submission of the solemn declaration, in any case of non – compliance, to a penalty payment ranging from three thousand (3,000) to thirty thousand (30,000) euros to the requesting collective management organisation, in accordance with paragraph 2C of Article 54 of Law 4481/2017.

(6) Any collective management organisation is entitled, at its own cost, to request the investigation of the accuracy of the content of any solemn declaration carried out by a sworn auditor appointed by HCO. In the case where the person required to submit such a declaration refuses to accept the aforementioned audit, its performance shall be ordered by the Single – Member Court of First Instance, in accordance with the above specified. Each audit statement issued shall be submitted to HCO, and any collective management organisation is entitled to receive a copy of such a statement. A new inspection requested by other collective management organisations in respect of the same solemn declaration shall be excluded.

(7) The rights of collective management organisations referred to in the previous paragraphs are also afforded and may be exercised against anyone to all enterprises importing, producing, making available or selling technical means and media that are subject to the payment provided for under this Article. In the event that a verification is carried out by a sworn auditor, the relevant costs shall be borne by the enterprise that requested it.

(8) In the case where the importer is liable for the payment of the reasonable remuneration, related either to the import or the intra-Community acquisition of the sound or image or sound and image media or technical means referred to in paragraph 3, the remuneration due shall be calculated on the basis of the value entered on the foreign company's invoice, while the note to the invoice provided for by this Article shall be made to the invoice related to the disposition of such media and technical means, mentioning that the remuneration calculated on the basis of the aforementioned value as referred to in paragraph 3, is included in the discounted issue amount. The remuneration becomes chargeable three (3) months following the import.

(9) In the case where more collective management organisations represent the same category or subcategory of rightholders and they have not reached an agreement for the allocation amongst themselves of the remuneration rates by the first (1<sup>st</sup>) of April of each year, the allocation of the rates of the reasonable remuneration to each collective management organisation representing each category or subcategory of rightholders, the collection and payment method, as well as any other relevant detail, shall be determined by a decision issued by HCO. Such a decision is formulated in line with the views expressed by the collective management organisations concerned and in accordance with good faith, fair trading practice and the practices followed at international and Community level. Collective management organisations which do not agree with the decision issued by HCO may request from the Single – Member Court of First Instance to determine, in accordance with the procedure of interim measures, a differentiated allocation; however, the persons liable to pay such a remuneration shall proceed to the payment to collective management organisations of the amount determined by the decision issued by HCO. Such a payment entails disbursement and their discharge thereof.

(10) Foreign companies which are not established in Greece and which have not obtained an operating license in accordance with paragraph 4a of Art. 29 of the Custom Code (Law 2960/2001, A' 265), as introduced by Law 4132/2013 (A' 59) and the Ministerial Decision 1126/12.6.2013 (B' 1420), shall not be liable for the payment of a reasonable remuneration for the products imported under the deferment of VAT regime. The reasonable remuneration due to rightholders shall be paid by the first buyer established within the Greek territory who obtains the products from foreign companies which have been authorized in accordance with paragraph 4a of the Customs Code, with the purpose of making them available within the territory of the state, and it is mentioned as a percentage rate and as an amount on the tax document issued by the aforementioned companies upon the delivery of the aforementioned products, and collected by collective management organisations as defined in this Article. The aforementioned companies shall notify the beneficiary collecting societies the data related to the deliveries made within the territory of the state, providing, in particular, full reporter on the buyer, the quantity, the value, the species

code, the date of purchase, as well as any other element deemed necessary for the collection of the remuneration, by the means of quarterly statements, in accordance with paragraph 8. Any details related to the implementation of this paragraph may be specified by a decision issued by the Minister of Culture and Sports.

(11) Collective management organisations shall provide and post on their websites a swift and effective procedure for the return of the reasonable remuneration collected in respect of the technical means referred to in paragraph 3, provided that a relevant application has been submitted by an enterprise or a professional, and the applicant succeeds in proving that these means are profoundly intended for uses other than the reproduction for private use. Such an application for reimbursement shall be submitted exclusively by an enterprise or a professional and not by third importers or traders. The refund procedure for reasonable remuneration shall provide, among others, for the collective management organisation to which such an application related to each of the cases referred to in subparagraphs (a) to (c) of paragraph 3 will be submitted (as amended with a.37 par.1 Law 4540/2018).

*Note: (Art. 37 par. 2 Law 4540/2018)*

*Without prejudice to the second subparagraph, the provisions of paragraph 1 shall apply retroactively from the date of entry into force of Law 4481/2017 (A' 100). With regard to the existing, at the entry into force of this Law, proceedings concerning Art. 18 of Law 2121/1993 and until they are concluded in the form of a final judgment, Art. 18 of Law 2121/1993 continues to apply in the version applicable before its amendment by paragraph 1.*

## **ARTICLE 19: QUOTATION OF EXTRACTS**

Quotation of short extracts of a lawfully published work by an author for the purpose of providing support for a case advanced by the person making the quotation or a critique of the position of the author shall be permissible without the consent of the author and without payment, provided that the quotation is compatible with fair practice and that the extent of the extracts does not exceed that justified by the purpose. The quotation of the extract must be accompanied by an indication of the source of the extract and of the names of the author and of the publisher, provided that the said names appear in the source.

## **ARTICLE 20: SCHOOL TEXTBOOKS AND ANTHOLOGIES**

(1) The reproduction of lawfully published literary works of one or more writers in educational textbooks approved for use in primary and secondary education by the Ministry of National Education and Religions or another competent ministry, according to the official detailed syllabus, shall be permissible without the consent of the authors and without payment. The reproduction shall encompass only a small part of the total output of each of the writers. "The provision is applicable only as it concerns the reproduction by means of printing"

(2) After the death of the author it shall be permissible to reproduce his works in a lawfully published anthology of literary works of more than one writer, without the consent of the right holders and without payment. The reproduction shall encompass only a small part of the total output of each of the writers.

(3) The reproduction, as specified in paragraphs (1) and (2), above, shall not conflict with the normal exploitation of the work from which the texts are taken and must be accompanied by an indication of the source and of the names of the author and the publisher, provided that the said names appear in the source.

## **ARTICLE 21: REPRODUCTION FOR TEACHING PURPOSES**

It shall be permissible, without the consent of the author and without payment, to reproduce articles lawfully published in a newspaper or periodical, short extracts of a work or parts of a short work or a lawfully published work of fine art work exclusively for teaching or examination purposes at an educational establishment, in such measure as is compatible with the aforementioned purpose, provided that the reproduction is effected in accordance with fair practice and does not conflict with the normal exploitation. The reproduction must be accompanied by an indication of the source and of the names of the author and the publisher, provided that the said names appear on the source.

## **ARTICLE 22: LIBRARIES AND ARCHIVES (as amended with article 54 Law 4481/2017)**

(1) It shall be permissible, without the consent of the author and without payment, for a non profitmaking library or archive to reproduce one additional copy from a copy of the work already in their permanent collection, for the purpose of retaining that additional copy or of transferring it to another non profit-making library or archive. The reproduction shall be permissible only if an additional copy cannot be obtained in the market promptly, and on reasonable terms.



(2) It is permissible, without the authorization of the author and without remuneration, to publicly borrow works from the libraries of primary and secondary education institutions (school libraries) and from the academic libraries that are members of the Hellenic Academic Libraries Association."

b) A Presidential Decree issued within one (1) year after the entry into force of this Law, upon proposal of the Ministers of Interior, Education, Research and Religious Affairs and Culture and Sports, shall determine the remuneration received by rightholders for the public borrowing, the means and system of its collection and distribution, all libraries and entities which fall within the scope of the regulation, with the exception of the libraries referred to in paragraph 2 of Article 22 of L. 2121/1993, as inserted by item a of the preceding paragraph, as a well as any other relevant details. Until the issuance of the Presidential Decree referred to in the preceding paragraph, public libraries, libraries belonging to legal persons governed by private and public law, supervised by the State, municipal libraries, libraries of public benefit institutions and organisations, educational institutions and missions in Greece, and libraries of private schools shall pay no remuneration for public borrowing (as added with article 54 Law 4481/2017).

#### **ARTICLE 23: REPRODUCTION OF CINEMATOGRAPHIC WORKS**

In cases where the holder of the economic right abusively withholds consent for the reproduction of a cinematographic work of special artistic value, for the purpose of preserving it in the National Cinematographic Archive, the reproduction shall be permissible without his consent and without payment, subject to a decision by the Minister of Culture, taken in conformity with the prior opinion of the Cinematography Advisory Council.

#### **ARTICLE 24: REPRODUCTION FOR JUDICIAL OR ADMINISTRATIVE PURPOSES**

To the extent justified for a particular purpose, the reproduction of a work for use in judicial or administrative procedures shall be permitted without the consent of the author and without payment.

#### **ARTICLE 25: REPRODUCTION FOR INFORMATION PURPOSES**

(1) To the extent justified for the particular purpose, the following acts of reproduction shall be permissible without the consent of the author and without payment:

(a) for the purpose of reporting current events by the mass media, the reproduction and communication to the public of works seen or heard in the course of the event;

(b) for the purpose of giving information on current events, the reproduction and communication to the public by the mass media of political speeches, addresses, sermons, legal speeches or other works of the same nature, as well as of summaries or extracts of lectures, provided the said works are delivered in public.

(2) Wherever possible, the reproduction and communication to the public shall be accompanied by an indication of the source and of the name of the author.

#### **ARTICLE 26: USE OF IMAGES OF WORKS SITED IN PUBLIC PLACES**

The occasional reproduction and communication by the mass media of images of architectural works, fine art works, photographs or works of applied art, which are sited permanently in a public place, shall be permissible, without the consent of the author and without payment.

#### **ARTICLE 27: PUBLIC PERFORMANCE OR PRESENTATION ON SPECIAL OCCASIONS**

The public performance or presentation of a work shall be permissible, without the consent of the author and without payment on the following occasions:

(a) at official ceremonies, to the extent compatible with the nature of the ceremonies;

(b) within the framework of staff and pupil or student activities at an educational establishment, provided that the audience is composed exclusively of the aforementioned persons, the parents of the pupils or students, persons responsible for the care of the pupils or students, or persons directly involved in the activities of the establishment.

#### **ARTICLE 27A: CERTAIN PERMITTED USES OF ORPHAN WORKS**

(1) It is permitted to be made accessible to the public within the meaning of article 3 (1) (h) and to be reproduced for the purposes of digitization, making available to the public, indexing, cataloging, preservation or restoration (permitted uses) by publicly accessible libraries, educational establishments or museums, archives or film or audio heritage institutions, as well as from public-service broadcasting organisations established in a Member State of the European Union (beneficiaries of orphan works), works in their collections, for which no right holder has been identified or even if is identified, none has been located despite a diligent search carried out by the beneficiaries of orphan works, according to the terms of this article (orphan works).

(2) This regulation shall apply only to:

a. works published in the form of books, journals, newspapers, magazines or other writings contained in the collections of publicly accessible libraries, educational establishments or museums as well as in the collections of archives or of film or audio heritage institutions;

b. cinematographic or audiovisual works and phonograms contained in the collections of publicly accessible libraries, educational establishments or museums as well as in the collections of archives or of film or audio heritage institutions;

c. cinematographic or audiovisual works and phonograms produced by public-service broadcasting organisations up to 31 December 2002 and contained in their archives;

d. works and other protected subject-matter that are embedded or incorporated in, or constitute an integral part of, the above mentioned works or phonograms, to the extent that those works (of cases a, b, c, d) are protected by copyright or related rights and are first published in a Member State of the European Union or, if not published, are first broadcast in a Member State of the European Union. If these works are not published or broadcast, they can be used by the beneficiaries of orphan works only if:

a) they have been made publicly accessible by anyone of the beneficiaries of orphan works (even in the form of a lending) with the consent of the rightholders, and

b) it is reasonable to assume that the rightholders would not oppose the permitted uses referred to in this article.

(3) Where there is more than one rightholder in a work or phonogram, and not all of them have been identified or, even if identified, located after a diligent search has been carried out and recorded in accordance with paragraphs 6 and 7, the work or phonogram may be used in accordance with the paragraphs hereinabove provided that the rightholders that have been identified and located have, in relation to the rights they hold, authorised the beneficiaries of orphan works to carry out the permitted uses in relation to their rights.

(4) The use of orphan works is permitted to the beneficiaries of orphan works only in order to achieve aims related to their public-interest missions, in particular the preservation of, the restoration of, and the provision of cultural and educational access to, works and phonograms contained in their collections. The beneficiaries of orphan works may generate revenues in the course of such uses, for the exclusive purpose of covering their costs of digitising orphan works and making them available to the public.

(5) The beneficiaries of orphan works indicate the name of identified authors and other rightholders in any use of an orphan work with the following labelling: "Orphan work: [...] [no of entry in the Single Online Database of the Office for Harmonization in the Internal Market]".

(6) By issuing a decision, the Hellenic Copyright Organization Board of Directors will determine the appropriate sources for a diligent and in good faith search to be carried out by the beneficiaries of orphan works to identify and locate the rightholders according to paragraph 1 in a work or phonogram, including works and protected subject matter contained in them prior to their use. The diligent search shall be carried out by the beneficiaries of orphan works or by third parties on behalf of the beneficiaries of orphan works, in the European Union Member State of the first publication, or in the absence of publication, of the first broadcast. In respect of cinematographic or audiovisual works the producer of which has his headquarters or habitual residence in a Member State of the European Union the diligent search should be carried out in the Member State of his headquarters or habitual residence. If the works have neither been published nor broadcast pursuant to the last sentence of paragraph 2, the diligent search shall be carried out in the Member State of the European Union where the beneficiary of orphan works use that made the work publicly accessible is established. If there is evidence to suggest that a search in sources of information of other countries is to be carried out, the search in those other countries should be carried out also.

(7) Beneficiaries of orphan works that carry out a diligent search shall keep a search record on file throughout the term of use of the orphan work and seven (7) years after the termination of such use and provide concrete information to the Hellenic Copyright Organization, that shall immediately forward this information to the Single Online Database of the Office for Harmonization in the Internal Market. Such information shall contain:

- a) a full description of the orphan work and the names of the identified authors or rightholders,
- b) the results of the diligent search carried out by the beneficiaries of orphan works, which led to the conclusion that a work or a phonogram is considered an orphan work,
- c) a statement from the beneficiaries of orphan works for the permitted uses they intend to make,
- d) a possible change to the orphan work status of a work (notification of new data that they have been informed of),
- e) contact information of the beneficiaries of orphan works,
- f) any other information as specified by decision of the Hellenic Copyright Organization Board of Directors and posted on the Hellenic Copyright Organization's website, according to the procedure determined by the Office for Harmonization in the Internal Market regarding the Database.

(8) A diligent search is not required for works that have already been recorded in the Single Online Database of the Office for Harmonization in the Internal Market as orphans. A work or phonogram shall be considered an orphan work if it has been characterized as such in any Member State of the European Union.

(9) If the rightholder of a work or phonogram or other protected subject-matter that has been recorded as an orphan comes forward, then he has the right to put an end to the orphan work status of the work in so far as his rights are concerned and ask for the end of use of the work by the beneficiary of orphan works, as well as for the payment of compensation for the use of the work that has been made by the beneficiary of orphan works. The beneficiary of orphan works that makes use of the work is liable for the end of orphan work status of a work. The beneficiary of orphan works will have to decide within twenty (20) working days, calculated from the day following the date the application is filled by the person appearing as the rightholder, if the application and the submitted evidence by the appearing as rightholder is sufficient to establish a right on the specific orphan work, and it either characterises the work as "non-orphan" or rejects the application. If the beneficiary of orphan works does not decide on the application within the above mentioned period or if, despite having approved the application, continues to make use of the work, then the provisions of articles 63A to 66D shall apply. If a work is rendered "non-orphan" according to the Single Online Database of the Office for Harmonization in the Internal Market the beneficiary of orphan works is obliged to end its use within ten (10) working days from the reception of the relevant notice from the above mentioned Office.

The compensation shall amount to half of the remuneration that is, usually or according to law, paid for the kind of use that has been made by the beneficiary of orphan works and the payment of such compensation shall be made within two (2) months from the end of orphan work status of a work. If the parties do not reach an agreement, the terms, the period, and the level of compensation shall be determined by the Court of First Instance of Athens by interim measures.

(10) In any case, if it is proven that a work has been wrongly found to be an orphan work due to a search which was not diligent and in good faith, then provisions of articles 63A to 66D shall apply.

(11) The Hellenic Copyright Organization shall not be liable for the diligent search carried out by a beneficiary of orphan works, nor liable whether an orphan work status of a work is established or is ended.

(12) This article shall be without prejudice to the provisions on anonymous or pseudonymous works, and to the provisions on rights management according to the current law" (as added with article 7 of Law 4212/2013).

## **ARTICLE 28: EXHIBITION AND REPRODUCTION OF FINE ART WORKS**

(1) Museums which own the physical carriers into which works of fine art have been incorporated shall be entitled, without the consent of the author and without payment, to exhibit those works to the public on the museum premises, or during exhibitions organized in museums.

(2) The presentation of a fine art work to the public, and its reproduction in catalogs to the extent necessary to promote its sale, shall be permissible, without the consent of the author and without payment.

(3) In the cases dealt with in paragraphs (1) and (2), above, reproduction shall be permissible, provided such reproduction does not conflict with the normal exploitation of the work and does not unreasonably prejudice the legitimate interest of the author.

## **ARTICLE 28A: REPRODUCTION FOR THE BENEFIT OF BLINDS AND DEAF-MUTE**

"The reproduction of the work is allowed for the benefit of blinds and deaf-mute, for uses which are directly related to the disability and are of a non-commercial nature, to the extent required by the specific disability. By resolution of the Minister of Culture the conditions of application of this provision may be determined as well as the application of this provision for other categories of people with a disability" (article 5, para.3 (b) of Directive 2001/29).

## **ARTICLE 28B: EXCEPTION FROM THE REPRODUCTION RIGHT**

"Temporary acts of reproduction which are transient or incidental, which are an integral and essential part of a technological process and whose sole purpose is to enable: a) a transmission in a network between third parties by an intermediary or b) a lawful use, of a work or other protected subject-matter, and which have no independent economic significance, shall be exempted from the reproduction right" (article 5, para.1 of Directive 2001/29).

## **ARTICLE 28C: CLAUSE OF GENERAL APPLICATION CONCERNING THE LIMITATIONS**

"The limitations provided for in Section IV of Law 2121/1993, as exists, shall only be applied in certain special cases which do not conflict with a normal exploitation of the work or other protected subject-matter and do not unreasonably prejudice the legitimate interests of the rightholder".  
Articles 28A, 28B, 28C are added by article 81 par. 2 of Law 3057/2002.

## **SECTION V: DURATION OF PROTECTION**

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### **ARTICLE 29: DURATION IN GENERAL**

- (1) Copyright shall last for the whole of the author's life and for seventy (70) years after his death, calculated from 1st January of the year after the author's death.
- (2) After the expiry of the period of copyright protection, the State, represented by the Minister of Culture, may exercise the rights relating to the acknowledgment of the author's paternity and the rights relating to the protection of the integrity of the work deriving from the moral rights pursuant to Article 4(1)(b) and (1)(c) of this Law.

### **ARTICLE 30: WORKS OF JOINT-AUTHORSHIP AND MUSICAL COMPOSITIONS WITH LYRICS**

- (1) With respect to collaborative works, copyright lasts as long as the life of the last surviving author and seventy (70) years following his death, calculated from the 1st of January of the year following the death of the last surviving author.
- (2) The term of protection of musical compositions with lyrics is the same as the one mentioned in paragraph 1, provided that both contributions, by the composer and the lyricist, have been created specifically for the particular musical composition with lyrics (as amended with article 54 Law 4481/2017).

### **ARTICLE 31: SPECIAL COMMENCEMENT OF THE DURATION**

- (1) In the case of anonymous or pseudonymous works, the term of copyright shall last for seventy (70) years computed from 1st January of the year after that in which the work is lawfully made available to the public. However if, during the above period, the author discloses his identity or when the pseudonym adopted by the author leaves no doubt as to his identity, then the general rules apply.
- (2) Where a work is published in volumes, parts, instalments, issues or episodes and the term of protection runs from the time when the work was lawfully made available to the public, the term of protection shall run for each such item separately.

(3)The term of protection of audiovisual works shall expire seventy years after the death of the last of the following persons to survive: the principal director, the author of the screenplay, the author of the dialogue and the composer of the music specifically created for use in the audiovisual work”.

## **SECTION VI: RULES RELATING TO EXPLOITATION CONTRACTS AND LICENSES**

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### **ARTICLE 32: PERCENTAGE FEE**

(1) The fee payable to the author by the other contracting party to legal agreements relating to the transfer of all or part of the economic right, the granting of the exploitation or for the exploitation license shall be obligatorily determined as a percentage, agreed freely between the parties. The computation of the percentage shall be based on gross revenues without exception or the gross expenditure or on the combined gross revenues and expenditure realized from the activity of the other contracting party in the course of the exploitation of the work. By way of exception, in the following circumstances, the fee may be agreed as a lump sum:

(a) when it is practically impossible to establish the basis for the calculation of a percentage fee or when there are no means of monitoring the implementation of a percentage arrangement; (b) when the expenditure required for the calculation and the monitoring is likely to be out of reasonable proportion to the fee to be collected;

(c) when the nature or the conditions of the exploitation make the implementation of a percentage impossible, notably when the author’s contribution is not an essential element in the intellectual creation as a whole, or when the use of the work is secondary in relation to the object of the exploitation.

(2) The obligatory percentage arrangement of the fee prescribed in paragraph (1), above, shall be implemented in all circumstances provided that this Law does not stipulate otherwise, and provided that it does not concern works created by employees in the execution of the employment contract, computer programs or advertisement in any form.

### **ARTICLE 33: RULES RELATING TO CONTRACTS FOR PRINTED EDITIONS AND TRANSLATORS’ RIGHTS**

(1) The fee payable by the publisher of a printed edition to the author for the reproduction and distribution of a work or of copies of a work shall be agreed as a particular percentage of the retail selling price of all of the copies sold. When the contract for a printed edition refers to a literary



work, such as a short story, a short novel, a novel, a poem, an essay, a critical essay, a theatrical work, a travel book or a biography, which is being published in book form in its original language, excluding pocketbook editions, the fee payable to the author by the publisher after the sale of 1,000 copies cannot be less than 10 percent of the retail selling price of all the copies sold.

(2) By way of exception to the provision in paragraph (1), above, the fee payable to the author may be agreed as a lump sum when the work is any of the following:

- (a) collective works;
- (b) encyclopaedias, dictionaries or anthologies of works of others;
- (c) schoolbooks;
- (d) albums, calendars, agendas, instructional books, printed games and educational items such as maps or atlases
- (e) prefaces, comments, introductions, presentations;
- (f) illustrations or photographic material in printed editions;
- (g) non-literary picture books for children; (h) luxury editions of a limited number of copies; (i) magazines or newspapers.

(3) Where a work has more than one author, and in the absence of an agreement to the contrary, the percentage fee shall be distributed among the various authors proportionally according to the extent of their contributions. Where one or more of the authors are unprotected by the copyright provisions of the laws, those of the authors who do enjoy copyright protection shall be paid the percentage fee agreed or that percentage to which they would have been entitled under paragraph (1) of the present article, if all of them had been protected.

(4) Where copies of a work are the object of a rental or lending arrangement involving third parties, the fee payable for the granting of the necessary license shall be shared equally between the author and the publisher.

(5) In a case where the author's fee is fixed as a percentage of retail sales, and unless some other method of monitoring is agreed, each of the copies to be sold shall be signed by the author. An alternative method of monitoring the number of copies sold shall be fixed in a presidential decree, to be promulgated within six months of the entry into force of this Law, on the recommendation of the Minister of Culture after consultation with the interested professional branches.

(6) The fee payable by the publisher of a printed edition to the translator of a work with respect to the translation, reproduction and distribution of the work shall be agreed as a percentage of the retail selling price of all the copies sold. The provisions of paragraphs (2), (4) and (5) of this Article shall apply *mutatis mutandis*.

(7) The translator's name must be indicated on the main title page of the work. If the publisher agrees, the translator's name may also be indicated on the outer cover of the work.

## **ARTICLE 34: RULES RELATING TO AUDIOVISUAL PRODUCTION CONTRACTS**

(1) A contract dealing with the creation of an audiovisual work between a producer and an author shall specify the economic rights which are to be transferred to the producer. If the aforementioned provision is not met, the contract shall be deemed to transfer to the producer all the economic rights which are necessary for the exploitation of the audiovisual work, pursuant to the purpose of the contract. When the master from which copies for exploitation are to be made, is approved by the author, the audiovisual work shall be deemed to be accomplished. No alteration, abridgment or other modification shall be made to the definitive form of the audiovisual work, as the latter has been approved by the author, without his prior consent.

Authors of individual contributions to an audiovisual work may exercise their moral right only in relation to the definitive form of the work, as approved by the author.

(2) The contract between the producer of an audiovisual work and the creators of individual contributions incorporated in the work, shall specify the economic rights which are transferred to the producer. If the aforementioned provision is not met, the contract between the producer and the authors of individual contributions, other than the composers of music and writers of lyrics, shall be deemed to transfer to the producer those powers under the economic right which are necessary for the exploitation of the audiovisual work, pursuant to the purpose of the contract. Where the contributions to an audiovisual work are capable of separate use, the economic right in relation to other uses shall remain with their authors. Authors of audiovisual contributions are considered to be the author of the screenplay, the author of the dialogue, the composer of music, the director of photography, the stage designer, the costume designer, the sound engineer and the final prosecutor (editor).

(3) The author of an audiovisual work shall retain the right to a separate fee for each form of exploitation of the work. The aforementioned fee shall be agreed as a percentage, specified in the relevant contract. The calculation of the percentage shall be based on gross revenues, without exception, or the gross expenditure or on the combined gross revenues and expenditure, realized in the course of the exploitation of the work. The producer of the audiovisual work is obliged once a year to give the author of the work all information concerning the exploitation of the work, in writing, showing him also all relevant documents. Short advertising films shall be exempt from the provisions of this paragraph.

(4) When visual or audiovisual recordings carrying a fixation of an audiovisual work are the object of a rental arrangement, the author shall in all cases retain the right to an equitable remuneration. This provision shall apply also in the case of a rental arrangement relating to sound recordings.

## **ARTICLE 35: RULES RELATING TO BROADCASTING BY RADIO AND TELEVISION**

(1) In the absence of an agreement to the contrary, the rebroadcasting of a work by radio or television shall require no consent from the author additional to that granted for the first broadcasting. However, when a broadcasting organization rebroadcasts a work it shall pay an additional fee to the author. For the first rebroadcast, the fee payable shall be at least 50 percent of the initial fee agreed for the first broadcast, and for each subsequent broadcast the additional fee shall be 20 percent of the initial fee. This provision shall not apply to the arrangements between collecting societies and users referred to in Article 56 of this Law.

(2) In the absence of an agreement to the contrary, the contract between an author and a broadcasting organization shall not empower the broadcasting organization to permit third parties to broadcast or rebroadcast to the public the work, which is the object of the contract, by wireless waves or by wire or by any other means, in parallel to the surface of the earth or by satellite.

(3) The act of communication of a work to the public by satellite occurs solely in the European Union Member State where, under the control and responsibility of the broadcasting organisation, the programme-carrying signals are introduced into an uninterrupted chain of communication leading to the satellite and down towards the earth. If the programme-carrying signals are encrypted, then there is communication to the public by satellite on condition that the means for decrypting the broadcast are provided to the public by the broadcasting organisation or with its consent. Where an act of communication to the public by satellite occurs in a non-Community State which does not provide the level of protection provided for under this law, as amended hereby, i) if the programme-carrying signals are transmitted to the satellite from an uplink station situated in a Member State, that act of communication to the public by satellite shall be deemed to have occurred in that Member State and the rights shall be exercisable against the person operating the uplink station. ii) if there is no use of an uplink station situated in a Member State but a broadcasting organisation established in a Member State has commissioned the act of communication to the public by satellite. that act shall be deemed to have occurred in the Member State in which the broadcasting organisation has its principal establishment in the Community and the rights shall be exercisable against the broadcasting organisation. Communication to the public by satellite means the act of introducing, under the control and responsibility of the broadcasting organisation, the programme-carrying signals intended for reception by the public into an uninterrupted chain of communication leading to the satellite and down towards the earth. The authorisation to communicate a work to the public by satellite is acquired only by agreement.

(4) Cable retransmission of programmes from other European Union Member States to Greece takes place, as far as copyright is concerned. in accordance with the provisions hereof and on the basis of individual or collective contractual agreements between copyright owners, holders of

related rights and cable operators. Where no agreement is concluded regarding authorisation of the cable retransmission of a broadcast, either party may call upon the assistance of one or more mediators selected from the list of mediators drafted by the Copyright Organisation every two years. The Copyright Organisation may consult the collecting societies and cable operators for the drafting of the said list. Mediators may submit proposals to the parties. It shall be assumed that all parties accept a proposal if none of them expresses its opposition within a period of three (3) months from the notification of the proposal. Cable retransmission means the simultaneous, unaltered and unabridged retransmission by a cable or microwave system for reception by the public of an initial transmission from another Member State, by wire or over the air, including that by satellite, of television or radio programmes intended for reception by the public”.

(5) The right of the author to grant or refuse authorization to a cable operator for retransmission through cable may only be exercised through collective management organisations. Where the author has not entrusted the management of the right to cable retransmission to a collective management organisation, the collective management organisation which has been authorized by the Ministry of Culture and Sports to manage the rights of the same category may manage the right to cable retransmission. Where there is more than one collective management organisation authorized to manage rights of the same category, the author shall be free to choose among them the collective management organisation which he authorizes to manage the right of cable retransmission. The author referred to in this paragraph shall have the same rights and obligations as the rightholders who have entrusted the organisation with the management and may claim these rights within three (3) years from the date of the cable retransmission of the work.

(6) The provisions of the preceding paragraph shall not apply to rights exercised by a broadcaster in respect of its own broadcasts, regardless of whether the relevant rights are its own or have been transferred to it by other authors or other rightholders.

(7) In the case of secondary synchronous, uninterrupted and unchanged broadcasting of radio and television programs via cable or other material means, collective management of the relevant right of the author is mandatory.

(8) The provisions of paragraphs 5 to 8 shall apply mutatis mutandis to the management and protection of the related rights governed by the provisions of the eighth chapter of Law 2121/1993 (as added with article 54 Law 4481/2017).

### **ARTICLE 36: THEATRICAL PERFORMANCE FEE**

(1) The rights of playwrights shall be determined as a percentage of gross receipts after deduction of the public entertainment tax.

(2) The fee shall be based on the gross receipts for the whole of the program of a performance of original works or translations or adaptations of ancient or more recent classical works, the minimum fee shall be 22 percent for performances in state theaters and 10 percent for performances in private theaters. For translations of modern works of the contemporary international repertory, the minimum fee shall be 5 percent. Where a program contains works by more than one playwright, the fee shall be shared among them in proportion to the duration of each playwright's work.

### **ARTICLE 37: MUSICAL ACCOMPANIMENT OF FILMS**

The minimum fee payable to the composers of musical and song accompaniment of films, shown to the public in cinema halls or other spaces, shall be 1 percent of gross receipts after deduction of the public entertainment tax.

### **ARTICLE 38: PHOTOGRAPHERS' RIGHTS**

(1) In the absence of an agreement to the contrary, a transfer of the economic right or exploitation contract or license dealing with the publication of a photograph in a newspaper, periodical or other mass media shall refer only to the publication of the photograph in the particular newspaper, periodical or mass media specified in the transfer or exploitation contract or license and to the archiving of the photograph. Every subsequent act of publication shall be subject to payment of a fee equal to half the current fee. The publication of a transferred photograph from the archive of a newspaper, periodical or other mass media shall be permitted only when accompanied by a reference to the title of the newspaper or of the periodical or to the name of the mass media, into whose archive the photograph was initially and lawfully placed.

(2) Where the publication of a photograph is facilitated by the surrender of the photographic negative, use shall be made of the negative, in the absence of an agreement to the contrary, only for the first publication of the photograph, after which the negative shall be returned to the photographer.

(3) The photographer shall retain the right to access and request the return to him of his photographs, which have been the object of an exploitation contract or license arrangement with a particular newspaper, periodical or other mass media and which have remained unpublished three months after the date of the exploitation contract or license.

(4) Each act of publication of a photograph shall be accompanied by a mentioning of the photographer's name. This shall apply likewise when the archive of a newspaper or of a periodical or of another mass media is transferred.

(5) The owner of a newspaper or of a periodical shall not be entitled to publish a photograph created by a photographer, employed by him, in a book or album publication without the employee's consent. This shall apply likewise to the lending of a photograph.

### **ARTICLE 39: NULLITY OF CONTRARY AGREEMENT**

Except where provided for elsewhere in law, any agreement which lays down conditions contrary to the provisions of the articles of this Section, or which imposes a fee level lower than that prescribed in this Section, shall be null and void in respect of those of its clauses which are deleterious to the authors.

## **SECTION VII: SPECIAL PROVISIONS CONCERNING COMPUTER PROGRAMS AND THE SUI GENERIS RIGHT OF THE DATABASE MAKER**

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### **ARTICLE 40: PROGRAMS CREATED BY EMPLOYEES**

The economic right in a computer program created by an employee in the execution of the employment contract or following instructions given by his employer, shall be transferred ipso jure to the employer, unless otherwise provided by contract.

### **ARTICLE 41: EXHAUSTION OF A RIGHT**

The first sale in the European Community of a copy of a program by the author or with his consent shall exhaust the distribution right within the Community of that copy, with the exception of the right to control further rental of the program or of a copy thereof.

### **ARTICLE 42: RESTRICTIONS**

(1) In the absence of an agreement to the contrary, the reproduction, translation, adaptation, arrangement or any other alteration of a computer program shall not require authorization by the author or necessitate payment of a fee, where the said acts are necessary for the use of the program by the lawful acquirer in accordance with its intended purpose, including correction of errors.

(2) Reproduction which is necessary for the purposes of loading, displaying, running, or storage of the computer program shall not fall under the restriction of the previous paragraph and shall be subject to authorization by the author.

(3) The making of a backup copy by a person having a right to use the computer program may not be prevented by contract insofar as it is necessary for the use of the program, and shall not necessitate an authorization by the author or the payment of a fee.

(4) The person having a right to use a copy of a computer program shall be entitled, without the authorization of the author and without payment of a fee, to observe, study or test the functioning of the program in order to determine the ideas and principles which underlie any element of the program, if he does so while performing any of the acts, which he is entitled to do. Any agreement to the contrary shall be prohibited.

(5) Reproduction of a computer program for private use other than in the circumstances specified in paragraphs (3) and (4), above, shall be prohibited.

#### **ARTICLE 43: DECOMPILATION**

(1) The person having the right to use a copy of a computer program shall be entitled to carry out the acts referred to in Article 42(1) and (2) without the authorization of the author and without the payment of a fee when such acts are indispensable to obtain the information necessary to achieve the interoperability of an independently created computer program with other programs, provided that the information necessary to achieve interoperability has not previously been easily and readily available to the person having the right to use the computer program, and provided that these acts are confined to the parts of the original program which are necessary to achieve the said interoperability.

(2) The provisions of paragraph (1) shall not permit the information obtained through its application:

(a) to be used for goals other than to achieve the interoperability of the independently created computer program;

(b) to be given to others, except when necessary for the interoperability of the independently created computer program; or

(c) to be used for the development, production or marketing of a computer program substantially similar in its expression to the initial program, or for any other act which infringes copyright.

(3) The provisions of this Article may not be interpreted in such a way as to allow its application to be used in a manner which would conflict with a normal exploitation of the computer program or would unreasonably prejudice the author's legitimate interests.

**ART. 44 HAS BEEN ABOLISHED BY ARTICLE 8 PAR. 8 OF LAW 2557/1997.**

#### **ARTICLE 45: VALIDITY OF OTHER PROVISIONS AND AGREEMENT**

(1) The provisions of this Section shall be without prejudice to other legal provisions, relating notably to patent rights, trade marks, unfair competition, trade secrets, protection of semiconductor products or the law of contract.

(2) Agreements contrary to the provisions of Article 42(3) and (4) and Article 43 of this Law shall be null and void.



## **ARTICLE 45A: SUI GENERIS RIGHT OF THE MAKER OF THE DATABASE**

(1) The maker of a database has the right, which shows that there has been qualitatively and/or quantitatively a substantial investment in either the obtaining, verification or presentation of the contents, to prevent extraction and/or re-utilisation of the whole or of a substantial part, evaluated qualitatively and/or quantitatively, of the contents of that database. The maker of a database is the individual or legal entity who takes the initiative and bears the risk of investment. The database contractor is not considered as maker (article 7 para.1 of Directive 96/9).

(2) For the purposes of this article: a) "extraction shall mean the permanent or temporary transfer of all or a substantial part of the contents of a database to another medium by any means or in any form, and b) "re-utilisation" shall mean any form of making available to the public all or a substantial part of the contents of a database by the distribution of copies, by renting, by on-line or other forms of transmission. The first sale of a copy of a database within the Community by the rightholder or with his consent shall exhaust the right to control resale of that copy within the Community. Public lending is not an act of extraction or re-utilization (article 7, par. 2 of Directive 96/9).

(3) The right referred to in paragraph 1 is effective regardless of whether the said database or the content thereof are protected by the provisions on copyright or other provisions. Protection on the basis of the right referred to in paragraph 1 does not prejudice potential rights on their content. The sui generis right of the maker of a database may be transferred with or without consideration and its exploitation may be assigned by licence or contract (article 7 para.3 and 4 of Directive 98/9).

(4) The repeated and systematic extraction and/or re-utilisation of immaterial parts of the content of the database are not allowed, if they involve actions opposed to the normal exploitation of the database or unjustifiably prejudice the lawful rights of the maker of the database (article 7, para.5 of Directive 96/9).

(5) The maker of a database made available to the public by any means cannot prevent the lawful utilisation of the database from extracting and/or re-using immaterial parts of its content, being evaluated qualitatively or quantitatively, for any purpose. If the lawful user is entitled to extract and/or re-utilise part only of the database, the present paragraph is applicable only to such part. The lawful user of a database made available to the public by any means cannot: a) perform acts that are opposed to the normal exploitation of such database or unjustifiably prejudice the lawful interests of the maker thereof, b) cause damage to the beneficiaries of the copyright or related rights for works or performances contained in the said database. Any agreements contrary to the arrangements provided for in the present paragraph are null and void (articles 8 and 15 of Directive 96/9).

(6) The lawful user of a database made available to the public by any means may, without the permission of the maker of the database, extract and/or re-utilise a material part of its content:

a) when the extraction is made for educational or research purposes, provided that the source is quoted, and to the extent that it is justified by the non commercial purpose pursued, b) when the extraction and/or re-utilisation is made for reasons of public safety or for purposes of administrative or judicial procedure. The sui generis right is effective for databases whose makers or beneficiaries are citizens of a member-state or have their usual residence on Community territory. It is also applicable to companies and firms established in accordance with the legislation of a member-state, whose registered offices, central administration or main establishment are located within the Community. When the specific company or firm has only its registered office in the territory of the Community, its operations must be genuinely linked on an ongoing basis with the economy a member-state (articles 9 and 11 of Directive 96/9).

(7) The right provided for in this article shall run from the date of completion of the making of the database. It shall expire fifteen (15) years from the first of January of the year following the date of completion. In the case of a database which is made available to the public in whatever manner before expiry of the period provided for above, the term of protection by that right shall expire fifteen years from the first of January of the year following the date when the database was first made available to the public. Any substantial change, evaluated qualitatively and/or quantitatively, to the contents of a database, including any substantial change resulting from the accumulation of successive additions, deletions or alterations, which would result in the database being considered to be a substantial new investment, evaluated qualitatively and/or quantitatively, shall qualify the database resulting from that investment for its own term of protection" (article 10 of Directive 96/9).

## **SECTION VIII: RELATED RIGHTS**

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### **ARTICLE 46: LICENSE BY PERFORMERS**

- (1) The term “performers” shall designate persons who in any way act or perform works, such as actors, musicians, singers, chorus singers, dancers, puppeteers, shadow theater artists, variety performers or circus artists.
- (2) The performers or performing artists have the right to authorise or prohibit:
- a) the fixation of their performance
  - b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, concerning the fixation of their performance
  - c) the distribution to the public of the fixation of their performance, by sale or other means. The distribution right shall not be exhausted within the Community in respect of the fixation of the performance except where the first sale in the Community is made by the rightholder or with his consent
  - d) the rental and public lending of the fixation of their performance. Such rights are not exhausted by any sale or other act of distribution of the said recordings.
  - e) the radio and television broadcasting of the illegal fixation by any means, such as wireless waves, satellites, or cable as well as the communication to the public of a recording with an illegal fixation of their live performances
  - f) the radio and television broadcasting by any means, such as wireless waves, satellites, or cable, of their live performance, except where the said broadcasting is rebroadcasting of a legitimate broadcasting.
  - g) the communication to the public of their live performances made by any means other than radio or television transmission
  - h) the making available to the public of fixations of their performances, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them. This right is not exhausted by any act of making available to the public, in the sense of this provision” (articles 2, 3 par. 2 and 3, 4 of Directive 2001/29).
- (3) Subject to contractual clauses to the contrary, explicitly specifying which acts are authorized, the acts listed in paragraph (2), above, shall be presumed to have been authorized when a performer has entered into an employment contact, having as its object the operation of those particular acts, with a party who is doing such acts. The performer shall at all times retain the right to remuneration for each of the acts listed in paragraph (2), above, regardless of the form

of exploitation of his performance. In particular, the performer shall retain an unwaivable right to equitable remuneration for rental, if he has authorized a producer of sound or visual, or audiovisual recordings, to rent out recordings carrying fixations of his performance.

(4) Where a performance is made by an ensemble, the performers making up the ensemble shall elect and appoint in writing one representative to exercise the rights listed in paragraph (2) above. This representation shall not encompass orchestral conductors, choir conductors, soloists, main role actors and principal directors. If the performers making up an ensemble fail to appoint a representative, the rights listed in paragraph (2), above, shall be exercised by the director of the ensemble.

(5) It is prohibited to transfer during the lifetime of the performer and to waive the rights referred to in paragraph (2), above. The administration and protection of the aforementioned rights may be entrusted to a collecting society pursuant to Articles 54 to 58 of this Law.

#### **ARTICLE 47: LICENSE BY PRODUCERS OF SOUND AND VISUAL RECORDINGS**

(1) The phonogram producers (producers of sound recordings) have the right to authorise or prohibit:

- a) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of their phonograms
- b) the distribution to the public of the above recordings by sale or other means. The distribution right shall not be exhausted within the Community in respect of the said recordings except where the first sale in the Community is made by the rightholder or with his consent
- c) the rental and public lending of the said recordings. Such rights are not exhausted by any sale or other act of distribution of the said recordings
- d) the making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them concerning their phonograms. This right is not exhausted by any act of making available to the public in the sense of this provision.
- e) the import of the said recordings produced abroad without their consent or the import from a country outside the European Community when the right over such import in Greece had been retained by the producer through contract". (articles 2, 3 par. 2 and 3, 4 of Directive 2001/29).

(2) The producers of audiovisual works (producers of visual or sound and visual recordings) have the right to authorise or prohibit:

- a) the direct or indirect, temporary or permanent reproduction by any means and form, in whole or in part, of the original and copies of their films

- b) the distribution to the public of the above recordings, by sale or other means. The distribution right shall not be exhausted within the Community in respect of the said recordings except where the first sale in the Community is made by the rightholder or with his consent
- c) the rental and public lending of the said recordings. Such rights are not exhausted by any sale or other act of distribution of the said recordings
- d) the making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them concerning the original and the copies of their films. This right is not exhausted by any act of making available to the public in the sense of this provision
- e) the import of the said recordings produced abroad without their consent or the import from a country outside the European Community when the right over such import in Greece had been retained by the producer through contract".
- f) the broadcasting of the said recordings by any means including by satellite or cable, as well as the communication to the public. (articles 2, 3 par. 2 and 3, 4 of Directive 2001/29).

(3) The term "producer of sound recordings" shall designate any natural or legal person who initiates and bears the responsibility for the realization of a first fixation of a series of sounds only. The term "producer of visual or sound and visual recordings" shall designate any natural or legal person who initiates and bears responsibility for the realization of a first fixation of a series of images with or without sound.

#### **ARTICLE 48: LICENSE FROM RADIO OR TELEVISION ORGANIZATIONS**

- (1) Radio and television organisations have the right to permit or prohibit:
  - a) the transmission of their broadcasts by any means such as wireless waves, satellites or cable
  - b) the communication of their broadcasts to the public in places accessible to the public against payment of an entrance fee
  - c) the fixation of their broadcasts on sound or sound and visual recordings, regardless of whether the broadcasts are transmitted by wire or by air, including by cable or satellite broadcasting
  - d) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part of the fixation of their broadcasts, whether those broadcasts are transmitted by wire or over the air, including cable or satellite
  - e) the distribution to the public of the recordings containing the fixation of their broadcasts, including the copies thereof, by sale or other means. The distribution right shall not be exhausted within the Community in respect of devices containing the recording of their broadcasts except where the first sale in the Community is made by the rightholder or with his consent

- f) the rental or public lending concerning the recordings containing the fixation of their broadcasts.  
Such rights are not exhausted by any sale or other act of distribution of the said recording.
- g) the making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them concerning the fixation of their broadcasts. This right is not exhausted by any act of making available to the public, in the sense of this provision (articles 2, 3 par. 2 and 3, 4 of Directive 2001/29).
- (2) Radio or television organizations shall not have the right provided for in paragraph (1)(c), above, when they merely retransmit by cable the broadcasts of radio or television organization.

#### **ARTICLE 49: RIGHT TO EQUITABLE REMUNERATION**

- (1) When sound recordings are used for a radio or television broadcast by any means, such as wireless waves, satellite or cable, or for communication to the public, the user shall pay a single and equitable remuneration to the performers whose performances are carried on the recordings and to the producers of the recordings. This remuneration shall be payable only to collecting societies. The said collecting societies shall be responsible for negotiating and agreeing the remuneration levels, raising the claims for the payment and collecting the remuneration from the users (as amended with article 54 p.6 a) Law 4481/2017 without prejudice to article 53. par. 11 Law 4481/2017\*).
- (2) Without prejudice to the obligatory assignment of the administration of rights and the collection of the remuneration by collecting societies operating according to Articles 54 to 58 of the Law, the right of performers to the reasonable remuneration prescribed under paragraph (1), above, shall not be assignable.
- (3) The collected remuneration shall be distributed in order of 50 percent to the performers and 50 percent to the producers of the recordings. The distribution of the collected remuneration among the various performers and among the various producers shall be effected pursuant to agreements among them, that are contained in the rules of each collecting society.
- (4) Performers shall have the right to an equitable remuneration in respect of any radio or television rebroadcast of their performance transmitted by radio or television. Without prejudice to the possibility of assigning the administration of rights and the collection of remuneration to collecting societies according to the provisions of Articles 54 to 58 of this Law, an equitable remuneration prescribed in this paragraph shall not be assignable.
- (5) "When visual or audiovisual recordings are used for radio or television broadcast by any means, such as wireless waves, satellite or cable or communication to the public, the user shall pay equitable remuneration to the performers, whose performances are carried on the recordings.

The provisions of paragraph 1 item b and c as well as paragraphs 2 and 4 of the present article shall be applicable mutatis mutandis" (as amended with article 54 par. 6 b) Law 4481/2017 without prejudice to article 53. par. 11 Law 4481/2017\*).

(6) Repealed with article 54 p.6 c) Law 4481/2017 without prejudice to article 53. par. 11 Law 4481/2017\*.

(7) Pending litigation during the time that the single collecting society is being established is pursued by the original parties until it is irrevocably resolved (as added with article 46 of Law 3905/2010).

*\*Article 54 par. 1 b) Law 4481/2017 mistakenly reads "without prejudice to paragraph 12" instead of "paragraph 11".*

#### **ARTICLE 50: MORAL RIGHT**

- (1) During their lifetime, performers shall have the right to full acknowledgment and credit of their status as such in relation to their performances and to the right to prohibit any form of alteration of their performances.
- (2) After the death of a performer that person's moral right shall pass to his heirs.
- (3) The provisions of Article 12(2) and Article 16 of this Law shall be applicable mutatis mutandis to the moral right of performers.

#### **ARTICLE 51: RIGHTS OF PUBLISHERS**

Publishers of printed matter shall have the right to authorize or prohibit the reproduction by reprographic, electronic or any other means of the typesetting and pagination format of the works published by them, if the said reproduction is made for exploitation purposes.

#### **ARTICLE 51A: PROTECTION OF PREVIOUSLY UNPUBLISHED WORKS**

Any person who, after the expiry of copyright protection, for the first time lawfully publishes or lawfully communicates to the public a previously unpublished work, shall benefit from a protection equivalent to the economic rights of the author, The term of the protection of such rights shall be twenty five (25) years from the time when the work was first lawfully published or lawfully communicated to the public and is calculated from 1st January of the year after the first lawful publication or communication to the public".

**ARTICLE 52: FORM OF THE LICENSE, LIMITATIONS AND DURATION OF THE RIGHTS AS WELL AS THE REGULATION OF OTHER ISSUES.**

The rights prescribed in Articles 46 to 51 of this Law shall be subject to the following rules:

(a) Agreements concerning those rights shall be valid legal agreements only when concluded in writing;

(b) The limitations applicable to the economic right attaching to copyright shall apply *mutatis mutandis*;

(c) The protection of performers provided in Articles 46 and 49 of the present law will expire fifty (50) years after the date of the performance, but cannot be less than the life of the performer.

However,

- if a fixation of the performance otherwise than in a phonogram is lawfully published or lawfully communicated to the public within this period, the rights shall expire fifty (50) years from the date of the first such publication or the first such communication to the public, whichever is the earlier,

- if a fixation of the performance in a phonogram is lawfully published or lawfully communicated to the public within this period, the rights shall expire seventy (70) years from the date of the first such publication or the first such communication to the public, whichever is the earlier (as amended with article 3 Law 4212/2013).

(d) The rights of phonogram producers (producers of sound recordings) shall expire 50 years after the fixation is made. However, if the phonogram has been lawfully published within this period, the said rights shall expire 70 (as amended with article 4 Law 4212/2013) years from the date of the first lawful publication. If no lawful publication has taken place within the period mentioned in the first sentence, and if the phonogram has been lawfully communicated to the public within this period, the said rights shall expire 70 (as amended with article 4 Law 4212/2013) years from the date of the first lawful communication to the public. However, where through the expiry of the term of protection granted pursuant to this paragraph in its version before the amendment by Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, the rights of producers of phonograms are no longer protected on 22 December 2002, this paragraph shall not have the effect of protecting those rights anew (article 11, par.2 of Directive 2001/29).

aa) If, fifty years after the phonogram was lawfully published or, failing such publication, fifty (50) years after it was lawfully communicated to the public, the phonogram producer does not offer



copies of the phonogram for sale in sufficient quantity to meet the market needs or does not make it available to the public, by wire or wireless means, in such a way that members of the public may access it from a place and at a time individually chosen by them, the performer may terminate the contract by which the performer has assigned to a phonogram producer at least the exploitation of his reproduction, distribution and making available to the public rights in the fixation of his performance. The right to terminate this contract may be exercised if the producer, within one (1) year from the written notification by the performer of his intention to terminate the contract pursuant to the previous sentence, fails to carry out both of the acts of exploitation referred to in that sentence. If the above mentioned rights have been transferred to a third party, pursuant to sub case (gg), the written notification will be exercised against the producer, as he is defined in sub case (gg). The right to terminate may not be waived by the performer. Where a phonogram contains the fixation of the performances of a plurality of performers, they may terminate the contracts of the first sentence pursuant to the first sentence of paragraph 4, article 46. If no representative is determined, the provisions of the community of right shall be applied. The termination of the contract of the first sentence in this case has as a legal consequence the expiration of the phonogram producers' rights and any other third party's rights that derives rights of him.

bb) Where a contract of the first sentence of the sub case (aa) gives the performer a right to claim a non-recurring remuneration, the performer shall have the right to obtain an annual supplementary remuneration from the phonogram producer for each full year following the 50th year after the phonogram was lawfully published or, failing such publication, the 50th year after it was lawfully communicated to the public. The payment has to take place within six (6) months from the end of each financial year. The right to obtain such annual supplementary remuneration may not be waived by the performer.

cc) The overall amount to be set aside by a phonogram producer for payment of the annual supplementary remuneration referred to in sub case bb) shall correspond to 20% of the revenue which the phonogram producer has derived, during the year preceding that for which the said remuneration is paid, from the reproduction, distribution and making available of the phonogram in question, following the 50th year after it was lawfully published or, failing such publication, the 50th year after it was lawfully communicated to the public.

dd) The right to obtain an annual supplementary remuneration as referred to in sub case (bb) is administered by the collecting societies of the performers.

ee) Phonogram producers are required on request to provide annually and in total (for all performers who are entitled to the annual supplementary remuneration and for all the phonograms) to the collecting societies which administer the annual supplementary remuneration of sub case (bb), any information which may be necessary in order to secure payment of that remuneration.

ff) Where a performer is entitled to recurring payments, neither advance payments nor any contractually defined deductions, in relation to the specific phonogram, shall be deducted from the payments made to the performer following the 50th year after the phonogram was lawfully published or, failing such publication, the 50th year after it was lawfully communicated to the public.

gg) A phonogram producer for the purpose of the above mentioned subcases (aa) to (ff) is considered to be the primary beneficiary or the successor in title or any third party that the relevant rights have been transferred to (as added with article 4 Law 4212/2013).

e) "The rights of producers of audiovisual works (producers of sound and visual recordings) shall expire fifty (50) years after the fixation is made. However, if lawful publication or lawful communication of the device is made to the public within such period, such rights shall expire 50 years from the date of first publication or first communication to the public, whichever comes first".

f) The rights of broadcasting organisations provided for in article 48 of the present law shall expire fifty (50) years after the date of the first transmission of a broadcast, whether this broadcast is transmitted by wire or over the air, including by cable or satellite or any other means of transmission.

g) The rights of editors provided for in article 51 of the present law shall expire fifty (50) years after the last edition of the work.

h) The term fixed in cases c', d', e' and f' of the present article is calculated from 1st January of the year following the event which gives rise to them.

i) For the purposes of communication to the public by satellite and cable retransmission, the rights of performers, producers of sound or visual or sound and visual recordings as well as broadcasting organisations are protected in accordance with the provisions of the eighth section of the present law, and the provisions of paragraphs 3 and 4 of article 35 of the present law are applied accordingly".

### **ARTICLE 53: PROTECTION OF COPYRIGHT**

The protection provided under Articles 46 to 52 of this Law shall leave intact and shall in no way affect the protection of copyright. In no circumstance shall any of the provisions of the

aforementioned Articles be interpreted in such a manner as to lessen that protection. Where performers, producers of sound or visual or audiovisual recordings, radio or television organizations and publishers acquire the copyright in a work in addition to related rights, such rights shall apply in parallel with each other and shall confer the rights deriving therefrom.

## **SECTION IX: ADMINISTRATION BY COLLECTING SOCIETIES**

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### **ARTICLE 54: ASSIGNATION OF ADMINISTRATION**

Par. 1-4 Not in force (repealed with article 54 par. 1 Law 4481/2017 without prejudice to article 53 par. 11 Law 4481/2017)

Par. 5-6 Not in force (repealed with article 54 par. 1 Law 4481/2017 without prejudice to article 54 par. 14 Law 4481/2017)

Par. 7-9 Not in force (repealed with article 54 par. 1 Law 4481/2017 without prejudice to article 53 par. 11 Law 4481/2017)

(10) The Minister of Culture and Sports may, after consulting with the HCO, and provided that there is a strong chance that the collective management organisation is unable to fulfil its obligations, and in particular to collect and attribute to rightholders the sums it receives on their behalf, due to, by way of example, the lack of own funds, appoint, as a pre-emptive administrative measure, a Temporary Commissioner, whose term of office shall be six (6) months, and which term may be renewed twice (2) for up to six (6) months (as amended with article 127 Law 4514/2018).

The Temporary Commissioner shall ensure that users receive payment and attribute it to rightholders. At the same time, the temporary Commissioner shall, on behalf of the organisation, bring any legal actions and appeals for defending the interests of rightholders which it represents, and shall represent the organisation in both judicial and extrajudicial procedures, in order to safeguard the rights of rightholders, as well as in any dispute arising from its own decision or action. In order to achieve these objectives, the Temporary Commissioner supersedes the administration as of the date of publication of his appointment in the Official Government Gazette.

At the same time, the Temporary Commissioner shall intervene, in a decisive manner, by immediately cancelling any act or decision not taken by the Commissioner himself in order not to disrupt the operation of the organisation and to avoid its bankruptcy.

The Board of Directors shall keep the Temporary Commissioner informed of other management issues, and in the event that he disagrees with the decision or action which may affect the viability of the organisation or the interests of the rightholders, the Commissioner shall make the decision himself.

The Temporary Commissioner is selected by the Minister for Culture and Sports among persons of recognized prestige and having adequate professional experience in business or organisation management or financial or legal matters.

The appointment of a Temporary Commissioner may not be invoked as a reason for amending or terminating any contract or agreement to which the organisation is a party.

The management bodies and the employees of the collective management organisation shall be required to immediately provide the Temporary Commissioner with any information or data requested and to facilitate the performance of his duties.

The Temporary Commissioner's liability, upon the exercise of his duties, shall be limited to malicious intent and gross negligence.

To assist the Temporary Commissioner in his work, the HCO may, upon proposal by the Temporary Commissioner, conclude service agreements with legal, financial or technical advisers, as well as with administrative personnel, subject to the approval of those persons and their remuneration by the Minister of Culture and Sports.

Permanent employees of Ministries, independent Authorities, as well as of legal entities governed by public and private law within the General Government, may be seconded to the HCO, in order to assist the Temporary Commissioner in his work. Such secondment shall be carried out by way of derogation from the applicable provisions, by a joint decision of the Ministers of Culture and Sports and any competent Minister, as the case may be. Seconded employees shall receive the entire salary of their organisation. The above remuneration shall be charged on HCO's budget.

The duration of service agreements, as well as of any secondment, may not exceed the length of the Temporary Commissioner's term of office.

The Temporary Commissioner's remuneration shall be determined, upon recommendation by the HCO, in the decision on his appointment, and shall be charged, along with the management fees and the remuneration of the persons hired to assist in his work, as per above, on the HCO 's budget.

Concerning compensation for work exceeding the mandatory working hours of persons assisting the temporary Commissioner, the provisions of item a of subparagraph 2 of paragraph C of Article 20 of Law 4354/2015 (A' 176) shall apply. Compensation for the above – mentioned mandatory overtime shall be attested by the Temporary Commissioner and shall be charged on HCO's budget.

The Commissioner shall submit to the Minister of Culture and Sports a summary report of his activities at the end of each month, as well as a schedule for the following month and a comprehensive report at the end of his term of office.

The term of office of the Temporary Commissioner shall expire upon expiry of the term for which he was appointed. Otherwise, the Minister of Culture and Sports may, by reasoned decision, revoke the appointment of the Temporary Commissioner for reasons connected with the performance of his duties or the need to reorganize the organisation (as amended with article 54 par. 15 a) Law 4481/2017).

Note: Paragraph 10 of Article 54 of Law 2121/1993, as amended by this Law, shall no longer apply:

- (a) if the appointment of the Temporary Commissioner is revoked or terminated by a decision of the Minister of Culture and Sports for any of the reasons set forth in the above provision; or
- (b) if a Commissioner is appointed in accordance with paragraph 2 of article 52 hereof (article 54 par. 15 b) Law 4481/2017).

#### **ARTICLE 55: THE COMPETENCE OF COLLECTING SOCIETIES**

(1) Collecting societies shall have the competence to perform the following functions:

- (a) concluding contracts with users specifying the terms of exploitation of works and the remuneration payable;
- (b) securing for authors the percentage fee referred to in Article 32(1) of this Law;
- (c) collecting remuneration and distributing it among authors as necessary;
- (d) collecting and allocating among authors the remuneration referred to in Article 18(3) of this Law;
- (e) effecting all administrative, judicial and extrajudicial tasks necessary to secure lawful protection of the rights of authors and other right holders, notably taking legal steps and court actions, lodging of complaints and serving writs, appearing as civil plaintiffs, seeking the prohibition of acts deemed to infringe rights whose protection is assigned to them and requesting seizure of unlawful copies pursuant to Article 64 of this Law;
- (f) obtaining from users all information needed for the computation, collection and allocation of remuneration;
- (g) carrying out, in collaboration with public authorities or pursuant to the procedure referred to in Article 64 of this Law, all necessary checks at outlets for the sale, rental and lending of copies of works under their protection, and at public performances of works, in order to protect against infringements of the rights of authors. The establishment act of the collecting society can limit its competence to only part of the above-mentioned.

(2) A collecting society shall be presumed to have the competence to administer and/or protect the rights in all of the works or in respect of all of the authors concerning which or whom a declaration of transfer to the society has been effected in writing, or for which it has been granted

power of attorney. Where a collecting society operating with the approval of the Minister of Culture and Tourism exercises the right to a single equitable remuneration as described in paragraph 1 Article 49 of this Law it shall be presumed that such collecting society represents without exception all beneficiaries, both national and foreign, and all their works. In such a case, the same shall be presumed where, for each category of beneficiaries there are more collecting societies, given that the rights are exercised by the competent collecting societies altogether (as added with article 46 Law 3905/2010). Regardless of whether its authorization rests on a transfer of rights or on power of attorney, a collecting society shall in all circumstances be entitled to initiate judicial or extrajudicial action in its own name and to exercise in full legitimacy all the rights transferred to it, or for which it holds power of attorney.

(3) When seeking the protection of the courts for works or authors under its protection a collecting society shall not be required to provide an exhaustive list of all of the works which have been the object of the unlicensed exploitation, and it may lodge only a sample list.

(4) If a right holder disputes a collecting society's competence over a work which is assumed to be included under the declaration referred to in paragraph (2), above, and which has, accordingly, on the basis of that declaration, been included in a contract concluded by the collecting society with a user, the collecting society shall defend the case of the user and offer all possible assistance in any court action which may follow. If the collecting society is adjudged not to have competence over the work, it shall, in addition to any penalty imposed upon it, be liable for the payment of compensation to the user with which it signed the contract, the amount of which shall be determined pursuant to the special safeguarding measures. This provision does not apply in the case of compulsory collective management as described in paragraph 1 Article 49 of this Law (as added with article 46 Law 3905/2010).

## **ARTICLE 56: RELATIONS WITH USERS**

(1) When granting users the facility to make use of works assigned to it, a collecting society shall demand from the users payment of the percentage fee specified in Article 32(1) of this Law. The exceptions provided for in Article 32(2) of this Law with respect to the percentage fee shall not apply in these circumstances.

(2) A collecting society may not refuse to conclude a contract with a user, as referred to in Article 55(1)(a), without good reason. If an aspiring user is of the opinion that the remuneration demanded by a collecting society is clearly in excess of that usually payable in similar circumstances, the aspiring user shall pay to the collecting society, in advance of any use, either the remuneration demanded or an amount determined, upon request, by a court of first instance

as being equal to the remuneration usually payable in similar circumstances, pursuant to the safeguarding measures. The final judgment concerning the remuneration shall be rendered by the competent court.

(3) Organizations representing users may, together with collecting societies, decide by written agreement to appoint an arbiter, specifically by name or position, to determine the amount of remuneration to be paid by a user before disagreement arises. Before finally deciding on the remuneration due the arbiter may order the user to lodge a down payment. An arbiter thus appointed shall have exclusive competence for the settling of disagreements. The decisions of an arbiter shall be equitable. The Minister of Culture may himself decide to appoint an arbiter. In such a case, recourse to that arbiter by the parties to a dispute shall be voluntary and by agreement. Collecting societies shall draw up lists of the remuneration payable by users (remuneration tariffs) and shall promulgate the said lists in not less than three daily journals, one of which shall be a financial journal. When drawing up and implementing their remuneration tariffs, collecting societies shall refrain from inconsistency and discrimination.

“The collecting societies and organisations representing users may conclude agreements regulating the remuneration payable by the user in any category of beneficiaries, as well as any other matter concerning the relations of the two sides in the framework of application of the present law, as has been subsequently amended”.

(4) In order to facilitate the actions referred to in circumstances (a), (b), (c) and (d) of Article 55(1), users shall without delay make available to collecting societies lists of the works of which they are producing, selling, renting or lending copies, together with the exact numbers of copies produced or distributed, and likewise lists of the works they are performing publicly, together with a statement of the frequency of such performances.

(5) Any dispute between the collecting societies and the users regarding the remuneration payable by the user to the collecting society may be referred to arbitration. The arbitrators are appointed from the list drafted every two years by the Copyright Organisation. It is compulsory to take into account the opinion of the collecting societies and the users when drafting the said list. For all other matters, articles 867 et seq. of the Code of Civil Procedure are applied accordingly”.

## **ARTICLE 57: RELATIONS WITH AUTHORS**

(1) A collecting society may not without good reason refuse to undertake for any particular author the administration and/or protection of the rights deriving from the economic rights of that author and the subject of the administration of the collecting society.



(2) A collecting society shall consult annually with the authors whose rights are transferred to it in order that the authors may express their views concerning the rules used to determine levels of remuneration, the methods used for the collection and distribution of remuneration and any other matter pertinent to the administration and/or protection of their rights. The collecting societies have to take into consideration these views during the processing of administrative procedures.

(3) Authors who transfer the administration and/or protection of their rights to a collecting society, together with the societies which represent them, shall be entitled to all relevant information concerning the activities of the collecting society.

(4) Where the author transfers all of his works to a collecting society for administration and/or protection, he shall give the society full information in writing about the publication of those works and shall inform the society whenever he publishes a new work after the date of the transfer of his rights.

(5) Collecting societies shall draw up rules for the distribution of remuneration to authors. Distribution shall be effected at least once annually and shall to the highest possible extent be proportionate to the actual use made of the works.

(6) For each general category of authors and each form of exploitation, collecting societies shall fix a percentage of the remunerations collected to cover their expenditures. Authors shall be informed of the relevant percentage before they transfer or grant power of attorney over their rights. The fixed percentage may be increased only with the consent of the author or after notice, served one year in advance.

(7) An author or a collecting society shall be entitled to abrogate the agreement transferring economic rights where irrefutably good grounds exist for such action. Provided not less than three months' notice is given, the abrogation shall take effect from the end of the calendar year in which it is notified. If less than three months' notice is given, the abrogation shall take effect from the end of the following calendar year.

(8) The right of the author to grant or refuse authorisation to a cable operator for a cable retransmission may be exercised only through a collecting society; for all other matters the provision of article 54, paragraph 2, hereof is applicable. Where a rightholder has not transferred the management of his cable retransmission right to a collecting society, the collecting society which manages rights of the same category with the approval of the Ministry of Culture shall be mandated to manage his cable retransmission right. Where more than one collecting society manages rights of that category, the rightholder may be free to choose which of those collecting societies shall be mandated to manage his cable retransmission right. The author referred to in this paragraph shall have the same rights and obligations as the rightholders who have mandated the

collecting society and he shall be able to claim those rights within a period of three (3) years from the date of cable retransmission of the broadcast.

(9) The provisions of the previous paragraph do not apply to the rights exercised by a broadcasting organisation in respect of its own transmission, irrespective of whether the rights concerned are its own or have been transferred to it by other copyright owners and/or other right holders”.

#### **ARTICLE 58: APPLICATION TO RELATED RIGHTS**

The provisions of Articles 54 to 57 shall be applicable mutatis mutandis to the administration and/or protection of the related rights regulated by the provisions of Section VIII of this Law.

#### **SECTION X: MEASURES TO PREVENT INFRINGEMENTS**

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#### **ARTICLE 59: IMPOSITION OF AND ADHERENCE TO SPECIFICATIONS**

Presidential decrees may be issued, on the recommendation of the Ministry of Culture, laying down specifications for the equipment and other materials used in the making of reproductions of works with a view to preventing or limiting the use of such equipment and materials for purposes which conflict with the normal exploitation of copyright and related rights.

#### **ARTICLE 60: USE OF CONTROL SYSTEMS**

Presidential decrees may be issued on the recommendation of the Minister of Culture, making compulsory the use of equipment or systems which permit the designation of reproduced or used works and the extent and frequency of the reproduction or use, subject to such methods not causing unjustifiable harm to the lawful interests of users.

#### **ARTICLE 61: CONTROL LABELING**

Presidential decrees may be issued, on the recommendation of the Minister of Culture, stipulating that visual or sound or visual and sound recordings may circulate only when they carry on their outer casing or in another prominent position a special mark or control label of any type supplied by the competent collecting society, indicating that their distribution on the market or their circulation in some other manner, does not constitute an infringement of the rights of the author.

## **ARTICLE 62: PROHIBITION OF DECODING**

The distribution, use, and the possession with intent to use or distribute, of decoding equipment shall be prohibited without the permission of the broadcasting organizations which transmit encrypted programs by wire or over the air, including by cable or satellite.

## **ARTICLE 63: STOPPING AN INFRINGEMENT OR ITS CONTINUATION**

(1) Where a potential infringement of copyright is identified, such as where there is a clear intention to offer an unlawful public performance of a theatrical or cinematographic or a musical work, the competent local police authority shall prohibit the infringing act when requested to do so by the author or right holder. When requested, the prosecuting authorities shall grant the police authority any necessary mandate. The same shall apply when the public presentation of a work has been in progress for more than two days without payment of due remuneration.

(2) The granting of a city permit (as amended with article 46 Law 3905/2010) permitting the use of musical instruments or certifying the suitability of premises, or of any other license required in law for the use of premises for the performance of musical or other works, whose administration is entrusted to a collecting society competent to authorize the public performance of works, shall be conditional on the deposition by the applicant of a written authorization for the performance, issued by that collecting society.

"(3) Paragraphs 1 and 2 of this article shall also apply in case of infringement of the beneficiaries of related rights provided for in articles 46, 47 and 48 of this law".

## **SECTION XI: LEGAL PROTECTION**

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### **ARTICLE 63A: EVIDENCE**

- (1) On application by a party which has presented reasonably available evidence sufficient to support its claims of infringement or threat of infringement of the rights under this law and has, in substantiating those claims, specified evidence which lies in the control of the opposing party, the court may order, on application by a party, that such evidence be presented by the opposing party. In the case of an infringement committed on a commercial scale, the court may also order, on application by a party, the communication of banking, financial or commercial documents under the control of the opposing party. The existence of a substantial number of copies shall be considered to constitute reasonable evidence of an infringement committed on a commercial scale. In any event, the court shall ensure the protection of confidential information. (article 6, paragraphs 1 and 2, of Directive 2004/48)
- (2) In the context of proceedings concerning an infringement of rights under this law and in response to a justified and proportionate request of the claimant, the chairman of a multimember court or the judge of a one-member court may order, even before the hearing date, that information on the origin and distribution networks of the goods or services which infringe an intellectual property right be provided by the infringer and/or any other person who (a) was found in possession of the infringing goods on a commercial scale, (b) was found to be using the infringing services on a commercial scale, (c) was found to be providing on a commercial scale services used in infringing activities, or (d) was indicated by the person referred to in points (a), (b) or (c) as being involved in the production, manufacture or distribution of the goods or the provision of the services.
- (3) The information referred to in paragraph 2 shall, as appropriate, comprise: (a) the names and addresses of the producers, manufacturers, distributors, suppliers and other previous holders of the goods or services, as well as the intended wholesalers and retailers, (b) information on the quantities produced, manufactured, delivered, received or ordered, as well as the price obtained for the goods or services in question.
- (4) Paragraphs 2 and 3 shall apply without prejudice to other statutory provisions which: (a) grant the rightholder rights to receive fuller information, (b) govern the use in civil or criminal proceedings of the information communicated pursuant to paragraphs 2 and 3 of this article, (c) govern responsibility for misuse of the right of information, or (d) afford an opportunity for refusing to provide information which would force the person referred to in paragraph 2 to admit to his/her own participation or that of his/her close relatives in an infringement of an intellectual property

right, or (e) govern the protection of confidentiality of information sources or the processing of personal data. (article 8 of Directive 2004/48)

5. If a party is summoned to produce the evidence referred to in paragraph 1 and unjustifiably fails to produce such evidence, the claims of the party that sought the production or notification of evidence shall be considered as confessed. Any party that unjustifiably violates an order of the court under paragraph 2 shall be sentenced to pay, in addition to legal costs, a monetary fine of EUR 50,000.00 to 100,000.00, which shall devolve to the tax office.

### **ARTICLE 63B: LEGAL COSTS**

In cases covered by this law, legal costs and other expenses shall include any other pertinent expenditure, such as witness costs, attorney fees, fees of experts and technical consultants of the parties and expenses made for the discovery of the infringers, reasonably incurred by the successful party. The provisions of articles 173 et seq. of the Code of Civil Procedure are applied to any other matters" (article 14 of Directive 2004/48).

### **ARTICLE 64: INJUNCTION MEASURES AND PRECAUTIONARY EVIDENCE**

(1) In case of alleged infringement of copyright or related right provided for by articles 46 to 48 and 51 or the special right of database creators, the One-member First Instance Court shall order the precautionary seizure of items in the possession of the alleged infringer that constitute means of commission or product or evidence of the infringement. Instead of precautionary seizure, the court may order the detailed description of such items, including the taking of photographs. Article 687§1 of the Code of Civil Procedure shall be applied in such cases and a provisional order shall be issued according to article 691§2 of the Code of Civil Procedure. (article 7 of Directive 2004/48)

(2) The court shall order injunction measures or precautionary evidence without needing to specify the works infringed or in threat of infringement.

(3) The court may issue against the alleged infringer an injunction intended to prevent any imminent infringement of the rights under this law or to forbid, on a provisional basis and subject, where appropriate, to a penalty payment under article 947 of the Code of Civil Procedure for each infringement or continuation of the infringements of that right. The procedure of articles 686 et seq. of the Code of Civil Procedure shall be applicable in order to ascertain the infringement of the ordered injunction or the pertinent provision of article 691§2 of the Code of Civil Procedure. The court may make such continuation subject to the lodging of guarantees intended to ensure the

compensation of the rightholder. The court may also order the precautionary seizure or delivery up of the goods suspected of infringing rights under this law so as to prevent their entry into or movement within the channels of commerce.

(4) In the case of an infringement committed on a commercial scale, court may order the precautionary seizure of the property of the alleged infringer, including the blocking of his/her bank accounts. To that end, the court may order the communication of bank, financial or commercial documents, or appropriate access to the relevant information.

(5) The injunction measures referred to in paragraphs 3 and 4 may, in appropriate cases, be taken without the defendant having been heard, under article 687§1 of the Code of Civil Procedure, in particular where any delay would cause irreparable harm to the rightholder. In that event, if the decision or the order of the court is not notified to the defendant before or during its enforcement, it shall be notified on the first business day following the enforcement; otherwise, any relevant procedural acts shall be null and void.

(6) The court may make the provisional measures referred to in paragraphs 1, 3 and 4 subject to the lodging by the applicant of security determined in the decision or provisional order and/or without guarantee and shall specify a time limit for the lodging of the action for the main case under article 693§1 of the Code of Civil Procedure, which cannot be more than thirty days. If no action is lodged within the said time limit, the injunction shall be lifted ipso jure.

(7) Where the provisional measures are revoked due to any act or omission by the applicant, or where it is subsequently found that there has been no infringement or threat of infringement of the rights under this law, the court may order the applicant, upon request of the defendant, to provide the defendant appropriate compensation for any injury caused by those measures". (articles 7 and 9 of Directive 2004/48)

#### **ARTICLE 64A: INJUNCTION**

Rightholders may apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right It is the same for the sui generis right of data base maker.

#### **ARTICLE 65: CIVIL SANCTIONS**

(1) "In any case of infringement or threat of infringement of copyright or related rights, the author or the rightholder may claim the recognition of this right, the discontinuation of the infringement and its omission in the future. The discontinuation of the infringement may include, at the request of the applicant: (a) recall from the channels of commerce of goods that they have

found to be infringing rights under this law and, in appropriate cases, with regard to materials and implements principally used in the creation or manufacture of those goods, (b) definitive removal from the channels of commerce, or (c) destruction. The rights of the first sentence of this paragraph shall be exercised by right holders against intermediaries whose services are used by a third party to infringe rights under this law". (Articles 10, paragraph 1, and 11 of Directive 2004/48)

(2) A person who by intent or negligence infringes copyright or a related right of another person shall indemnify that person for the moral damage caused, and be liable for the payment of damages of not less than twice the legally required or normally payable remuneration for the form of exploitation which the infringing party has effected without license.

(3) Instead of seeking damages, and regardless of whether the infringement was committed by intent or negligence, the author or the right holder of the related right may demand either the payment of the sum accrued by the infringing party from the unlicensed exploitation of a work, or of the object of a related right, pursuant to Articles 46 to 48 and 51 of this Law, or the profit gained by the infringing party from such an exploitation.

(4) For each act of omission contributing to an infringement, the court may impose a fine of eight hundred and eighty (880) to two thousand nine hundred (2,900) euros (as amended with article 54 par. 7 Law 4481/2017) payable to the author or to the right holder of the related rights referred to Articles 46 to 48 and 51 of this Law and imprisonment of up to one year. The same shall apply when the conviction is effected pursuant to the procedure under the safeguarding measures. All other matters shall be regulated pursuant to Article 947 of the Civil Procedure Code.

(5) The civil sanctions of this article are applied accordingly in the case that the debtor did not pay the remuneration provided for by paragraph (3) of Article 18 hereof to a collecting society.

(6) The civil penalties of this article are also applied in case of infringement of intellectual property of the author of a database and of the sui generis right of the maker of a database. (article 12 of Directive 96/9)

#### **ARTICLE 65A: ADMINISTRATIVE SANCTIONS**

(1) Any person who, without being entitled to and in violation of the provisions of this law, reproduces, sells or otherwise distributes to the public or possesses with the purpose of distributing a computer programme shall, irrespective of other sanctions, be subject to an administrative fine of EUR 1,000.00 for each illegal copy of the computer programme.

(2) A street vendor or a standing person (outside a shop) caught to distribute to the public by sale or by other means, or to possess with the intention of distributing sound recordings on which a work protected by copyright or related rights law has been recorded, is imposed an administrative

penalty equal to the product of the items of illegal recordings by (20) euros for each sound recording according to the seizure report drafted during the arrest of the infringer. The minimum of the administrative penalty is defined to one thousand (1000) euros. The same applies to the reproduction and distribution of physical carriers of sound in shops (as added with article 46 Law 3905/2010 and amended with article 54 par.8 a) Law 4481/2017).

(2.A.) Whoever, without any legitimate right and in violation of the provisions of this Law, reproduces phonograms stored on any technical storage media, including hard disks, whether embedded or not on a computer, shall pay an administrative fine of one thousand (1,000) euros (as added with article 54 par. 8 b) Law 4481/2017).

(3) A presidential decree issued after a proposition by the Ministry of Finance and the Ministry of Culture may amend the rates of the amounts and minimum rate mentioned in par. 1 and 2 regarding the administrative penalty.

(4) The competent authorities for the control of enforcement of these stipulations and of the enforcement of the provided sanctions are the Unit of Special Controls (IPEE), the Police, the Port (as added with article 46 Law 3905/2010) and the Customs authorities, which inform the rightholders via the Hellenic Copyright Organization after the finding of the violation.

(5) A common decision issued by the Ministry of Finance and the Ministry of Culture defines the procedure of the penalty enforcement and collecting, the competent collecting services and any other detail necessary for the application of the present article.

## **ARTICLE 66: CRIMINAL SANCTIONS**

(1) "Any person who, in contravention of the provisions of this law or of the provisions of lawfully ratified multilateral international conventions on the protection of copyright, unlawfully makes a fixation of a work or of copies, reproduces them directly or indirectly, temporarily or permanently in any form, in whole or in part, translates, adapts, alters or transforms them, or distributes them to the public by sale or other means, or possesses with the intent of distributing them, rents, performs in public, broadcasts by radio or television or any other means, communicates to the public works or copies by any means, imports copies of a work illegally produced abroad without the consent of the author and, in general, exploits works, reproductions or copies being the object of copyright or acts against the moral right of the author to decide freely on the publication and the presentation of his work to the public without additions or deletions, shall be liable to imprisonment of not less than one year and to a fine from 2.900-15.000 Euro".



(2) The sanctions listed above shall be applicable to any person who, in contravention of the provisions of this law, or of the provisions of lawfully ratified multilateral international conventions on the protection of related rights, makes the following actions:

"A) Without the permission of the performers: a) fixes their performance, b) directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, the fixation of their performance c) distributes to the public the fixation of their performance or possesses them with the purpose of distribution, d) rents the fixation of their performance, e) broadcasts by radio and television by any means, the live performance, unless such broadcasting is rebroadcasting of a legitimate broadcasting, f) communicates to the public the live performance made by any means, except radio and television broadcasting, g) makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, the fixation of their performance".

"B) Without the permission of phonogram producers (producers of sound recordings): a) directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, their phonograms, b) distributes to the public the above recordings, or possesses them with the purpose of distribution, c) rents the said recordings, d) makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, their phonograms, e) imports the said recordings produced abroad without their consent".

"C) Without the permission of producers of audiovisual works (producers of visual or sound and visual recordings) a) directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, the original and the copies of their films, b) distributes to the public the above recordings, including the copies thereof, or possesses them with the purpose of distribution, c) rents the said recordings, d) makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, the original and the copies of their films e) imports the said recordings produced abroad without their consent f) broadcasts by radio or television by any means including satellite transmission and cable retransmission, as well as the communication to the public

"D) Without the permission of radio and television organisations: a) rebroadcasts their broadcasts by any means, b) presents their broadcasts to the public in places accessible to the public against payment of an entrance fee, c) fixes their broadcasts on sound or sound and visual recordings, regardless of whether the broadcasts are transmitted by wire or by the air, including by cable or satellite d) directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, the fixation of their broadcasts, e) distributes to the public the recordings containing the fixation of their broadcasts, f) rents the recordings containing the fixation of their

broadcasts, g) makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, the fixation of their broadcasts" (article 8 par. 1 of Directive 2001/29).

(3) If the financial gain sought or the damage caused by the perpetration of an act listed in paragraphs (1) and (2), above, is particularly great, the sanction shall be not less than two years imprisonment and a fine of from six thousand (6,000) to thirty thousand (30,000) euros. If the guilty party has perpetrated any of the aforementioned acts by profession" or at a commercial scale" or if the circumstances in connection with the perpetration of the act indicate that the guilty party poses a serious threat to the protection of copyright or related rights, the sanction shall be imprisonment of up to 10 years and a fine of from 5 to 10 million drachmas, together with the withdrawal of the trading license of the undertaking which has served as the vehicle for the act. The act shall be likewise deemed to have been perpetrated by way of standard practice if the guilty party has on a previous occasion been convicted of a contravention pursuant to the provisions of the Article or for a violation of the preceding copyright legislation and sentenced to a non-redeemable period of imprisonment." Any infringement of copyright and related rights in the form of felony is tried by the competent Three-member Court of Appeal for Felonies" (as amended with article 54 par. 9 a) Law 4481/2017).

(4) Any person who did not pay the remuneration provided for by Article 18, paragraph (3) hereof to a collecting society is punished with the sanction of paragraph (1), (2) and (3). The same sentence is imposed on the debtor who, after the issuance of the decision of the onemember first instance court, does not submit the declaration under the provisions of article 18, par. 6, of this law. (Last amended by Law 3207/2003, article 10 par. 33).

(5) The sanctions specified in paragraph (1), above, shall be applicable likewise to any person who:

(a) uses or distributes, or possesses with the intent to distribute, any system or means whose sole purpose is to facilitate the unpermitted removal or neutralization of a technical system used to protect a computer program;

(b) manufactures or imports or distributes, or possesses with intent to distribute, equipment and other materials utilizable for the reproduction of a work which do not conform to the specifications determined pursuant to Article 59 of this Law;

(c) manufactures or imports or distributes, or possesses with intent to distribute, objects which can thwart the efficacy of the above-mentioned specifications, or engages in an act which can have that result;

(d) reproduces or uses a work without utilizing the equipment or without applying the systems specified pursuant to Article 60 of this Law;

- (e) distributes, or possesses with intent to distribute, a phonogram or film without the special mark or control label specified pursuant to Article 61 of this Law.
- (6) By way of exception from the provision of Article 82 (10) (b) of the Penal Code, in the event of conversion of the custodial sentence, the conversion amount is set at five times the limits of the conversion amount provided for each case in the Penal Code (as amended with article 54 par. 9 b) Law 4481/2017).
- (7) Where mitigating circumstances exist, the fine imposed shall not be less than half of the minimum fine imposable as per the case under this Law.
- (8) Any person who proceeds to authorised temporary or permanent reproduction of the database, translation, adaptation, arrangement and any other alteration of the database, distribution to the public of the database or of copies thereof, communication, display or performance of the database to the public, is punished by imprisonment of at least one (1) year and a fine of three thousand (3.000) to fifteen thousand (15.000) euros (as amended with article 54 par. 9 c) Law 4481/2017).
- (9) Any person who proceeds to extraction and/or re-utilisation of the whole or of a substantial part of the contents of the database without the authorisation of the author thereof, is punished by imprisonment of at least one (1) year and a fine of three thousand (3.000) to fifteen thousand (15.000) euros (article 12 of Directive 96/9) (as amended with article 54 par. 9 c) Law 4481/2017).
- (10) When the object of the infringement refers to computer software, the culpable character of the action, as described in paragraph 1 of article 65A and under the prerequisites provided there, is raised under the condition that the infringer proceeds in the unreserved payment of the administrative fee and the infringement concerns quantity up to 50 programs.
- (11) When the object of infringement concerns recordings of sound in which a work protected by copyright law has been recorded, the unreserved payment of an administrative fee according to the stipulation of par.2 of article 65A and under the prerequisites provided there, shall result in non-prosecution and any prosecution shall be dismissed under the condition that the infringement concerns quantity up to five hundred (500) illegal sound recording carriers ) (as amended with article 54 par. 9 d) Law 4481/2017).
- (11.A.) Where the offense concerns phonograms (musical compositions) stored on any technical storage media or computer, the unconditional payment of the administrative fine by the offender under paragraph 2 of Article 65A and under the prescribed conditions shall result in non-prosecution and the dismissal of any prosecution, provided that the offense relates to up to 1,000 musical compositions (as added with article 54 par. e) Law 4481/2017).
- (12) The payment of the administrative fee and the and the non-prosecution or the dismissal of criminal prosecution, do not relieve the infringers from the duty of buying off the copyright and

related rights or from the duty of compensating and paying the rest expenses to the holders of these rights, according to the provisions of the relevant laws (as amended with article 9 d) Law 4481/2017 and renumbered with article 9 g) Law 4481/2017)

(13) In case of recidivism during the same financial year the administrative fee provided by article 65A doubles.

## **ARTICLE 66A: TECHNOLOGICAL MEASURES**

(1) The expression "technological measures" means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other subject-matter, which are not authorised by the rightholder of any copyright or any right related to copyright as well as the sui generis right of the data base maker. Technological measures shall be deemed "effective" where the use of a protected work or other subject-matter is controlled by the rightholders through application of an access control or protection process, such as encryption, scrambling or other transformation of the work or other subject-matter or a copy control mechanism, which achieves the protection objective" (article 6 par. 3 of Directive 2001/29).

(2) It is prohibited to circumvent, without the permission of the rightholder, any effective technological measure when such act is made in the knowledge or with reasonable grounds to know that he is pursuing that objective (article 6 par. 1 of Directive 2001/29)".

(3) It is prohibited without the permission of the rightholder, the manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of devices, products or components or the provision of services which: a) are promoted, advertised or marketed for the purpose of circumvention of, or b) have only a limited commercially significant purpose or use other than to circumvent, or c) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of, any effective technological measures" (article 6 par. 2 of Directive 2001/29).

(4) The practice of activities in violation of the above provisions is punished by imprisonment of at least one year and a fine of 2.900-15.000 Euro and entails the civil sanctions of article 65 Law 2121/1993. The One-member First Instance Court may order injunction in accordance with the Code of Civil Procedure, the provision of article 64 Law 2121/1993 also being applicable" (article 6 par. 1 and 2 of Directive 2001/29).

(5) Notwithstanding the legal protection provided for in par. 2 of this article, as it concerns the limitations (exceptions) provided for in Section IV of law 2121/1993, as exists, related to

reproduction for private use on paper or any similar medium (article 18), reproduction for teaching purposes (article 21), reproduction by libraries and archives (article 22), reproduction for judicial or administrative purposes (article 24), as well as the use for the benefit of people with disability (article 28A), the rightholders should have the obligation to give to the beneficiaries the measures to ensure the benefit of the exception to the extent necessary and where that beneficiaries have legal access to the protected work or subjectmatter concerned. If the rightholders do not take voluntary measures including agreements between rightholders and third parties benefiting from the exception, the rightholders and third parties benefiting from the exception may request the assistance of one or more mediators selected from the list of mediators drawn up by the Copyright Organization. The mediators make recommendations to the parties. If no party objects within one month from the forwarding of the recommendation, all parties are considered to have accepted the recommendation. Otherwise, the dispute is settled by the Court of Appeal of Athens trying at first and last instance. These provisions shall not apply to works or other subject-matter available to the public on agreed contractual terms in such a way that members of the public may access them from a place and at a time individually chosen by them (article 6 par. 4 of Directive 2001/29).

#### **ARTICLE 66B: RIGHTS - MANAGEMENT INFORMATION**

(1) The expression "rights management information" means any information provided by rightholders which identifies the work or other subject-matter protected by a related right or the sui generis right of data base maker, and which identifies the author or any other rightholder, or information about the terms and conditions of use of the work or other subject-matter, and any numbers or codes that represent such information" (article 7 par. 2 of Directive 2001/29).

(2) It is prohibited for any person knowingly performing the permission of the rightholder without any of the following acts: a) the removal or alteration of any electronic rightsmanagement information, b) the distribution, importation for distribution, broadcasting, communication or making available to the public of works or other subject-matter protected by a related right or the sui generis right of data base maker, from which electronic rights management information has been removed or altered without authority, if such person knows, or has reasonable grounds to know that by so doing he is inducing, enabling, facilitating or concealing an infringement of any copyright or related right or the sui generis right of data base maker" (article 7 par. 1 of Directive 2001/29).

(3) The violation of the above provisions is punished by imprisonment of at least one year and a fine of 2.900-15.000 Euro and entails the civil sanctions of article 65 Law 2121/1993. The Onemember First Instance Court may order injunction in accordance with the Code of Civil

Procedure, the provision of article 64 Law 2121/1993 also being applicable” (article 7 of Directive 2001/29).

#### **ARTICLE 66C: PUBLICATION OF DECISIONS**

Decisions of civil or criminal courts concerning rights under this law may, at the request of the applicant and at the cost of the infringer, order the appropriate measures to be taken for the propagation of information relating to the decision, including the posting of the decision, as well as its publication, in summary or in its entirety, in the mass media or the internet.

#### **ARTICLE 66D: CODES OF ETHICS AND INFORMATION EXCHANGE**

(1) The business or professional associations concerned, as well as collective management or protection organisations, shall prepare codes of ethics with the purpose of contributing, at national, Community or global level, to the enforcement of the rights under this law and shall recommend the use of codes in optical discs in order to identify the origin of their manufacture.

The codes of ethics and any evaluation of their implementation shall be forwarded to the EU Commission.

(2) The national correspondent for the rights under this law shall be the Hellenic Copyright Organisation".

#### **ARTICLE 66E: SANCTIONS FOR INFRINGEMENTS OF COPYRIGHT AND RELATED RIGHTS ON THE INTERNET**

(1) In cases of copyright or related rights infringement on the internet, the rightholder may follow the procedure provided for in the paragraphs herein. For the purposes of this article, by rightholder is meant the rightholder whose right is infringed on the internet as well as any collective management organisation or collective protection organisation to which has been assigned the collective management or protection of copyright or related rights. Such procedure shall not apply neither to cases of infringement committed by end users by means of downloading of works or streaming or peer to peer exchange of files, which allow for the direct exchange of digital files of works between end users, nor to cases of infringement by means of provision of data storing services through cloud computing. This procedure shall be without prejudice to the procedure provided for in the Regulation on Management and Assignment of .gr Domain names of the Hellenic Telecommunications and Post Commission (EETT), which is specified by EETT’s decision.

(2) In order for the procedure provided for in this article to have effect, a Committee is formed by decision of the Minister of Culture and Sports for the notification of copyright and related rights infringement on the internet. This Committee shall be assisted by the Hellenic Copyright Organisation (HCO) staff. It shall be a three member Committee consisting of HCO's Administrative Board President substituted with HCO's Administrative Board Vice President, an EETT delegate and his substitute as designated by EETT's President, and a delegate of the Hellenic Data Protection Authority (HDP) and his substitute as designated by HDP's President. President of the Committee shall be HCO's President and the EETT's delegate shall be its secretary. The Committee shall have a three (3) year term.

(3) By decision of the Minister of Culture and Sports shall be determined the forming, functions and competence of the Committee and any relevant matter. The provisions of article 21 of law 4354/2015 (A' 176) as amended by those of article 52 of law 4369/2016 (A' 33) shall apply to determine the compensation fee payable to the members of the Committee. The decision of sentence 1 herein shall also determine, as a review fee, the fee payable to HCO by the applicant in conjunction with his application to the Committee. Such fee shall be paid in advance and shall be a prerequisite for the commencement of the procedure.

(4) The rightholder shall submit his application for termination of infringement either in person or electronically. He shall fill in the pro-forma application to the Committee, which is available on HCO's website. Attached to this he shall submit all and any document referred to therein as mandatory as well as any additional evidence that may establish his right. For the submission of the application to be admissible, the rightholder must have made use of the corresponding procedure which the provider had determined and which was concluded within reasonable time but with no result.

(5) Within ten (10) working days from receipt of the application, the Committee shall either (a) archive the case or (b) follow through the procedure.

a. The case shall be archived by means of a Committee act in which mention shall be made of one of the following reasons:

aa. non use of pro-forma application

bb. lack of sufficient information

cc. a case is pending between the same parties before the courts or the issuance of a final decision on the dispute at issue

dd. lack of competence

- ee. lack of grounds and lack of sufficient evidence (-apparently unsubstantiated-)
- ff. withdrawal from the application prior to its review
- gg. non payment of the review fee pursuant to the provisions of paragraph 3 above
- hh. obtaining a license of use

b. If the procedure follows through, within ten (10) working days from receipt of the application, the Committee shall simultaneously notify the internet access providers and, where possible, the host providers and administrators, and/or proprietors of the websites referred to in the application. Such notice thereof shall include at least the exact definition of the rights allegedly infringed; the law provisions which, by declaration of the rightholder, are violated; a summary of events and the outcome of the evaluation of evidence; the competent person to whom objections may be raised; the conditions upon which the procedure may be terminated and a mention to the voluntary compliance for which the parties involved may opt. The person which receives such notice may voluntarily comply to the applicant's claim or obtain from the applicant a relevant permission within ten (10) working days from the date of receipt of the notice. In any other case, he may raise his objections to the Committee within five (5) working days from the date of receipt of the notice whereby he shall simultaneously produce all evidence that explicitly proves that no infringement thereby occurs. Such deadlines may extend to the double upon decision by the Committee. In the case that the person who receives the notice voluntarily complies with it, a decision by the Committee is issued in which his voluntary compliance is expressly stated. In the event that a license for use of rights is obtained the case shall be archived. Upon expiration of the deadline for objections to be raised and where deemed necessary the Committee shall ask further evidence to be submitted within five (5) working days.

(6) Within five (5) working days from expiration of the above deadlines the Committee shall review the case and in no later than forty (40) working days from the submission of the application, it shall notify of its decision the applicant and the person who receives the notice. In such decision:

- a. Where no infringement of copyright or related rights is substantiated, it shall archive the case by issuing a reasoned opinion.
- b. Where an infringement is substantiated, it shall issue a reasoned decision in which it shall ask from all those that receive it to comply with it within a period of no more than three (3) working days from the date of receipt by them.



In case that the deadlines set out in paragraph 5 above are extended by decision of the Committee pursuant to the provisions of sentence 7 thereof, the deadline of forty (40) working days referred to in sentence 1 herein shall be extended to sixty (60) working days. Where the Committee substantiates that copyright or related rights are infringed, it shall ask from those that are notified to remove the infringing content from the website where it has been illegally posted or to block access to it. Where the content is hosted on a website whose server is within the Greek territory, the Committee shall ask from those that are notified the removal of such content. In case of large scale infringement the Committee may decide, instead of content removal, the blocking of access to this content. Where the website is hosted on a server outside the Greek territory, the Committee shall ask the internet access provider to block access to this content.

(7) In case of non-compliance with the dictum of the decision, the Committee shall impose a fine of five hundred (500) up to a thousand (1000) Euros for each and every day of non-compliance. The seriousness of the infringement and its repetition shall be amongst the criteria taken into account. The Minister of Finances in conjunction with the Minister of Culture and Sports shall mutually decide on the manner in which the fine shall be imposed and collected, the competent collection authorities and all other relevant matters.

(8) The commencement of the procedure before the Committee does not affect or prejudice the right of access to a tribunal for the same dispute. Where, however, the case has been brought to the courts by the same applicant and on the same grounds, the Committee shall archive the case. Also, the issuance of a decision by the Committee does not prevent the interested parties from exercising their right of access to a tribunal for the protection of their legitimate interests”.

## **SECTION XIII: FINAL AND TRANSITIONAL PROVISIONS**

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### **ARTICLE 67: APPLICABLE LEGISLATION**

(1) Copyright in a published work shall be governed by the legislation of the State in which the work is first made lawfully accessible to the public. Copyright in an unpublished work shall be governed by the legislation of the State in which the author is a national.

(2) Related rights shall be governed by the legislation of the State in which the performance is realized, or in which the sound or visual or sound and visual recording is produced, or in which the radio or television broadcast is transmitted or in which the printed publication is effected.

(3) In all cases, the determination of the subject, object, content, duration and limitations of the right shall be governed by the legislation applicable pursuant to paragraphs (1) and (2), above, with the exception of any exploitation license arrangement. The protection of a right shall be subject to the legislation of the State in which the protection is sought.

(4) Paragraphs (1), (2) and (3), above, shall apply except where they run contrary to any international convention ratified by Greece. In the case of States not conjoint with Greece through the ratification of an international convention, paragraphs (1), (2) and (3), above, shall be applicable as regards the protection of copyright or of any particular object of copyright or of any particular related right, provided that the legislation of the relevant state offers adequate copyright protection to works first made accessible to the public in Greece and to related rights stemming from acts effected in Greece.

### **ARTICLE 68: LAW NOT RETROACTIVE**

(1) Works for which the duration of protection has expired prior to the entry into force of this Law shall remain without copyright protection.

(2) The protection prescribed under Article 2(3) and Articles 40 to 53 shall become applicable to computer programs created in the past and to related rights stemming from acts effected in the past from the date of the entry into force of this Law.

(3) Contracts concluded before the entry into force of this Law shall be governed by the preceding legislation for one year from the date of the entry into force of this Law.

## **ARTICLE 68A: DIACHRONIC LAW**

(1) The term of protection provided for in Articles 29, 30 paragraph 1, 31 and 52 shall apply to all related works and related rights protected in at least one Member State on 1.7.1995 pursuant to national laws on copyright and related rights.. Third parties who undertook the exploitation of works or subject matter which are protected by related rights that had become common possession before the entry into force of the present law may continue the said exploitation in the same ways, with the same means and to the same extent until 1.1.1999. The term of protection provided for in Article 30 (2) shall apply to musical compositions with lyrics provided that either the musical composition or the lyrics were protected in at least one Member State of the European Union on 1 November 2013 and to musical compositions with lyrics created after this date, subject to any exploitation acts carried out before 1 November 2013 and to any acquired rights of third parties (as amended with article 54 par.10 b) Law 4481/2017).

(2) The agreements concerning the exploitation of works and other protected subject matter which were valid before 1.1.1995 are subject as of 1.1.2000 to the provisions of article 35, paragraph 3, of the present law, provided that they expire after this date. If an international co-production agreement concluded before 1.1.1995 between a co-producer from a Member-State and one or more co-producers from other Member-States or third countries expressly provides for a geographic distribution system of the exploitation rights of the co-producers for all means of communication to the public without distinction between the arrangements applicable for communication to the public by satellite and the provisions applicable to other means of communication and if the communication to the public by satellite would prejudice the exclusivity, particularly the language exclusivity, of one of the co-producers or his assignees in a specific territory, the consent of the beneficiary of the said exclusivity, whether he is the coproducer or an assignee, is required for the authorisation of communication to the public by satellite by a co-producer or his assignees". The term of protection provided for in article 30 of this law shall apply to musical compositions with lyrics, if either the musical composition or the lyrics were protected in at least one Member State of the European Union on November 1<sup>st</sup>, 2013 and to musical compositions with lyrics which come into being after that date, without prejudice to any acts of exploitation that have been performed before November 1<sup>st</sup>, 2013 and any acquired rights from third parties. If, due to this provision, there is a revival of rights that have been transferred or otherwise assigned to third parties based on license or contract, the extension of the term of protection shall benefit the final beneficiary or the special assignee thereof. Otherwise, the heir of the creator will benefit. The term of protection provided in cases (c) and (d) of article 52 applies to the material fixations of the performances and to the phonograms in relation to which the performer or the phonogram producer are still protected, by virtue of those provisions in the version

thereof in force on 30 October 2011, as at 1 November 2013, and to fixations of performances and phonograms which come into being after that date (as added with article 5 Law 4212/2013).

1a. In the absence of clear contractual indications to the contrary, a contract on transfer or assignment of article 52 (aa) and (dd), concluded before 1 November 2013 shall be deemed to continue to produce its effects beyond the moment at which, the performer would no longer be protected, according to article 52(c), in the version thereof in force before the Implementation of Directive 2011/77 into national law (as added with article 5 Law 4212/2013).

(3) The provisions on orphan works provided for in article 27A shall apply to all the works and phonograms protected by copyright or related rights for the first time from 29.10.2014 onwards, while they shall be without prejudice to the validity of acts concluded and rights acquired before the above mentioned date (as added with article 8 Law 4212/2013).

#### **ARTICLE 69: ESTABLISHMENT OF THE COPYRIGHT ORGANISATION**

(1) A legal entity in private law under the jurisdiction of the Ministry of Culture shall be established at a registered address in Athens under the title "The Copyright Organization." The purpose of the Copyright Organization shall be the protection of authors and of holders of related rights, the supervision of the collecting societies, the implementation of this Law and of related international conventions, the preparation of legal studies on matters pertaining to copyright and related rights and the representation of Greece in dealings with all the competent international organizations and with the institutions of the European Community. HCO may also organize any kind of seminars to educate and inform judges, lawyers, civil servants, authors, holders of related rights, educators, students on copyright and related rights, and to provide mediation services on copyright, related rights and collective management issues, as well as time-stamping services, namely by providing certified dates in relation to works or objects of protection which may be protected by copyright and/or a related right (time stamping services). In no circumstance shall the Copyright Organization have as its purpose the administration of rights pursuant to Articles 54 to 58 of this Law (as amended with article 54 par.11 Law 4481/2017).

(2) "The Intellectual Property Organisation shall be subsidized with a contribution of 1% of the annual gross revenue of each collective management organisation, payable by 31st October of each year, on the basis of the balance sheet of the previous year, and received in accordance with the Public Revenue Collection Code. The annual balance sheets of collective management organisations shall be submitted to the Intellectual Property Organisation and the Ministry of Culture. The above are also applicable to the collective protection organisations obliged to draw up an annual balance sheet, which is submitted to the Intellectual Property Organisation and the

Ministry of Culture. Gross revenue is the revenue defined in the Unified Accounting Plan". The Copyright Organization shall receive, by way of grant financing, a percentage, not greater than 5 percent, of the gross sums collected by the collecting societies. The exact percentage and the manner of its payment shall be determined by presidential decree issued on the recommendation of the Minister of Culture. The Copyright Organization may also receive grant financing from international organizations and the institutions of the European Community, gifts and bequests, grants from any third party and the revenues due to it for the rendering of services. As commencement finance the Copyright Organization shall receive a one-off grant of 20 million drachmas from the budget of the Ministry of Culture.

The Copyright Organisation may also be subsidised from the funds of the Ministry of Culture or the proceeds of the LOTTO and PRO-TO lotteries.

(3) Matters pertaining to the main focus and detailed field of competence of the Copyright Organization within the framework of its overall purpose, the exact manner of its overall purpose, the exact manner of its powers and the procedure relating to its exercise of them, its management and the supervision of its administration, its internal structure and personnel, the fees it charges for services which may, as required, be adjusted by decision of the Minister of Culture, the determination of its scientific, management and ancillary staffing requirement, its remuneration and every other detail shall be determined by presidential Decree issued on the joint recommendation of the Minister of Culture, the Minister to the Office of the Prime Minister and the Minister of Finance.

(4) The Copyright Organisation is a welfare legal entity. The Copyright Organisation is not part of the public sector and is not subject to the provisions of public accounting nor the provisions on public commissions and public works and other related provisions. The Copyright Organisation operates for the public benefit under the rules of private economy and is governed by private law.

(5) The Copyright Organisation enjoys all administrative, economic and judicial exemptions as well as all procedural and essential privileges of the State".

(6) The Rules of Construction Contracts, Design, Supply and Service to the Hellenic Copyright Organization is established by a decision of the Hellenic Copyright Organisation's Board of Members (as added with article 46 Law 3905/2010).

## **ARTICLE 70: COLLECTING SOCIETIES ALREADY FUNCTIONING**

(1) Collecting societies which are already functioning at the date of the promulgation of this Law shall, within 12 months of the entry into force of this Law, lodge with the Ministry of Culture

the statement and copy of their rules required under Article 54(4) of this Law and generally shall carry out all other actions necessary to comply with this Law.

(2) Societies of authors which at the date of the promulgation of this Law are carrying on the administrative activity referred to in Article 5 of Law No. 4301/1929 and Article 43 of Law No. 1597/1986 may continue to carry on that activity for 24 months from the date of the entry into force of this Law.

#### **ARTICLE 71: IMPLEMENTATION OF DIRECTIVES OF THE EUROPEAN COMMUNITY**

(1) Articles 2(3) and 40 to 45 of this Law shall constitute implementation of Council Directive 91/250/EEC of May 14, 1991, on legal protection of computer programs.

(2) Articles 3(1)(d), 9, 34, 46, 47, 48, 49, 52 and 53 of this Law shall constitute implementation of Council Directive 92/100/EEC of November 19, 1992, on rental right and lending right and on certain rights related to copyright in the field of intellectual property.

(3) Articles 35 paragraphs 3 and 4, 35 paragraphs 5 to 8, 52h and 68A paragraph 2 of the present law are added in application of the Council Directive 93/83/EEC of 27th September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission (as amended with article 54 par. 12 b) Law 4481/2017).

(4) Articles 11, 29 (1), 30 (1), 31, 51A, 52c, d, e, f, g and 68A (1) of this Law implement Directive 93/98/EEC of the European Council of 29 October 1993 harmonizing the term of protection of the right, as well as of copyright and of certain related rights (as amended with article 54 par. 12 c) Law 4481/2017).

(5) Articles 2a, 3 para.3, 45A, 64 last sentence, 65 para.6, 65 para.9 and 10, 72 para.8 of this law are adopted in application of Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases". (article 16 para.2 of Directive 96/9)

(6) Articles 3 par. 1, 28A, 28B and 28C, 46 par. 2, 47 par. 1 and 2, 48 par. 1, 52 item d, 64A, 66 par. 1 and 2, 66A and 66B of this Law are adopted in application of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society».

(7) Article 5 constitutes the implementation of Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art.

(8) Articles 10, paragraph 3, 63A, 63B, 64, 65, paragraph 1, 66C and 66D constitute the implementation of Directive 2004/48 of the European Parliament and of the Council of 27 September 2001 on the enforcement of intellectual property rights".

(9) Articles 30 (2), 52 (c), second subparagraph, 52 (d), second and third sub-paragraphs, 52 (d), sub-paragraphs aa to gg, 68A paragraph 1, third to sixth sub-paragraph and Article 68A, paragraph 1 implement Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC on the term of protection of copyright and certain related rights." (as amended with article 54 par. 12 c) Law 4481/2017)

(10) Articles 27A and 68A paragraph 3 constitute an application of Directive 2012/28/EU of the European Parliament and Council of 25th October 2012 on certain permitted uses of orphan works (as added with article 9 Law 4212/2013).

## **ARTICLE 72: REPEAL OF PROVISIONS AND REGULATION OF OTHER MATTERS**

(1) From the date of the entry into force of this Law every provision which runs counter to this Law or deals with matters which are regulated by this Law shall be repealed. Specifically, the following laws and parts of laws shall be repealed: GYPG/1909 and 2387/1920; Legislative Decree No. 12/15 of June 1926, Laws Nos. 4186/1929, 4301/1929 and 4489/1930, Article 2(1) of Legislative Decree 619/1941, Legislative Decree No. 2179/1943, Laws Nos. 763/1943, 1136/1944 and 56/1944, Article 12 of Law No. 3188/1995, Legislative Decree No. 4264/1962, Article 4 of Law No. 1064/1980, Articles 5 and 10 to 22 of Law No. 1075/1980, Article 19 of Law No. 1348/1983 and Articles 3, 40, 43 and 46 of Law No. 1597/1986.

(2) Law No. 988/1943 shall remain in force.

(3) Collecting societies established and functioning pursuant to Articles 54 to 58 of this Law shall have the right to organize conferences on matters pertaining to copyright and related rights and to participate in such conferences. Articles 54 to 58 of this Law shall not prevent the concluding of reciprocal contracts between collecting societies established in other countries and collecting societies established in Greece.

(4) Until July 1, 1994, paragraphs (1), (2) and (3) of Article 49 of this Law shall not be applicable to phonograms used for presentations to the public in cafes in communes with populations of less than 5,000 inhabitants.

(5) Article 38(4)(a) of this Law shall apply to the publication of any photograph whatsoever.

(6) From the entry into force of this law and until the beginning of operation of one year or more collection societies that can make decisions concerning the sum due, the provisions of paragraphs (1) and (2) of Article 5 of this law shall not be applied in the event that the person described in paragraph(2) of the same Article deposit at least part of the fees paid by the buyer, provided that:

a) for this sum, the applicable law at any time provides for an exemption from tax due,

b) the sum has been deposited in an account opened for this purpose by recipient of the sum at the Loans and Consignments Fund or at a bank lawfully operating in Greece, and c) the receipt of the deposit includes:

aa) the particulars of the depositor and the recipient of the sum, bb) the sum of the deposit, cc) the date of the deposit and, the signature of the recipient of the deposit or his lawful representative.

(7) The association "Association of Greek Composers" (EMSE) may continue to exercise its managing activity as a collective management organisation until December 1999.

(8) The regulations on the right of the author of a database and the sui generis right of the maker of a database shall be without prejudice to provisions concerning in particular copyright, rights related to copyright or any other rights or obligations subsisting in the data, works or other materials incorporated into a database, patent rights, trade marks, design rights, the protection of national treasures, laws on restrictive practices and unfair competition, trade secrets, security, confidentiality, data protection and privacy, access to public documents and the law of contract" (article 13 of Directive 96/9)

(9) A Presidential Decree, issued upon proposal of the Minister of Culture and Sports, may allow for the codification of the legislation on copyright, related rights and collective management in its entirety, for the amendment of the order and numbering of the provisions, for the merging of similar provisions and, in general, for any amendments necessary for the administrative codification of such legislation (as amended with article 54 par. 12 b) Law 4481/2017).



## **SECTION XIII: CULTURAL MATTERS AND OTHER ARRANGEMENTS**

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### **ART. 73.1**

### **ART. 74.**

The positions of managing director, director general, manager, chairman and vice-chairman of a nonprofit-making collecting society shall not be deemed out of keeping with the calling of lawyer and shall not be grounds for removing from a register of lawyers the name of any lawyer holding such a position or for downgrading the status of any such lawyer.

**ART. 75 AND 76 ARE NOT REPRODUCED HERE BECAUSE THEY DO NOT CONCERN COPYRIGHT OR NEIGHBOURING RIGHTS**

## **SECTION XIV: ENTRY INTO FORCE**

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### **ART. 77**

With the exception of Article 69, this Law shall enter into force from the date of its promulgation in the Official Journal. Article 69 of this Law shall enter into force six months after the date of the promulgation of this Law in the Official Journal. We command the promulgation of this Law in the Official Journal and its implementation as a law of the State.