

COPYRIGHT AND NEIGHBOURING RIGHTS ACT

Promulgated, State Gazette No. 56/29.06.1993, effective 1.08.1993, amended, SG No. 63/5.08.1994, amended and supplemented, SG No. 10/27.01.1998, 28/4.04.2000, effective 5.05.2000, supplemented, SG No. 107/28.12.2000, amended and supplemented, SG No. 77/9.08.2002, effective 1.01.2003, amended, SG No. 28/1.04.2005, effective 1.04.2005, SG No. 43/20.05.2005, effective 1.09.2005, SG No. 74/13.09.2005, effective 14.10.2005, amended and supplemented, SG No. 99/9.12.2005, effective 10.01.2006, amended, SG No. 105/29.12.2005, effective 1.01.2006, supplemented, SG No. 29/7.04.2006, amended, SG No. 30/11.04.2006, effective 12.07.2006, supplemented, SG No. 73/5.09.2006, effective 6.10.2006, amended, SG No. 59/20.07.2007, effective 1.03.2008, SG No. 12/13.02.2009, effective 1.01.2010 - amended, SG No. 32/28.04.2009, amended and supplemented, SG No. 25/25.03.2011, effective 25.03.2011, SG No. 21/8.03.2014, supplemented, SG No. 14/20.02.2015, amended and supplemented, SG No. 28/29.03.2018, effective 29.03.2018, SG No. 94/13.11.2018, amended, SG No. 17/26.02.2019, amended and supplemented, SG No. 47/14.06.2019, amended, SG No. 98/13.12.2019, amended and supplemented, SG No. 100/1.12.2023, effective 1.12.2023

Part One COPYRIGHT Chapter One GENERAL

Subject of this Act

Article 1. This Act shall regulate the relationships involved in the creation and distribution of works of literature, art, and science.

Existence of Copyright

Article 2. The copyright to any work of literature, art, and science shall come into existence for the author thereof with the creation of said work.

Chapter Two SUBJECT MATTER PROTECTED BY COPYRIGHT

Protected Subject Matter

Article 3. (1) Subject matter protected by copyright shall be any work of literature, art, and science, resulting from a creative endeavour and expressed by any means and in any objective form, such as:

1. literary works, including works of scientific and technical literature, journalism, and software;
2. musical works;
3. works of performing art - theatre or musical theatre, mime, choreography, etc.;
4. films and other audio-visual works;
5. works of fine art, including works of applied art, design, and folk arts and crafts;
6. (amended, SG No. 25/2011, effective 25.03.2011, SG No. 100/2023, effective 1.12.2023) completed works of architecture;
7. photographic works to which are assimilated works expressed by a process analogous to photography;
8. (amended, SG No. 25/2011, effective 25.03.2011, SG No. 100/2023, effective 1.12.2023) blueprints, maps, schemes, plans, and other material related to the architecture, territorial administration, geography, topography, museology, or any other field of science and technology;
9. graphic design of publications;
10. (new, SG No. 29/2006) cadastral maps and state topographic maps.

(2) (Amended, SG No. 100/2023, effective 1.12.2023) Subject matter protected by copyright shall also be the following works:

1. (supplemented, SG No. 100/2023, effective 1.12.2023) translations and adaptations of existing works and works of folklore, including works with expired term of protection by copyright;
 2. productions of musical works and works of folklore;
 3. periodicals, encyclopaedias, collected works, anthologies, bibliographies, databases, etc., including two or more works or materials.
- (3) Any part of a work under paragraphs 1 and 2, as well as any preliminary drawings, layouts, etc., may also be subject matter protected by copyright.

Exceptions

Article 4. The following shall not be considered objects of copyright:

1. (supplemented, SG No. 21/2014) laws, regulations, and individual acts of government authorities, court rulings, and official translations thereof;
2. ideas and concepts;
3. works of folklore;
4. news, facts, information, and data;
5. (new, SG No. 100/2023, effective 1.12.2023) materials obtained through reproduction of works under Article 3, paragraph 1, items 5 to 10, with an expired term of protection by copyright.

Chapter Three RIGHTHOLDERS

Authors and Other Rightholders

Article 5. Author shall be the natural person whose creative endeavours have resulted in the creation of a work. Other natural or juridical persons may only be rightholders in the cases provided for herein.

Presumption of Authorship

Article 6. (1) (Previous text of Article 6, amended and supplemented, SG No. 99/2005) Until proven otherwise, the author of a work shall be deemed to be the person whose name or other identifying mark is indicated in the usual manner on the original of a work, copies, and/or packaging thereof.

(2) (New, SG No. 99/2005) Paragraph 1 shall further be applied accordingly to rightholders in the cases under sentence one of Article 10, sentence one of Article 11, paragraph 1, and Article 14.

Authorship of a Work Released Under a Pseudonym or Anonymously

Article 7. (1) Any work may be released under a pseudonym or anonymously.

(2) Until the identity of the author is disclosed, the copyright thereof shall be exercised by the natural or juridical person that has released the work for the first time with the author's consent.

(3) The provision of paragraph 2 shall not apply if the pseudonym leaves no doubt as to the identity of the author.

Joint Authorship

Article 8. (1) Copyright to any work created by two or more persons shall be held by said persons jointly irrespective of whether said work constitutes one indivisible entity or consists of separate parts each having individual significance.

(2) The consent of all authors shall be required for every instance of use or revision of the work. In the event that the authors fail to reach agreement among themselves the issue shall be resolved by the court.

(3) If consent has been granted to use a work in a given manner, or a court ruling has been rendered to that effect, none of the joint authors may, without reasonable grounds, object to any subsequent use of said work in the said manner.

(4) Any and all royalties payable to the joint authors for any use of the work thereof shall be distributed among them in shares determined by mutual consent thereof. In the event that no such consent exists, it shall be deemed that each of the joint authors has an equal share. In the event of a dispute, the shares shall be determined by the court taking into account the contribution of each of the joint authors.

(5) When a work created by joint authors consists of parts, each having individual significance, each of the joint authors may licence any individual use of their own part, unless agreed upon otherwise between said joint authors, and if said licencing is not prejudicial to the use of the work as a whole.

Copyright to Translations and Adaptations

Article 9. Copyright to translations and adaptations shall be held by the person that has made them and shall not prejudice the rights of the author of the original work. This shall not deprive other persons from the right to make their own translations or adaptations of the same work.

Copyright to Periodicals and Encyclopedias

(Heading supplemented, SG No. 28/2000)

Article 10. (Supplemented, SG No. 28/2000) Copyright to periodicals and encyclopaedias shall be held by the natural or juridical person responsible for the creation and publishing of the work. Copyright to any separate parts included in such work and having the nature of a work of literature, art, or science shall be held by the authors thereof.

Copyright to Collections, Anthologies, Bibliographies and Databases

(Heading amended, SG No. 28/2000)

Article 11. (Amended, SG No. 28/2000) (1) Copyright to collections, anthologies, bibliographies, databases, etc., shall be held by the person that has collected or arranged the works and/or material included therein, unless agreed upon otherwise in a contract. Copyright to any separate parts included in such work and having the nature of works of literature, art, or science shall be held by the authors thereof.

(2) For any inclusion, into any such work, of works or parts thereof, the consent of the authors thereof shall be required, unless provided for otherwise by the law.

Copyright to Works of Fine Art and Architecture

Article 12. (1) (Previous text of Article 12, SG No. 25/2011, effective 25.03.2011) Copyright to works of fine art and architecture shall be held by the person that has created the work, including where ownership of said work is held by another person.

(2) (New, SG No. 25/2011, effective 25.03.2011) Copyright to any work of architecture created as a result of implementation of the architectural blueprint shall be held by the person that has created the architectural blueprint.

Copyright to Portraits

Article 13. (Amended, SG No. 25/2011, effective 25.03.2011) (1) Copyright to any work of fine art or photography, constituting a portrait of any person different from the author, shall be held by the author of said work. The consent of the depicted person shall be required for the creation of any such work.

(2) Consent under paragraph 1 shall not be required in cases where:

1. the portrait was made in the course of the public activity of the depicted person or in a public place;
2. the portrait is only a detail in a work of art depicting a meeting, procession, or landscape;
3. the depicted person has received a royalty to pose, unless agreed otherwise between the author and the depicted person.

(3) The author and the depicted person may agree upon conditions for any use of the work under paragraph 1.

Copyright to Software and Databases Created under an Employment Contract

Article 14. Unless agreed upon otherwise, copyright to any software and databases created under an employment contract shall be held by the employer.

Chapter Four CONTENT OF COPYRIGHT

Section I Non-Economic Rights

Types of Non-Economic Copyright

Article 15. (1) The author shall have the right to:

1. decide whether the work created thereby may be released and determine the time, place, and manner to do so, with the exception of any protected subject matter under Article 3, paragraph 1, items 4, 6, and 8, wherein such right shall be agreed upon by contract;
2. claim recognition of the copyright thereof over said work;
3. decide whether said work shall be released under a pseudonym or anonymously;
4. require the name, pseudonym, or other identifying mark thereof to be indicated accordingly upon any use of said work;
5. require the entirety of said work to be preserved and object to any changes to said work, as well as to any other action that may infringe upon said author's legitimate interests or personal dignity;
6. make any changes to the work thereof, unless such changes infringe upon rights acquired by other persons;
7. have access to the original of said work where it is in the possession of another person and where such access is necessary for the exercise of any non-economic or economic right provided for herein;
8. have any use of said work ceased due to changes in said author's beliefs, with the exception of any completed works of architecture, whereupon said author shall provide royalty for any damages incurred by persons that have lawfully obtained the right to use said work.

(2) (Supplemented, SG No. 25/2011, effective 25.03.2011, amended, SG No. 28/2018, effective 29.03.2018) The author of a work of architecture may not object to any intention of the owner of said work to demolish, reconstruct, add any superstructures or annexes to, said work, as long as such actions are carried out in accordance with the effective regulations. In order to clarify the manner in which such modifications are to be implemented, the owner of said work of architecture may submit a request to the respective collective management organisation, which shall consult said owner thereon.

Inalienable Non-Economic Rights

Article 16. Any and all non-economic rights under items 2 and 4 of paragraph 1 of the foregoing Article shall be inalienable. Any other non-economic rights may only be alienated expressly in writing.

Exercising Non-Economic Rights after the Death of the Author

Article 17. After the death of the author and until the expiration of the term of protection by copyright, any and all non-economic rights, with the exception of those under Article 15, paragraph 1, items 6 and 8, shall be exercised by the author's heirs.

Section II Economic Rights

Types of Economic Copyright

Article 18. (1) The author shall be entitled to the exclusive right to use the work created by him and to permit its use by other persons except in the cases when this Act provides otherwise.

(2) Actions such as the ones listed below shall be considered as uses within the meaning of paragraph 1:

1. reproduction of the work;
 2. distribution of the original of the work or copies thereof among an unlimited number of persons;
 3. public presentation or performance of the work;
 4. (amended, SG No. 100/2023, effective 1.12.2023) broadcasting of the work;
 5. (amended, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) transmission and retransmission of the work;
 6. public display of a work of fine art or of a work created by photographic or similar means;
 7. translation of the work into another language;
 8. (supplemented, SG No. 28/2000, SG No. 25/2011, effective 25.03.2011) revision and synchronisation of the work. Any adaptation of, or any introduction of any modifications to, said work, as well as any use of said work to create a new derivative work, shall also be a revision;
 9. implementation of an architectural design by construction or manufacturing of the object for which said design is intended;
 10. (new, SG No. 28/2000, amended, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) providing electronic access to the work or to any part thereof;
 11. (new, SG No. 77/2002, supplemented, SG No. 25/2011, effective 25.03.2011) import or export to third states of production specimens in commercial quantity regardless of whether manufactured legally or in violation of the privilege described in item 1.
- (3) Use under paragraph 2, items 3 through 8 shall be considered as having occurred whenever the actions described above have been performed in such a manner as would enable an unlimited number of people to perceive the work.
- (4) (Repealed, SG No. 77/2002).

Termination of Right to Distribution

Article 18a. (New, SG No. 77/2002) (1) (Amended, SG No. 99/2005, effective 1.01.2007) The first sale or another transaction carried out by the rightholder or with the consent thereof, on the territory of the Member States of the European Union, whereby ownership over the original, or over a copy, of the work is transferred, shall lead to the termination of the right to distribute, with the exception of the right to rent out thenceforth, said work or copy.

(2) (Supplemented, SG No. 99/2005) The provision in paragraph 1 shall not apply to the right under Article 20 and Article 22a, paragraph 2.

(3) The provision in paragraph 1 shall not apply to any physical copies of the work made by the recipient with the rightholder's consent in the cases where originals or copies of the work are provided by digital means.

Right to Royalty for All Types of Use

Article 19. (Amended, SG No. 100/2023, effective 1.12.2023) The author shall have the right to a fair and proportionate royalty for all types of use of the work and for each subsequent use of the same type.

Right to Royalty at Resale of Works of Art

Article 20. (Supplemented, SG No. 28/2000, amended, SG No. 99/2005) (1) Upon resale of an original work of art, when one of the parties to the transaction or the intermediary is an art

dealer, including an art gallery or auction house, the author of the work shall have the right to receive royalty based on the sale price.

(2) Within the meaning of this Article, original works of art shall be any works of graphic or plastic art, such as paintings, collages, drawings, engravings, prints, lithographs, sculptures, tapestries, ceramics, glassware, and photographs, provided they are personally created by the author or are copies recognised as originals in accordance with § 4 of the Supplementary Provisions.

(3) The right under paragraph 1 shall be inalienable, except in the case of inheritance.

(4) Paragraph 1 shall not apply to any resale at a price lower than the lev equivalent of 300 euros.

(5) Paragraph 1 shall not apply to any resale where the seller has acquired the work directly from the author less than 3 years before that resale and where the resale price does not exceed the lev equivalent of 10,000 euros.

(6) Any waiver of the right under paragraph 1 shall be invalid.

(7) The right under paragraph 1 shall continue to exist as long as the copyright to the work is protected.

Payment of Royalties upon Resale of a Work of Art

Article 20a. (New, SG No. 99/2005) (1) Any royalties under Article 20, paragraph 1 shall be set as follows:

1. five percent for the portion of the resale price between the lev equivalents of 300.01 and 3,000 euros, plus

2. four percent for the portion of the resale price between the lev equivalents of 3,000.01 and 50,000 euros, plus

3. three percent for the portion of the resale price between the lev equivalents of 50,000.01 and 200,000 euros, plus

4. one percent for the portion of the resale price between the lev equivalents of 200,000.01 and 350,000 euros, plus

5. zero point five percent for the portion of the resale price between the lev equivalents of 350,000.01 and 500,000 euros, plus

6. zero point twenty-five percent for the portion of the resale price exceeding the lev equivalent of 500,000 euros.

(2) In case the seller and/or intermediary, before the payment of the royalty, have paid any tax on the resale, the amount of said tax shall be deducted from the sale price upon the application of paragraph 1.

(3) Royalty shall be calculated separately for each resold item.

(4) The total amount of the royalty for any single item may not exceed the lev equivalent of 12,500 euros.

(5) Royalty shall be payable jointly by the seller and the intermediary, if any.

(6) The seller or intermediary, if any, shall notify the rightholder under Article 20, paragraph 1 of the resale within two months thereafter and shall pay within the same time limit said rightholder any due royalty either directly or through a collective management organisation.

(7) Rightholders and their collective management organisations may, within three years after the resale, require from any dealer in works of art involved in said resale to provide them with any information they may need to ensure the receipt of the royalty under Article 20, paragraph 1.

(8) Seller within the meaning of this Article shall be the natural or juridical person on behalf whereof the sale is made.

Licensed Broadcasting, Transmission, and Retransmission of Works

(Heading amended, SG No. 25/2011, effective 25.03.2011, SG No. 100/2023, effective 1.12.2023)

Article 21. (Supplemented, SG No. 28/2000, amended and supplemented, SG No. 77/2002, SG No. 99/2005, amended, SG No. 25/2011, effective 25.03.2011, SG No. 100/2023, effective 1.12.2023) (1) The licence to broadcast the work shall include the additional licence to transmit the work over any other electronic communication network, provided that said

transmission is carried out by the same organisation, simultaneously with the broadcasting, in full and in an unmodified form, and only within the territory for which the broadcasting right been granted.

(2) Any case where a radio or television organisation has its programme carrying signals delivered directly to a signal broadcaster, without said organisation delivering the programme carrying signals directly to the audience but having said signal broadcaster deliver said signals thereto instead, shall be a case of joint transmission whereupon both the radio or television organisation, and the signal broadcaster shall be required to obtain an individual licence for the respective contribution to the joint transmission thereof.

(3) Any licence for a retransmission of a work, as well as the licence under paragraph 2 for the signal broadcaster's contribution to the joint transmission by direct delivery, shall only be granted through a collective management organisation.

(4) The provision in paragraph 3 shall not apply to the retransmission licencing rights, and to the licence under paragraph 2 for the signal broadcaster's contribution to the joint transmission by direct delivery, where such rights are exercised by radio or television organisations with regard to their own broadcasts or transmissions, regardless of whether said rights are owned thereby or have been granted thereto by other rightholders.

(5) In the cases where an author has granted the retransmission licencing right for a work thereof to a producer of an audio recording, of a film, or of another audio-visual work, the retransmitting enterprise shall pay the author of said work a royalty for the retransmission which royalty shall be separate from any and all other royalties. Any waiver of such royalty by the author shall be invalid. This paragraph shall further be applied accordingly to the signal broadcaster.

(6) In the cases under paragraphs 4 and 5, any and all royalties payable to the authors by the retransmitting enterprise, or by the signal broadcaster, as the case may be, shall only be collected through collective management organisations managing the corresponding categories of copyright. The amount and manner of payment thereof shall be determined by an agreement between said organisations and the enterprises liable.

(7) In the event that no agreement on granting a licence under this Article can be reached, the dispute between the parties may be resolved through mediation in accordance with Articles 94aa and 94ab.

Royalty for the Use of a Work through an Ancillary Online Service

Article 21a. (New, SG No. 100/2023, effective 1.12.2023) When determining the amount of the royalty payable for a licence to use a work through an ancillary online service whereto the rule under Article 101b is applicable, account shall be taken of all aspects of the ancillary online service, including the characteristics of the service, the time during which the programme delivered through said service is available online, the audience, and the language versions available. This rule shall not exclude determination of the amount of the royalty based on the respective revenues of the radio or television organisation.

Permitted Transmission by Inclusion in a Continuous Communication Chain

(Heading amended, SG No. 25/2011, effective 25.03.2011)

Article 22. (Amended, SG No. 28/2000) (1) (Amended, SG No. 99/2005, SG No. 25/2011, effective 25.03.2011, SG No. 100/2023, effective 1.12.2023) The licence to broadcast a work shall further cover the additional right to include said work into a continuous communication circuit running to a satellite and therefrom back to Earth, using signals carrying programmes, under the control and responsibility of the broadcasting organisation, in a way allowing said work to be received by the audience. The audience may receive such signals through the agency of an intermediate organisation, other than the broadcasting organisation, only if the author has granted to said intermediate organisation the right to broadcast, transmit over any electronic communication networks, or publicly perform in any other manner, the work. In these cases, the organisation transmitting such signals to the satellite shall not owe any royalty.

(2) When the signal under paragraph 1 is coded, the licence shall be deemed granted only if the decoding device has been provided by the broadcasting organisation or with consent thereof.

Right to Royalty upon Renting Out or Lending

Article 22a. (New, SG No. 99/2005) (1) Where an author of a musical or an audio-visual work has granted the right to rent out sound and video media containing said author's work to the producer of the respective phonogram or film, the person renting out such media shall pay the author a fair royalty which shall be separate from any other payable royalty. Any waiver of such royalty by the author shall be invalid. The author may grant such right in advance either directly or through collective management organisations.

(2) For any lending of works or copies of media containing said works, the authors thereof shall have the right to receive a royalty payable by the person lending said works or copies.

(3) The provisions in paragraphs 1 and 2 shall not apply to any works of architecture, applied art, and folk arts and crafts.

(4) Paragraph 2 shall not apply to any lending by any state or municipal cultural organisations operating as public, school, university, or community centre libraries.

(5) The royalties under paragraph 2 shall only be collected through organisations for collective management of the respective categories of copyright. The amount and method of payment thereof shall be determined by an agreement between said organisations and the persons liable.

Use by Online Content Sharing Service Providers

Article 22b. (New, SG No. 100/2023, effective 1.12.2023) (1) Any and all electronic access to any and all works uploaded by users of an online content sharing service shall be provided by the service provider. Said service provider shall obtain a licence thereto from the rightholders.

(2) The licence under paragraph 1 shall further cover the following:

1. any and all actions involved in the reproduction of the work, within the online content sharing service, for the purposes of providing electronic access thereto;

2. any and all actions falling within the scope of the obtained licence and carried out by users of the online content sharing service, as long as such actions are either carried out for a non-commercial purpose or do not generate significant revenues.

(3) Regardless of the provisions in the foregoing paragraphs, if the user of the online content sharing service has the right to provide electronic access to the works uploaded by said user, such right shall further cover any and all actions by the online content sharing service provider falling within the scope of said right.

(4) Article 16, paragraph 1 of the Electronic Commerce Act shall not apply to any and all actions under this Article by an online content sharing service provider. The aforementioned exception shall not apply to any and all actions by online content sharing service providers carried out for purposes falling outside the scope of this Article.

(5) For any electronic access provided under this Article without the required licence, the online content sharing service provider shall be liable unless being able to prove all of the following:

1. the online content sharing service provider has made every effort to obtain a licence;

2. the online content sharing service provider has made every effort, in accordance with the high industry standards for the duty of care, to ensure that the specific works, whereon the rightholders have provided all relevant information to said provider, are not available in the online content sharing service;

3. the online content sharing service provider has acted without delay, upon receiving from the rightholders a well-grounded notice to discontinue access to, or to remove from said online content sharing service provider's websites, the works referred to in the notice, and has made every effort to prevent any subsequent uploading of said works in accordance with item 2.

(6) For the judgement whether the conditions exist to release the online content sharing service provider from liability under Paragraph 5, the principle of proportionality shall be applied, with further account taken of the following:

1. the type, audience, and volume of the service, as well as the types of works uploaded by the users of said service;
 2. the availability of appropriate and effective means and the price thereof for the service providers.
- (7) For any electronic access provided under this Article without the required licence, any actual newly established online content sharing service provider shall be liable unless being able to prove all of the following:
1. the online content sharing service provider has made every effort to obtain a licence;
 2. the online content sharing service provider has acted without delay, upon receiving from the rightholders a well-grounded notice to discontinue access to, or to remove from said online content sharing service provider's websites, the works referred to in the notice.
- (8) When the average monthly number of unique visitors of a service provider under paragraph 7 exceeds 5,000,000 visitors calculated based on the data for the previous calendar year, in order to be released from liability, said service provider shall be further required to prove that every effort has been made thereby to prevent any subsequent uploading of works referred to in notices wherein the rightholders have provided relevant information to said provider.
- (9) All online content sharing service providers shall provide the rightholders, upon request thereby, with appropriate information on the operation of their practices in respect of the actions under paragraphs 5, 7, and 8. In the cases where a licence under paragraph 1 has been granted, the online content sharing service providers shall provide the rightholders with information on the use of the works for which said licence has been granted.
- (10) The provisions in this Article shall be without prejudice to, and limitation of, the application of Chapter 5 as well as of any other grounds for use without a licence provided for by law. The application of this Article shall not prevent the availability of works uploaded by users without any infringement of copyright and related rights, including in cases where free use is admissible, and the online content sharing service provider may not block or remove such content pursuant to this Article. The online content sharing service provider, in the general terms thereof, shall include information on the options for admissible free use of works in accordance with the effective legislation.
- (11) The online content sharing service provider, in the general terms thereof, shall include, and ensure the implementation of, fast and efficient procedures for the users of the service thereof to submit complaints and resolve disputes related to termination of access to, or removal of, works uploaded by said users. The general terms shall further include information on the postal and email addresses for complaint submissions, the time limits for complaint reviews and for replies to be sent via the same channel as the one used for the complaint submission. Any rejection of a complaint shall be grounded.
- (12) When rightholders request termination of access to, or removal of, specific works thereof, their requests shall be duly justified.
- (13) Any complaints submitted under the procedure in paragraph 11 shall be reviewed without undue delay, and the corresponding decisions for termination of access to, or removal of, the respective uploaded content shall be subject to human judgment.
- (14) In the event that no agreement can be reached under the procedure in paragraph 11, the parties may resolve the dispute through mediation in accordance with Articles 94aa and 94ab.
- (15) Without prejudice to the protection mechanisms under paragraph 11, and the mediation procedure under paragraph 14, where, in respect of disputes under this Article, users refer to a licence or to admissible free use, each of the parties may bring such dispute for resolution before the competent court.
- (16) Online content sharing service providers within the meaning of this Article shall not be:
1. online encyclopaedias provided for non-commercial purposes;
 2. educational and scientific repositories provided for non-commercial purposes;
 3. open-source software development and sharing platforms;
 4. electronic communication service providers;
 5. online commerce platforms;

6. business-to-business cloud service providers;
 7. cloud service providers allowing users to upload content for said users' personal use.
- (17) The provisions in this Article shall be without prejudice to, and limitation of, the application of Article 17 of the Electronic Commerce Act.
- (18) The application of this Article may not lead to the identification of any individual users. Any and all personal data provided shall be processed in accordance with the requirements for the protection thereof.
- (19) An online content sharing service provider shall be deemed to have made every effort to obtain a licence under paragraph 1 if said provider has started negotiations with the collective management organisations under Chapter 11i or with other rightholders, taking into account the type and volume of the content prevailing in said provider's service. An online content sharing service provider shall be deemed to have made every effort also in the cases where said provider has duly established that no such licence is required, including because the right to use is either owned by, or has been granted to, the user or the online content sharing service provider, or is based on a legal right to a free use.
- (20) The provisions in this Article shall not apply to software.

Chapter Five FREE USE OF WORKS

Section I (Heading new, SG No. 94/2018) General Provisions

Admissibility of Free Use

- Article 23.** (Supplemented, SG No. 28/2000, amended, SG No. 77/2002) (1) (Previous text of Article 23, SG No. 100/2023, effective 1.12.2023) Free use of works shall be admissible only in the cases set out in the law, provided that such use is not prejudicial to the normal use of the work and does not infringe upon the legitimate interests of the rightholder.
- (2) (New, SG No. 100/2023, effective 1.12.2023) Any arrangement prejudicial to, or restricting, the right to a free use shall be null and void unless provided for otherwise by the law.

Free Use Without Payment of Royalty

- Article 24.** (Amended, SG No. 77/2002) (1) The following shall be admissible without the consent of the rightholder and without payment of a royalty:
1. (supplemented, SG No. 99/2005) any temporary reproduction of works where said reproduction is of transitional or incidental nature, has no economic significance of its own, is an integral and important part of the technical process, and has the only purpose to allow:
 - a) transmission over a network through an intermediary; or
 - b) another licenced use of a work;
 2. (amended, SG No. 100/2023) any use, for such purposes as reviews or overviews, of quotations from already released works by other persons, if reference is made to the source and name of the author, except where not possible; such quoting must be consistent with the standard practice and in a volume appropriate for the purpose;
 - 2a. (new, SG No. 100/2023, effective 1.12.2023) any use for such purposes as caricature or parody, as well as for the purposes of imitation of the character or style of another work;
 - 2b. (new, SG No. 100/2023, effective 1.12.2023) any incidental inclusion of a work into another material;
 3. (amended, SG No. 100/2023, effective 1.12.2023) any non-commercial use of parts of released works, or of a small number of works, in other works in a volume needed for an analysis, commentary, or other type of research; such research shall be admissible only for scientific and

educational purposes, with reference made to the source and name of the author, except where not possible;

4. any use as current information, in the press and other mass media, of speeches, reports, sermons, etc., or parts thereof, delivered at public gatherings, as well as statements delivered in court trials, if reference is made to the source and name of the author, except where not possible;

5. (amended, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) any reproduction, broadcasting, transmission, or provision by mass media of electronic access to already released articles on current economic, political, or religious topics, except where expressly prohibited, with reference made to the source and name of the author, except where not possible;

6. (amended, SG No. 100/2023, effective 1.12.2023) any use by mass media of works for the purposes of reporting of current events, in a limited volume appropriate for the purpose of the information, with reference made to the source and name of the author, except where not possible;

7. (amended, SG No. 100/2023, effective 1.12.2023) any use of works permanently displayed on streets, squares, and other public places, without physical contact copying, as well as any broadcasting or transmission thereof for informational or other non-commercial purposes;

8. (amended, SG No. 100/2023, effective 1.12.2023) any public presentation or public performance of released works in schools or other educational institutions, as long as no financial proceeds are received, and no remunerations are paid to the persons involved in the preparation and execution of said presentation or performance;

9. (amended, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) any non-commercial reproduction of released works by publicly available libraries, schools or other educational institutions, museums, and archives, for the purposes of learning or preservation of the work;

10. (amended, SG No. 94/2018) any use of already released works for the benefit of people with disabilities if it is directly related to the particular disability and is not made for profit, except for the cases set out in Section II of this Chapter;

11. any provision of access to natural persons to works in collections of organisations within the meaning of item 9, provided that it is done for scientific and non-commercial purposes;

12. any temporary recording, by radio and television organisations, of a work, provided that the author has granted said organisations the right to use said work and further provided that said recording is made by said organisations' own technical means, and for the needs of said organisations' own broadcasts, within the scope of the obtained licence; recordings of significant documentary value may be kept in an official archive;

13. any use of works for the purposes of national security, in judicial or administrative proceedings, or in parliamentary practice;

14. any use of works in religious ceremonies or official ceremonies organised by public authorities;

15. (amended, SG No. 25/2011, effective 25.03.2011, SG No. 28/2018, effective 29.03.2018) any use of a building, where said building is a work of architecture, or of any plan of such building for the purpose of the reconstruction thereof, where said use was endorsed by the respective collective management organisation.

(2) The provisions in paragraph 1 shall not apply to software. The provisions of Articles 70 and 71 shall be applicable thereto.

Free Use with Payment of Royalty

Article 25. (Amended, SG No. 77/2002) (1) (Supplemented, SG No. 99/2005) The following shall be admissible without the consent of the rightholder but with a payment of a fair royalty:

1. any non-commercial reproduction of printed works, with the exception of sheet music, on paper or other similar media through photocopying or other similar method that yields similar results;

2. any non-commercial reproduction of works, on any media, by a natural person for said natural person's personal use.

(2) The provision in paragraph 1, item 2 shall not apply to software and architectural works. The provisions of Articles 70 and 71 shall be applicable to software.

Tying Free Use With Maintaining Means of Technical Protection

Article 25a. (New, SG No. 77/2002) (1) (Previous text of Article 25a, SG No. 99/2005)

No use of works under Article 24, paragraph 1, and Article 25, paragraph 1 may involve any removal, damage, destruction, or disruption of any technical means of protection without the consent of the rightholder.

(2) (New, SG No. 99/2005, amended, SG No. 94/2018, SG No. 100/2023, effective 1.12.2023) Users who would like to benefit from the provisions in Article 24, paragraph 1, items 3, 6, 9, 10, 12, and 13, Article 25, paragraph 1, Articles 26a, 26b, 26f, 26g, 26h, and 26i, for any works they have the legal right to use but are prevented thereto by any technical means of protection, may request the rightholder to provide them with the required access to an extent appropriate for the purpose. The first sentence shall not apply in the cases where works have become contractually accessible to an unlimited number of persons in a way allowing such access from a location, and at a time, to be chosen individually by each said person.

Royalty for Free Use

(Heading amended, SG No. 77/2002)

Article 26. (1) (Amended and supplemented, SG No. 28/2000, effective 1.01.2001, SG No. 77/2001, SG No. 99/2005, amended, SG No. 25/2011, effective 25.03.2011) The authors of works, the performing artists, the producers of phonograms, and the producers of the initial recording of films or other audio-visual works shall have the right to a royalty when said recordings are reproduced for personal use under the terms in Article 25, paragraph 1, item 2. The authors and publishers of any printed works shall also have the right to a royalty when said works are reproduced by photocopying for personal use under the terms of Article 25, paragraph 1, item 1.

(2) Any waiver of the royalty by the rightholders under paragraph 1 shall be invalid.

(3) The royalty under the first sentence of paragraph 1 shall be payable by the persons:

1. producing blank information media;
2. importing blank information media from third states.

(4) The royalty under paragraph 1 shall be payable by the persons under paragraph 3 for any and all sales made on the territory of the country, of any information media intended mainly for the reproduction of works for personal use by the natural persons under Article 25, paragraph 1, item 2.

(5) The types of information media intended mainly for reproduction within the meaning of Article 25, paragraph 1, for which royalty under paragraph 1 shall be payable, as well as the amount of said royalty, shall be determined annually by the organisations under paragraph 8, as agreed upon with representative organisations of the persons under paragraphs 3 and 4, as well as with other stakeholders. When agreeing upon the types of media and upon the amount of the royalties, account shall be taken of said media's storage capacity and of the extent said media are used for reproduction within the meaning of Article 25, paragraph 1. The amount of any such royalty may not be less than 1.0 percent and more than 1.5 percent of the delivery price in accordance with the accounting standard applicable to the inventory accounting of the respective blank information media. Discounts may be provided to persons under paragraph 3 whereupon the amounts and the terms of applicability of said discounts shall be determined under the procedure used to agree upon the amount of the base royalty.

(6) (Repealed, SG No. 28/2018, effective 29.03.2018).

(7) (Repealed, SG No. 28/2018, effective 29.03.2018).

(8) (Amended, SG No. 28/2018, effective 29.03.2018) Any and all royalties under the first and second sentences of paragraph 1 shall be payable to organisations which shall be different for the two separate categories of rights, shall be established, under the procedure set out in Title 2a, by associations representing the separate categories of rightholders with regard to their right to royalties, and shall have a mechanism for the distribution of such royalties among their individual members. Said organisations shall distribute said royalties among their member associations. Before any such distribution is made, 30 percent of the collected amount shall be deducted and transferred to the account of the Culture National Fund. Upon payment of the respective royalties under

paragraph 1 to an organisation under the first sentence, it shall be deemed that the persons under paragraph 3 have completely fulfilled their obligations under this Article.

(9) The collected amounts shall be distributed among the separate categories of rightholders as follows:

1. royalties under the first sentence of paragraph 1:

- a) one half to the authors;
- b) one fourth to the performing artists;
- c) one fourth to the producers;

2. royalties under the second sentence of paragraph 1:

- a) 50 percent to the authors;
- b) 50 percent to the publishers.

(10) No royalty for blank information media shall be payable and, if such amounts were collected, shall be refundable where said media:

1. were delivered from the territory of another Member State of the European Union;
2. were delivered from the territory of a third state and a non-refundable royalty for reproduction similar to that under Article 25, paragraph 1 was already charged in accordance with the legislation of the respective Member State of the European Union or third state;
3. have become subject to a transaction for export to third states or for delivery to another Member State of the European Union;
4. have been purchased in the country by a person that has lawfully acquired the right to make such recordings and has settled the issue of copyright and related rights related to the recording;
5. have been purchased by lawfully operating audio-visual media/radio service providers;
6. have been purchased in the country by producers of films and other audio-visual works;
7. have been purchased by healthcare facilities, specialised rehabilitation hospitals, social institutions, or penitentiaries;
8. have been purchased by juridical persons, sole proprietors, or freelancers, the activities of which do not presume the use of said media for reproduction within the meaning of Article 25, paragraph 1.

(11) In the cases where refundable royalties have been collected, the facts and circumstances whereon the right to refund is based must be proven by the persons claiming it. Such claims, together with the proof thereof, must be presented to the respective organisations under paragraph 8 within the time limits under paragraph 12. The organisations under paragraph 8 shall review the claims within one month after the reception thereof. The refundable amounts shall be paid by the organisations under paragraph 8 within one month after the date of the record of approval of the claims and proof thereof.

(12) Any and all persons under an obligation to pay royalties in accordance with paragraph 4, shall, within one month after the last day of each half-year, provide the respective organisations under paragraph 8 with summarised information on the types and total delivery prices price in accordance with the accounting standard applicable to the inventory accounting of the sold media of each type for which a royalty is payable. The organisations under paragraph 8 may not require any information more detailed than that required for the purposes of the distribution of the royalties under paragraph 1. Any received information may not be disclosed or used for any purpose other than collection and distribution of said royalties. Said royalties shall be paid to the organisations collecting such royalties within one month after the reporting period.

Section II

(New, SG No. 94/2018)

Special Provisions on Persons Who Are Print-disabled

Subject

Article 26a. (New, SG No. 94/2018) (1) No permission from the rightholder and no royalty shall be due in the case of using, according to the procedure laid down in this Section,

written works and other protected subject matter related thereto for the benefit of print-disabled persons.

(2) A written work or another protected subject-matter related thereto shall be:

1. any work created in a written form that has been released and reproduced in accordance herewith, in any way and form, such as a book, a specialised publication, a newspaper, a magazine, sheet music, a musical score, or an illustration;
2. a subject matter protected by a related right where said subject matter includes the subject-matter under item 1 or is an integral part thereof.

(3) A print-disabled person shall be any person:

1. who is blind;
2. who has a permanently impaired vision and is incapable of reading printed works to the same extent as a person without such a disability;
3. who is sensory-disabled or with impaired reading capabilities, and is unable to read printed works to the same extent as a person without such a disability;
4. who, due to physical disability, is incapable of holding or handling a book, or cannot focus their eyesight, or cannot move their eyes to the degree normally required for reading.

Creating and Making Available a Copy in an Accessible Format

Article 26b. (New, SG No. 94/2018) (1) (Supplemented, SG No. 100/2023, effective 1.12.2023) Any use under Article 26a, paragraph 1 of a written work or another protected subject matter related thereto for the creation of a copy in an accessible format must meet the conditions under Article 23, paragraph 1, must be directly related to the particular disability and must not be for profit. Any use under the first sentence shall be admissible:

1. upon any actions under Article 18, paragraph 2, items 1 to 5, 7, 8, and 10;
2. upon any lending under Article 22a, paragraph 2, or under Articles 84, 90, and 90c with regard to Article 22a, paragraph 2;
3. upon any actions under Article 76, paragraph 1, item 1, with regard to the sound and video recordings, the reproduction and distribution thereof, and under item 3;
4. upon any actions under Article 86, paragraph 1, items 1, 3, and 4, and Article 88;
5. upon any actions under Article 90a, paragraph 1, items 1, 5, 6, and 8;
6. (amended, SG No. 100/2023, effective 1.12.2023) upon any actions under Article 91, paragraph 1, item 1, with regard to the retransmission, items 2, 3, and 4;
7. upon any actions under Article 93c;
8. (new, SG No. 100/2023, effective 1.12.2023) upon any actions under Article 90e, paragraph 1.

Article 18, paragraph 3, and Article 18a shall not apply in the cases under the second sentence.

(2) A copy in an accessible format shall be a copy of the type and in the form whereby a print-disabled person shall gain access to a written work or to another protected subject-matter related thereto in the same manner and to the same extent as a person without a disability referred to in Article 26a, paragraph 3. An available format shall be Braille, large font, an adapted e-book, a sound recording of the content of a written work (audio book), a radio programme and the like.

(3) A copy in an accessible format may be created by:

1. a person with a disability under Article 26a, paragraph 3, either in person or through a person acting on his behalf;
2. a legal person having submitted a notification to the Minister of Culture, with a seat in the Republic of Bulgaria, and constituting:
 - a) a community centre, or
 - b) a non-profit entity operating in the public interest for the benefit of persons with disabilities under Article 26a, Paragraph 3, or
 - c) a state or municipal cultural organisation operating as a library, or
 - d) a specialised school for educating and supporting pupils with sensory disabilities – impaired hearing or vision.

(4) The legal person referred to in paragraph 3, item 2 may provide a copy in an accessible format directly to a person with a disability under Article 26a, paragraph 3 or through another person under paragraph 3, item 2, regardless of the European Union Member State of its permanent address or seat. Usage in the cases referred to in sentence one shall be admissible through actions under:

1. Article 18, paragraph 2, items 2, 4, 5 and 10;
2. Article 76, paragraph 1, item 1, as regards distribution, item 2, as regards broadcasting, transmission and retransmission, and item 3;
3. Article 86, paragraph 1, item 1, as regards distribution, item 3, as regards broadcasting, transmission and retransmission, and item 4;
4. Article 90a, paragraph 1, item 3, as regards broadcasting, items 4, 6 and 8;
5. Article 91, paragraph 1, item 2, as regards distribution, and item 3;
6. (New, SG No. 100/2023, effective 1.12.2023) Article 90e, paragraph 1.

(5) Any such copy in an accessible format shall preserve the integrity of the written work or another protected subject matter related thereto wherefrom said copy was created, taking into account any changes necessary for the creation thereof.

(6) Any person with a disability under Article 26a, paragraph 3, or any juridical person under paragraph 3, item 2, having permanent residence, or a seat, respectively, in the Republic of Bulgaria, shall have the right to obtain either a copy in an accessible format or access to such a copy from another person under paragraph 3, item 2, regardless of the Member State of the European Union wherein the seat of said juridical person is located.

(7) Any contract prejudicial to any rights under this Section shall be null and void.

Obligations of the Legal Persons under Article 26b, Paragraph 3, Item 2

Article 26c. (New, SG No. 94/2018) (1) The juridical person under Article 26b, paragraph 3, item 2 shall notify the Minister of Culture of said person's intention to create and provide copies in accessible format, as well as of any changes that may have occurred, within three months after the decision of the management body. The notification shall include a name, a legal status and contact details.

(2) Any and all actions under Article 26b, paragraphs 1 and 4 shall be documented and carried out by the juridical person under Article 26b, paragraph 3, item 2 with due care and in such a way, as to ensure that the created copy in an accessible format:

1. does not infringe upon any non-economic rights under Article 15, paragraph 1, items 4 and 5, Article 75, paragraph 1, and Article 87;
2. is provided in accordance with Article 26b, paragraph 4 only to persons with disabilities under Article 26a, paragraph 3 or to juridical persons under Article 26b, paragraph 3, item 2;
3. will not be used in violation of Article 26b.

(3) The juridical person under Article 26b, paragraph 3, item 2 shall publish information on said person's compliance with the obligations under paragraph 2 on said person's website, as well as in any other appropriate way. The information shall be updated twice a year.

(4) The juridical person under Article 26b, paragraph 3, item 2, having a seat in the Republic of Bulgaria, upon request by a person with a disability under Article 26a, paragraph 3, by another person under Article 26b, paragraph 3, item 2, or by a rightholder, shall inform the requester, in an accessible way, on:

1. the list of written works or other related protected subject matter with copies in accessible format said juridical person has available, as well as on the available formats;
2. the name and contact details of juridical persons having seats in other Member States of the European Union with which said juridical person exchanges copies in accessible formats.

List of the Juridical Persons under Article 26b, Paragraph 3, Item 2

Article 26d. (New, SG No. 94/2018) (1) The Minister of Culture, or a deputy minister authorised thereby shall keep and publish on the website of the Ministry of Culture a list of the juridical persons under Article 26b, paragraph 3, item 2, who have filed a notification.

(2) The Minister of Culture, or a deputy minister authorised thereby shall submit the list under paragraph 1 to the European Commission and shall inform it of any changes in the list within three months after their occurrence.

Personal Data Protection

Article 26e. (New, SG No. 94/2018, amended, SG No. 17/2019) Personal data provided in connection with this Section shall be processed pursuant to the requirements for their protection.

Section III

(New, SG No. 100/2023, effective 1.12.2023)

Special Provisions on Certain Types of Use by Digital Means of Works and Other Protected Subject Matter

Automated Analysis of Text and Information

Article 26f. (New, SG No. 100/2023, effective 1.12.2023) (1) It shall be admissible for works and other protected subject matter to be used, by a person having legal access thereto, for an automated analysis of text and information under the procedure in this Article, without the consent of the rightholder, and without payment of a royalty.

(2) Any use under paragraph 1 shall be by digital means or in a digital form, carrying out only the following actions, as needed for the purposes of the reproduction or retrieval for an automated analysis of text and information:

1. reproduction of works or parts thereof;
2. reproduction, translation, reworking of software or other modifications thereto;
3. reproduction, retrieval, or repeated use of databases or parts thereof, within the meaning of Article 93c.

(3) The persons under paragraph 1 may store the results of the actions under paragraph 2, as needed for the purposes of the automated analysis of text and information.

(4) The rightholders may prohibit any use of works, other protected subject matter, or parts thereof under the terms in paragraphs 1 and 2. In the cases of subject matter where to electronic access is provided, the aforementioned prohibition shall be effective only if established by technical means recognised by the software used for the automated analysis.

Automated Analysis of Text and Information for Scientific Purposes

Article 26g. (New, SG No. 100/2023, effective 1.12.2023) (1) It shall be admissible for works and other protected subject matter to be used for conducting research, by a person having legal access thereto, for an automated analysis of text and information under the procedure in this Article, without the consent of the rightholder, and without payment of a royalty.

(2) Any use under paragraph 1 shall be by digital means or in a digital form, carrying out only the following actions, as needed for the purposes of the reproduction or retrieval for an automated analysis of text and information:

1. reproduction of works or parts thereof;
2. reproduction, retrieval, or repeated use of databases or parts thereof, within the meaning of Article 93c.

(3) The provisions in paragraphs 1 and 2 shall apply to the following persons:

1. universities and libraries thereof;
2. research institutes, as well as hospitals conducting research;
3. publicly available libraries, museums, and archives;
4. institutions storing film or sound-recording heritage in accordance with the National Archives Stock Act;
5. organisations the main activity whereof is conducting research or educational activities, including research, as well as consortia of such organisations, provided that such organisations or consortia thereof:

- (a) conduct non-commercial activities to the public benefit, or
- (b) reinvest any and all profits from the activity thereof into the research conducted thereby, or
- (c) act in the public interest, as recognised by a Member State, including where financed by public funds or through public-private partnerships.
- (4) The provisions in paragraphs 1 and 2 shall not apply to any organisations and consortia thereof over which a merchant exercises control within the meaning of the Commerce Act or has other decisive influence and is able to benefit from a privileged access to the results of the research.
- (5) The persons under paragraph 3 may store the results of the actions under paragraph 2 and may provide third parties with access thereto for the purposes of, and during the period of conducting, the research, its verification and evaluation.
- (6) The persons under paragraph 3 shall use appropriate technical means for protection of all information stored thereby under the terms in paragraph 5.
- (7) The provisions in this Article shall be without prejudice to the application of Article 26f and without limitation thereby.
- (8) The provisions in this Article shall not apply to software.

Free Use within Digital and Cross-Border Teaching Activities

Article 26h. (New, SG No. 100/2023, effective 1.12.2023) (1) It shall be admissible for works and other protected subject matter to be used by digital means or in a digital form, under the procedure in this Article, by educational institutions for illustration purposes in training, in a volume appropriate for the non-commercial purpose thereof, without the consent of the rightholder, and without payment of a royalty, provided that any such use is:

1. under the supervision and responsibility of the educational institution, at its premises, at the premises of third parties, or within a secure electronic environment accessible only to the respective trainers and trainees, regardless of whether they are located in the same country, or in a different country, and

2. with a reference made to the source and name of the rightholder, except where not possible.

(2) Works or parts thereof shall be used under this Article by reproduction, broadcasting, transmission, retransmission, or provision of electronic access.

(3) Software shall be used under this Article by reproduction, distribution, translation, reworking thereof, or other modifications thereto.

(4) Databases or parts thereof shall be used under this Article by:

1. reproduction, public presentation, broadcasting, transmission, retransmission, or provision of electronic access;

2. translation into another language, revision, or synchronisation;

3. reproduction, public presentation, broadcasting, transmission, retransmission, or provision of electronic access, as well as distribution of the results of the actions under item 2;

4. retrieval or repeated use within the meaning of Article 93c.

(5) Any use, under paragraph 1, by any action under paragraphs 2 to 4, shall be admissible only as long as such action is needed for illustration purposes in training.

(6) The provisions in this Article shall apply to the following educational institutions:

1. institutions in the system of pre-school and school education;

2. institutions registered in the registers maintained under the procedure of the Vocational Education and Training Act;

3. schools of higher education established in accordance with the Higher Education Act.

(7) The provisions in this Article shall not apply to sheet music, musical scores, as well as to works and other protected subject matter intended primarily for training uses, if the user can obtain the required licence by making a reasonable effort.

Free Use for Preservation of Cultural Heritage

Article 26i. (New, SG No. 100/2023, effective 1.12.2023) (1) It shall be admissible for works and other protected subject matter to be used by, or under the supervision and responsibility

of, publicly available libraries, schools, or other educational institutions, museums, archives, and institutions storing film or sound-recording heritage in accordance with the National Archives Stock Act, without the consent of the rightholder, and without payment of a royalty.

(2) Any use under paragraph 1 shall be by digital means or in a digital form, as needed for the preservation and storage of protected subject matter from the permanent archival collections, or in permanent storage in the collections of the respective organisation, if such use is for non-commercial purposes, by carrying out the following actions:

1. reproduction of works or parts thereof;
2. reproduction, retrieval, or repeated use of databases or parts thereof, within the meaning of Article 93c.

Application by Analogy. Special Rules on the Technical Means for Protection

Article 26j. (New, SG No. 100/2023, effective 1.12.2023) (1) The provisions in Articles 23 and 25a shall be applied accordingly to any free use under this Section.

(2) When a user under Article 26g has requested from the rightholder access to the protected subject matter under the terms and procedure in Article 25a, paragraph 2, said rightholder shall provide the requested access within 72 hours of the reception of said request.

(3) The rightholders shall use technical means for protection of the networks and databases, which means shall be proportional to the risks for the integrity and security thereof and shall not prejudice the exercise of the rights under Article 26g.

(4) The collective management organisations and the representative organisations of the persons under Article 26g, paragraph 3 shall coordinate among themselves the best practices related to the performance of the obligations and the application of the measures under paragraph 3 and Article 26g, paragraph 6.

Avoidance of Conflict

Article 26k. (New, SG No. 100/2023, effective 1.12.2023) (1) The provisions in Articles 26f to 26i shall be without prejudice to the application of Article 24 and without limitation thereby.

(2) Any arrangement with prejudice or limitation to the right to a free use under Articles 26g to 26i shall be null and void.

Chapter Six TERM OF PROTECTION BY COPYRIGHT

General Rule

Article 27. (1) (Amended, SG No. 28/2000) Copyright shall be protected for the life of the author and for seventy years after the death thereof.

(2) For works having two or more authors the term under paragraph 1 shall commence as of the death of the last surviving author.

(3) (New, SG No. 21/2014) For musical works with lyrics, and for works of musical theatre, the term under paragraph 1 shall expire seventy years after the death of the author of the music or the author of the lyrics, whichever is later, regardless of whether said authors were listed as co-authors, provided that said lyrics and music have been created for the purpose of being used together.

Pseudonymous or Anonymous Works

Article 28. (Amended and supplemented, SG No. 28/2000) Copyright to an anonymous or pseudonymous work shall be protected for seventy years after the first release thereof. In the event that, within said term, the author's identity is disclosed, or if the pseudonym raises no doubt about the author's identity, the provisions of the foregoing article shall apply.

Software and Databases

Article 28a. (New, SG No. 28/2000, amended and supplemented, SG No. 25/2011, effective 25.03.2011) Any copyright arising for the employer in accordance with Article 14, over software or a database shall be protected for 70 years after the release of the work.

Films

Article 29. (Amended, SG No. 28/2000) Copyright to a film or another audio-visual work shall be protected for 70 years after the death of the last survivor among the director, the writer, the cinematographer, the author of the dialogue, and the author of the music, if the music has been written specifically for the film.

Collected Works

Article 30. (1) (Previous text of Article 30, amended, SG No. 28/2000, amended and supplemented, SG No. 25/2011, effective 25.03.2011) Copyrights to encyclopaedias, periodicals, and other works under Article 3, paragraph 2, item 3 shall be protected for seventy years after the release thereof. If the author thereof is established within this period, the provisions of Article 27 shall apply.

(2) (New, SG No. 28/2000) With respect to works which are published in volumes, parts, issues, or episodes, the term under paragraph 1 shall be calculated for each such volume, part, issue, or episode individually.

Commencement of Terms

Article 31. The terms under the foregoing Articles of this Chapter shall commence as of the first of January of the year following the year of the author's death, or, respectively, the year when the work was created, released, or published in accordance with Articles 27 to 30.

Inheriting Copyrights

Article 32. (1) Upon the death of the author copyrights shall be passed on to his heirs by last will or by operation of law under the Succession Act.

(2) Copyright shall be inherited until the term of protection thereby expires.

Exercising Rights in the Absence of Heirs

Article 33. (Amended, SG No. 77/2002, SG No. 28/2005) In the event that an author does not have any heirs, or all the heirs of said author have died prior to the expiration of the term of protection, copyright shall be passed on to the State which shall exercise it, until the expiration of said term, through the Ministry of Culture. In the event that the deceased author or any heir thereof has been member of a collective management organisation hereunder, said organisation shall, at its own expense, exercise said author's rights until the expiration of the term of protection.

Use of Work after the Expiration of the Term of Protection

(Heading amended, SG No. 100/2023, effective 1.12.2023)

Article 34. (Amended, SG No. 100/2023, effective 1.12.2023) Upon expiration of the term of protection by copyright, the works may be used freely, provided that such use does not infringe upon any rights under Article 15, paragraph 1, items 4 and 5, which shall be of indefinite term. The authority under Article 33 shall monitor the observance of said rights and may allow changes to the work in exceptional cases.

Protection of Unreleased Works

(Heading amended, SG No. 100/2023, effective 1.12.2023)

Article 34a. (New, SG No. 28/2000, amended, SG No. 100/2023, effective 1.12.2023) Any person releasing a work upon expiration of the term of protection by copyright, if said work has not been released theretofore, shall enjoy the rights under Article 18. This right shall be

protected for 25 years as of 1 January of the year, following the year in which the work has been released.

Protection of Unreleased Works by Unknown Authors

(Heading amended, SG No. 100/2023, effective 1.12.2023)

Article 34b. (New, SG No. 25/2011, effective 25.03.2011) Protection hereunder of works, for which the period of protection is not calculated as of the death of the author or authors, or which were not made public within a period of 70 years as of their creation, shall be terminated.

Chapter Seven USE OF WORKS

Section I General Provisions

Author's Consent for the Use of the Work

Article 35. (Amended, SG No. 25/2011, effective 25.03.2011) Works may be used only with the prior consent of the author unless otherwise provided for herein.

Contracts on Use

Article 36. (1) (Amended and supplemented, SG No. 100/2023, effective 1.12.2023) With the contract of use of the work, the author shall grant a user an exclusive or a non-exclusive right to use the work created by said author, under certain terms and against a fair and proportionate royalty. When a separate royalty for the author's labour for the creation of the work is agreed upon, the amount thereof shall be expressly specified.

(2) In the event that an author grants a user an exclusive right to use a work, said author may not said work in the manner, for the term, and on the territory agreed upon in the contract, and may not grant said right to third parties.

(3) In the event that an author grants a user a non-exclusive right to use a work, said author may continue using said work, as well as grant non-exclusive right for its use to third parties.

(4) Any exclusive right under paragraph 2 shall be granted expressly and in writing. In the absence of such an express arrangement, it shall be considered that a non-exclusive right to use the work has been granted.

(5) If no term is specified in the contract, it shall be considered that the right to use a work has been granted for a period of three years, or five years for works of architecture.

(6) If the contract does not specify the territory on which the user may use the work, it shall be considered that said territory is the territory of the country of said user's citizenship or seat if said user is a juridical person.

(7) (New, SG No. 28/2018, effective 29.03.2018) The contract under paragraph 1 shall be executed either individually or through a collective management organisation, or through an independent management entity under the procedure set out in Title 2a.

Effect and Term of Contracts

Article 37. (1) Any contract whereby an author grants the right to use all the works said author may create for the rest of the life thereof shall be null and void.

(2) (Repealed, SG No. 100/2023, effective 1.12.2023).

Amount of Royalty

Article 38. (1) (Amended, SG No. 25/2011, effective 25.03.2011) The author's royalty for any use of a work thereof may be set as a portion of the revenues received from the use of said work, as a lump sum, or otherwise.

(2) (Amended, SG No. 100/2023, effective 1.12.2023) In the event the initially agreed-upon royalty turns out to be clearly disproportionate to the revenues generated by the use of the work, the author may either request the royalty to be increased or claim an additional royalty from the party with which the agreement for use was executed, or by any successors thereto. If no agreement between the parties can be reached, the author may initiate a mediation procedure under Articles 94aa and 94ab, as well as file a claim before the court, any conducted mediation procedure notwithstanding.

(3) (New, SG No. 100/2023, effective 1.12.2023) For the judgment whether the royalty is disproportionately low, account shall be taken of any and all subsequent and related revenues from the use of the work, including any sales of merchandise, where applicable, as well as of the specific circumstances in the particular case, including the author's contribution, the market practices, and the respective industry specifics.

(4) (New, SG No. 100/2023, effective 1.12.2023) The provision in paragraph 2 shall not apply to any agreements executed by collective management organisations and independent management entities.

(5) (New, SG No. 100/2023, effective 1.12.2023) If there is an effective industry collective bargaining agreement providing for a comparable mechanism for the author to claim an appropriate, additional, and fair royalty in the event the initially agreed-upon royalty turns out to be disproportionately low, said agreement shall also be taken into account for the application of the provisions in paragraphs 2 and 3.

(6) (New, SG No. 100/2023, effective 1.12.2023) Any arrangement with prejudice or limitation to the provisions in this Article shall be inapplicable to authors.

(7) (New, SG No. 100/2023, effective 1.12.2023) The provisions in this Article shall not apply to authors of software.

Rescinding the Contract if the Performance has not Commenced

Article 39. (1) (Amended, SG No. 100/2023, effective 1.12.2023) If no time limit wherein the user shall commence using the work was specified in the contract whereby an exclusive right was granted, the author may rescind the contract if said use has not commenced within two years after the execution thereof, or after the day the work was made available, whichever is later.

(2) (Amended, SG No. 100/2023, effective 1.12.2023) Instead of rescinding the contract in accordance with the provision in paragraph 1, the author may revoke the exclusivity of the right to use the work. In this case, the contract shall remain effective as a contract for a non-exclusive right to use, with all other terms remaining unaffected.

(3) (New, SG No. 100/2023, effective 1.12.2023) When the work has more than one author, the right under paragraph 1 or 2 shall be exercised under the procedure in Article 8, paragraph 2.

(4) (New, SG No. 100/2023, effective 1.12.2023) Paragraphs 1 and 2 shall not apply to:

1. contracts for works of architecture and for software;
2. contracts under Articles 41 and 42, and contracts wherein the user acts as an end user;
3. cases where the rights are not exercised mainly due to circumstances which may be reasonably expected to be corrected by the author;
4. cases where the nature of the granted right does not allow for it to be granted to a new user.

(5) (New, SG No. 100/2023, effective 1.12.2023) Upon expiration of the time limit provided for in paragraph 1, in order to rescind the contract or revoke the exclusivity of the right to use the work, the author shall first notify the user and set an appropriate time limit for the user to commence the use of the work. If said use has not commenced within the set time limit, the author may rescind the contract or revoke the exclusivity of the right to use the work.

Transparency and Accountability

Article 39a. (New, SG No. 100/2023, effective 3.12.2024) (1) Any user, whereto an author has granted the right to use a work created thereby, shall, at least once a year, within the term of said use, provide said author with an up-to-date, understandable, relevant, and comprehensive information on: each use of the work, including on each way thereof, any and all revenues received

from said use, including from any sales of merchandise directly related to said use of the work, as well as on the royalty owed to said author. Such information may be provided by electronic means, unless agreed upon otherwise in the contract with the user.

(2) In the event the user has assigned the right to use the work to a third party, and in case the initial user does not have all the required information under paragraph 1 available, the author may request from said third party any additional information relevant to the period of said use. The initial user shall provide the author with information on said third party, including the names and contact details thereof.

(3) Any request for any additional information under paragraph 2 to said third party shall be submitted through the initial user, unless the latter does not cooperate, or it is objectively impossible for some other reason.

(4) In case the administrative burden arising from the obligation under paragraph 1 is disproportionate with regard to the revenues received from the use of the work, said obligation shall be limited to the types and levels of information which may be reasonably expected in the particular case.

(5) The obligation under paragraph 1 shall not apply in the cases when the author's contribution is insignificant with regard to the overall work, unless the information is needed by said author to exercise the rights provided for in Article 38, paragraph 2. An author's contribution shall be deemed to be significant when said author has had a direct impact on the overall success of the work, or when said author's contribution could not be replaced by that of another author without affecting the overall success of said work.

(6) The obligation under paragraph 1 shall not apply to contracts executed by collective management organisations and independent management entities whereto Article 94q1 shall be applicable.

(7) Any arrangement with prejudice or limitation to the provisions in this Article shall be inapplicable to the author.

(8) The provisions in this Article shall not apply to authors of software. The provisions of Articles 70 and 71 shall be applicable to software.

(9) All persons, receiving any information under this Article, shall be responsible for the processing, use, and protection thereof in accordance with the obligations for the protection of personal data and commercial secrets provided for by the effective laws.

Section Ia

(New, SG No. 25/2011, effective 25.03.2011, repealed, SG No. 28/2018, effective 29.03.2018)

Collective Management

Article 40. (Amended and supplemented, SG No. 28/2000, amended, SG No. 28/2005, SG No. 99/2005, amended and supplemented, SG No. 25/2011, effective 25.03.2011, SG No. 21/2014, repealed, SG No. 28/2018, effective 29.03.2018).

Article 40a. (New, SG No. 25/2011, effective 25.03.2011, repealed, SG No. 28/2018, effective 29.03.2018).

Article 40b. (New, SG No. 25/2011, effective 25.03.2011, amended and supplemented, SG No. 21/2014, repealed, SG No. 28/2018, effective 29.03.2018).

Article 40c. (New, SG No. 25/2011, effective 25.03.2011, repealed, SG No. 28/2018, effective 29.03.2018).

Article 40d. (New, SG No. 25/2011, effective 25.03.2011, supplemented, SG No. 21/2014, repealed, SG No. 28/2018, effective 29.03.2018).

Article 40e. (New, SG No. 25/2011, effective 25.03.2011, amended, SG No. 21/2014, repealed, SG No. 28/2018, effective 29.03.2018).

Article 40f. (New, SG No. 25/2011, effective 25.03.2011, repealed, SG No. 28/2018, effective 29.03.2018).

Article 40g. (New, SG No. 25/2011, effective 25.03.2011, repealed, SG No. 28/2018, effective 29.03.2018).

Article 40h. (New, SG No. 25/2011, effective 25.03.2011, repealed, SG No. 28/2018, effective 29.03.2018).

Section Ib

(New, SG No. 25/2011, effective 25.03.2011)

Specific cases

Works Created Under an Employment or Service Relationship

Article 41. (1) (Supplemented, SG No. 25/2011, effective 25.03.2011) Copyright to a work created under an employment or service relationship shall belong to the author unless provided for otherwise herein.

(2) (Amended, SG No. 28/2000, SG No. 25/2011, effective 25.03.2011) The employer or the appointing body shall have the exclusive right, without permission from the author and without paying royalty, to the extent the contract of employment or the act of appointment does not provide otherwise, to use such a work for said employer's or appointing body's own purposes. The employer or the appointing body may exercise this right in a manner and to a degree consistent with said employer's or appointing body's usual activity.

(3) (Amended, SG No. 25/2011, effective 25.03.2011, supplemented, SG No. 100/2023, effective 1.12.2023) In the event the author's royalty, at the time said author has created the work under paragraph 1, turns out to be disproportionate to the revenues under Article 38, paragraph 2 realised as a result of the use of the work, the author may demand additional royalty. If no agreement can be reached between the parties, the issue shall be resolved by the court equitably. In such cases, Article 38, paragraphs 3, 6, and 7 shall apply.

Works Created by Commission

Article 42. (1) Copyright to a work created by commission shall belong to the author of said work unless provided for otherwise in the contract of commission.

(2) Unless agreed upon otherwise, the commissioning party may use the work, without any licence from the author, for the purpose for which said work was commissioned.

Section II

Publishing Contract

Definition

Article 43. With a publishing contract the author grants the publisher the right to reproduce and distribute said author's work, and the publisher shall carry out these acts and pay a royalty to the author.

Types

Article 44. (Supplemented, SG No. 100/2023, effective 1.12.2023) A publishing contract may grant the right to reproduce and distribute a work which has already been created, or one which the author has undertaken to create. In this case, Article 42 shall not apply.

Expanded Scope

Article 45. (1) In the event that, under a publishing contract, an author has expressly granted a publisher the additional right to use the work for purposes other than publishing, the publisher may transfer the right to use said work for said purposes to third parties.

(2) Upon any transfer under paragraph 1, the publisher shall inform the author in writing.

Form

Article 46. A publishing contract shall be executed in writing.

Special Operative Rules

Article 47. Unless provided for otherwise in the publishing contract, it shall be deemed that:

1. the publisher has been granted the right for a single edition;
2. (amended, SG No. 28/2000) the publisher has been granted the right to publish the work in a print run not exceeding ten thousand copies;
3. the royalty payable to the author shall be fifteen percent of the retail price of each sold copy of the work;
4. the number of copies to be provided by the publisher to the author free of charge may not be less than five per edition;
5. the publisher may publish the work in the language it was submitted;
6. the publisher may distribute the edition only on the territory of the country of publisher's citizenship or seat if the publisher is a juridical person

Amendments

Article 48. Prior to any subsequent edition, the publisher shall give the author an opportunity to amend and supplement the work.

Returning Originals Offered for Publication

Article 49. The publisher shall return the originals of works of fine art, original documents, illustrations, and other originals offered for publication unless agreed upon otherwise in writing.

Destroyed Copies

Article 50. In the event that reproduced but not yet offered for sale copies of the work are fully or partially destroyed, but not through the publisher's fault, the latter may restore the destroyed copies within one year without providing royalty to the author.

Termination of Contract

Article 51. Unless agreed upon otherwise, the publishing contract shall be terminated on the date of its expiration or when the print run is sold out, or, if more than one edition has been agreed upon, when the print run of the last edition is sold out.

Termination Ahead of Term

Article 52. (1) Unless agreed upon otherwise, the author may terminate the publishing contract unilaterally by written notice in the event that said contract was executed for more than one edition, the print run of the last edition was sold out, and the publisher has failed to reproduce and distribute another edition within one year thereupon, provided that the author had requested the publisher to do so within the same period. The print run shall be considered sold out when the remaining unsold copies are no more than five percent of the total print run.

(2) In the cases under paragraph 1, any royalty already received by the author shall be non-refundable.

Publishing at Author's Expense

Article 53. (1) The author may, at said author's own expense, commission a publisher to reproduce and distribute a certain number of copies of the work.

(2) The author may arrange with a publisher to reproduce and distribute copies of the work with the author sharing the publishing costs and the distribution revenues.

Contracts on Reproduction and Distribution of Phonograms

Article 54. (1) (Amended, SG No. 28/2000) Unless provided for otherwise in the contract of reproduction and distribution of the work in the form of phonograms, and the author has not

granted the management of these rights to a collective management organisation, it shall be deemed that:

1. the user shall make the recording within six months after the date the author has submitted the work in a form allowing it to be recorded, and shall reproduce and distribute said recording within six months after the recording was made;
2. the user has been granted the right to reproduce the work in a run not exceeding 5000 copies;
3. the author shall be entitled to royalty equal to the respective part of 10 percent of the wholesale price of each piece of the sound medium sold, which part shall be equal to the proportion of the duration of said author's work of the total duration of the sound medium;
4. the user shall provide to the author 5 copies of each manufactured version of the sound media free of charge.

(2) (Repealed, SG No. 28/2000).

(3) (Amended, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) When an author grants the right to have the work thereof recorded, reproduced, and distributed in the form of phonograms, such right shall not include the right to have the recorded work publicly performed, broadcasted, transmitted, or retransmitted. The inclusion of such rights shall be agreed upon expressly by the parties.

Contract with Author of Translation

Article 54a. (New, SG No. 100/2023, effective 1.12.2023) The provisions in this Section shall further be applied accordingly to a contract with an author of a translation of a literary work.

Section III

Contract on Public Presentation or Performance

Definition

Article 55. With a contract of public presentation, the author of a work of performing art shall grant a user the right to present the work, and the user shall present the work and pay royalty to the author.

Operative Rules

Article 56. Unless provided for otherwise in the contract, it shall be deemed that:

1. the author may grant the right to public presentation to other users outside the city of the user's seat;
2. the contract shall have a term of three years;
3. the user shall present the work to the public within one year after receiving said work;
4. (amended, SG No. 28/2000) the author's royalty shall be set to fifteen percent of the gross revenues of each presentation of the work;
5. the user shall report to the author twice a year on the number of public performances and the amount of revenues realised;
6. the author may terminate the contract in the event the user has suspended the public presentation of the work for a period of more than one year.

Contracts of Use over Electronic Communication Networks

(Heading amended, SG No. 100/2023, effective 1.12.2023)

Article 57. (Amended, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) The provisions in Article 56, items 1, 2, and 3 shall further apply to contracts of broadcasting, transmission, or retransmission of any work of performing art, as well as of any unreleased musical or literary work. Unless agreed upon otherwise in the contract, it shall be deemed that the author has granted the user the right to a single broadcast or transmission of the work.

Contracts of Public Performance, Broadcasting, Transmission, Retransmission, and Provision of Electronic Access

(Heading amended, SG No. 28/2018, effective 29.03.2018, SG No. 100/2023, effective 1.12.2023)

Article 58. (1) (Previous text of Article 58, supplemented, SG No. 28/2000, amended, SG No. 99/2005, supplemented, SG No. 25/2011, effective 25.03.2011, SG No. 21/2014, amended, SG No. 28/2018, effective 29.03.2018, SG No. 100/2023, effective 1.12.2023) The author of a released musical, literary, or audio-visual work shall grant prior and written consent for public performance, live or recorded, broadcasting, transmission, retransmission of, and provision of electronic access to, said work or any part thereof. Such consent may be given in person by the author, through a registered collective management organisation, or through a registered independent management entity, unless provided for otherwise by the law.

(2) (New, SG No. 28/2000, repealed, SG No. 77/2002, new, SG No. 25/2011, effective 25.03.2011) Contracts granting a right to public performance of works during concerts shall be concluded with the concert organisers who shall ensure the venue, technical and other means, participation of the performers and announcement of the concerts, notwithstanding who covers the costs.

(3) (New, SG No. 28/2018, effective 29.03.2018) The venue for the concert shall be provided to the organiser of the concert for use on the basis of certified copies of the contracts for ceding the right of public performance of the works to be performed. In the event of non-fulfilment of the obligation under the first sentence, the person providing the venue for use shall be jointly liable with the concert organiser for payment of the compensations payable to the authors for the public performance.

(4) (New, SG No. 28/2018, effective 29.03.2018, amended, SG No. 100/2023, effective 1.12.2023) For any public performance of works during concerts, the user, not later than three days before said performance, shall submit, to the persons wherefrom said user has obtained the consent under paragraph 1, a list with the works to be performed during the concert and their authors, and, after said public performance, an accurate report of the works performed and their authors, as well as an accurate report of the revenue from the concert.

(5) (New, SG No. 25/2011, effective 25.03.2011, renumbered from Paragraph 3, SG No. 28/2018, effective 29.03.2018) An organiser within the meaning of paragraph 2 shall be any person advertised as such in promotional materials, press releases, posters, brochures, etc.

(6) (New, SG No. 25/2011, effective 25.03.2011, renumbered from Paragraph 4, SG No. 28/2018, effective 29.03.2018) The concert organiser shall place the name, logo, or other identifying mark thereof on promotional materials, press releases, posters, brochures, concert tickets, etc.

Section IV

Contract of Publication in the Press or in Another Periodical (Heading amended, SG No. 100/2023, effective 1.12.2023)

Right to Use a Commissioned Work

(Heading amended, SG No. 100/2023, effective 1.12.2023)

Article 59. (Amended, SG No. 100/2023, effective 1.12.2023) (1) The author of any commissioned work may not offer, without publisher's consent, the same work or parts thereof for publication or reproduction, as well as for broadcasting, transmission, or provision of electronic access, before said work is released by the publisher.

(2) Unless agreed upon otherwise, the restrictions under paragraph 1 shall no longer apply when fifteen days - for the newspapers and news websites - or three months - for the magazines - have passed after the date of submission of the manuscript and the publisher has not released it or has not notified the author, within said time limits, that the work will be released indicating the date of the release thereof.

Right to Second Use

Article 60. (1) (Previous text of Article 60, amended, SG No. 100/2023, effective 1.12.2023) The author may use the already released work thereof after the release date, unless agreed upon otherwise in writing.

(2) (New, SG No. 100/2023, effective 1.12.2023) The author of a scientific literary work created for the purposes of a research, financed, in full or in part, with public funds, shall reserve the right to release said work or parts thereof in non-commercial educational or scientific repositories after said work is accepted for publication by a publisher, whereupon said author shall include a reference to said publisher.

(3) (New, SG No. 100/2023, effective 1.12.2023) Any arrangement with prejudice or limitation to the provision in paragraph 2 shall be null and void.

(4) (New, SG No. 100/2023, effective 1.12.2023) No publisher may restrict publication of a scientific literary work on the only grounds that said work has already been published in a non-commercial educational or scientific repository.

Returning Material Offered for Publication

(Heading amended, SG No. 100/2023, effective 1.12.2023)

Article 61. (Amended, SG No. 100/2023, effective 1.12.2023) Publishers of press and other periodicals shall return the originals of works of fine art, original documents, and illustrations offered thereto for publication, unless agreed upon otherwise in writing.

Section V

Creation and Use of Films and Other Audio-Visual Works

Rightholders

Article 62. (1) (Supplemented, SG No. 77/2002) Copyright to a film or another audio-visual work shall belong to the director, the writer, and the cinematographer. In animated films, the production designer shall also have copyright.

(2) The authors of the music, the dialogue, the existing literary work upon which the audio-visual work was based, the costume designers, the scenographers, as well as the authors of any other works included in said audio-visual work, shall reserve the copyright to their works.

(3) A producer within the meaning of this Section shall be the natural or juridical person organising the creation of the work and providing the financing thereof.

Contracts on Production and Use

Article 63. (1) (Amended and supplemented, SG No. 99/2005, amended, SG No. 100/2023, effective 1.12.2023) All authors under Article 62 shall execute with the producer written contracts whereby, unless agreed upon otherwise elsewhere or provided for otherwise herein, said authors shall be deemed to have granted said producer the exclusive right to copy the work, have it publicly performed, broadcasted, transmitted, retransmitted, reproduced on video media, to distribute said video media, provide electronic access to said work or a part thereof, as well as the right to permit the translation, voice-over, and subtitling of the text, both for the country and abroad.

(2) The producer shall pay the authors under the foregoing Article a royalty for the rights granted. In this case, the provisions of Article 41, paragraph 2, and Article 42, paragraph 2 shall not apply.

(3) If any author under Article 62 is no longer willing to complete said author's part of the film or another audio-visual work or is no longer able to complete said part for reasons beyond said author's control, said author may not prevent the work already done thereby to be used for the completion of said work. Thereupon, such author shall not forfeit the copyright to the work already done thereby, with all ensuing consequences.

(4) An audio-visual work shall be considered completed when the final version thereof is agreed upon by the director and the producer.

- (5) Any amendments to the final version through addition, removal, or change of any elements thereof shall require consent of the persons under paragraph 4.
- (6) (Amended, SG No. 63/1994) Upon bankruptcy of a producer, any author under Article 62 may purchase the source material of the work, at the price offered by the highest bidder, if, within 3 days after the end of bidding, requests in writing to do so.
- (7) (Amended, SG No. 77/2002) In the event that the producer is unable to complete the work or, upon completing it, wants to dispose of the initial recordings of the source working material or of the source material for the final version of the work, as the case may be, said producer shall provide said material, free of charge, to the authors under Article 62, paragraph 1.
- (8) (New, SG No. 28/2000) Within five years after the date on which the work has been released, the producer or the persons that have become owners of the source material for the final version of the work shall submit said material to the National Film Library. This provision shall only apply to films produced by Bulgarian natural or juridical persons.

Secondary Use

Article 64. (Amended, SG No. 99/2005, SG No. 25/2011, effective 25.03.2011, SG No. 100/2023, effective 1.12.2023) The producer may grant a third party, provided said third party assumes the obligations under Article 65, the right to broadcast, transmit, and retransmit the work, to provide electronic access thereto, to reproduce said work on any type of media, such as video media, to distribute said media or provide said media for public screening, whereupon said producer shall notify in writing, within one month, the authors under Article 62, paragraph 1, unless provided for otherwise herein.

Royalties

- Article 65.** (1) (Amended, SG No. 28/2000, supplemented, SG No. 77/2002, SG No. 99/2005, amended, SG No. 100/2023, effective 1.12.2023) The director, the writer, the cinematographer, the composer of the original score, and, in animated films, the production designer shall have the right to an additional fair and proportionate royalty, separate from that under Article 63, paragraph 2, for any type of use of the film or the audio-visual work, while the other authors under Article 62 shall have such right provided that such royalty has been agreed upon. The royalties for the different types of use of the work, with rights thereto granted by the authors to the producer under Article 63, paragraph 1, as well as the manner in which the author wants to receive said royalties in accordance with paragraph 2, shall be determined separately for each type of use.
- (2) (Amended, SG No. 25/2011, effective 25.03.2011) The royalties for the different types of use of the work shall be payable by the respective users. The authors may want to receive the royalties through the producer or through a collective copyright management organisation. In the latter case, the producer shall include such a provision in the contracts executed by said producer to use the work.
- (3) (Amended, SG No. 100/2023, effective 1.12.2023) In the cases of public performances of works, announced in advance, with a paid admission, the royalty shall be proportionate to the revenue of the producer.
- (4) (Supplemented, SG No. 77/2002, amended, SG No. 99/2005) The royalty under paragraph 2 notwithstanding, the authors under paragraph 1 shall have the right to a percentage of any revenue of the producer realised from use of the work.
- (5) (New, SG No. 25/2011, effective 25.03.2011) The contract between the author and the producer notwithstanding, when the work is shown in public places, access to which involves payment of an admission fee or a total amount, the authors shall have the right to a percentage of the revenues from each such showing. Any waiver of such right to royalty by the authors shall be invalid.
- (6) (New, SG No. 99/2005, renumbered from Paragraph 5, SG No. 25/2011, effective 25.03.2011) In case the use of the work consists in renting out or lending copies of said work, the provisions of Article 22a shall apply.

(7) (New, SG No. 99/2005, renumbered from paragraph 6, SG No. 25/2011, effective 25.03.2011, amended, SG No. 100/2023, effective 1.12.2023) In case the use of the work consists in retransmission of said work, the provisions in Article 21, paragraphs 3 to 6 shall apply.

Article 66. (Repealed, SG No. 100/2023, effective 1.12.2023).
Use of Parts of Films

Article 67. The producer may use parts of the work or individual frames in such volume as is necessary for advertising the film without the consent of the authors and without payment of royalty. The producer may use such parts or frames for other purposes only with the consent of the authors under Article 62, paragraph 1 and upon payment of royalty. Other persons may use parts or frames only with the consent of the authors under Article 62, paragraph 1 and upon payment of royalty.

Section VI

Use of Works of Fine Art, Architecture and Photography

Presumption of Granted Right to Public Display

Article 68. (1) (Previous text of Article 68, amended, SG No. 28/2000) The transfer of ownership over works of fine art or works created by a photographic or a similar method shall include, unless agreed upon otherwise in writing, transfer of the right to a public display of said works.

(2) (New, SG No. 28/2000) The transfer of the right to use an architectural design shall include, unless agreed upon otherwise in writing, transfer of the right to a public display of said design.

Subsequent Use of Architectural Designs

Article 69. The written consent of the author shall be required for every subsequent use of the architectural design of an already completed building or other facility.

Section VII

Use of Software

Operative Rules

Article 70. Unless agreed upon otherwise, it shall be deemed that the person that has lawfully obtained the right to use certain software may use, display on screen, execute, transmit at distance, store in a computer memory, translate, rework, or otherwise amend, said software, provided that such actions are necessary to achieve the purpose for which the right to use said software was obtained, including for debugging purposes.

Imperative Rules

Article 71. The person that has lawfully obtained the right to use certain software may, without author's consent and without payment of any additional royalty:

1. create a back-up copy of the software if necessary for the respective use for which the software has been obtained;
2. monitor, study, and test the software's operation in order to determine the ideas and principles which may be embodied in any of said software's elements as long as this is done in the process of loading, display on screen, execution, transmission at a distance, or storage in the computer memory, of said software and provided that said person has the right to carry out such actions in accordance with Article 70;
3. (supplemented, SG No. 28/2000) translate the programming code from one form into another if absolutely necessary to obtain some information in order to achieve compatibility of some existing software with other software, provided that any information required for said purpose has not been

provided in a ready-to-use form and that said translation is done only with the parts of said software required to achieve said compatibility. The information thus obtained may not be used for the creation and distribution of any software, differing insignificantly from the software the programming code whereof is being translated, as well as for any other action that may infringe upon any copyright to said software.

Article 71a. (New, SG No. 77/2002, repealed, SG No. 99/2005).

Section VIII
(New, SG No. 14/2015)
Special Rules on the Use of Orphan Works and Phonograms

Scope

Article 71b. (New, SG No. 14/2015) (1) Publicly accessible libraries, educational institutions, and museums, as well as archives, institutions storing film or sound-recording heritage, and public radio and television organisations having seats in the Republic of Bulgaria may benefit from the provisions in this Section only for purposes pertaining to their public functions.

(2) The provisions in this Section shall not apply to:

1. works published as books, specialised publications, magazines, newspapers, and other written works which are part of the stock of publicly accessible libraries, educational institutions, or museums, archives or institutions storing film or sound-recording heritage;

2. films or other audiovisual works and phonograms which are part of the stock of publicly accessible libraries, educational institutions, museums, archives or institutions storing film or sound-recording heritage;

3. films or other audiovisual works and phonograms produced by public radio and television organisations until 31 December 2002, including ones stored in their archives, which are subject matter protected by copyright or related rights and which were published, or, if were not published, were broadcasted, first in a Member State of the European Union, insofar as they are considered to be orphan works within the meaning of Article 71c.

(3) The provisions in this Section shall also apply to works and phonograms within the meaning of paragraph 2 which have never been published or broadcast, but which have been made publicly available by the organisations under paragraph 1 with the consent of the rightholders, provided that it is reasonable to assume that the rightholders would not oppose the uses within the meaning of Article 71g.

(4) This Section shall also apply to works and other protected subject matter that have been included in, or constitute an integral part of, the subject matter under paragraphs 2 and 3.

(5) The provisions in this Section shall be without prejudice to the application of the rules on the management of rights.

Orphan Works and Phonograms

Article 71c. (New, SG No. 14/2015) (1) A work or a phonogram shall be considered an orphan work if none of the rightholders of said work or phonogram is identified or, even if one or more of said rightholders were identified, none could be located despite a diligent search carried out and recorded in accordance with Article 71d.

(2) Where there is more than one rightholder of a work or a phonogram, and not all of them have been identified or, even if identified, could be located after a diligent search carried out and recorded in accordance with Article 71d, said work or phonogram may be used in accordance with the provisions in this Section, provided that the rightholders that have been identified and located have, in respect of the rights held thereby, authorised the organisations under Article 71b, paragraph 1 to reproduce and provide access within the meaning of Article 18, paragraph 2, items 1 and 10.

(3) The provision in paragraph 2 shall be without prejudice to the rights to the work or phonogram of rightholders that have been identified and located.

(4) The provisions in this Section shall be without prejudice to any rules on works released under a pseudonym or anonymously.

Diligent Search

Article 71d. (New, SG No. 14/2015) (1) The organisations under Article 71b, paragraph 1 shall carry out a diligent search for each work or phonogram in order to establish whether it is an orphan work, by consulting the appropriate sources. The diligent search shall be carried out prior to the use of the work or phonogram.

(2) (Amended, SG No. 28/2018, effective 29.03.2018) The sources used for the diligent search in the Republic of Bulgaria shall be determined by the Minister of Culture, or a deputy minister authorised thereby following consultations with the associations of rightholders and users. The list of minimum sources is set out in Annex 1 hereto.

(3) A diligent search shall be carried out in the Republic of Bulgaria in respect of:

1. works and phonograms published, or, if not published, broadcast, first in the Republic of Bulgaria;

2. films or other audio-visual works where the seat or usual residence of the producer thereof is located in the Republic of Bulgaria;

3. works and phonograms under Article 71b, paragraph 3 where the organisation's seat is in the Republic of Bulgaria;

(4) If there is evidence to suggest that relevant information on the rightholders can be found in other countries, the sources available in those other countries shall also be consulted.

(5) The organisations under Article 71b, paragraph 1 shall maintain records of their diligent searches and provide the Minister of Culture with information on:

1. the results of the diligent searches which have been carried out and which have led to the conclusion that a work or a phonogram can be considered an orphan work within the meaning of Article 71c;

2. the actions related to the use of such works or phonograms in accordance with this Section;

3. any change, within the meaning of Article 71f, in the status of orphan works and phonograms used by the organisations;

4. their contact details.

(6) (Amended, SG No. 100/2023, effective 1.12.2023) The Minister of Culture, or a deputy minister authorised thereby, upon reception of the information under paragraph 5, shall forward said information to the European Union Intellectual Property Office in accordance with Regulation (EU) No. 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights (OJ L 129, 16.5.2012, p. 1).

Mutual Recognition of Orphan Work Status

Article 71e. (New, SG No. 14/2015) Any works or phonograms which are considered orphan works within the meaning of Article 71c in a Member State of the European Union shall also be considered an orphan work and may also be used in accordance with this Section in the Republic of Bulgaria. This shall also apply to works and phonograms under Article 71c, paragraph 2, insofar as non-identified or non-located rightholders are concerned.

Termination of Orphan Work or Phonogram Status

Article 71f. (New, SG No. 14/2015) A rightholder of a work or phonogram considered to be an orphan work may at any time terminate the orphan work status, including in the cases under Article 71c, paragraph 2, when the rights of said rightholder are affected.

Permitted Uses of Orphan Works and Phonograms

Article 71g. (New, SG No. 14/2015) (1) The organisations under Article 71b, paragraph 1 may, without the consent of the copyright or related rightholder and without payment of royalty, use an orphan work or phonogram contained in their stock, subject to:

1. providing access to such work or phonogram in accordance with the procedure provided for in Article 18, paragraph 2, item 10;

2. reproducing it for the purpose of digitising, making accessible, indexing, cataloguing, storing or restoring such work or phonogram.

(2) The organisations under Article 71b, paragraph 1 may use an orphan work or phonogram in accordance with paragraph 1 only in order to achieve aims related to their public functions, in particular the conservation and restoration of the works and phonograms contained in their stock and making them accessible for cultural and educational purposes. For any such use, said organisations may charge fees, but only insofar as that is necessary to cover their costs related to the digitisation of the orphan works and phonograms and to making them publicly accessible.

(3) The organisations under Article 71b, paragraph 1 shall, for any use of orphan works and phonograms, ensure that the names of authors and other identified rightholders are indicated.

(4) The provisions in this Section shall be without prejudice to the right of the organisations under Article 71b, paragraph 1 to execute, within their scope of activity, contracts related to the performance of their public functions.

(5) Rightholders who have terminated the status of an orphan work or other subject-matter protected by copyright or related rights shall have the right to a fair royalty for any use in accordance with paragraph 1 by the organisations under Article 71b, paragraph 1 having a seat in the Republic of Bulgaria. The royalties under the first sentence shall be payable for any use during the 5-year period preceding the termination of the orphan status of the relevant work or other subject-matter protected by copyright or related rights.

Applicability without Prejudice

Article 71h. (New, SG No. 14/2015) This Section shall be without prejudice to the provisions regulating the legal protection of patents on inventions, marks, industrial designs, utility models, integrated circuit topologies, typefaces, conditional access, access to electronic communication networks and/or services, the protection of national treasures, statutory deposit requirements, the protection of competition, trade secrets, personal data protection and privacy, the protection of cultural values, access to public information, laws regulating contractual relations, the freedom of expression in the media and the freedom of the press.

Section IX

(New, SG No. 100/2023, effective 1.12.2023)

Special Rules on Use of Out-of-Commerce Works and Other Protected Subject Matter

Subject

Article 71i. (New, SG No. 100/2023, effective 1.12.2023) (1) A work or other protected subject matter shall be deemed to be out of commerce when it can be presumed in good faith that the whole work or other subject matter is not available to the public through customary channels of commerce, in the same language and in its initial form, after a reasonable effort has been made to determine whether it is available to the public.

(2) The Minister of Culture, or a deputy minister authorised thereby, upon conducting consultations with the rightholders, the registered collective management organisations, and the persons under Article 26g, paragraph 3, items 3 and 4, shall issue an order setting additional criteria for the existence of an out-of-commerce subject matter for certain types of protected subject matter. The order under the first sentence shall be published on the website of the Ministry of Culture in English and in Bulgarian.

(3) Any organisation, registered in the register under Article 94d, paragraph 2, item 1, representing a significant number of rightholders, based on membership or contract of mutual representation, shall be deemed to be a collective management organisation on the territory of the Republic of Bulgaria for the purposes of this Section. Such representation shall apply to the management of all categories of rights, types of rights, works, and other protected subject matter, as registered in the register. The application for registration as a representative collective management organisation shall be submitted and reviewed under the procedure in Articles 94b to 94e which shall be applied accordingly.

(4) In the event that more than one representative organisation for the management of a certain category of rights, type of rights, and protected subject matter, is registered in the register under Article 94d, paragraph 2, item 1, the user shall be released from liability under the terms in Article 94p1, paragraph 5, and the representative organisations shall arrange therebetween their relationships concerning the licenced use in accordance with Article 94c with regard to Articles 94l1 to 94n.

Granting Rights to Use Out-of-Commerce Subject Matter

Article 71j. (New, SG No. 100/2023, effective 1.12.2023) (1) The representative collective management organisations under Article 71i, paragraph 3 shall grant, by contract, to persons under Article 26g, paragraph 3, items 3 and 4, established in the Republic of Bulgaria, non-exclusive rights to use out-of-commerce subject matter from the permanent archival collections or from the permanent collection of said persons, for non-commercial purposes, on the territory of the European Union. Article 94p1 shall be applied accordingly.

(2) Granted by the contracts under paragraph 1 shall be rights to use through reproduction, distribution, broadcasting, transmission, retransmission, or provision of electronic access.

(3) The rightholder may thenceforth withdraw any non-exclusive rights granted under the terms in paragraph 1, at any time, with a 6-month written notice.

(4) The provisions in this Article shall be without prejudice to the exercise of the right to a free use of works, other protected subject matter, or parts thereof in accordance with the provisions herein.

Use of Out-of-Commerce Subject Matter

Article 71k. (New, SG No. 100/2023, effective 1.12.2023) (1) The persons under Article 26g, paragraph 3, items 3 and 4, upon making reference to the rightholder, except where not possible, may provide through non-commercial websites electronic access to out-of-commerce subject matter from their permanent archives and collections if no representative collective management organisation is registered for the management of said subject matter.

(2) When exercising the right under paragraph 1, the authorised persons may further perform any actions under Article 18, paragraph 2, items 1, 3, 5, 6, and 7, Articles 70, 71, 90e, Article 93c, paragraph 1, and Article 93f, paragraph 1, considering the nature of the protected subject matter and to the extent necessary for the purposes thereof.

(3) The rightholder may thenceforth exclude the application of paragraph 1 to the protected subject matter, at any time, with a 6-month written notice.

(4) Any use of out-of-commerce subject matter under the terms in paragraphs 1 and 2 shall be deemed to be on the territory of the Republic of Bulgaria when the person exercising such right is established in the Republic of Bulgaria.

(5) The provisions in this Article shall be without prejudice to the exercise of the right to a free use of works, other protected subject matter, or parts thereof in accordance with the provisions herein.

Reasonable Effort

Article 71l. (New, SG No. 100/2023, effective 1.12.2023) (1) The persons under Article 26g, paragraph 3, items 3 and 4 shall make a reasonable effort, in accordance with Article 71i, paragraph 1, to determine whether the works or other protected subject matter for which they intend

to obtain a licence to use under the terms in Article 71j, or to which they intend to provide electronic access under the terms in Article 71k, as the case may be, are out of commerce.

(2) The persons under Article 26g, paragraph 3, items 3 and 4 shall keep records on such reasonable effort and on the results thereof.

(3) In the course of the reasonable effort under paragraph 1, the persons under Article 26g, paragraph 3, items 3 and 4 may hold consultations with the Minister of Culture and with the registered collective management organisations for the respective categories of rights, types of rights, works, and other protected subject matter.

Communicating Information on Out-of-Commerce Subject Matter

Article 71m. (New, SG No. 100/2023, effective 1.12.2023) (1) The collective management organisations, or the persons under Article 26g, paragraph 3, items 3 and 4, as the case may be, shall submit to the Minister of Culture, at least 6 months in advance, the following information on the out-of-commerce subject matter for which they intend to grant rights under the terms in Article 71j, or to which they intend to provide electronic access under the terms in Article 71k, as the case may be, namely:

1. details on the identification of the out-of-commerce subject matter;
2. information on the options available to the rightholders, as provided for in Article 71j, paragraph 4, and Article 71k, paragraph 3;
3. where applicable, any available information on the parties to the contract whereby the respective rights are granted, its territorial scope, and the licenced forms of use.

(2) The Minister of Culture, or a deputy minister authorised thereby, upon reception of the information under paragraph 1, shall forward said information to the European Union Intellectual Property Office in accordance with Regulation (EU) No. 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights (OJ L 129, 16.5.2012, p. 1).

(3) Until proven otherwise, any protected subject matter shall be presumed to be out of commerce when the required information thereon has been communicated under the procedure in paragraphs 1 and 2, and the rightholder has not objected thereto within six months after said communication.

(4) Any collective management organisation granting rights under the terms in Article 71j shall communicate the information under paragraph 1 in Bulgarian and in English on its website. The persons under Article 26g, paragraph 3, items 3 and 4 shall have the same obligation with regard to the protected subject matter whereto said persons intend to provide electronic access under the terms in Article 71k.

Out-of-Commerce Subject Matter Related to a Third State

Article 71n. (New, SG No. 100/2023, effective 1.12.2023) (1) The provisions in Articles 71j and 71k shall not apply to groups of out-of-commerce works and other subject matter which, over the course of the reasonable effort under Article 71l, paragraph 1, are determined to be related to a third state, as defined in paragraph 2, unless the collective management organisation is representative for the rightholders of said third state.

(2) The rule in paragraph 1 shall apply to the following out-of-commerce subject matter:

1. works and other protected subject matter which have been published, or, if not published, broadcast, first in a third state, with the exception of films and other audio-visual works;
2. films and other audio-visual works if the seat or usual residence of the producer thereof is located in a third state;
3. works and other protected subject matter of citizens of a third state when, after a reasonable effort has been made, the state under items 1 or 2 cannot be determined.

Part Two
RELATED AND OTHER SPECIAL RIGHTS
(Heading supplemented, SG No. 77/2002)
Chapter Eight
GENERAL PROVISIONS

Rightholders of, and Subject Matter Protected by, Related Rights

Article 72. (Amended, SG No. 28/2000) The following shall have rights, neighbouring to the copyright, over their works:

1. performing artists over their performances;
2. producers of phonograms over their recordings;
3. producers of the initial recording of a film or another audio-visual work over the original copy, as well as over the copies produced as a result of this recording;
4. radio and television organizations over their programs;
5. (new, SG No. 100/2023, effective 1.12.2023) publishers of press publications - over their press publications.

Collision with Copyright

Article 72a. (New, SG No. 28/2000) Related rights may not be exercised in a manner which might result in infringing upon, or restricting, copyrights.

Presumption of Holding Related Rights

Article 72b. (New, SG No. 99/2005, amended, SG No. 100/2023, effective 1.12.2023) Until proven otherwise, the rightholder under Article 72 shall be the person the name or other identifying mark whereof are indicated or mentioned in the usual manner on the corresponding recording, copies and/or packaging thereof, during the screening of the programme, on the corresponding paper medium, or on the news website.

Exercising Neighbouring Rights through Collective Management Organizations

Article 73. (Supplemented, SG No. 28/2000, amended and supplemented, SG No. 25/2011, effective 25.03.2011, amended, SG No. 28/2018, effective 29.03.2018, SG No. 100/2023, effective 1.12.2023) The economic rights of the performing artists, of the producers of phonograms, of the producers of films or other audio-visual works, of the radio and television organisations, and of the publishers of press publications may be exercised by collective management organisations or independent management entities authorised thereby, in accordance with the provisions in Title 2a and § 5 of the Transitional and Final Provisions.

Chapter Nine
RIGHTS OF PERFORMING ARTIST

Rightholder

(Heading amended, SG No. 28/2000)

Article 74. (Amended and supplemented, SG No. 28/2000) A performing artist is a person who presents, sings, plays, dances, recites, acts, directs, conducts, comments upon, performs voice-over, or otherwise performs a work, a number in a circus, variety show, puppet show, or a work of folklore.

Non-Economic Rights

Article 75. (1) The performing artist shall hold the following non-economic rights:

1. to demand that the name, pseudonym, or stage name thereof are referred to or announced in the usual manner during every live performance or any use of the recorded performance thereof;
2. to demand the preservation of the entirety and integrity of the recorded performance thereof at the time of its reproduction or any other use.

(2) The right under item 1 of the foregoing paragraph shall be inalienable. The right under item 2 may only be alienated expressly in writing.

Economic Rights

Article 76. (1) The performing artist shall have the exclusive right to licence, against royalty:

1. (amended, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) any broadcasting, transmission, retransmission of, provision of electronic access to, as well as any sound or video recordings of, said artist's performance, any reproduction of said recordings on sound or video media, and any distribution thereof;

2. (amended, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) any public performance, broadcasting, transmission, or retransmission of such recordings;

3. (new, SG No. 28/2000, amended, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) any provision of electronic access to said artist's recorded performance or to any part thereof;

4. (new, SG No. 77/2002, supplemented, SG No. 25/2011, effective 25.03.2011) any import from, and export to, third states of copies of the performance in commercial quantities, regardless of whether the copies had been produced legally or in violation of rights under item 1.

(2) (Amended, SG No. 21/2014, SG No. 100/2023, effective 1.12.2023) The rights under paragraph 1 shall be granted by the performing artist against a fair and proportionate royalty under a separate written contract. The royalty may be agreed upon as a portion of the revenues, a lump sum, or otherwise.

(3) Unless agreed upon otherwise in the contract between the performing artist and the producer of phonograms, said performing artist shall have the right to licence other persons to record and distribute said performing artist's performances as well. Any agreement limiting the performing artist's right to grant such licence shall be valid for a maximum of five years.

(4) (Repealed, SG No. 28/2000, new, SG No. 100/2023, effective 1.12.2023) In the event the initially agreed-upon royalty turns out to be clearly disproportionate to the revenues generated by the use of the performance, the performing artist may either request the royalty to be increased or claim an additional royalty from the party with which the contract of use was executed, or by any successors thereto. If no agreement between the parties can be reached, the performing artist may initiate a mediation procedure under Articles 94aa and 94ab, as well as file a claim before the court, any conducted mediation procedure notwithstanding.

(5) (New, SG No. 100/2023, effective 1.12.2023) For the judgment whether the royalty is disproportionately low, account shall be taken of any and all subsequent and related revenues from the use of the performance, including any sales of merchandise, where applicable, as well as of the specific circumstances in the particular case, including the performing artist's contribution, the market practices, the respective industry specifics, and the actual use of the performance.

(6) (New, SG No. 100/2023, effective 1.12.2023) The provision in paragraph 4 shall not apply to any agreements executed by collective management organisations and independent management entities.

(7) (New, SG No. 100/2023, effective 1.12.2023) Any arrangement with prejudice or limitation to the provisions in paragraph 4 shall be inapplicable to the performing artist.

Secondary Use of Phonograms

(Heading amended, SG No. 21/2014)

Article 77. (1) (Amended, SG No. 99/2005, previous text of Article 77, SG No. 21/2014, amended, SG No. 100/2023, effective 1.12.2023) The amount of the royalties of the performing artists and of the producers of phonograms intended for broadcasting, transmission and retransmission, or for a public performance, through sound equipment or otherwise, of their released performances and phonograms, including when said performances and phonograms are included in recordings of other works, shall be set under the procedure in § 5 of the Supplementary

Provisions, whereupon half of the amount shall be made available to the performing artists, while the other half shall be made available to the producers of phonograms.

(2) (New, SG No. 21/2014) Where the performing artist has the right to royalty in the form of regular payments, fifty years after the phonogram was legally published or, if it has not been published, fifty years after its legal communication to the audience, any advance payments or deductions under contracts signed before the expiry of the fiftieth year after the legal publication of the phonogram, or its legal communication to the audience, as the case may be, may not be subtracted.

(3) (New, SG No. 21/2014, amended, SG No. 100/2023, effective 1.12.2023) In case fifty years after the legal publication of the phonogram, or, if not published, fifty years after its legal communication to the audience, the producer of the phonogram does not offer enough copies of the phonogram for sale or does not provide electronic access to the phonogram, the performing artist may terminate the contract whereby said artist has granted said producer the right to use the phonogram. This option may be exercised, unless the producer performs any of the activities set forth in the first sentence regarding the use of the phonogram, within one year after receiving the notice by the performing artist of the plans thereof to terminate the contract. Any waiver by the performing artist of the right to request such termination shall be invalid.

Additional Royalty

Article 77a. (New, SG No. 21/2014) (1) In case in a contract, whereby a performing artist has granted the right to use a phonogram with a performance thereof, is provided for the royalty to be paid not in the form of regular payments, the performing artist shall have the right to an additional annual royalty by the producer for each full calendar year fifty years after the phonogram was legally published or, if it has not been published, fifty years after its legal communication to the audience. Any waiver by the performing artist of the right to additional royalty shall be invalid.

(2) The total amount of the additional annual royalty for one year payable by the producer to the performing artist in accordance with paragraph 1 shall correspond to 20 percent of the revenues received by the producer during the year preceding the one for which said additional annual royalty is paid. The producer shall, upon request, on an annual basis, present to the respective collective management organisation representing the performing artists and the performing artists having the right to an additional royalty in accordance with paragraph 1 the information needed for the payment of said royalty.

(3) The additional royalty under paragraph 1 shall be collected, distributed, and paid only through a collective management organisation.

(4) (Amended, SG No. 100/2023, effective 1.12.2023) Producer's revenues within the meaning of paragraph 2 shall be any revenues generated by any reproduction and distribution of the recording, as well as by any provision of electronic access to the recording or to any part thereof, received by the producer before deducting the expenses.

Participation in Making of a Film

Article 78. (1) (Supplemented, SG No. 28/2000, amended, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) Unless agreed upon otherwise in the performance contract, it shall be deemed that the performing artist involved in the making of a film or another audio-visual work has further granted the producer of said work the right to any public performance, broadcast, transmission and retransmission of, provision of electronic access to, the recorded performance, as well as to any reproduction of said performance on video media and any distribution thereof.

(2) Any voice-over by a person other than the performing artist playing the respective role in a film or in another audio-visual shall require the consent of said performing artist.

(3) (New, SG No. 28/2000) The contracts under paragraph 1 executed with artists playing the leading roles shall provide for an additional royalty as a percentage of every gross revenue of the producer resulting from the use of the work. Such royalties shall be paid to the artists, as agreed

upon, either by the producer or by the respective users. When the royalties are paid by the respective users, the producer shall make the relevant provisions in the contracts executed by said producer to use the work. If no royalty has been agreed upon, it shall be set on the basis of an agreement between the artists' associations, on the one part, and the producers or associations thereof, on the other part.

(4) (New, SG No. 28/2000) The artists playing the leading roles under paragraph 3 shall be, until proven otherwise, the persons unambiguously named as such in the credits of the film. In the absence of such naming, account shall be taken of any express arrangements thereon in the contract between the producer and the performing artist, or, in the absence of such arrangements therein, or if said contract is not provided, account shall be taken of writer's express opinion which may be submitted in writing at any time.

(5) (New, SG No. 77/2002) In the event that the television organisation is also the producer of a film or an audio-visual work, the persons under paragraph 3 shall have the right to an additional royalty for each use of said work by said organisation, whereupon the amount of said royalty shall be set in accordance with paragraph 3, second and fourth sentences.

(6) (New, SG No. 77/2002, repealed, SG No. 100/2023, effective 1.12.2023).

(7) (New, SG No. 99/2005) In case the use under paragraph 3 consists in renting out or lending copies, the provisions of Article 22a shall apply.

Licence from Collective Performers

Article 79. The participants in collective performances, such as choirs, orchestras, ensembles, and other artistic groups, shall authorise in writing a single person to grant the licences to the use of their performances in accordance with this Chapter. The soloists and the conductor, as well as the director of the work of performing art shall grant the licence individually.

Naming for Collective Performances

Article 80. For collective performances, the name of the ensemble or group as a whole, and the names of the soloists, the conductor, and the director of the work of performing art shall be indicated or communicated in the usual manner, unless agreed upon otherwise with said persons.

Performance under an Employment Relationship

Article 81. The licence under Article 76, paragraph 1 to use a performance carried out under an employment relationship shall be granted by the employer, unless agreed upon otherwise with the performing artist.

Term of Protection

Article 82. (Amended, SG No. 25/2011, effective 25.03.2011, SG No. 21/2014) (1) The rights of the performing artists shall remain in force for fifty years after the date of the performance.

(2) In case a recording, other than a phonogram, of the performance has been made and legally published, or communicated to the audience, within the term under paragraph 1, the term of protection by said right shall continue for fifty years after the date of that event, or, if both events have occurred, after the earlier date.

(3) In case a phonogram of the performance has been made and legally published, or communicated to the audience, within the term under paragraph 1, the term of protection by said right shall continue for seventy years after the date of that event, or, if both events have occurred, after the earlier date.

(4) The terms under paragraphs 1, 2, and 3 shall commence as of the first of January of the year following the year of occurrence of the event giving rise to said terms.

Protection of Names of Artistic Groups

Article 83. (1) (Amended and supplemented, SG No. 28/2000, SG No. 28/2005, SG No. 100/2023, effective 1.12.2023) The Minister of Culture, or a deputy minister authorised thereby

shall keep and maintain a public register of the names of the artist groups. The register shall be published on the website of the Ministry of Culture. The terms and procedure for registration shall be determined by the Council of Ministers. Fees for the filing of a registration application shall be collected in amounts set in the tariff of the fees collected within the system of the Ministry of Culture, endorsed by the Council of Ministers.

(2) (New, SG No. 28/2000) The names of artist groups shall be registered in the Cyrillic alphabet. If requested by the applicant, the registration may also contain the same name in another alphabet.

(3) (New, SG No. 100/2023, effective 1.12.2023) The Minister of Culture, or a deputy minister authorised thereby:

1. shall decline registration of a name of an artist group when the name:

- (a) is the same as a name already registered for the same performing artist activity;
- (b) is the same as the name of a world-famous group with the same performing artist activity;
- (c) is contrary to public policy or to accepted principles of morality;

2. shall expunge the registered name of an artist group:

- (a) upon request by the members of the artist group or of a person authorised thereby;
- (b) when the motion under paragraph 6 was granted by an effective court ruling;
- (c) when the name is contrary to public policy or to accepted principles of morality;
- (d) upon expiration of 10 years after the termination of the activity of the artist group.

(4) (Renumbered from paragraph 2, SG No. 28/2000, renumbered from paragraph 3, SG No. 100/2023, effective 1.12.2023) The name registered under paragraph 1 may not be used by other groups.

(5) (Renumbered from paragraph 3, SG No. 28/2000, renumbered from paragraph 4, SG No. 100/2023, effective 1.12.2023) In the event that another group has used the same or a similar name prior to the registration, it may request said registration to be expunged.

(6) (Renumbered from paragraph 4, SG No. 28/2000, renumbered from paragraph 5, SG No. 100/2023, effective 1.12.2023) Disputes over similarities of names, or over which group was the first to use the name, shall be resolved by the court.

(7) (Renumbered from paragraph 5, SG No. 28/2000, renumbered from paragraph 6, SG No. 100/2023, effective 1.12.2023) The right to a name under paragraph 1 shall be protected for ten years after the artist group has discontinued its activity. This term shall commence as of the first of January of the year following the one in which said activity was discontinued.

(8) (New, SG No. 100/2023, effective 1.12.2023) Administrative authorities, persons performing public functions, organisations providing public services, and judicial authorities before which circumstances recorded in the public register under paragraph 1 must be established, or which need data available in the public register under paragraph 1, may not request from the citizens and organisations to provide evidence that the information is recorded in the public register under paragraph 1.

Transparency and Accountability

Article 83a. (New, SG No. 100/2023, effective 3.12.2024) (1) Any user, whereto a performing artist has granted the right to use a recorded performance thereby, shall, at least once a year, within the term of said use, provide said performing artist with an up-to-date, understandable, relevant, and comprehensive information on each use of said artist's performance, including on each way thereof, on any and all revenues received from said use, including from any sales of merchandise, and on the payable royalty, directly related to said use. Such information may be provided by electronic means, unless agreed upon otherwise in the contract with the user.

(2) In the event the user has assigned the right to use the work to a third party, and in case the initial user does not have all the required information under paragraph 1 available, the performing artist may request from said third party any additional information relevant to the period of said use. The initial user shall provide the performing artist with information on said third party, including the names and contact details thereof.

- (3) Any request for any additional information under paragraph 2 to said third party shall be submitted through the initial user, unless the latter does not cooperate, or it is objectively impossible for some other reason.
- (4) In case the administrative burden arising from the obligation under paragraph 1 is disproportionate with regard to the revenues received from the use of the performance, said obligation shall be limited to the types and levels of information which may be reasonably expected in the particular case.
- (5) The obligation under paragraph 1 shall not apply in the cases when the performing artist's contribution is insignificant with regard to the overall performance, unless the information is needed by said performing artist to exercise the rights provided for in Article 76, paragraph 5. A performing artist's contribution shall be deemed to be significant when said performing artist has had a direct impact on the overall success of the protected subject matter under Article 72, or when said performing artist's contribution could not be replaced by that of another performing artist without affecting the overall success of said protected subject matter.
- (6) The obligation under paragraph 1 shall not apply to contracts executed by collective management organisations and independent management entities whereto Article 94q1 shall be applicable.
- (7) Any arrangement with prejudice or limitation to the provisions in this Article shall be inapplicable to the performing artist.
- (8) All recipients of information under this Article shall be responsible for the processing, use, and protection thereof in accordance with the obligations for the protection of personal data and commercial secrets provided for by the effective law.

Application by Analogy

Article 84. (Amended and supplemented, SG No. 28/2000, amended, SG No. 77/2002, SG No. 99/2005, supplemented, SG No. 21/2014, amended, SG No. 100/2023, effective 1.12.2023) The provisions in Article 18, paragraph 3, Articles 18a, 19, 21, 21a, 22, 22a, 22b, 23, 24, Article 25, paragraph 1, item 2, Articles 25a, 26, 26f, 26g, 26h, 26i, 26j, and 26k, applicable to the works, and in Articles 32, 33, 34, 36, 37, 39, 42, Article 58, paragraph 1, and Articles 71i to 71n, shall further be applied accordingly to the rights of the performing artists.

Chapter Ten RIGHTS OF PRODUCERS OF PHONOGRAMS

Rightholder

Article 85. The producer of a phonogram shall be the natural or legal person who has organized the first recording and has provided its financing.

Economic Rights

Article 86. (1) The producer shall have the exclusive right to grant licences, against royalty, to:

1. any reproduction and distribution of the phonogram;
 2. (supplemented, SG No. 77/2002, SG No. 25/2011, effective 25.03.2011) any import from, and export to, third states of copies of the phonogram in commercial quantities, regardless of whether said copies were manufactured legally or in infringement upon the rights under item 1;
 3. (amended and supplemented, SG No. 99/2005, amended, SG No. 100/2023, effective 1.12.2023) any public performance, broadcasting, transmission, or retransmission of said recording;
 4. (new, SG No. 28/2000, amended, SG No. 100/2023, effective 1.12.2023) any provision of electronic access to said recording or to any part thereof;
 5. (new, SG No. 25/2011, effective 25.03.2011) any revision and synchronisation of said recording.
- (2) By contract, the producer may grant individual rights thereof under paragraph 1 to other persons, including authors and performers of the recorded works.

Non-Economic Rights

Article 87. (1) The producer may require, for any reproduction or distribution of recordings made thereby, to be named in the usual manner on the sound media and on the jackets and boxes thereof.

(2) (Repealed, SG No. 99/2005).

Secondary Use

Article 88. (Amended, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) The royalties of the producers of phonograms for any broadcasting, transmission, retransmission, or public performance, through sound equipment or otherwise, of their released phonograms shall be set and paid under the terms and procedure provided for in Article 77.

Term of Protection

Article 89. (Amended, SG No. 77/2002, SG No. 25/2011, effective 25.03.2011, SG No. 21/2014) (1) The rights of producers of phonograms shall remain in force for fifty years after the date of the recording.

(2) If the phonogram has been legally published within the term under paragraph 1, the term of protection by said right shall be seventy years after that event. If the phonogram has not been legally published but has been legally communicated to the audience within the term under paragraph 1, the term of protection by said right shall be seventy years after the date of said communication.

(3) The terms under paragraphs 1 and 2 shall commence as of the first of January of the year following the year of occurrence of the event giving rise to said terms.

(4) In case a contract between the producer of a phonogram and a performing artist participating therein is terminated under the procedure in Article 77, paragraph 3, the producer's right to said recording shall be terminated as of the time of termination of said contract with the performing artist.

Application by Analogy

Article 90. (Amended and supplemented, SG No. 28/2000, amended, SG No. 77/2002, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) The provisions in Article 8, Article 18, paragraph 3, Articles 18a, 19, 21, 21a, 22, 22a, 22b, 23, 24, Article 25, paragraph 1, item 2, Articles 25a, 26, 26f, 26g, 26h, 26i, 26j, and 26k, applicable to the works, and in Articles 32, 33, 34, 36, 71i to 71n, shall further be applied accordingly to the producers of phonograms.

Chapter Ten "a" **(New, SG No. 28/2000)** **RIGHTS OF FILM PRODUCERS**

Content of Rights

Article 90a. (New, SG No. 28/2000) (1) The producer of the initial recording of a film or another audio-visual work shall have, with respect to the original copy of the film and the copies thereof produced as a result of this recording, the exclusive right to grant licences, against royalty, to:

1. any duplication thereof;
2. (repealed, SG No. 100/2023, effective 1.12.2023);
3. (amended, SG No. 25/2011, effective 25.03.2011, SG No. 100/2023, effective 1.12.2023) any public performance or broadcasting thereof;
4. (amended, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) any transmission and retransmission thereof;
5. any reproduction thereof;
6. any distribution thereof;

7. any translation, voice-over, or sub-titling thereof;
 8. (amended, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) any provision of electronic access to the film or to any part thereof;
 9. (new, SG No. 77/2002, supplemented, SG No. 25/2011, effective 25.03.2011) any import from, and export to, third states of copies of the film in commercial quantities, regardless of whether these were manufactured legally or in infringement upon the right under item 1 or item 5;
 10. (new, SG No. 25/2011, effective 25.03.2011) any revision and synchronisation of said recording.
- (2) The producer shall have the right to require, for any use of the film, to be named in the usual manner.

Term of Protection

Article 90b. (New, 28/2010, amended, SG No. 25/2011, effective 25.03.2011, SG No. 21/2014) The rights of the producer under this Chapter shall remain in force for fifty years. This term shall commence on 1 January of the year following the year, during which the recording was made, or, if the recording was legally published or communicated to the audience during this period, the term shall commence as of 1 January of the year following the year of that event, or, if both events have occurred, of the earlier event.

Application by Analogy

Article 90c. (Amended, SG No. 77/2002, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) The provisions in Article 8, Article 18, paragraph 3, Articles 18a, 19, 21, 21a, 22, 22a, 22b, 23, 24, Article 25, paragraph 1, item 2, Articles 25a, 26, 26f, 26g, 26h, 26i, 26j, and 26k, applicable to the works, and in Articles 32, 33, 34, 36, 71i to 71n, shall further be applied accordingly to the film producers.

Chapter 10 "b"

(New, SG No. 100/2023, effective 1.12.2023)

RIGHTS OF PUBLISHERS OF PRESS PUBLICATIONS

Rightholder

Article 90d. (New, SG No. 100/2023, effective 1.12.2023) Publisher of press publications shall be any service provider posting, as a part of the economic activity thereof, and under the editorial responsibility and control thereof, publications in the press. Within the meaning of the foregoing sentence, publishers of press publications shall be any publishers of periodicals, of news, news agencies, and other persons publishing press publications.

Content of Right

Article 90e. (New, SG No. 100/2023, effective 1.12.2023) (1) The publisher of press publications shall have the exclusive right to grant to any information society service providers, against royalty, the right to:

1. reproduce said publisher's publications, or parts thereof, in an online environment;
2. provide electronic access to said publisher's publications or to parts thereof.

(2) Paragraph 1 shall not apply to:

1. actions involving:
 - (a) personal or non-commercial use of press publications by a natural person;
 - (b) reproduction of facts included in press publications;
 - (c) use of single words or very short excerpts from a press publication;
 - (d) creation of references (hyperlinks);
2. protected subject matter published in periodicals for scientific or educational purposes;
3. blogs and other websites providing information as a part of an activity not performed by initiative, or under the editorial responsibility and control, of a service provider.

(3) The authors and other rightholders of works and other protected subject matter included in a press publication shall reserve their rights and may, notwithstanding the provisions in Article 59, use their works and other protected subject matter separately from said publication, unless agreed upon otherwise in writing.

(4) In case a work or another protected subject matter is included by the publisher in a press publication based on a non-exclusive right to use, no rights provided for in paragraph 1 may be exercised to prohibit any use by any other licenced users.

(5) The term under Article 90g notwithstanding, no rights under paragraph 1 may be exercised for the purpose of prohibiting any use of works and other protected subject matter after the expiration of the term of protection thereof.

Right to Participate

Article 90f. (New, SG No. 100/2023, effective 1.12.2023) Unless agreed upon otherwise in writing, the revenues received by the publisher of a press publication, for any use of said press publication by the information society service providers, shall be distributed as follows:

1. 20 percent - to the authors of works included in said press publication;
2. 80 percent - to the publisher of said press publication.

Term of Protection

Article 90g. (New, SG No. 100/2023, effective 1.12.2023) The rights of the publisher of press publications under Article 72, item 5 shall remain in force for two years after the publication of the respective press publication. This term shall commence on the first of January after the date the aforementioned press publication was published.

Application by Analogy

Article 90h. (New, SG No. 100/2023, effective 1.12.2023) The provisions in Article 4, item 5, Articles 24, 25, 25a, 26, 26f, 26g, 26h, 26i, 26j, and 26k, applicable to the works, and in Articles 32, 33, 34, 36, 71i to 71n, shall further be applied accordingly to the publishers of press publications.

Chapter Eleven RIGHTS OF RADIO AND TELEVISION ORGANIZATIONS

Content of Right

Article 91. (1) (Amended, SG No. 28/2000, SG No. 77/2002, SG No. 100/2023, effective 1.12.2023) The radio and television organisation which has carried out the initial broadcasting or transmission of its own programme, including by direct delivery, shall have an exclusive right to licence, against payment:

1. (amended, SG No. 99/2005, SG No. 25/2011, effective 25.03.2011, SG No. 100/2023, effective 1.12.2023) any rebroadcasting or retransmission of the programme, as well as its delivery to the public by the signal broadcaster upon its broadcasting or transmission by direct delivery;
2. any recording, reproduction, or distribution of the recordings of said programme;
3. (amended, SG No. 99/2005, SG No. 25/2011, effective 25.03.2011, SG No. 100/2023, effective 1.12.2023) any provision of electronic access to a recording of the programme, to a part thereof, or to the contents of said organisation's own ancillary online service;
4. (new, SG No. 25/2011, effective 25.03.2011, supplemented, SG No. 21/2014, SG No. 100/2023, effective 1.12.2023) any public performance of the programme or said organisation's ancillary online service where such performance is carried out at locations accessible to the audience against payment of an admission fee.

(2) (Amended, SG No. 100/2023, effective 1.12.2023) The provision in the foregoing paragraph shall further be applied where a programme, transmitted by a radio or television organisation via

signal to a telecommunication satellite, is retransmitted, recorded, reproduced, and distributed by a different person.

(3) (New, SG No. 28/2000, amended, SG No. 100/2023, effective 1.12.2023) In the event that a radio and television organisation under paragraph 1, or the person authorised thereby, restricts the circle of persons receiving said organisation's programme or ancillary online service by coding the signal containing said programme or service, the consent shall be deemed granted only if the decoding device is provided by the broadcasting or transmitting organisation, or with its consent.

(4) (New, SG No. 28/2000) For every use of the programme within the meaning of paragraph 1, the user organisation shall communicate in a suitable manner the name of the organisation which has carried out the first broadcast or transmission of said programme.

(5) (New, SG No. 77/2002, amended, SG No. 99/2005, SG No. 25/2011, effective 25.03.2011, repealed, SG No. 100/2023, effective 1.12.2023).

Term of Protection

Article 92. The rights of radio and television organisations under this Chapter shall remain in force for fifty years. This term shall commence as of the first of January of the year following the year of the first broadcast or transmission of the programme.

Application by Analogy

Article 93. (Amended, SG No. 77/2002, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) The provisions in Article 8, Article 18, paragraph 3, Articles 18a, 19, Article 21, paragraph 7, Articles 22, 22b, 23, 24, 25a, 26f, 26g, 26h, 26i, 26j, and 26k, applicable to the works, and Articles 36, 71i to 71n, shall further be applied accordingly to the radio and television organisations.

Certification of Right to Produce and Distribute

Article 93a. (Repealed, SG No. 28/2000).

Chapter Eleven "a"

(New, SG No. 77/2002)

RIGHTS OF PRODUCERS OF DATABASES

Rightholder

Article 93b. (New, SG No. 77/2002) (1) The producer of the database shall be the rightholder.

(2) The producer of a database shall be the natural or juridical person that has taken the initiative and the risk to invest in the collection, verification, or use of the contents of a database, if such an investment is substantial in terms of quality or quantity.

Content of Right

Article 93c. (New, SG No. 77/2002) (1) The producer of a database may prohibit:

1. any retrieval, through any permanent or temporary transfer, in any form, of the contents of the database or of any substantial, in terms of quality or quantity, part thereof onto a different medium;
2. any reuse of the contents of the database or any substantial, in terms of quality or quantity, part thereof through any release, in any form, including any distribution of copies, renting out, or provision by digital means.

(2) Lending shall not be considered retrieval or reuse under paragraph 1.

(3) The right under paragraph 1 may be alienated or granted to other persons.

(4) The producer of a database may prohibit the actions under paragraph 1 even for insubstantial parts of the contents thereof where such actions are carried out repeatedly and systematically in a manner that is contrary to the normal use thereof or may harm the legitimate interests of the producer.

Termination of Right

Article 93d. (New, SG No. 77/2002) (1) (Amended and supplemented, SG No. 99/2005, effective 1.01.2007) The first sale, on the territory of the Member States of the European Union, of a physical copy of a database by the rightholder under Article 93c or with consent thereof shall result in termination of the right thereof to control subsequent sales of copies of that database on that territory.

(2) When a database is transmitted in a digital form, including over a communication network, the right under Article 93c shall not be terminated with regard to the physical copies of the database made by the recipient with the consent of the rightholder.

Conflict With Other Rights

Article 93e. (New, SG No. 77/2002) (1) The right under Article 93c shall arise regardless of whether the database or parts of the contents thereof are protected by copyright or related rights.

(2) The right under Article 93c may not be exercised in any manner that could result in any infringement upon, or any restriction of, copyright or related rights to the contents of the database.

Rights and Obligations of Legal Users

Article 93f. (New, SG No. 77/2002) (1) (New, SG No. 99/2005) The person that has legally acquired the right to use a database or a copy thereof may freely carry out therewith any actions under Article 18, paragraph 2, items 1, 2, 3, 4, 5, 7, and 8, as well as any actions related to any results which may be obtained by the translation, revision, processing, or any other changes made thereto by said person when that is necessary for the access to, and normal use of, said database. Where said person has the right to use only a part of the database, the above provision shall only apply to said part.

(2) (Renumbered from paragraph 1, SG No. 99/2005) When a database has been released in any manner, its producer may not prevent any retrieval or reuse of any insubstantial part of the contents thereof, for any purpose, by any person that has obtained legally access thereto. If the legal user has the right to retrieve or reuse only a part of the database, the above provision shall only apply to said part.

(3) (Renumbered from paragraph 2, SG No. 99/2005) The legal user of a database, that has been released in any manner, may not carry out any actions that are contrary to the normal use thereof or harm the legitimate interests of the producer thereof.

(4) (Renumbered from paragraph 3, SG No. 99/2005) The legal user of a database, that has been released in any manner, may not infringe upon the rights of the holder of copyright or related right to the works or other protected subject matter contained therein.

(5) (New, SG No. 99/2005) Any arrangement in contradiction to the provisions in paragraphs 1, 2, 3, and 4 shall be null and void.

Exceptions

Article 93g. (New, SG No. 77/2002) The legal user of a database, that has been released in any manner, may, without the consent of the producer thereof, retrieve or reuse within the meaning of Article 93c a substantial part or the contents thereof in the following cases:

1. retrieval, for personal use, of contents of a database that is not in an electronic form;
2. non-commercial retrieval for illustration purposes in training or for scientific research, in a volume justified by the purpose, making reference to the source;
3. retrieval or reuse for the purposes of national security or in administrative or legal proceedings.

Term of Protection

Article 93h. (New, SG No. 77/2002) (1) The rights under Article 93c shall remain in force for fifteen years. This term shall commence on the first of January of the year following the year in which the creation of the database was completed.

(2) If the database has been released in any manner prior to the expiration of the term under paragraph 1, the term shall commence on the first of January of the year following the year of the release.

(3) Every new substantial investment in the database that results in a substantial change in the contents of said database shall mark the commencement of a new separate term of protection applicable to the part resulting from said investment.

Part Two "a"

(New, SG No. 28/2018, effective 29.03.2018)

COLLECTIVE MANAGEMENT OF COPYRIGHT OR RELATED RIGHTS

Chapter Eleven "b"

(New, SG No. 28/2018, effective 29.03.2018)

GENERAL

Definitions

Article 94. (New, SG No. 28/2018, effective 29.03.2018) (1) Collective management of copyright or related rights ("collective management") shall be an activity whereby copyright and/or related rights are managed at the same time on behalf and at the expense of more than one holder of copyright and/or related right ("rightholder") for their common benefit.

(2) Collective management shall include:

1. granting copyright and/or related rights to use works and other protected subject matter to users;
2. collection of revenues from the exercise of such rights, as well as from any rights to receive any remuneration payable pursuant hereto, including royalties;
3. distribution and payment of any amounts collected from said use to the rightholders;
4. protection of the managed rights;
5. monitoring the manner of exercising the rights.

(3) (Amended, SG No. 100/2023, effective 1.12.2023) Collective management shall not be any activity of producers of films or other audio-visual works, of producers of phonograms, of radio and television organisations, of online content sharing service providers, and of publishers, including book publishers, of musical works, of press publications, and of periodicals, as well as of any persons acting as agents or intermediaries, whereby they represent authors or performing artists in the relationships thereof with collective management organisations.

Subjects of Collective Management

Article 94a. (New, SG No. 28/2018, effective 29.03.2018) (1) Collective management may be performed by:

1. a collective management organisation;
2. an independent management entity.

(2) Collective management organisation shall be a non-profit association which is established, managed, and controlled by its members - rightholders - and which, under contracts with rightholders or with another collective management organisation with which it has executed a contract for mutual representation, is authorised to perform collective management as its sole or main activity, or is assigned thereto hereunder.

(3) Independent management entity shall be a commercial company which is not owned or controlled, directly or indirectly, fully or partially by rightholders, and is authorised under contracts with rightholders to perform collective management as its sole or main activity. Such contracts with rightholders shall become effective on the date of issuance of the certificate of registration of the independent entity.

(4) Collective management organisations may not engage professionally in any activities whereby works or other protected subject matter are used within the meaning hereof.

(5) (Amended, SG No. 17/2019) Collective management organisations and independent management entities shall process any personal data provided thereto in accordance with the requirements for the protection of said personal data.

Authorisation

Article 94a¹. (New, SG No. 28/2018, effective 29.03.2018) (1) Express written authorisation for collective management shall be made for each category of rights, type of rights, type of works, or other protected subject matter ("type of rights, works, or other protected subject matter").

(2) Any rightholder who is a citizen of another Member State of the European Union or is established, or resident in such Member State shall have the right to authorise, by contract, a collective management organisation chosen thereby, regardless of the Member State wherein the seat of said organisation is located, to manage collectively the different categories and types of rights of said rightholder for all works or other protected subject matter thereof, or for a part of them for territories chosen thereby. The collective management organisation may decline to perform collective management for which it was registered under Article 94b only if it has objectively justified reasons thereto.

(3) The rightholder may authorise different collective management organisations or independent management entities to manage different categories of rights, types of rights, works or other protected subject matter of said rightholder. The rightholder may individually licence non-commercial uses of works or other protected subject matter of said rightholder whereupon said rightholder shall notify thereon the collective management organisation whereof said rightholder is member. In all other cases of individual granting of rights to use, admissible under the statute of the collective management organisation, the rightholder shall notify said organisation as required by said statute.

(4) The rightholder may terminate the collective management organisation's authorisation or may withdraw therefrom the collective management of certain categories of rights, types of rights, works, or other protected subject matter chosen by said rightholder, with a written notice of no more than 6 months. The collective management organisation may provide in its statute that any such termination or withdrawal shall be effective as of the beginning of the next calendar year. When collective management is mandatory, the rightholder may only authorise another collective management organisation.

(5) The rights of the rightholder under Articles 94k¹, 94l, 94q¹, 94r¹, 94u² и 94w¹ shall be reserved for any amounts payable thereto by the collective management organisation for any use of any works or other protected subject matter thereof, where said use was before the coming into force of the aforementioned termination or withdrawal, or for any proceeds from any licence to use granted by the organisation before the coming into force of said termination or withdrawal.

(6) A collective management organisation may not restrict the exercise of rights provided for under paragraphs 4 and 5 by requiring that the management being terminated or withdrawn shall be entrusted to another collective management organisation.

Applicability

Article 94a². (New, SG No. 28/2018, effective 29.03.2018) The provisions hereof shall also apply to any organisations and companies owned or controlled, directly or indirectly, fully or partially by collective management organisations or independent management entities, where such organisations and companies are involved in collective management.

Chapter Eleven "c"
(New, SG No. 28/2018, effective 29.03.2018)
REGISTRATION

Registration Requirement

- Article 94b.** (New, SG No. 28/2018, effective 29.03.2018) (1) Collective management shall be carried out upon registration by the Minister of Culture, or a deputy minister authorised thereby.
- (2) The registration under paragraph 1 shall have an indefinite term.

Conditions for Registration

Article 94b¹. (New, SG No. 28/2018, effective 29.03.2018) (1) Registration shall be made after the submission of an application by the following persons:

1. a non-profit organisation or a commercial company registered under the Bulgarian law or under the law of another Member State of the European Union, or of a state party of the Agreement on the European Economic Area, or of the Swiss Confederation;
2. a person or entity which has the right to collectively manage copyright or neighbouring rights pursuant to the Bulgarian law or pursuant to the law of another Member State of the European Union, or of a state party of the Agreement on the European Economic Area, or of the Swiss Confederation, or of a third country.

(2) Registration shall be made where:

1. the applicant is authorised by the virtue of two or more written contracts concluded with rightholders, or by another collective management organisation by the virtue of a mutual representation agreement, to perform in its name collective management of rights as specified in the application;
2. the applicant meets the conditions set out in Article 94t¹, where the application is for multi-territorial licensing of online use of musical works under Chapter Eleven "i";
- 2a. (new, SG No. 100/2023, effective 1.12.2023) the applicant meets the requirement under Article 71i, paragraph 2 if registration as a representative collective management organisation within the meaning of Chapter 7, Section IX is also included in the application;
3. the statute, the company agreement or the constitutional instrument of the applicant, as appropriate, provides as a sole or main activity for collective management of the categories of rights or types of rights, works and other protected subject-matter for which registration is requested;
4. the applicant is not subject to bankruptcy proceedings or is not placed in liquidation;
5. the application for registration is filed after the expiration of 12 months of the entry into force of an order for voiding a registration.

(3) (Amended, SG No. 100/2023, effective 1.12.2023) The application for registration shall be submitted using a form endorsed by the Minister of Culture and shall contain the legal status of the applicant, the categories of rights, types of rights, works, and other protected subject matter requested for registration, as well as whether the request is under Article 71i, paragraph 2, under Article 94c, paragraph 3, or under Chapter 11i.

(4) The following documents shall be enclosed with the application for registration:

1. a document attesting to the establishment issued one month before the date of application (if the applicant is foreign person);
2. a certified copy of the statute (if the applicant is a non-profit organisation), or a document of establishment (if the applicant is foreign person);
3. list of members specifying the capacity in which the relevant person is a member (if the applicant is a non-profit organisation), or a list of rightholders who have assigned the collective management of rights (if the applicant is foreign person);
4. declaration that the person is not undergoing a bankruptcy or liquidation procedure;
5. statement of the applicant's website;

6. (amended, SG No. 47/2019) certified copies of two or more contracts whereby rightholders authorise the applicant for collective management of rights, and where the application is for registration in accordance with Article 94c, paragraph 3 – certified copies of two or more contracts whereby rightholders authorise the applicant to manage collectively all copyrights or neighbouring rights in the works and other protected subject-matter specified in these contracts;
 7. a certified copy of a representation agreement;
 8. information about the contracts referred to in Article 94a, paragraph 3, whereby collective management of rights is assigned: rightholder, categories of rights or types of rights, works and other protected subject-matter, term and territory (if the applicant is a commercial company);
 9. certified copies of mutual representation agreements with related foreign collective management organisations, if any, and a list of such organisations, with indication of the term, territory, and categories of rights or types of rights, works and other protected subject-matter (if the applicant is a non-profit organisation);
 10. (supplemented, SG No. 100/2023, effective 1.12.2023) a declaration that the applicant, as a collective management organisation, meets the conditions under Article 94t1, paragraph 2, if the application is under Chapter 11i, or meets the conditions under Article 71i, paragraph 2, when registration as a representative collective management organisation within the meaning of Chapter 7, Section IX is included in the application;
 11. a document evidencing that the fee has been paid.
- (5) The application for registration and the enclosed documents shall be submitted in Bulgarian: If any of the documents specified in paragraph 4 is in a foreign language, it shall be accompanied by an accurate translation in the Bulgarian language made by a sworn translator.
- (6) (Supplemented, SG No. 47/2019) The application for registration and the documents enclosed therewith shall be presented in writing or by electronic means, signed by a qualified electronic signature, pursuant to the requirements of Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ, L 257/73 of 28.8.2014), hereinafter referred to as "Regulation (EU) No. 910/2014", of the Electronic Document and Electronic Trust Services Act and of the Electronic Government Act.

Registration

- Article 94c.** (New, SG No. 28/2018, effective 29.03.2018) (1) If the application is for registration for collective management under Chapter 11i, and in the course of the registration procedure an application for registration is received from another non-profit association, registration shall be granted to the applicant already registered for collective management of such rights on the territory of the Republic of Bulgaria, or, if there is no such registration, to the applicant with a wider representativeness. In the event that there is already a registered collective management organisation, the applicant shall present a representation agreement under paragraph 2 executed with the registered organisation.
- (2) (Amended, SG No. 100/2023, effective 1.12.2023) In the event that the application is for registration for collective management for broadcasting, transmission or retransmission, public performance, or provision of electronic access to a work or another protected subject matter, or to parts thereof, or only for one of these rights, and there is an already registered collective management organisation therefor, the applicant, as a collective management organisation or an independent management entity, shall only be registered upon providing a representation agreement with said already registered organisation. The registered organisation may not unduly refuse to execute such an agreement. A refusal shall be undue when it is not based on the contents of the representation agreement and/or the registration of the collective management organisation.
- (3) No agreement under paragraph 2 shall be required if the application for registration has been submitted by an independent management entity applying for collective management for public performance by sound equipment at rooms, areas, and vehicles accessible to the public. The applicant shall maintain, on the website thereof, information about the collective management

assigned by rightholders: rightholder, categories of rights, types of rights, works, and other protected subject matter, term, and territory.

(4) (New, SG No. 100/2023, effective 1.12.2023) The applications for registration for collective management under Chapter 11i and under Article 71i, paragraph 2 shall be reviewed under the procedure in Articles 94b to 94e which shall be applied accordingly.

(5) (Supplemented, SG No. 94/2018, renumbered from paragraph 4, SG No. 100/2023, effective 1.12.2023) In the event that the application and any documents attached thereto do not meet the requirements under paragraphs 1 to 3 and under Article 94b1, paragraphs 3 to 6, the applicant shall be notified thereon and shall be provided with a one-month time limit to remove the irregularities, with further instructions that upon failing to remove said irregularities, the proceedings will be terminated.

(6) (Renumbered from paragraph 5, amended, SG No. 100/2023, effective 1.12.2023) The application under Article 94b1, paragraph 3 and the documents attached thereto shall be reviewed within two months after the submission thereof, or, in the cases under the second sentence of paragraph 5, after the removal of the irregularities.

(7) (Supplemented, SG No. 94/2018, renumbered from paragraph 6, amended, SG No. 100/2023, effective 1.12.2023) Within the time limit under paragraph 6, the Minister of Culture, or a deputy minister authorized thereby shall issue an order for registration or for refusal of registration.

(8) (Supplemented, SG No. 94/2018, renumbered from paragraph 7, SG No. 100/2023, effective 1.12.2023) The Minister of Culture, or a deputy minister authorised thereby shall refuse registration if:

1. the submitted documents show that the applicant does not meet the requirements under Article 94b1, paragraph 2;
2. the contents of the representation agreement under paragraph 2 do not meet the requirements under Article 94c1;
3. the application is filed before the expiration of 12 months after the coming into force of an order for expungement of the registration.

(9) (Renumbered from paragraph 8, SG No. 100/2023, effective 1.12.2023) Refusal of registration shall be subject to appeal under the procedure in the Code of Administrative Procedure.

(10) (Renumbered from paragraph 9, SG No. 100/2023, effective 1.12.2023) A registration certificate shall be issued to the registered applicant. Such certificate shall have an indefinite term and shall contain:

1. the number and date of issuance;
2. the name, seat, and management address, registration and representation data of the registered juridical person and its uniform identification code, or BULSTAT code, as the case may be;
3. the categories of rights, types of rights, works, and other protected subject matter covered by the collective management;
4. in the cases under paragraph 2, the name of the organisation authorised under the representation agreement to manage the rights under item 3;
5. in the cases under paragraph 3, information that the collective management covers only the categories of rights, types of rights, works, and other protected subject matter specified on the website of the registered person;
6. in the cases under Chapter 11i, information that the collective management also covers the multi-territorial licencing of online use of musical works;
7. (new, SG No. 100/2023, effective 1.12.2023) the information on whether the collective management organisation is representative within the meaning of Chapter 7, Section IX, and on the categories of rights, types of rights, works, or other protected subject matter for which effective representation exists.

(11) (Renumbered from paragraph 10, SG No. 100/2023, effective 1.12.2023) Upon any change in the circumstances recorded in the issued certificate, or under Article 94b1, paragraphs 2 and 4, the registered person, within 14 days after said change, shall notify the Minister of Culture and shall

present certified copies of the respective documents and a proof of payment of the applicable fee. The provisions in this Chapter shall be applied accordingly.

Representation Agreement

Article 94c¹. (New, SG No. 28/2018, effective 29.03.2018) (1) The representation agreement under Article 94c, paragraph 2 shall contain:

1. the authorisation of the registered organisation to licence the use of works and other protected subject matter assigned to the applicant for collective management;
2. the authorisation of the registered organisation to collect, in accordance with its tariffs, the royalties payable for the use under item 1;
3. the categories of rights, types of rights, works, and other protected subject matter, as well as the rightholders covered by the agreement;
4. the types of works and other protected subject matter assigned to the applicant for collective management;
5. the term and territory of representation;
6. the evidence submitted by the applicant on the rightholders, works, and other protected subject matter represented thereby, as well as the frequency at which said evidence is updated;
7. the manner of determining the share of the collected royalties payable to the applicant according to the use of the works and other protected subject matter for which the collective management is assigned, and the time limits for payment of such royalties to the applicant; the registered organisation shall not be liable for the subsequent distribution of the royalties paid to the applicant;
8. the methods for exchanging information used to identify works or other protected subject matter, and rightholders;
9. the manner and time limit for settling the relationships between the parties to the agreement and the users upon rescinding or termination of the representation agreement;
10. the manner and time limit for notifying the Minister of Culture of the rescinding or termination of the representation agreement; such time limit may not be longer than 14 days after said rescinding or termination.

(2) The representation agreement may also contain other arrangements.

Register

Article 94d. (New, SG No. 28/2018, effective 29.03.2018) (1) (Supplemented, SG No. 94/2018) The Minister of Culture, or a deputy minister authorized thereby shall keep and maintain a public register of persons registered under Article 94b for collective management. The register shall be published on the website of the Ministry of Culture.

(2) The register under paragraph 1 shall contain two sections:

1. section one - for collective management organisations;
2. section two - or independent management entities.

(3) The following shall be recorded in the section under paragraph 2, item 1:

1. the number and date of the certificate;
2. the name, seat, management address, registration data of the juridical person and its uniform identification code, or BULSTAT code, as the case may be;
3. the members of the elected management bodies and the authorised representatives;
4. telephone number, e-mail, and contact person;
5. the categories of rights, types of rights, works, and other protected subject matter covered by the collective management;
6. in the cases under Article 94c, paragraph 2, the collective management organisation authorised under a representation agreement to licence the use of the types of works and other protected subject matter assigned to the registered person, i.e., the collective management organisation, for collective management;

7. the similar foreign collective management organisations with which contracts of mutual representation are executed, specifying the categories of rights, types of rights, works, or other protected subject matter, the term and territory pursuant to the agreement;
 - 7a. (new, SG No. 100/2023, effective 1.12.2023) whether the collective management organisation is representative within the meaning of Chapter 7, Section IX, as well as the categories of rights, types of rights, works, or other protected subject matter for which effective representation exists;
 8. (amended, SG No. 100/2023, effective 1.12.2023) any changes in the circumstances under items 2 to 7a;
 9. the grounds and date of amendment of the issued certificate;
 10. any expungement of the registration;
 11. information on the persons that have submitted an application for registration, the number and types of the documents attached thereto.
- (4) The following shall be recorded in the section under paragraph 2, item 2:
1. the number and date of the certificate;
 2. the name, seat, management address, commercial registration data, and uniform identification code;
 3. the authorised representatives;
 4. telephone number, e-mail, and contact person;
 5. the categories of rights, types of rights, works, and other protected subject matter covered by the collective management;
 6. in the cases under Article 94c, paragraph 2, the collective management organisation authorised under a representation agreement to licence the use of the types of works and other protected subject matter assigned to the registered person, i.e., the independent management entity, for collective management;
 7. in the cases under Article 94c, paragraph 3, information that the collective management covers only the categories of rights, types of rights, works, and other protected subject matter specified on the website of the registered person;
 8. the rightholders that have authorised under a contract the registered person to carry out collective management;
 9. any changes in the circumstances under items 2 to 8;
 10. the grounds and date of amendment of the issued certificate;
 11. any expungement of the registration;
 12. information on the persons that have submitted applications for registration, the number and types of the documents attached thereto.
- (5) (Supplemented, SG No. 94/2018) Upon any change in any circumstances registered in the register, the Minister of Culture, or a deputy minister authorized thereby shall update the register.
- (6) (New, SG No. 100/2023, effective 1.12.2023) Administrative authorities, persons performing public functions, organisations providing public services, and judicial authorities before which circumstances recorded in the public register under paragraph 1 must be established, or which need data available in the public register under paragraph 1, may not request from the citizens and organisations to provide evidence that the information is recorded in the public register under paragraph 1.

Expungement of Registration

Article 94d¹. (New, SG No. 28/2018, effective 29.03.2018) (1) The registration shall be expunged, and the certificate shall be annulled by an order of the Minister of Culture, or a deputy minister authorised thereby if:

1. the registration of the juridical person has been expunged;
2. the registered person files a written request for the expungement of the registration, in full or only for certain categories of rights, types of rights, works, or other protected subject matter;
3. incorrect data were found under the due procedure in the documents attached to the application for registration under Article 94b1, paragraph 4;

4. the registered person is subject to bankruptcy proceedings or is placed in liquidation;
 5. the registered person, being an independent management entity, fails to publish or systematically fails to update on its website the data under the second sentence of Article 94c, paragraph 3;
 6. the representation agreement has been terminated or rescinded, if such an agreement is a condition for registration;
 7. the registered person has not executed any contracts with users for two years after the registration date;
 8. the registered person, being a collective management organisation, systematically fails to distribute the royalties collected from the collective management among its members in accordance with the requirements hereof and/or the internal rules for distribution under Article 94h, paragraph 2, item 5;
 9. it has been established by an effective court ruling that the registered person, being an independent management entity, fails to fulfil its contractual obligations to more than three rightholders of rights managed by said registered person;
 10. the registered person fails to comply with a mandatory instruction under Article 94y, paragraph 9;
 11. the registered person systematically acts in violation of provisions in this Title.
- (2) The order for the expungement of the registration may be appealed under the procedure in the Administrative Procedures Code.

Fees

Article 94e. (New, SG No. 28/2018, effective 29.03.2018) Fees in amounts set by the Tariff on Fees collected in the System of the Ministry of Culture, approved by the Council of Ministers, shall be collected for review of applications for registration, for recording of changes in the registration, for issuance of certificates to registered persons, and for endorsement of the tariff under Article 94o, including for amendments and supplements thereto.

Chapter Eleven "d"

(New, SG No. 28/2018, effective 29.03.2018)

COLLECTIVE MANAGEMENT ORGANISATION

Association

Article 94e¹. (New, SG No. 28/2018, effective 29.03.2018) (1) A collective management organisation shall be an association of rightholders.

(2) A publisher having other rights granted thereto by the author, in addition to the right to reproduce and distribute, may assign the management of said rights to an organisation under paragraph 1.

(3) The collective management organisation may not realise profit and shall distribute and pay all amounts received from the collective management among the rightholders after deducting the amounts required to support its activity.

Membership in a Collective management Organisation

Article 94f. (New, SG No. 28/2018, effective 29.03.2018) (1) Members of a collective membership organisation may be natural and juridical persons, i.e., rightholders, other collective management organisations, associations of rightholders, and other organisations meeting the membership requirements provided for in the statute of the organisation.

(2) Such requirements for membership of a collective management organisation may not include conditions resulting in discrimination against members based on their nationality, place of residence, or place of establishment.

(3) The collective management organisation shall publish the membership requirements on its website.

(4) A collective management organisation may refuse membership to any person:

1. wishing to authorise the organisation to manage categories of rights, types of rights, works, or other protected subject matter the management whereof is outside the scope of said organisation's activity;
 2. represented by another member organisation of association of the collective management organisation.
- (5) When a collective management organisation refuses membership, it shall provide the rightholder with a well-grounded written refusal.
- (6) The collective management organisation shall act in the best interests of the persons holding the rights it manages and may not impose on said persons any obligations which are not objectively necessary for the protection of their rights and interests, or for the effective management thereof.
- (7) The members of a collective management organisation shall have the right to be informed of and participate in the process of making decisions pertaining to, said organisation's activity.
- (8) The collective management organisation shall create conditions allowing its members to communicate with it by electronic means.
- (9) The collective management organisation shall maintain and regularly update a file on each member thereof.

Rights of Rightholders Non-Members of a Collective management Organisation

Article 94g. (New, SG No. 28/2018, effective 29.03.2018) The provisions in Article 94f, paragraph 8, Article 94r1, Article 94v, paragraph 2, and Article 94w1 shall further be applied to any rightholders directly related, by contract or law, to a collective management organisation without being members thereof.

Statute and Organisation of the Activity

Article 94g¹. (New, SG No. 28/2018, effective 29.03.2018) The statute of the collective management organisation shall contain:

1. the categories of rights, types of rights, works, or other protected subject matter managed collectively by the organisation; the statute shall indicate whether the rights to be managed collectively are granted on an exclusive or non-exclusive basis;
2. the rights and obligations of the members;
3. the requirements for membership of the organisation;
4. the criteria based on which membership in the organisation may be refused, and the procedure to appeal such refusals;
5. the procedure for accepting new members and for termination of membership;
6. the procedure for convening the General Assembly, decision making, chairing and documenting the sessions;
7. the management and supervisory bodies of the organisation;
8. the conditions preventing a person from being elected as a member of the management and supervisory bodies, which may further include restrictions pertaining to the term of membership and/or the size of the amounts received from the organisation;
9. the conditions and procedure for replacing a member of the Management Board before the expiration of said member's mandate;
10. the possibilities for early termination of the mandate of a member of the Management Board, including the cases wherein juridical persons, as members of the Management Board, shall recall their representative to the Board;
11. the procedure for convening the Management Board, decision making, chairing and documenting its meetings;
12. the procedure for participation of members in decision making and the criteria to restrict said participation;
13. the procedure to make a decision to execute a representation agreement;
14. the termination and liquidation of the organisation.

General Assembly

Article 94h. (New, SG No. 28/2018, effective 29.03.2018) (1) The General Assembly of the collective management organisation shall be convened at least once a year.

(2) The General Assembly shall:

1. adopt, amend, and supplement the statute;
2. elect and release the members of the Management Board and the Supervisory Board;
3. approve the amount of the compensation and other benefits that members of the Management Board and the Supervisory Board receive from the organisation;
4. make the decision to terminate the organisation;
5. adopt, amend, and supplement the rules for distribution of the revenues from collective management;
6. make decisions regarding:
 - a) the rules for use of non-distributable amounts;
 - b) the general investment policy with regard to the revenues from the collective management and from any invested revenues from the collective management;
 - c) the general policy on the deductions from the revenues from the collective management and from any revenue from the investment of said revenues;
 - d) the use of non-distributable amounts;
 - e) the risk management policy;
 - f) the approval of any acquisition, sale, or mortgage of real estate of the organisation;
 - g) the approval of any mergers, associations, establishment of subsidiaries, as well as of the acquisition of enterprises, shares, or rights in other enterprises;
 - h) the approval of proposals for taking loans, granting loans, or providing securities for loans pertaining to the organisation's activity;
7. appoint and release a registered auditor;
8. approve the annual report;
9. determine the criteria, conditions, and procedure for the provision of social, cultural, or educational services;
10. make any other decisions provided for in the statute.

(3) The General Assembly may delegate to the Supervisory Board the powers under paragraph 2, item 6, points (e), (f), (g), and (h) by decision or pursuant to the statute.

Participation in the General Assembly

Article 94h¹. (New, SG No. 28/2018, effective 29.03.2018) (1) All members of the collective management organisation shall have the right to participate in, and vote at, the General Assembly, unless provided for otherwise in the statute.

(2) The organisation may, in its statute, provide for restrictions of the right under paragraph 1 based on one or both of the following criteria, provided that said criteria are determined fairly and proportionately:

1. term of the membership;
2. size of the amounts received from, or payable by, the organisation.

(3) When the organisation has different categories or groups of members depending on the categories of rights or the types of works and other protected subject matter, including by genres, the representation in the General Assembly of those different categories or groups must be fair and balanced.

(4) The criteria under paragraph 2 shall be made public in accordance with Articles 94r and 94s.

Voting in the General Meeting

Article 94i. (New, SG No. 28/2018, effective 29.03.2018) (1) Each collective management organisation member having the right to participate in the General Assembly shall have one vote on the decisions thereof.

(2) Unless provided for otherwise in the statute of the organisation, each member having the right to participate in the General Assembly may authorise another member - natural or juridical person - to attend and vote on said member's behalf, provided that said authorisation does not result in a conflict of interest. Conflict of interest shall always exist when the authorising and the authorised members belong to different categories or groups of rightholders.

(3) The authorisation under paragraph 2 shall be in writing and shall be valid for the General Assembly specified therein.

Management Board

Article 94i¹. (New, SG No. 28/2018, effective 29.03.2018) (1) The collective management organisation shall have a Management Board.

(2) The composition of the Management Board and the term for which its members are elected shall be set forth in the statute of the organisation. A juridical person, as member of the Management Board, shall be represented by its legal representative or by an expressly authorised natural person.

(3) The Management Board shall elect one of its members as a Chairperson. The statute may provide for election of the Chairperson by the General Assembly.

(4) Each member of the Management Board shall present on an annual basis before the General Assembly a personal declaration containing information regarding:

1. the interests pertaining to the collective management organisation;
2. the forms of monetary and non-monetary compensation and benefits received thereby during the previous calendar year, including from pension, social, cultural, and other funds;
3. the amounts received thereby from the organisation during the previous year in the capacity as a rightholder;
4. the actual or potential conflict of interest between the declarant's personal interests and those of the organisation, or between any other obligations to the organisation and obligations to other natural or juridical persons.

(5) Any person nominated for a member of the Management Board shall submit to the General Assembly, before the election, a declaration on the absence of obstacles to said person's election pursuant to the statute, as well as on any circumstances under paragraph 4, items 1 and 4.

(6) The Management Board shall:

1. prepare and put to the vote at the General Assembly the rules for distribution of the rights revenues of the organisation;
2. elect or appoint an administrative manager of the organisation and set the compensation thereof;
3. accept and expel members of the organisation, unless provided for otherwise in the statute;
4. discharge any other duties provided for by law or in the statute.

Supervisory Board

Article 94j. (New, SG No. 28/2018, effective 29.03.2018) (1) The collective management organisation shall have a Supervisory Board. The Supervisory Board shall not participate in the management of the organisation and shall not represent it.

(2) The Supervisory Board shall be composed of at least three members of the organisation. They shall be elected for a term of no more than 5 years.

(3) The requirements under Article 94i¹, paragraphs 4 and 5 shall further be applied to the members of the Supervisory Board.

(4) The Supervisory Board shall elect one of its members as a Chairperson. The statute may provide for election of the Chairperson by the General Assembly.

(5) The Supervisory Board shall:

1. monitor the activities and the performance of the obligations of the persons managing the organisation, including the implementation of the decisions of the General Assembly made pursuant to Article 94h, paragraph 2, items 1 to 5;
2. exercise the powers vested therein by the General Assembly or the statute of the organisation in accordance with Article 94h, paragraph 3.

(6) The Supervisory Board shall report on its activities to the General Assembly at least once a year.

Subsidiary Application

Article 94j¹. (New, SG No. 28/2018, effective 29.03.2018) The provisions of the Not-Profit Legal Entities Act shall apply to all matters in this chapter which have not been specifically provided for.

Chapter Eleven "e"

(New, SG No. 28/2018, effective 29.03.2018)

MANAGEMENT OF REVENUES FROM COLLECTIVE MANAGEMENT

Collection and Use of Royalties

Article 94k. (New, SG No. 28/2018, effective 29.03.2018) (1) The collective management organisation shall keep separate in its accounts:

1. the revenues from the collective management and from the investment of such revenues;
2. any own assets and the revenues from such assets, from the deductions to support its activity, and from other activities.

(2) The organisation under paragraph 1 may not use the revenues from the collective management or the revenues from the investment of such revenues for any purposes other than the distribution among the rightholders, except when, in accordance with a decision made under the procedure in Article 94h, paragraph 2, item 6, point (c), it is allowed to lower or offset the deductions to support its activity, or for the revenues from the collective management or from the investment of such revenues to be used in accordance with a decision made in accordance with Article 94h, paragraph 2, item 6.

(3) The organisation under paragraph 1 shall invest the revenues from the collective management and the revenues from the investment of such revenues in the best interests of the rightholders represented by said organisation, in accordance with the general investment and risk management policies within the meaning of Article 94h, paragraph 2, item 6, points (b) and (e). Such investment shall also comply with the following requirements:

1. when there is any potential conflict of interest, the organisation shall ensure that the investment is made strictly in the interest of the rightholders;
2. the assets shall be invested so as to ensure the security, quality, liquidity, and profitability of the investment as a whole;
3. the assets shall be properly diversified so as to avoid excessive reliance on any particular asset and excessive accumulations of risks in the investments.

Deductions

Article 94k¹. (New, SG No. 28/2018, effective 29.03.2018) (1) The collective management organisation shall provide in advance to any rightholder wishing to become a member information on all deductions made by the organisation from the revenues from the collective management and from any revenue from the investment of such revenues.

(2) Such deductions shall be set on the basis of objective criteria and shall be consistent with the services provided to the rightholders, including the services provided under paragraph 5.

(3) Such deductions may not exceed the justified and documented collective management expenses incurred by the organisation.

(4) The requirements on the use and the transparency of the use of the amounts deducted or offset by deductions shall apply to any other deduction made to cover the collective management expenses.

(5) In case the organisation provides social, cultural, or educational services financed by the deductions from the revenues or from other revenue arising from investment of said revenues, such services shall be provided on the basis of fair criteria as regards the access to, and the extent of, said services.

Distribution of Amounts Due to Rightholders

Article 94l. (New, SG No. 28/2018, effective 29.03.2018) (1) The collective management organisation or a collective member thereof representing rightholders shall regularly, accurately, and diligently distribute and pay all amounts payable in accordance with the rules for distribution of the revenues from the collective management. Said organisation or collective member shall pay the entitled rightholders represented thereby said amounts payable as soon as possible but no later than 30 September of the year following the year in which said amounts were collected. This deadline may only be missed for objective reasons pertaining to the reception of information from the users, the identification of the rights, the identification of the rightholders, or the matching of the information on the used works and other protected subject matter to the information on their rightholders.

(2) The collective management organisation shall take actions to identify and locate the rightholders.

(3) Any amounts that cannot be distributed by the deadline under paragraph 1 because the rightholders could not be identified or located, without other objective reasons to miss said deadline, shall be kept separate in the accounts of the organisation.

(4) Within three months after the expiry of the deadline under the second sentence of paragraph 1, the collective management organisation shall make the information on the works and other protected subject matter for which one or more rightholders have not been identified or located available to:

1. the rightholders it represents or to its collective members;
2. all collective management organisations with which it has executed representation agreements.

(5) The information under paragraph 4 shall include, where possible:

1. the title of the work or other protected subject matter;
2. the name of the rightholder;
3. the name of the respective publisher or producer;
4. any other relevant information available, including from the files on the rightholders, which could help identify the rightholder.

(6) When the rightholders could not be identified or located, the collective management organisation shall make the information under paragraph 5 available to the public on its website within one year after the expiry of the time limit under paragraph 4.

(7) Any royalties payable to the rightholders and impossible to be distributed within three years after the end of the year in which said royalties were collected, provided that the collective management organisation has taken actions in accordance with paragraph 2 to identify and locate said rightholders, shall be deemed to be non-distributable.

(8) Non-distributable amounts shall be used as in accordance with a General Assembly decision made under the procedure in Article 94h, paragraph 2, item 6, point (d). Such amounts may be spent to finance social, cultural, and educational activities for the benefit of the rightholders.

(9) Each rightholder may file a claim with the collective management organisation for any royalties payable to said rightholder under the general claims procedure.

Chapter Eleven "f"

(New, SG No. 28/2018, effective 29.03.2018)

COLLECTIVE MANAGEMENT ON BEHALF OF OTHER COLLECTIVE MANAGEMENT ORGANISATIONS

Equal Treatment Obligation

Article 94l¹. (New, SG No. 28/2018, effective 29.03.2018) The collective management organisation shall not discriminate against any rightholder of rights managed by said organisation under a contract of mutual representation, in particular with respect to the application of said organisation's tariffs, the royalty collection terms, the deductions to support its activity, and the distribution of the amounts payable to the rightholders.

Deductions and Payments for Contracts of Mutual Representation

Article 94m. (New, SG No. 28/2018, effective 29.03.2018) (1) The collective management organisation shall regularly, accurately, and diligently distribute and pay the amounts collected from the collective management or from income from the investment of such amounts where said collected amounts are payable under contracts of mutual representation to other collective management organisations.

(2) The collective management organisation may only make deductions to support its activity from the amounts under paragraph 1, unless the organisation with which the contract of mutual representation is executed has given express consent to other deductions.

Payment of the Amounts Collected

Article 94m¹. (New, SG No. 28/2018, effective 29.03.2018) (1) The collective management organisation shall distribute and pay the amounts under Article 94m, paragraph 1 not later than 30 September of the year following the year in which said amounts were collected.

(2) The deadline under paragraph 1 may only be missed for objective reasons pertaining to the reception of information from the users, the identification of the rights, the identification of the rightholders, or the matching of the information on the used works and other protected subject matter to the information on their rightholders.

Distribution and Payment of Amounts Received

Article 94n. (New, SG No. 28/2018, effective 29.03.2018) The collective management organisation or collective members thereof representing rightholders shall distribute and pay the amounts received under the procedure in Article 94m, paragraph 1 to the rightholders represented thereby within 6 months after the reception of said amounts. This deadline may only be missed for objective reasons pertaining to the reception of information from the users, the identification of the rights, the identification of the rightholders, or the matching of the information on the used works and other protected subject matter to the information on their rightholders.

Chapter Eleven "g"

(New, SG No. 28/2018, effective 29.03.2018)

RELATIONS WITH USERS

Granting Rights to Use

Article 94n¹. (New, SG No. 28/2018, effective 29.03.2018) (1) The collective management organisation or the independent management entity shall grant, under a contract, to the users the collectively managed rights to use works or other protected subject matter.

(2) Negotiations on the execution of contracts under paragraph 1 shall be conducted in good faith. Each party shall provide to the other party all information necessary for the execution of a contract, if such information is available thereto.

(3) The terms of the contracts under paragraph 1, executed by a collective management organisation, shall be based on objective and non-discriminatory criteria.

(4) When the collective management organisation grants rights to use through a new type of online service which has been available on the territory of the Member States of the European Union for less than three years, said organisation shall not be bound by the terms agreed upon with a user on the granting of rights for other types of use through an online service.

Execution of Contracts with Users

Article 94o. (New, SG No. 28/2018, effective 29.03.2018) (1) The collective management organisation shall reply without undue delay to any request by a user to execute a contract granting the collectively managed rights. The organisation shall communicate to the user the information required to prepare a draft contract. Upon receipt of such information, the collective

management organisation shall send a draft contract and its tariff for the respective type of use or shall deliver a well-grounded written refusal.

(2) The collective management organisation shall create conditions for exchange of information by electronic means, including, where appropriate, information for the purpose of reporting by users on the use of the granted rights.

(3) The collective management organisation shall provide the users with a list of the rightholders expressly objecting to be represented by said organisation or to receive any royalties therefrom, the categories of rights, types of rights, works, and other protected subject matter to which said objections apply, as well as the address of its website for any additional information.

(4) (New, SG No. 100/2023, effective 1.12.2023) For any and all arrangements of its relations with users under the terms in Article 71j, the representative collective management organisation shall take into account the non-commercial nature of the respective use, as well as the planned costs for the digitalisation and distribution of the respective collections or archives. These circumstances shall further be taken into account for the endorsement of the tariff under Article 94p for the use of out-of-commerce works or other protected subject matter.

Users' Obligations

Article 94o¹. (New, SG No. 28/2018, effective 29.03.2018) (1) Any user that has executed a contract with a collective management organisation shall provide the information available to said user and required for the collection, distribution, and payment of the amounts payable to the rightholders.

(2) The format of the reports and the deadlines for their submission shall be specified by the collective management organisation in advance depending on the granted rights and the uses or shall be specified in the contract with the user taking into account the best practices, the data from the public registers, and other publicly available information.

Endorsement of Tariffs

Article 94p. (New, SG No. 28/2018, effective 29.03.2018) (1) Any contracts under Article 94n1, paragraph 1 executed with a collective management organisation shall provide for tariff-based royalties for the rightholders. Tariffs under such contracts shall be consistent with the economic value of the use of the rights in trade, taking into account the nature and scope of the use of the works and other protected subject matter, as well as the economic value of the services provided by the collective management organisation, and shall treat equally all users within the same category. Such tariffs shall not be mandatory for the negotiation on the use of works of performing art within the meaning of Article 3, paragraph 1, item 3. Upon request, the collective management organisation shall inform the users on the economic criteria used for the setting of said tariffs.

(2) The tariffs under paragraph 1 shall be created after a preliminary discussion with the representative organisation of the users, if any, for each type of use. A representative organisation of users shall mean an organisation that represents users with a larger market share for the respective use of the respective category and type of rights, or, if there are no objective data on this share, a larger number of users, and the statute of which provides for negotiation with collective management organisations.

(3) The discussion under paragraph 2 shall be initiated by proposal sent by the collective management organisation to the representative organisation of the users, accompanied by a draft tariff and an economic justification. If agreement is reached, the parties shall sign a written agreement on the tariff. The organisation for collective management shall submit an application in writing for endorsement of the tariff to the Minister of Culture. The tariff shall be endorsed by an order of the Minister of Culture, or a deputy minister authorised thereby based on the written agreement on the tariff.

(4) Where no agreement can be reached within 9 months of the receipt of the proposal under paragraph 3, the organisation for collective management shall submit an application in writing for

endorsement of the tariff to the Minister of Culture. The documents under paragraph 13 shall be attached to the application. The application shall be reviewed by a commission appointed by the Minister of Culture, or a deputy minister authorised thereby on a case-by-case basis. Said commission shall be appointed for a period of no more than three months and shall be composed of 5 members—one representative proposed by each of the collective management organisation and the representative organisation of the users, and three experts jointly approved by the organisations.

(5) (Amended, SG No. 47/2019, SG No. 100/2023, effective 1.12.2023) Within 14 days after the submission of the application under paragraph 4, the Minister of Culture, or a deputy minister authorised thereby shall send an invitation to the collective management organisation and to the representative organisation of the users to nominate the members of the commission under paragraph 4. In the event that, within 20 days after receiving the invitation, the organisations fail to meet any requirement in the fourth sentence of paragraph 4, the Minister of Culture, or a deputy minister authorised thereby shall appoint a representative of the organisation which has not made a proposal among said organisation's legally authorised representatives and shall complete the commission with experts from the list of mediators under Article 94ab, paragraph 1. The Minister of Culture shall set the date for the first meeting of the commission. The members of the commission shall elect a Chairperson and may adopt rules of operation. The three experts shall have the right to receive compensation which shall be paid equally by the organisations in amounts set by agreement between them.

(6) The meetings of the commission shall be valid if attended by at least 4 members. Decisions shall be made by a majority not less than 4 votes of commission members.

(7) (Amended, SG No. 47/2019) The commission shall consider the application referred to in paragraph 4 and the documents enclosed therewith and shall decide in accordance with the procedure established by paragraph 6 on the final version of the tariff. The chairman of the commission shall promptly send the decision with the tariff to the Minister of Culture. The Minister of Culture or a deputy minister authorised thereby shall endorse the tariff with an order based on the decision within 14 days of receipt of such decision.

(8) (Supplemented, SG No. 47/2019) If the commission does not make a decision for endorsement of the tariff within the time limit set out in the fourth sentence of paragraph 6 and in accordance with the procedure established by paragraph 4, its chairman shall promptly notify the Minister of Culture. Within 14 days of such notification the Minister of Culture shall terminate the procedure.

(9) When there is no representative organisation of users for the respective use of the respective category or type of rights, the collective management organisation shall submit a written application to the Minister of Culture. The documents under paragraph 13 shall be attached to the application. Within 14 days after receiving the notification, the Minister of Culture, or a deputy minister authorised thereby shall publish the draft tariff, the economic justification, and the methodology thereto on the website of the Ministry of Culture. Within 30 days after the publication of the draft tariff, stakeholders may submit well-grounded written proposals on it. Within 14 days after the expiry of the time limit under the fourth sentence, the Minister of Culture, or a deputy minister authorised thereby shall send the proposals, if any, to the collective management organisation which, within 14 days after receiving said proposals, shall submit a well-grounded written opinion. Within 30 days after receiving the opinion under the fifth sentence, the Minister of Culture, or a deputy minister authorised thereby shall endorse the tariff or refuse to endorse it with an order.

(10) Any and all royalties provided for by contracts under Article 94n1, paragraph 1, executed with the Bulgarian National Radio and the Bulgarian National Television for any works and other protected subject matter used thereby, shall be negotiated individually therewith, shall meet the conditions in the first and second sentences of paragraph 1, and shall ensure equal treatment of all users of the same category. Paragraphs 3 to 8 shall be applied accordingly to such royalties.

(11) The tariffs may be amended and supplemented upon a proposal by:

1. a collective management organisation;

2. a representative organisation of users:

a) when the tariff was endorsed under the procedure in paragraph 9, or

b) by a well-grounded request to allow for the tariff to be amended or supplemented by the Minister of Culture, or a deputy minister authorised thereby, when three years have elapsed since the coming into force of the tariff, or if force majeure or economic intolerance has occurred; in this case, the order allowing for the tariff to be amended or supplement shall be subject to appeal under the procedure in the Code of Administrative Procedure and the court shall rule within 6 months.

(12) Paragraphs 3 to 8 shall be applied accordingly to such amendments and supplements to the tariffs. Amendments and supplements to the tariffs shall be endorsed by the Minister of Culture, or a deputy minister authorised thereby.

(13) In the cases under paragraphs 3, 4, 9, 10, and 11, the following documents shall be attached to the application:

1. draft tariff or draft amendment or supplement;
2. decision of the competent body of the collective management organisation to adopt the draft under item 1;
3. a contract with the Bulgarian National Television, the Bulgarian National Radio, an agreement with a representative organisation of users under paragraph 3, or evidence that the negotiations under paragraph 3 have ended without reaching an agreement;
4. a declaration under paragraph 9 that there is no representative organisation of users for the respective use of the respective category or type of rights;
5. a methodology for the setting of the amounts of the proposed royalties, consistent with the economic value of the rights for the specific type of use, as well as with the economic value of the services provided by the collective management organisations;
6. economic justification of the draft under paragraph 1;
7. a proof of payment of the applicable fee.

(14) If the documents under paragraph 13 are not attached to the application, the Minister of Culture, or a deputy minister authorised thereby shall notify the collective management organisation and shall provide thereto a 14-day time limit to remove the irregularities and instruct that in case of failure to remove them, the procedure will be terminated.

(15) The order issued by the Minister of Culture, or the deputy minister authorised thereby for endorsement of the tariff or for refusal to endorse the tariff, including for amendments or supplements to the tariff, and for termination of the procedure, shall be subject to appeal under the procedure in the Code of Administrative Procedure.

(16) Until a tariff or an amendment, or a supplement thereto is endorsed, the user shall pay royalty for the works and other protected subject matter used thereby in accordance with the last contract executed with the collective management organisation or, in the absence thereof, in accordance with the currently effective tariff of said organisation.

Representation of Collective management Organisations and Independent management entities

Article 94p¹. (New, SG No. 28/2018, effective 29.03.2018) (1) Any collective management organisation or independent management entity may only grant, to a user, rights for the collective management whereof said organisation or company is expressly authorised by the rightholders or is representing said rightholders under a contract of mutual representation or a representation agreement.

(2) (Amended, SG No. 100/2023, effective 1.12.2023) Any collective management organisation or independent management entity may only grant, to a user, rights within the categories of rights, types of rights, works, and other protected subject matter specified in the certificate issued under Article 94c, paragraph 10.

(3) (Amended, SG No. 100/2023, effective 1.12.2023) Where the law provides for the licence to use to be granted only through a collective management organisation or for the royalty to be collected only by such an organisation, as well as in the cases under Article 71i, paragraph 2, any organisation registered for the management of the respective rights, or the representative organisation under Article 71i, paragraph 2, as the case may be, shall further act on behalf of any

rightholders, non-members thereof or not represented thereby under a contract of mutual representation or a representation agreement. In these cases, the collective management organisation shall settle its relations with each rightholder as it does with its members.

(4) Any collective management organisation may receive and pay to rightholders, non-members thereof or not represented thereby, royalties payable to said rightholders as a result of the distribution of the royalties received by the organisation for the respective type of use, provided that such reception and payment does not contravene a representation agreement and that none of said rightholders have expressly declared their objection thereto in writing. Such an objection shall be effective as of the beginning of the calendar year following the year in which it was declared.

(5) (Supplemented, SG No. 47/2019, SG No. 100/2023, effective 1.12.2023) In the cases related to the management of rights to live or recorded public performance, broadcasting, transmission or retransmission, or provision of electronic access to works or to other protected subject matter, or to parts thereof, or of only one of these rights, as well as in the cases under Article 71i, paragraph 2, the execution of a contract with the first registered organisation managing said rights, or with the first registered representative organisation under Article 71i, paragraph 2, as the case may be, and the payment of the royalty agreed upon under said contract, shall release the user from any liability to both the members of said organisation, and to any other local or foreign rightholders of the same categories of rights, types of rights, works, and other protected subject matter, with the exception of those rightholders that have expressly declared their objection thereto in writing before said organisation. Such an objection shall be effective as of the beginning of the calendar year following the year in which it was declared.

(6) (New, SG No. 100/2023, effective 1.12.2023) Any and all rightholders may claim their rights under paragraphs 3 and 4 within 5 years after the date of use of their works.

Representation for Protection of Rights

Article 94q. (New, SG No. 28/2018, effective 29.03.2018) (1) The collective management organisation may represent its own members, other collective management organisations with which they have executed contracts of mutual representation and the members thereof, before any and all enforcement or administrative authorities, for the protection of the rights entrusted thereto for collective management.

(2) (Amended, SG No. 98/2019) To protect the rights under paragraph 1, the collective management organisations may take on their own behalf any legal action, including filing claims under Articles 95, 95a, and 95b, or demand the imposition of measures under Articles 95e, 95f, and 96b, whereupon Article 95c, paragraph 2 shall also be applicable.

Chapter Eleven "h"

(New, SG No. 28/2018, effective 29.03.2018)

TRANSPARENCY AND ACCOUNTABILITY

Information Provided to Rightholders

Article 94q¹. (New, SG No. 28/2018, effective 29.03.2018) (1) The collective management organisation and the independent management entity, shall, at least annually, provide to the rightholders having revenues from the collective management accrued, or payments made, thereto, within the respective period, information on:

1. the details which the rightholder has provided for the purpose of identifying and locating the rightholder;
2. the revenues from the collective management accrued to the rightholder;
3. the amounts paid to the rightholder per category of rights and per type of use;
4. the period of the use for which revenues were accrued and amounts were paid to the rightholder, unless objective reasons pertaining to the reception of information from the users prevent the organisation or company from providing such information;
5. the deductions for the collective management for the respective type of use;

6. the deductions made for any other purpose, including any deductions for social, cultural, or educational services, as required under other laws;
 7. the revenues from the collective management accrued but not yet paid to the rightholder.
- (2) The collective management organisation shall provide the information under paragraph 1 to its collective members representing rightholders among which said members distribute revenues from the collective management. The information shall be provided by the organisation when it has posted accrued revenues from collective management if said information is not available to the collective members. The information under paragraph 1 shall be provided at least annually to the represented rightholders having revenues from the collective management accrued, or payments made, thereto, within the period covered by said information.

Information Provided to Other Collective Management Organisations

Article 94r. (New, SG No. 28/2018, effective 29.03.2018) The collective management organisation shall, at least annually, provide to the collective management organisations with which it has executed contracts of mutual representation information in electronic form for the respective period, including:

1. the accrued revenues and the paid amounts from the collective management for the rights managed under the contract of mutual representation, per category and type of rights, as well as all accrued, but not yet paid, revenues from collective management;
2. the deductions under Article 94m, paragraph 2:
 - a) to support its activity;
 - b) other deductions;
3. the information on the contracts executed with users and on the refusals to execute such contracts concerning the collective management under the contract of mutual representation;
4. the decisions of the General Assembly concerning the collective management under the contract of mutual representation.

Information Provided upon Request to Rightholders, to Other Collective management Organisations, or to Users

Article 94r¹. (New, SG No. 28/2018, effective 29.03.2018) (1) In response to a duly justified request by another collective management organisation with which a contract of mutual representation is executed, by a rightholder or by a user, the collective management organisation provide by electronic means and without undue delay at least information on the works and other protected subject matter it represents, the rights it manages, directly or under contracts of mutual representation, and the territories covered.

(2) When, due to the scope of activity of the organisation, said works or other subject matter cannot be identified, the organisation shall disclose under the procedure in paragraph 1 the types of works or other protected subject matter it represents, the rights it manages, and the territories covered.

(3) Paragraphs 1 and 2 shall further be applied accordingly to the independent management entities.

Information which Shall Be Disclosed Publicly

Article 94s. (New, SG No. 28/2018, effective 29.03.2018) (1) The collective management organisation shall disclose publicly on its website at least the following information:

1. the contents of its statute;
2. conditions for termination of the authorisation for collective management if said conditions are not included in the statute;
3. standard contracts granting the collectively managed rights and the effective tariffs, including any discounts provided for;
4. a list of the members of the elected management and supervisory bodies and the authorised representatives;
5. the general policy on the distribution of amounts payables to the rightholders;
6. the general policy on the deductions to support its activity;

7. the general policy on the deductions from revenues from collective management and from revenues from investment of the revenues from collective management, including deductions for social, cultural, or educational services, other than the deductions to support its activity;
 8. a list of the contracts of mutual representation and the representation agreements, as well as the names of the organisations or independent companies with which they are executed;
 9. the general policy on the use of non-distributable amounts;
 10. a list of its members;
 11. a list of the rightholders that have expressly declared an objection to be represented by the organisation or to receive royalties from it, as well as the categories of rights, types of rights, works, and other protected subject matter to which said objection applies;
 12. a list of the rightholders with distributed and unclaimed royalties;
 13. (amended, SG No. 100/2023, effective 1.12.2023) the procedure to review complaints and resolve disputes under Articles 94w1, 94x1, 94aa, and 94ab.
- (2) The independent management entities shall disclose on their websites at least the information under paragraph 1, items 1 to 3, 5 to 7, as well as the information under Article 94c, paragraph 3.
- (3) The collective management organisations and the independent management entities shall keep up to date the information under paragraphs 1 and 2.

Annual Report

Article 94s¹. (New, SG No. 28/2018, effective 29.03.2018) (1) The collective management organisation shall disclose annually but not later than 30 August an annual report. The report shall be published on the website of the organisation and shall remain available on that website for at least 5 years.

- (2) The annual report shall contain at least the information in accordance with Annex 2.
- (3) The report under paragraph 1 shall contain a separate report on the use of the amounts deducted for social, cultural, and educational services. The separate report shall contain the information in accordance with Annex 2, Section III.
- (4) The accounting information contained in the annual report shall be subject to an independent financial audit by one or more registered auditors. The audit report shall be included in its entirety in the annual report. The information from the annual financial statement under Annex 2, Section I, item 1, as well as the financial information under Annex 2, Section I, items 7 and 8, and Section II, shall also be accounting information.

Chapter Eleven "i"

(New, SG No. 28/2018, effective 29.03.2018)

MULTI-TERRITORIAL LICENCING OF ONLINE USE OF MUSICAL WORKS

General

Article 94t. (New, SG No. 28/2018, effective 29.03.2018) (1) Multi-territorial licences for online use of musical works shall be granted by rightholders through collective management organisations registered in the Republic of Bulgaria in accordance with the procedure established by this Chapter.

- (2) The provisions of this Chapter shall also apply to the granting of licences for online use of literary works relating to music and to musical works incorporated in films or other audio and visual works.
- (3) The provisions of this Chapter shall not apply to licences for online use of musical works in the form of musical scores.
- (4) (New, SG No. 100/2023, effective 1.12.2023) The application for registration for multi-territorial licencing of online use of musical works shall be submitted and reviewed under the procedure in Articles 94b to 94e which shall be applied accordingly.

Legal Capacity

Article 94t¹. (New, SG No. 28/2018, effective 29.03.2018) (1) Multi-territorial licences for online rights in musical works shall be granted only by collective management organisations which are capable of processing data by electronic means in an efficient and transparent manner and which has at its disposal sufficient information allowing the identification the repertoire and tracing its use, of issuing invoices to users, of collecting the revenue from the management of rights, and of distributing the amounts due to rightholders.

(2) The collective management organisation shall have the ability to:

1. identify accurately the musical works, wholly or in part, which the collective management organisation is authorised to represent;
2. identify accurately, wholly or in part, with respect to each relevant territory, the rights and their corresponding rightholders for each musical work or share therein which the collective management organisation is authorised to represent;
3. make use of unique identifiers in order to identify rightholders and musical works, taking into account, as far as possible, standards and practices developed at international or Union level;
4. make use of adequate means in order to identify and resolve in a timely and effective manner inconsistencies in data held by other collective management organisations granting multi-territorial licences for online rights in musical works.

Transparency of Repertoire Information in Multi-territorial Licensing of Online Rights in Musical Works

Article 94t². (New, SG No. 28/2018, effective 29.03.2018) (1) A collective management organisation which grants multi-territorial licences for online rights in musical works shall provide to online service providers, to rightholders whose rights it represents and to other collective management organisations up-to-date information allowing the identification of the online music repertoire it represents. Such information shall be sent by electronic means, in response to a duly justified request, and shall include:

1. the musical works represented;
2. the rights represented wholly or in part; and
3. the territories covered.

(2) The collective management organisation may take reasonable measures to protect the accuracy and integrity of the data provided in accordance with the procedure established by paragraph 1, as well as to control their reuse and to protect commercially sensitive information.

Accuracy of Multi-territorial Repertoire Information

Article 94u. (New, SG No. 28/2018, effective 29.03.2018) (1) The collective management organisation licencing multi-territorial online use of musical works shall, within a reasonable time limit, apply the required corrections to the available data or information under Article 94t¹, paragraph 2, and Article 94t² when the rightholders, other collective management organisations, and online service providers believe, based on a duly justified request supported by evidence, that said data or information on their rights to online use of musical works are incorrect.

(2) The collective management organisation shall provide the rightholders having musical works included in said organisation's own music repertoire and the rightholders that have entrusted the management of their online use of musical works to said organisation with the means of submitting thereto in electronic form information on the works, the rights to those works and the territories on which said rights holders have authorised said organisation to manage their rights. Such information shall be provided in accordance with the standards or practices regarding the exchange of data applied at the international or European Union level.

(3) In the event that a collective management organisation has authorised another organisation to licence multi-territorial online use of musical works in accordance with Articles 94v and 94v¹, said authorised organisation shall apply the provision in paragraph 2 to the rightholders of musical

works included in the repertoire of the authorising organisation, unless agreed upon otherwise between said two organisations.

Exchange of Reports and Invoices

Article 94u¹. (New, SG No. 28/2018, effective 29.03.2018) (1) A collective management organisation which has granted multi-territorial licences for online use of musical works shall monitor the use of such rights by online service providers.

(2) The collective management organisation shall provide online service providers with the option to report by electronic means the actual use of the rights granted thereto, and online service providers shall accurately report the actual use of the works. The organisation shall offer the use of a least one method of reporting consistent with the international standards or practices used for the electronic exchange of such data. When the organisation allows reporting using an industry standard for electronic data exchange, it may refuse to accept any non-standard-compliant report by any provider.

(3) The collective management organisation shall invoice the online service provider by electronic means and shall offer the use of a least one format consistent with the international standards or practices. The invoice must allow identification of the works and rights granted therefor based on the data under Article 94t1, paragraph 2, as well as of the actual use thereof, where possible, based on the information submitted by the service provider and on the format used. The provider may not refuse to accept the invoice because of its format if the collective management organisation is using a standard of invoicing accepted in practice.

(4) The collective management organisation shall invoice the provider accurately and without delay upon receiving the report of the actual use of the granted right to the respective musical work, except where not possible for reasons attributable to the provider.

(5) The collective management organisation shall apply appropriate procedures enabling the providers to challenge the accuracy of the invoice, including when the providers receive invoices from one or more organisations for the same rights to the same work.

Payments to Rightholders

Article 94u². (New, SG No. 28/2018, effective 29.03.2018) (1) A collective management organisation which grants multi-territorial licences for online use of musical works shall distribute all royalties received for such use to the rightholders accurately and without delay upon receiving information on the use of the works, except where not possible for reasons attributable to the service provider.

(2) The collective management organisation shall provide to the rightholders, together with each payment under paragraph 1, at least the following information:

1. the period when, and the territories where, the use for which royalties are payable took place;
2. the amounts collected, the deductions made, and the amounts distributed for each used type of right to each musical work for which the rightholders have authorised the collective management organisation, to represent them;
3. the amounts collected, the deductions made for the management of rights, and the amounts distributed in respect of each service provider.

(3) In the event that a collective management organisation has authorised another collective management organisation to licence multi-territorial online use of musical works under the procedure in Articles 94v and 94v1, the authorised organisation shall distribute, correctly and within a reasonable time limit, all amounts under paragraph 1 and shall submit the information under paragraph 2 to the authorising organisation which shall be responsible for the subsequent distribution of said amounts and for the provision of information to the rightholders, unless agreed upon otherwise between said two organisations.

Agreements between Collective Management Organisations

Article 94v. (New, SG No. 28/2018, effective 29.03.2018) (1) Any representation agreement between collective management organisations whereby one organisation authorises another organisation to licence multi-territorial online use of musical works from its own music repertoire, may only be on a non-exclusive basis. The authorised organisation shall manage those rights on a non-discriminatory basis.

(2) The authorising collective management organisation shall inform its members of the terms of the agreement under paragraph 1, including its term and the costs of the services provided by the authorised organisation.

(3) The authorised collective management organisation shall inform the authorising organisation of the terms on which it licences online use of the repertoire of the authorising organisation, including the types of rights and works, the amount of the royalty, the term of the licence, the deadlines for payment and the territories covered.

Obligation to Represent Another Collective Management Organisation

Article 94v¹. (New, SG No. 28/2018, effective 29.03.2018) (1) In case a collective management organisation which does not licence or offer licencing multi-territorial online use of musical works included in its own repertoire makes a proposal to another collective management organisation to have a representation agreement executed to represent said repertoire, the organisation to which said proposal was made shall accept it if said organisation already licences or offers licencing for the same category of rights to multi-territorial online use of musical works from the repertoire of one or more other collective management organisations.

(2) The organisation that has received a proposal under paragraph 1 shall respond thereto in writing and without undue delay.

(3) The authorised organisation shall manage the repertoire of the authorising organisation on the same terms it manages its own repertoire.

(4) The authorised organisation shall include the repertoire of the authorising organisation in all offers for licences it makes to the online service providers.

(5) The authorised organisation may not make any deductions to support its activity in excess of the customary deductions to proceed as authorised.

(6) The authorising organisation shall provide to the authorised organisation all the information on its own music repertoire which would be required for the multi-territorial licencing of online use of musical works. In case such information turns out to be insufficient or in a form that would not allow the authorised organisation to act in accordance with the requirements in this Chapter, said organisation shall be able to either do what is necessary to meet said requirements at a reasonable cost or exclude from the scope of the agreement the works on which there is no sufficient or useable information.

Derogation for Radio and Television Organisations

Article 94w. (New, SG No. 28/2018, effective 29.03.2018) This Chapter shall not apply to collective management organisations when they grant a licence for multi-territorial online use of musical works to radio or television organisations having their programmes used online simultaneously with, or after, the initial broadcast thereof, including in such materials as previews and self-promotional messages ancillary to the initial radio or television programmes.

Chapter Eleven "j"

(New, SG No. 28/2018, effective 29.03.2018)

DISPUTE RESOLUTION

Submission of Complaints and Alerts

Article 94w¹. (New, SG No. 28/2018, effective 29.03.2018) (1) The collective management organisation shall make available to its members, and to the other organisations with

which it has executed contracts of mutual representation, procedures for submission of complaints and alerts, as well as for resolution of disputes in respect of the authorisation for collective management, the withdrawal or termination thereof, the membership terms, the collection of the royalties payable to rightholders, the deductions from, and the distribution of, said royalties.

(2) The collective management organisation shall respond in writing to each complaint under paragraph 1 within one month after its receipt. The response may also be submitted via electronic means. Any rejection of a complaint shall be grounded.

Article 94w². (New, SG No. 28/2018, effective 29.03.2018, repealed, SG No. 100/2023, effective 1.12.2023).

Article 94x. (New, SG No. 28/2018, effective 29.03.2018, supplemented, SG No. 47/2019, repealed, SG No. 100/2023, effective 1.12.2023).

Dispute Resolution

Article 94x¹. (New, SG No. 28/2018, effective 29.03.2018, amended, SG No. 100/2023, effective 1.12.2023) Any submission of a complaint under Article 94w1, any initiation of a mediation procedure under Article 94aa, or a procedure under Article 94p shall be without prejudice to each party's right to bring the dispute for resolution before the court of to file a request with the Commission on Protection of Competition.

Chapter Eleven "k"

(New, SG No. 28/2018, effective 29.03.2018)

CONTROL OF COLLECTIVE MANAGEMENT OF RIGHTS

Monitoring

Article 94x². (New, SG No. 28/2018, effective 29.03.2018) (1) The minister of Culture, or a deputy minister authorised thereby shall carry out ex-ante, ongoing, and ex-post monitoring of the compliance of the collective management.

(2) The monitoring under paragraph 1 shall be carried out by inspections under the procedure in Article 94y.

Monitoring Actions

Article 94y. (New, SG No. 28/2018, effective 29.03.2018) (1) The Minister of Culture, or a deputy minister authorised thereby may request from any collective management organisation or independent management entity any information pertaining to the collective management, as well as any documents required for the monitoring thereof. The Minister of Culture, or a deputy minister authorised thereby shall specify a time limit in which the information must be provided.

(2) (Supplemented, SG No. 47/2019) When there is evidence of a non-compliance with this Title by a collective management organisation or an independent management entity, or the information or documents under paragraph 1 have not been provided, the Minister of Culture, or a deputy minister authorised thereby shall assign an inspection.

(3) The inspection under paragraph 2 shall be performed by officials assigned by the Minister of Culture, or a deputy minister authorised thereby.

(4) The officials under paragraph 3 may request:

1. the provision, within time limits set thereby, of reports, certified copies of documents, and other information, including on an electronic medium;
2. the provision of the required data, accounts, explanations, and other information pertaining to the collective management activity.

(5) The officials under paragraph 3 shall:

1. accurately record the facts established during the inspection;
2. safeguard any official and commercial secrets made known to them in respect of the inspection;

3. not disclose any data from the inspection;
4. (amended, SG No. 17/2019) process any personal data in compliance with the requirements for protection thereof.
- (6) The management bodies of the organisation or company being inspected shall provide assistance to the officials under paragraph 3 in the course of the inspection, shall provide the requested documents and evidence, as well as appropriate rooms and equipment for the inspection, including access to telecommunication devices. During the inspection, the management bodies may not claim any commercial or other secret protected by law. When providing information to the officials, the management bodies shall identify the materials deemed to contain commercial or other secret protected by law and should be regarded by the inspecting officials as confidential. In this case, such materials shall be provided after redacting the data deemed to be confidential.
- (7) The draft inspection report shall be delivered to the collective management organisation or the independent management entity. The organisation or company may submit a written opinion on, and additional evidence to, the report within 14 days after the delivery thereof.
- (8) Based on the draft report, the opinions, and the additional evidence under paragraph 7, the Minister of Culture, or a deputy minister authorised thereby shall approve the final report. The final report shall be sent to the collective management organisation or the independent management entity and shall be published on the website of the Ministry of Culture.
- (9) Upon finding any non-compliance with this Title of a collective management organisation or an independent management entity, the Minister of Culture, or a deputy minister authorised thereby shall issue a mandatory instruction and shall set an appropriate time limit for the implementation thereof. The mandatory instruction shall be delivered to the person and shall be published on the website of the Ministry of Culture within three days after the issuance thereof.
- (10) The mandatory instruction under paragraph 9 shall be subject to appeal under the procedure in the Code of Administrative Procedure.
- (11) (New, SG No. 100/2023, effective 1.12.2023) In the event that, in the course of the monitoring carried out under the procedure in this Chapter, it is found that the management organisation no longer meets the requirements for representativeness under Article 71i, paragraph 2, this circumstance shall be indicated in the register under Article 94d, paragraph 2, item 1 based on a written order by the Minister of Culture, or by a deputy minister authorised thereby. The order under the foregoing sentence shall be subject to appeal under the procedure in the Code of Administrative Procedure.

Exchange of Information

- Article 94y¹.** (New, SG No. 28/2018, effective 29.03.2018) (1) The Ministry of Culture shall respond without undue delay to each duly justified request for information on the activities of registered collective management organisations received from the respective authority of another Member State of the European Union designated to monitor the collective management activity.
- (2) When the Ministry of Culture believes that a collective management organisation established in another Member State of the European Union but acting on the territory of the Republic of Bulgaria is not complying with the provisions of its national law on the collective management, the Ministry may send the relevant information to the competent authority of that Member State, accompanied, as necessary, with a request to that authority to take appropriate action within its powers.

Part Three **PROTECTION OF COPYRIGHT AND RELATED RIGHTS**

Chapter Twelve **PROTECTION BY CIVIL LAW**

Mediation

- Article 94aa.** (New, SG No. 100/2023, effective 1.12.2023) (1) Any disputes under Chapter 11i involving a collective management organisation established on the territory of the

Republic of Bulgaria licencing or offering licencing of multi-territorial online use of musical works, may be resolved through mediation when such disputes concern the application of:

1. Articles 94n1, 94t2, 94u, and 94u1 - with an actual or potential service provider;
2. Articles 94t2 to 94v1 - with one or more rightholders;
3. Articles 94t2 to 94v1 - with another collective management organisation.

(2) Mediation may be used to resolve other disputes on the application hereof, outside those under paragraph 1, between collective management organisations and:

1. members thereof;
2. rightholders;
3. representative organisations of users;
4. users.

(3) Mediation may further be used to resolve disputes between the broadcasting or transmitting organisation, and a retransmitting organisation on the application of Article 21.

(4) Mediation may further be used to resolve disputes between an online content sharing service provider, an online content sharing service user, and rightholders on the application of Article 22b.

(5) Mediation may further be used to resolve disputes under Article 38, paragraph 2, Article 39a, Article 76, paragraph 4, and Article 83a between users or representative organisations thereof, on the one part, and authors, performing artists, or representative organisations thereof, on the other part. The representative organisations of the authors or the performing artists may initiate a mediation procedure upon a specific request by one or more authors or performing artists.

(6) Any arrangement with prejudice or limitation to the provision in paragraph 5 shall be null and void.

Special Case of Assistance through Mediation

Article 94aa¹. (New, SG No. 100/2023, effective 1.12.2023) (1) A media service provider, on the one part, or a rightholder, or a collective management organisation, on the other part, may request the assistance of a mediator to execute an agreement in respect of a licence for the provision of an electronic access to an audio-visual work or to a part thereof during provision of media services on demand.

(2) The mediator shall assist the parties in their negotiations and shall help them reach an agreement, including by making proposals thereto.

(3) In the event that parties of different Member States are involved in the negotiations, said parties must agree in advance on which Member State shall be competent.

Mediation Procedure

Article 94ab. (New, SG No. 100/2023, effective 1.12.2023) (1) A mediator under Article 94aa may only be a person who meets the requirements of the Mediation Act, is recorded in the Unified Register of Mediators with the Minister of Justice, has special knowledge in the field of copyright and related rights, and is recorded in the Special List of Mediators with the Minister of Culture. Before any such recording, the Minister of Culture, or a deputy minister authorised thereby shall request an opinion from the registered collective management organisations and from the registered organisations of: the broadcasting and the transmitting organisations, the online content sharing service providers, the other media service providers, the users, the authors, and the performing artists. The opinion shall be provided within 14 days after the reception of the request. The absence of such opinion shall not stop the recording procedure.

(2) The mediation shall be carried out under the procedure in the Mediation Act.

(3) The initiation of a mediation procedure shall not release the user from the obligation to pay royalty for the granted rights to the used works and other protected subject matter in accordance with the last contract executed with the collective management organisation or, in the absence thereof, in accordance with the currently effective tariff of said organisation.

(4) The mediation procedure being carried out notwithstanding, each party may bring the dispute for resolution before the court.

Claim for Damages

Article 95. (Amended and supplemented, SG No. 28/2000, amended, SG No. 72/2002, SG No. 99/2005, previous Article 94, SG No. 28/2018, effective 29.03.2018) (1) Any person infringing upon copyright or a related right, or another right hereunder, shall pay damages to the rightholder or to the person having exclusive right to use granted by said rightholder .

(2) Damages shall be paid for any harm that is a direct and immediate result of such infringement.

(3) The court shall set the amount of the damages taking into account any and all circumstances pertaining to the infringement, the lost earnings, non-pecuniary loss, as well as the revenues realised by the infringing person as a result of the infringement.

(4) The court shall set a fair amount of the damages which must have a deterrent and cautionary effect upon the infringing person and upon the public at large.

Special Cases of Claims for Damages

Article 95a. (New, SG No. 99/2005, previous Article 94a, SG No. 28/2018, effective 29.03.2018) (1) When the claim was decided on the merits but there aren't sufficient data on the size thereof, the claimant may claim the following damages:

1. (amended, SG No. 28/2018, effective 29.03.2018) between five hundred leva and one hundred thousand leva, whereupon the actual amount shall be set in the judgement of the court under the conditions in Article 95, paragraphs 3 and 4, or

2. the amount equivalent to the value of the object of the infringement at the retail prices of the legally reproduced copies.

(2) The damages under paragraph 1 shall be set by taking further account of the revenues received as result of the infringement.

Other Claims

Article 95b. (Amended and supplemented, SG No. 28/2000, amended, SG No. 77/2002, previous Article 95, SG No. 28/2018, effective 29.03.2018) (1) (Previous Article 95, SG No. 99/2005) When a work, protected subject matter under Article 72, or databases under Chapter 11 "a" are used in violation of the provisions hereof, the rightholder or the person having exclusive right to use granted by said rightholder may file a motion with the court:

1. (New, SG No. 99/2005) to establish the fact of the infringement;

2. (amended, SG No. 77/2002, renumbered from item 1, SG No. 99/2005) for a cease-and-desist order pertaining to the illegal use, or for an injunction to block the activity which would constitute illegal use;

3. (supplemented, SG No. 77/2002, renumbered, previo from item 2, SG No. 99/2005) to seize and destroy all illegally reproduced copies of the work, protected subject matter under Article 72, or databases under Chapter 11 "a", as well as all negatives, dies, plates, etc., used to reproduce the copies;

4. (supplemented, SG No. 28/2000, renumbered from item 3, SG No. 99/2005) to seize and stop use of any recording, decoding, and reproducing devices used solely for infringements;

5. (amended, SG No. 28/2000, renumbered from item 4, amended, SG No. 99/2005) to have all property under item 3 delivered thereto;

6. (new, SG No. 99/2005) to have the operative part of the judgement released, at the expense of the infringing person, by two daily publications and by a television organisation with a national coverage, in a time slot specified by the court.

(2) (New, SG No. 99/2005) Within the meaning of paragraph 1, items 3 and 4, the motion may be to seize objects located at a certain place, as well as objects commercially available in general.

Special Claimants

Article 95c. (New, SG No. 99/2005, previous Article 95a, SG No. 28/2018, effective 29.03.2018) (1) (Amended, SG No. 28/2018, effective 29.03.2018) Right to file claims under Articles 95, 95a, and 95b, in addition to the respective rightholders and the persons having

exclusive right to use granted thereby, shall further have the collective management organisations and the professional protection organisations of the rightholders.

(2) (Amended, SG No. 59/2007, SG No. 21/2014, SG No. 94/2018, SG No. 47/2019) The organisations under paragraph 1 may only file claims and motions for enforcement in respect of rights entrusted thereto for management, or protection, as the case may be. When filing claims or motions for enforcement, collective management organisations shall not be required to identify any individual rights they manage, or protect, as the case may be, of their members disclosed in the list under Article 94s, paragraph 1, item 10, and of the similar foreign collective management organisations registered in the register under Article 94d, paragraph 3, item 7. In these cases, the provision in Article 26 (4) of the Code of Civil Procedure shall not apply.

Liability

Article 95d. (New, SG No. 99/2005, previous Article 95b, SG No. 28/2018, effective 29.03.2018) Juridical persons and sole traders shall bear civil liability for any wrongful infringement upon any rights hereunder by their representatives, employees, or appointees, as the case may be. In this case, liability is presumed until proven otherwise.

Evidence Production in Civil Proceedings

Article 95e. (New, SG No. 99/2005, previous Article 95c, SG No. 28/2018, effective 29.03.2018) (1) When the claimant has produced evidence supporting the claims thereof but has also referred to additional evidence that is relevant to the adjudication but is under the defendant's control, the court may, upon motion by the claimant, order the defendant to produce said evidence.

(2) The court may, under the terms of paragraph 1, upon motion by the claimant, order the defendant to make available for consultation certain banking, financial, or commercial documents under the control thereof.

(3) The claimant shall not disclose any information contained in the documents under paragraph 2.

(4) The production of evidence of a single illegal use of subject matter protected hereunder shall be accepted as sufficient grounds to apply the provisions in paragraphs 1 and 2.

(5) The existence of circumstances pertaining to a claimed infringement may also be established by the production of evidence of a single illegal use of subject matter protected hereunder.

Request of Information on Origin and Distribution Networks upon Infringement

Article 95f. (New, SG No. 99/2005, previous Article 95d, SG No. 28/2018, effective 29.03.2018) (1) The court may, upon motion by the claimant, order the defendant or a third party to provide information on circumstances relevant to the adjudication.

(2) Third party within the meaning of paragraph 1 shall be any person:

1. holding any goods which are an object of infringement, or
2. providing services leading to infringement, or
3. using services constituting an infringement, or
4. indicated by a person under items 1 to 3 as participating in the manufacturing, production, or distribution of such goods or services.

(3) The information under paragraph 2 may include:

1. the names and addresses of the producers, manufacturers, distributors, providers, or other persons that have previously held the goods or provided the services, as well as of any alleged retail or wholesale distributors;
2. information on the produced, manufactured, delivered, received, or ordered quantities, as well as the proceeds from the goods or services in question.

(4) Paragraph 1 shall not apply when enforcement thereof may lead to violation of a provision of another law.

(5) The provisions in paragraphs 1 to 3 shall only apply to actions carried out for direct or indirect economic or commercial benefit.

Jurisdiction

Article 96. District courts shall have jurisdiction over any and all disputes hereunder.

Protective or Provisional Measures

(Heading supplemented, SG No. 25/2011, effective 25.03.2011)

Article 96a. (New, SG No. 28/2000) (1) (Amended, SG No. 77/2002, SG No. 99/2005, supplemented, SG No. 25/2011, effective 25.03.2011) Upon any infringement upon copyright, related right, or right under Article 93c, or when there are sufficient indications to believe that such an infringement is imminent, or that some evidence will be lost, destroyed, or withheld, the court may, upon motion by the respective rightholder or the person having exclusive right to use granted thereby, without notice to the person subject to the protective or provisional measure requested with the motion, further admit any of the following measures:

1. (amended, SG No. 77/2002) injunction to block the activity claimed to constitute or that will constitute illegal use of a work, protected subject matter under Article 72, or database under Chapter 11 "a";
 2. (amended, SG No. 77/2002, amended and supplemented, SG No. 99/2005) seize the copies of the work, of the subject matter under Article 72, or of the database under Chapter 11 "a", claimed to be illegally reproduced, the negatives, dies, plates, etc., used to reproduce said copies, as well as any other material evidence of the infringement;
 3. seize and stop use of, or seal, the equipment claimed to be used or that will be used for infringements;
 4. seal the premises claimed to be used or that will be used for infringement;
- (2) (Amended, SG No. 99/2005, SG No. 59/2007, supplemented, SG No. 25/2011, effective 25.03.2011) Any admission, enforcement, or lifting of any protective or provisional measure shall follow the procedure in Articles 389 to 403 of the Code of Civil Procedure, with the exception of Article 398, paragraph 2, first sentence, and unless provided for otherwise herein.
- (3) (Supplemented, SG No. 25/2011, effective 25.03.2011) The protective or provisional measure "injunction" shall be enforced by the court notice thereon.
- (4) (Amended, SG No. 43/2005, SG No. 99/2005, supplemented, SG No. 25/2011, effective 25.03.2011) The protective or provisional measures under paragraph 1, items 2, 3, and 4 shall be enforced by a state or a private bailiff carrying out the respective enforcement action simultaneously with the delivery of the notice on the admission of the protection against the defendant within three days after the reception of the claimant's application to the bailiff. Any admitted protective or provisional measure to prevent a forthcoming infringement shall be enforced within a time limit appropriate for the purpose of said measure. Any seized property shall be delivered with an itemised list to be kept by the claimant and may only be used thereby as evidence.
- (5) (Supplemented, SG No. 25/2011, effective 25.03.2011) The claimant or a representative thereof may attend and assist the enforcement of any protective or provisional measures.
- (6) (Repealed, SG No. 43/2005).
- (7) (Supplemented, SG No. 25/2011, effective 25.03.2011) If any protective or provisional measure is found to have been requested unduly, the defendant may file a counter-claim against the person that has requested said measure whereby requesting said person to pay said defendant damages caused as a result of said protective measure.
- (8) (New, SG No. 99/2005, supplemented, SG No. 25/2011, effective 25.03.2011) Any protective or provisional measure under paragraph 1, item 1 may also be enforced against any third parties if there are sufficient indications that said third parties aid in the activity claimed to constitute or that will constitute illegal use.
- (9) (New, SG No. 99/2005) The respective rightholder or the person having exclusive right to use granted thereby shall not disclose any information becoming known thereto during enforcement, or in respect, of any measures under paragraph 1.

Chapter Twelve "a"
(New, SG No. 28/2000)

CUSTOMS ENFORCEMENT
(Heading amended, SG No. 98/2019)

Grounds and Scope

Article 96b. (New, SG No. 28/2000, amended, SG No. 77/2002, SG No. 99/2005, SG No. 98/2019) (1) The customs authorities shall take enforcement action against goods under customs supervision or customs control if such goods are suspected to be infringing upon any right protected hereby, under the terms and procedures set out in Regulation (EU) No. 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No. 1383/2003 (OJ L 181, 29.6.2013, p. 15).

(2) Paragraph 1 shall also apply to goods discovered as a result of customs control carried out by the customs authorities exercising their powers on the territory of the Republic of Bulgaria, any customs procedure initiated on such goods notwithstanding.

(3) Upon any enforcement action, the customs authorities shall collect fees to cover the costs of storage of the goods in an amount determined by the Council of Ministers under the procedure in Article 12 of the Customs Act.

Article 96c. (New, SG No. 28/2000, amended and supplemented, SG No. 99/2005, amended, SG No. 30/2006, repealed, SG No. 98/2019).

Article 96d. (New, SG No. 28/2000, amended, SG No. 30/2006, repealed, SG No. 98/2019).

Article 96e. (New, SG No. 28/2000, repealed, SG No. 98/2019).

Chapter Twelve "b"
(New, SG No. 25/2011, effective 25.03.2011)
ADMINISTRATIVE ENFORCEMENT MEASURES

Administrative Enforcement Measures

Article 96f. (New, SG No. 25/2011, effective 25.03.2011) (1) In order to prevent and stop any infringements hereunder, as well as to prevent or remedy any harm caused thereby, the Minister of Culture, or a deputy minister designated thereby may:

1. order in writing the infringing person to stop the infringement hereunder;
2. order in writing the infringing person to take specific measures to remedy the infringement within an appropriate time limit;
3. require the infringing person to declare that said person will stop the infringement hereunder and, if necessary, order said person to make said declaration public;
4. order any infringement hereunder to stop and, if necessary, make said order public.

(2) Any administrative enforcement measures under paragraph 1 shall be applied pursuant to a duly justified order of the Minister of Culture, or a deputy minister authorised thereby. The order shall specify the type of the administrative enforcement measure, as well as an appropriate time limit to produce evidence of the application thereof.

(3) The order under paragraph 2 shall be delivered by registered mail or through the municipal administration at the permanent address of the person, or - for sole proprietors and juridical persons - at the seat and registered address according to the court registration, or commercial registration, as the case may be.

(4) The order whereby an administrative enforcement measure is applied shall be subject to appeal under the procedure in the Administrative Procedures Code.

Chapter Thirteen

ADMINISTRATIVE PENALTY PROVISIONS

Penalties

Article 97. (1) (Amended, SG No. 10/1998, supplemented, SG No. 28/2000) Any person that, in violation hereof:

1. (amended, SG No. 28/2000, amended and supplemented, SG No. 99/2005) reproduces or distributes video media with reproductions thereon of films or other audio-visual works, performances, recordings of films or other audio-visual works;
 2. (amended, SG No. 28/2000, amended and supplemented, SG No. 99/2005) reproduces or distributes audio media with reproductions thereon of works, performances or phonograms;
 3. (repealed, SG No. 100/2023, effective 1.12.2023);
 4. (amended, SG No. 28/2000, repealed, SG No. 100/2023, effective 1.12.2023);
 - 4a. (new, SG No. 28/2018, effective 29.03.2018) organises a live public performance of a work;
 5. (amended, SG No. 25/2011, effective 25.03.2011, SG No. 28/2018, effective 29.03.2018) uses, through a recorded public performance, works, recorded works, phonograms, recordings of films or other audio-visual works or radio or television programmes;
 - 5a. (new, SG No. 25/2011, effective 25.03.2011) organises a public performance of a work;
 6. (amended, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) broadcasts, transmits, participates in a transmission by direct delivery, retransmits, or delivers to the public any works, performances, phonograms, radio programmes, television programmes, recordings of films or of other audio-visual works;
 7. (amended, SG No. 28/2000, supplemented, SG No. 99/2005, amended, SG No. 100/2023, effective 1.12.2023) publishes, reproduces, or distributes released works;
 8. (amended, SG No. 28/2000, repealed, SG No. 100/2023, effective 1.12.2023);
 9. (new, SG No. 28/2000, amended, SG No. 99/2005) reproduces, stores in computer memory, distributes, or otherwise uses software;
 10. (new, SG No. 28/2000, repealed, SG No. 100/2023, effective 1.12.2023);
 11. (new, SG No. 28/2000, amended, SG No. 77/2002, repealed, SG No. 100/2023, effective 1.12.2023);
 12. (new, SG No. 99/2005) saves in a digital form on an electronic medium films or other audio-visual works, musical works, performances, phonograms, recordings of films or other audio-visual works;
 13. (new, SG No. 99/2005, amended, SG No. 100/2023, effective 1.12.2023) provides electronic access to works, performances, phonograms, recordings of films, recordings of audio-visual works, recordings of radio or television programmes, or parts thereof, to radio or television programmes, or parts thereof, or to the contents of ancillary online services;
 14. (new, SG No. 28/2000, renumbered from item 12, SG No. 99/2005, repealed, SG No. 25/2011, effective 25.03.2011);
 15. (new, SG No. 77/2002, renumbered from item 13, amended, SG No. 99/2005, repealed, SG No. 25/2011, effective 25.03.2011);
 16. (new, SG No. 77/2002, renumbered from item 14, SG No. 99/2005, repealed, SG No. 25/2011, effective 25.03.2011);
- (amended, SG No. 77/2002, amended, SG No. 99/2005, SG No. 25/2011, effective 25.03.2011, amended and supplemented, SG No. 28/2018, effective 29.03.2018, amended, SG No. 100/2023, effective 1.12.2023) shall be sanctioned with a fine of between one thousand and ten thousand leva, or with a financial penalty of between two thousand and twenty thousand leva for sole traders and juridical persons, unless the offence is subject to a more severe penalty; the object of the violation,

regardless of whose property it is, may be seized by the government; any and all seized property shall be handed over for destruction to the authorities of the Ministry of Interior.

(2) (Amended, SG No. 10/1998, supplemented, SG No. 28/2000, SG No. 77/2002, SG No. 25/2011, effective 25.03.2011, amended, SG No. 100/2023, effective 1.12.2023) Upon any repeated or systematic violations under paragraph 1, committed within one year after the imposition of the previous penalty, the fine or financial penalty shall be between three thousand and thirty thousand leva. The object of the violation, regardless of whose property it is, may be seized by the government. Any and all seized property shall be handed over for destruction to the authorities of the Ministry of Interior.

(3) (Amended, SG No. 100/2023, effective 1.12.2023) Upon any systematic violation, the location where such violation takes place, such as a store, studio, establishment, cinema, theatre, seat of a merchant, etc., shall be sealed for a period of between three and six months.

(4) (Amended, SG No. 10/1998, SG No. 99/2005, SG No. 25/2011, effective 25.03.2011, supplemented, SG No. 21/2014, amended, SG No. 28/2018, effective 29.03.2018) Any collective management organisation or independent management entity operating in violation of Article 94p1, paragraph 1 or 2 shall be sanctioned with a financial penalty of between five thousand and twenty thousand leva.

(5) (New, SG No. 28/2000, amended, SG No. 100/2023, effective 1.12.2023) Any person manufacturing, distributing, advertising, importing, or possessing for commercial purposes any decoding device which may be used by persons outside the intended audience of the broadcasting organisation to obtain access to a coded signal shall be sanctioned with the fine or financial penalty under paragraph 1 or 2.

(6) (New, SG No. 28/2000, amended and supplemented, SG No. 77/2002, supplemented, SG No. 99/2005, amended, SG No. 100/2023, effective 1.12.2023) Any person intentionally removing, damaging, destroying, disrupting, or otherwise circumventing without having the right to do so, any technical means for protection used by the rightholders protected hereunder, while being aware, or having reasons to presume, that said means have exactly that intended purpose, shall be sanctioned with the fine under paragraph 1 or 2.

(7) (New, SG No. 77/2002, amended, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) The fine or the financial penalty under paragraph 1 or 2 shall further be imposed on any person manufacturing, importing, distributing, selling, renting out, marketing, advertising for sale or rent, or possessing for commercial purposes any devices, products, or components, or providing services:

1. offered or advertised as means of circumventing technical means of protection, or
2. having only limited commercial purpose or application, other than circumventing technical means of protection, or
3. intended, manufactured, adapted, or used mainly to enable or facilitate circumventing technical means of protection.

(8) (New, SG No. 28/2000, renumbered from paragraph 7, SG No. 77/2002, amended and supplemented, SG No. 99/2005, amended, SG No. 100/2023, effective 1.12.2023) The fine under paragraph 1 or 2 shall further be imposed on any person carrying out any of the following actions without having the right to do so, while being aware, or having reasons to presume, that said action will cause, allow, facilitate, or conceal an infringement of a right protected hereunder:

1. removing or modifying information presented in an electronic form about the regime of rights to a subject matter protected by copyright or a related right.
2. distributing, including by importing for distribution purposes, performing publicly, broadcasting, transmitting, retransmitting, or providing electronic access to subject matter protected by copyright or a related right, while being aware that electronically provided information on the licencing regime applicable to said rights has been removed or modified without having the right to do so.

(9) (New, SG No. 28/2000, renumbered from paragraph 8, SG No. 77/2002, amended, SG No. 99/2005) Information about the regime of rights under paragraph 8 shall be the information which makes it possible to identify the subject matter protected by copyright or a related right, the rightholder, as well as the information about the terms to use such subject matter, including any

number or code leading to such information, provided that any of these elements of said information is present on the copies of said subject matter or is shown when said subject matter is released.

(10) (New, SG No. 25/2011, effective 25.03.2011, amended, SG No. 28/2018, effective 29.03.2018, SG No. 100/2023, effective 1.12.2023) The fine or the financial penalty under paragraph 1 or 2 shall further be imposed on any person failing to provide, within the set time limit, evidence for the implementation of an administrative enforcement measure applied under Article 96f.

(11) (New, SG No. 25/2011, effective 25.03.2011, amended, SG No. 100/2023, effective 1.12.2023) The fine or the financial penalty under paragraph 1 or 2 shall further be imposed on any person obstructing enforcement of a protective or provisional measure under Article 96a.

(12) (New, SG No. 25/2011, effective 25.03.2011, amended, SG No. 28/2018, effective 29.03.2018, SG No. 100/2023, effective 1.12.2023) The fine or the financial penalty under paragraph 1 or 2 shall further be imposed on any person not performing any obligation thereof under Article 20a, paragraph 6, Article 26, Article 58, paragraph 6, Article 95e, or Article 96a, paragraph 9.

(13) (New, SG No. 25/2011, effective 25.03.2011, amended, SG No. 100/2023, effective 1.12.2023) The fine or the financial penalty under paragraph 1 or 2 shall further be imposed on any person violating a prohibition under Article 93c.

(14) (New, SG No. 28/2018, effective 29.03.2018) Any collective management organisation or independent management entity which fails to implement a mandatory instruction under Article 94y, paragraph 9 shall be sanctioned with a financial penalty of between five thousand and twenty-five thousand leva. Upon second and any subsequent violation committed within one year after the imposition of the previous penalty, the financial penalty under the first sentence shall be doubled.

(15) (New, SG No. 28/2018, effective 29.03.2018, amended, SG No. 100/2023, effective 1.12.2023) Any person conducting any collective management activity without a registration, or with a registration that has been expunged, shall be sanctioned with a fine of between one thousand and ten thousand leva, or with a financial penalty of between two thousand and twenty thousand leva for sole traders and juridical persons.

(16) (New, SG No. 28/2018, effective 29.03.2018, amended, SG No. 100/2023, effective 1.12.2023) Any person failing to perform an obligation under Article 94y, paragraph 6, or Article 98b shall be sanctioned with a fine of between two hundred and fifty, and two thousand and five hundred leva, or with a financial penalty of between five hundred and five thousand leva for sole traders and juridical persons.

(17) (New, SG No. 94/2018) Any juridical person under Article 26b, paragraph 3, item 2 failing to fulfil an obligation under Article 26c, paragraphs 2 to 4 shall be sanctioned with a financial penalty of between five hundred and ten thousand leva.

(18) (New, SG No. 100/2023, effective 1.12.2023) The fine or the financial penalty under paragraph 1 or 2 shall further be imposed on any information society service provider if said provider, in violation of the provisions hereof, reproduces or provides electronic access to press publications.

(19) (New, SG No. 100/2023, effective 1.12.2023) The fine or the financial penalty under paragraph 1 or 2 shall further be imposed on any person using works in violation of Article 34.

Establishment of Infringements and Authorisation of Officials

Article 98. (1) (Amended and supplemented, SG No. 28/2000, amended, SG No. 28/2005, SG No. 99/2005, SG No. 47/2019) The violations under Article 97 shall be established by a notice drawn up by officials designated by an order of the Minister of Culture.

(2) (Supplemented, SG No. 25/2011, effective 25.03.2011, amended, SG No. 47/2019) The officials under paragraph 1 may:

1. conduct inspections on site and of documents;
2. require access to the sites subject to control;
3. require the documents necessary to carry out inspections;
4. seize any tangible media containing subject matter protected by the law and related to the violation;
5. use automated controls upon finding violations under Article 97;

6. use a specialist as a technical assistant;
 7. issue mandatory instructions to correct of non-conformities and violations of the law;
 8. require assistance by the authorities of the Ministry of Interior, the municipalities, and the mayoralities during, or in respect of, the inspections under item 1.
- (3) The officials under paragraph 1 shall:
1. give accurate presentation of the facts from their inspection in the notice of violation;
 2. safeguard any official or commercial secret becoming known to them in the course of the inspections;
 3. not disclose any data from the inspections;
 4. use the information from the inspections only for the purposes of the violation proceedings.
- (4) (New, SG No. 47/2019) The use of automated controls under paragraph 2, item 5 shall be laid down in an order of the Minister of Culture, or a deputy minister authorised thereby.

Seizure Record

- Article 98a.** (New, SG No. 99/2005) (1) Tangible media containing subject matter protected by the law and related to the violation shall be seized with a record by the officials under Article 98, paragraph 1.
- (2) (Supplemented, SG No. 47/2019) The record under paragraph 1 shall state: the date and location of the action; the start and end times of the action; the persons involved; the findings; any requests, comments, and objections; the evidence collected, including the tangible media seized - quantity, type of media, as well as other details.
- (3) (Amended, SG No. 47/2019) The record shall be signed by the official under Article 98, paragraph 1, by the person under inspection and by at least one witness.
- (4) In the cases where the person under inspection refuses to sign the record or is absent, the record shall be signed by at least one more witness.

Obligation for Cooperation

- Article 98b.** (New, SG No. 99/2005, amended, SG No. 47/2019) The person under inspection shall:
1. provide unhindered access to the inspected property;
 2. cooperate with the officials under Article 98, paragraph 1;
 3. provide the documents, tangible media containing subject matter protected by the law, and other evidence as requested by the officials under Article 98, paragraph 1.

Delivery of Notice of Administrative Violation to Sole Traders and Juridical Persons

- Article 98b¹.** (New, SG No. 47/2019) (1) When the violation is committed by a sole trader or a juridical person, the notice of administrative violation shall be delivered to the sole trader, the legal representative of the juridical person, or a person authorised thereby against signature thereof.
- (2) When the notice has been drawn up in the absence of the violator, it shall be sent:
1. in paper form by registered mail with acknowledgment of receipt to the registered office or the correspondence address registered in the respective register kept by the Registry Agency, or
 2. as an electronic image of the document in paper form by means of an electronic message signed using a qualified electronic signature in accordance with the Electronic Document and Electronic Trust Services Act, to the electronic address indicated in the statutory register wherein the addressee is registered, or to an address in an information system for secure delivery; the sending of the electronic message shall be certified by an electronic time stamp according to Chapter III, Section 6 of Regulation (EU) No. 910/2014, or by reproducing the electronic image of the message on paper, certifying its identity by a signature of the official on each page and attaching it to the case file.
- (3) The notice sent by mail shall be deemed to be delivered on the date on which the acknowledgement of receipt is signed by the trader, by the legal representative of the juridical person, or by a person, or employee authorised to receive papers and messages.

- (4) The notice sent by an electronic message shall be deemed to be delivered when, within 7 days after the transmission of the electronic message, the addressee has confirmed the receipt thereof by replying with an electronic message, activating a confirmation hyperlink, or downloading the message from an information system for secure delivery.
- (5) When the notice has been delivered both by registered mail with acknowledgment of receipt and by an electronic message, the delivery date shall be the later of the two dates.
- (6) When the notice cannot be delivered under the procedure in paragraphs 2 to 5, a message that it has been drawn up shall be posted immediately on the bulletin board and in a dedicated section visible on the home page of the Ministry of Culture's website. The date of posting shall also be specified in the message.
- (7) When, within 14 days after posting the message under paragraph 6, the person fails to appear at the Ministry of Culture to be served and sign the notice, the official who has drawn up the notice shall make a note of that in the notice, the notice shall be attached to the case file and shall be deemed to be duly delivered on the date of the note.

Enforcement of Administrative Penalties

Article 98c. (New, SG No. 99/2005) (1) (Amended, SG No. 47/2019, supplemented, SG No. 100/2023, effective 1.12.2023) The administrative penalty orders for any and all violations under Article 97 shall be issued by the Minister of Culture, or by a deputy minister authorised thereby.

(2) (New, SG No. 47/2019) A copy of the penalty order shall be served on the violator against signature thereof.

(3) (New, SG No. 47/2019) When the administrative penalty order could not be served on the sole trader or the juridical person at the address provided thereby, or at the address of the registered office, or mailing address, as registered in the respective register maintained by the Registry Agency, Article 98b1, paragraphs 6 and 7 shall be applied accordingly, including in case of refusal to receive a copy of the administrative penalty order, whereupon the note shall be made by the authority under paragraph 1.

(4) (Renumbered from Paragraph 2, SG No. 47/2019) Fines and financial penalties shall be paid voluntarily within 7 days after the administrative penalty order, or court ruling whereby they were imposed, becomes effective. Fifty percent of the amounts shall be transferred to the account of the Culture National Fund and the rest - to the budget of the Ministry of Culture.

(5) (Amended, SG No. 105/2005, SG No. 12/2009, effective 1.01.2010 - amended, SG No. 32/2009, renumbered from Paragraph 3, amended, SG No. 47/2019) Upon expiry of the term under paragraph 4, a copy of the administrative penalty order shall be sent to the National Revenue Agency for enforcement of the imposed fine or financial penalty under the procedure in the Tax and Social Insurance Procedure Code.

(6) (Amended, SG No. 25/2011, effective 25.03.2011, renumbered from Paragraph 4, SG No. 47/2019) After the administrative penalty order becomes effective, all tangible media seized by the government shall be handed over for destruction to the authorities of the Ministry of Interior.

(7) (New, SG No. 100/2023, effective 1.12.2023) The Minister of Culture, or a deputy minister authorised thereby shall further issue resolutions for termination, notices under Article 28 of the Administrative Violations and Sanctions Act and shall execute agreements of conclusion of the administrative penalty proceedings for the violations under Article 97.

Powers of the Municipal Mayors

(Heading new, SG No. 47/2019)

Article 98c¹. (New, SG No. 28/2018, effective 30.12.2018) (1) The municipal mayors shall exercise control over the commercial establishments and tourist sites under Article 3, paragraph 2 of the Tourism Act with respect to any pre-arranged rights to live or recorded public performance of works, recorded performances, phonograms, recordings of films, or other audio-visual works, or parts thereof.

- (2) The persons managing commercial establishments and tourist sites under Article 3, paragraph 2 of the Tourism Act shall provide the municipal mayors, upon request, at least once a year, with evidence of the rights to public performance granted thereto.
- (3) Upon any violation of paragraph 2, persons managing commercial establishments and tourist sites under Article 3, paragraph 2 of the Tourism Act shall be sanctioned with a financial penalty in the amount of between two thousand and ten thousand leva.
- (4) (Supplemented, SG No. 100/2023, effective 1.12.2023) The violations under paragraph 3 shall be established by officials designated by an order of the municipal mayor.
- (5) (Supplemented, SG No. 100/2023, effective 1.12.2023) The administrative penalty orders for any and all violations under paragraph 3 shall be issued by the municipal mayor.
- (6) (Amended, SG No. 47/2019) The financial penalties under paragraph 3 shall be paid under the procedure in the first sentence of Article 98c, paragraph 4 and paragraph 5. Fifty percent of the revenues from financial penalties shall be transferred to the account of the Culture National Fund, and the rest of the revenues - to the budget of the respective municipality.

Application of the Administrative Violations and Sanctions Act

Article 98d. (New, SG No. 99/2005, supplemented, SG No. 100/2023, effective 1.12.2023) Unless provided for otherwise in this Chapter, any and all violations shall be established, any and all administrative penalty orders, resolutions for termination, notices, and agreements of conclusion of the proceedings shall be issued, appealed, and enforced under the procedure in the Administrative Violations and Sanctions Act.

Part Four APPLICABILITY

Applicability to Works

Article 99. (1) This Act shall apply to:

1. (amended, SG No. 77/2002) works the authors whereof are citizens, or permanent residents, of the Republic of Bulgaria even if said works have been first published elsewhere;
 2. (new, SG No. 99/2005, effective 1.01.2007) works the authors whereof are citizens, or permanent residents, of a Member State of the European Union even if said works have been first published elsewhere;
 3. (amended, SG No. 77/2002, renumbered from Item 2, SG No. 99/2005, effective 1.01.2007) works the authors whereof are citizens, or permanent residents, of a state with which the Republic of Bulgaria has executed a copyright treaty and is bound thereunder even if said works have been first published elsewhere;
 4. (renumbered from Item 3, SG No. 99/2005, effective 1.01.2007) works first published or realised as architectural designs on the territory of the Republic of Bulgaria or on the territory of a state the Republic of Bulgaria has executed a copyright treaty, irrespective of the citizenship of the authors of said works;
 5. (renumbered from Item 4, SG No. 99/2005, effective 1.01.2007) works first published on the territory of a state with which the Republic of Bulgaria has not executed and is not bound under a copyright treaty, and, either simultaneously or within thirty days thereafter, published on the territory of the Republic of Bulgaria or on the territory of another state with which the Republic of Bulgaria has executed such treaty.
- (2) For any application hereof to works created by citizens of foreign states, or to works first published abroad, the rightholder shall be determined under the respective foreign law.
- (3) (New, SG No. 28/2000, amended, SG No. 25/2011, effective 25.03.2011) With respect to works created by citizens of, and first published in, third states, the term of protection by copyright shall be determined under the respective foreign law if it provides for terms of protection shorter than the ones provided for herein.

Applicability to Royalty Rights under Article 20

Article 99a. (New, SG No. 99/2005) (1) The provisions in Article 20 shall apply to any resale of works of authors who are citizens or permanent residents of the Republic of Bulgaria when the resale location is on the territory thereof.

(2) (Effective 1.01.2007) Article 20 shall apply to all authors and their heirs who are citizens of permanent residents of a Member State of the European Union.

(3) As regards authors who are citizens of another state and are not permanent residents of the Republic of Bulgaria, the provisions in Article 20 shall only apply if the Bulgarian citizens enjoy analogous right in that foreign state.

Applicability to Broadcasting by Satellite

Article 99b. (New, SG No. 99/2005, effective 1.01.2007) (1) This Act shall be applicable to the broadcasting of a work by satellite when the signal is sent to the satellite:

1. from the territory of the Republic of Bulgaria;

2. from the territory of a non-Member State of the European Union if such state does not provide for a level of protection equivalent to that provided for herein, as long as:

a) the satellite uplink begins at a station located on the territory of the Republic of Bulgaria, or

b) the satellite uplink does not begin at a station located on the territory of a Member State of the European Union but the broadcast is commissioned by an organisation with a seat on the territory of the Republic of Bulgaria.

(2) The responsibility for the broadcast shall be borne: in the cases under paragraph 1, item 1, by the broadcasting organisation; in the cases under paragraph 1, item 2, point "a", by the station operator; in the cases under paragraph 1, item 2, point "b", by the organisation commissioning the broadcast.

(3) The provisions in paragraphs 1 and 2 shall further be applied accordingly to the rights under Article 72.

Applicability to Performances

Article 100. (1) (Amended, SG No. 77/2002) This Act shall be applicable to the performances of performing artists who are citizens or permanent residents of the Republic of Bulgaria, including to performances delivered elsewhere.

(2) This Act shall further be applicable to the performances of foreign performing artists delivered on the territory of the Republic of Bulgaria.

(3) (New, SG No. 99/2005, effective 1.01.2007) This Act shall further be applicable to the performances of foreign performing artists who are citizens or permanent residents of a Member State of the European Union, including to performances delivered elsewhere.

Applicability to Recordings, Programmes and Films

(Heading amended, SG No. 28/2000)

Article 101. (Amended, SG No. 28/2000, SG No. 77/2002, supplemented, SG No. 99/2005, effective 1.01.2007) This Act shall be applicable to the protected subject matter under Article 72, items 2, 3, and 4, made by natural persons who are citizens or permanent residents, or by juridical persons having a seat on the territory, of the Republic of Bulgaria, or of a Member State of the European Union, even if such protected matter was made elsewhere, as well as to the recordings first made or simultaneously published by foreign persons on the territory of the Republic of Bulgaria, or of a Member State of the European Union.

Applicability to Producers of Databases

Article 101a. (New, SG No. 77/2002) (1) (Supplemented, SG No. 99/2005, effective 1.01.2007) This Act shall be applicable to producers of databases who are citizens or permanent residents of the Republic of Bulgaria, or of a Member State of the European Union.

(2) (Supplemented, SG No. 99/2005, effective 1.01.2007) The provision in paragraph 1 shall further be applicable to juridical persons established in accordance with the law of the Republic of

Bulgaria, or of a Member State of the European Union, and having a seat, headquarters, or main activity on the territory thereof. The activity of a juridical person having only a seat in the Republic of Bulgaria, or in a Member State of the European Union, must have a real relevance to the economy thereof.

State of Origin for Ancillary Online Services of Broadcasting and Transmitting Organisations

Article 101b. (New, SG No. 100/2023, effective 1.12.2023) (1) This Act shall be applicable to any ancillary online services of the broadcasting or transmitting organisation having its primary place of business in the Republic of Bulgaria for any and all actions under paragraph 2 carried out by the organisation or under the control and responsibility thereof.

(2) The following actions shall be deemed carried out only on the territory of the Republic of Bulgaria:

1. any broadcasting, transmission, and provision of electronic access to works or other protected subject matter as a part of an ancillary online service;
2. any reproduction of works or other protected subject matter where said reproduction is required for the provision of the ancillary online service, of the access thereto, or the use thereof.

(3) Paragraphs 1 and 2 shall be applicable only to:

1. any television programmes or parts thereof constituting news, transmissions of current affairs, or own productions of the broadcasting or transmitting organisation which are entirely financed thereby, with the exception of sporting events and any works and other protected subject matter included in such sporting events;
2. any radio programmes or parts thereof.

(4) The rules under the foregoing paragraphs shall be without prejudice to the freedom of the rightholders and of the broadcasting or transmitting organisations to agree upon, in accordance with the effective laws, restrictions to the use of such rights.

Applicability to Free Use within Digital and Cross-Border Teaching Activities

Article 101c. (New, SG No. 100/2023, effective 1.12.2023) This act shall be applicable to any use of works, other subject matter, or parts thereof, under the terms in Article 26h, by any institutions under Article 26h, paragraph 6, or units thereof, established in the Republic of Bulgaria.

Applicability to Press Publications

Article 101d. (New, SG No. 100/2023, effective 1.12.2023) This act shall be applicable to the publishers of press publications where said publishers: are citizens or permanent residents of, or have a primary place of business in, the Republic of Bulgaria, are citizens or permanent residents of, or have a primary place of business in, a Member State of the European Union, or are juridical persons having a seat, headquarters, or primary place of business on the territory of the Republic of Bulgaria, or a Member State of the European Union.

Application of International Treaties

Article 102. (Amended and supplemented, SG No. 28/2000, previous Article 102, SG No. 77/2002, supplemented, SG No. 25/2011, effective 25.03.2011) (1) The rights of foreign performing artists, producers of phonograms, radio and television organisations, and film producers, other than those indicated in Article 100, paragraphs 2 and 3, and Article 101, shall be protected in accordance with the international treaties, covering rights related to copyright, to which the Republic of Bulgaria is party. In such cases, the term of protection may not be longer than the term of protection provided in the country whereof the rightholder is citizen and may not exceed the applicable terms laid down in Articles 82, 89, 90b, and 92.

(2) (New, SG No. 77/2002, supplemented, SG No. 99/2005, effective 1.01.2007) Foreign producers of databases, with the exception of those under Article 101a, shall be protected in accordance with the international treaties to which the Republic of Bulgaria is a party.

ADDITIONAL PROVISIONS

§ 1. (1) The rightholder, as well as any person having the exclusive right granted thereto to use any work protected hereby, may place, at an appropriate place on the copies of the work, the Latin letter "C" placed in a circle, followed by the name thereof and the year of the release.

(2) The producer of a phonogram, as well as any person having the exclusive right granted thereto to reproduce a phonogram protected hereby, may place, at an appropriate place on the copies of the recording, the Latin letter "P" placed in a circle, followed by the name thereof and the year of the first publication.

§ 1a. (New, SG No. 28/2000) (1) Any acquisition, expropriation, or commercial holding, of any tangible media containing any subject matter protected hereby and reproduced in violation hereof, shall be prohibited.

(2) Any tangible media under paragraph 1 shall be seized by the government with a notice of the administrative enforcement authority and shall be handed over for destruction by the authorities of the Ministry of Interior.

(3) (New, SG No. 99/2005, amended, SG No. 25/2011, effective 25.03.2011, SG No. 100/2023, effective 1.12.2023) Destruction of the object of the infringement under Article 97, paragraph 1, item 9 shall also be its erasure from the electronic medium on which it was reproduced.

§ 2. Within the meaning hereof:

1. "release" shall be any action whereby the work, with the consent of its author, is first brought to the knowledge of an unlimited number of persons, in any manner or form;

2. (amended, SG No. 25/2011, effective 25.03.2011) "publishing a work" means the bringing of a work to the attention of an unlimited number of persons through reproduction and distribution of its copies, including in the form of audio recordings or recordings of films or other audio-visual works, the number of which shall be adequate depending on the nature of the work;

3. (amended, SG No. 28/2000, SG No. 77/2002, supplemented, SG No. 100/2023, effective 1.12.2023) "reproduction" shall be any action whereby the work, or a part thereof, is copied, directly or indirectly, in one or more copies, in any manner or form, permanent or temporary, including any storage thereof on any electronic medium, any upload thereof in a digital form, and any conversion thereof in a machine-readable format;

3a. (new, SG No. 100/2023, effective 1.12.2023) "automated analysis of text and information" shall be any automated analytical method used for analysis of text and data in digital form, for any generation of information, including, without limitation, models, trends, and insights;

4. (amended, SG No. 77/2002, SG No. 99/2005) "distribution of a work" means the sale, exchange, donation, renting, as well as storage in commercial quantities, and the offer to sell or rent originals or copies of the work;

5. (amended, SG No. 28/2000, SG No. 99/2005, SG No. 100/2023, effective 1.12.2023) "broadcasting" shall be any action whereby the work is included as a part of a radio or television programme in its initial distribution through terrestrial broadcasting within the radio-frequency spectrum, as well as through a continuous communication circuit running to a satellite and therefrom back to Earth, using signals carrying programmes, under the control and responsibility of the broadcasting radio or television organisation, intended to be received either directly and individually by the audience, or through the agency of an organisation, other than said radio or television organisation, where such other organisation is not a user within the meaning hereof;

5a. (new, SG No. 21/2014, amended, SG No. 100/2023, effective 1.12.2023) "communication to the audience" shall be any action whereby the performance is delivered to the audience, by any means, other than broadcasting, allowing said audience to listen to, and/or watch, said performance;

5b. (new, SG No. 100/2023, effective 1.12.2023) "transmission" shall be any action whereby the work is included as a part of a radio or television programme in its initial distribution, other than broadcasting, over an electronic communication network, by any technology, including online ("webcasting"), under the control and responsibility of the transmitting organisation, intended to be received either directly and individually by the audience, or through the agency of an organisation, other than said radio or television organisation, as well as any joint transmission carried out by any

radio or television organisation directly delivering the signals carrying its programme and by the broadcaster delivering said signals to said audience;

5c. (new, SG No. 100/2023, effective 1.12.2023) "retransmission" shall be any subsequent distribution, intended for simultaneous reception by the audience, entirely and in an unmodified form, of any radio or television programme, initially broadcasted or transmitted in the Republic of Bulgaria or in another state, and of any works and other protected subject matter included therein, regardless of the technical means used for said distribution, if the initial broadcasting or transmission was carried out over an electronic communication network, including via satellite, excluding online, provided that:

(a) such retransmission is carried out by a person, other than the radio or television organisation which has carried out the initial broadcasting or transmission, or under the control and responsibility whereof said initial broadcasting or transmission has been carried out, regardless of the manner wherein the person carrying out said retransmission receives the signals carrying the aforementioned programme and any works included therein; and

(b) where such retransmission is carried out through an internet access service, as defined in Article 2, paragraph 2, item 2 of Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No. 531/2012 on roaming on public mobile communications networks within the Union (OJ L 310, 26.11.2015, p. 1), said service is provided in an environment wherein the organisation carrying out said retransmission provides said retransmission in a secure manner to licenced users;

5d. (new, SG No. 100/2023, effective 1.12.2023) "provision of electronic access" shall be any action whereby the work or a part thereof is provided, over an electronic communication network available to an unlimited number of persons, in a manner allowing access to said work from any location and at any time chosen individually by any of said persons, as well as any provision of said work over an electronic communication network live, in a manner allowing access to said work from any location and at any time chosen individually by any of said persons ("livestreaming");

5e. (new, SG No. 100/2023, effective 1.12.2023) "direct delivery" shall be any technical process whereby the broadcasting or transmitting radio or television organisation delivers its programme carrying signals to another organisation, signal broadcaster, so that said programme carrying signals are not accessible to the public at the time of delivery;

5f. (new, SG No. 100/2023, effective 1.12.2023) "signal broadcaster" shall mean any enterprise providing electronic communication services;

5g. (new, SG No. 100/2023, effective 1.12.2023) "ancillary online service" shall be any online service consisting in provision to the audience of electronic access, either by the broadcasting or transmitting radio or television organisation, or under the control and responsibility thereof, to television or radio programmes, or to parts thereof, simultaneously with the broadcasting or transmission thereof by said broadcasting or transmitting organisation ("simulcasting"), or for a certain period of time thereafter, as well as any provision of any content ancillary to said broadcasting or transmission;

5h. (new, SG No. 100/2023, effective 1.12.2023) "primary place of business of the broadcasting or transmitting organisation" shall be a location in the Member State having jurisdiction over the respective media service provider, as defined under the procedure in the Radio and Television Act;

6. (amended, SG No. 28/2000, supplemented, SG No. 77/2002, SG No. 99/2005, amended, SG No. 25/2011, effective 25.03.2011, SG No. 100/2023, effective 1.12.2023) "users" shall be any natural or juridical persons, such as publishing houses, theatres, concert organisers, radio and television organisations, enterprises providing public electronic communication services over an electronic communication network, eating and entertainment establishments, producers of phonograms, film producers, online content providers, online content sharing service providers, and any other persons bringing the work to the knowledge of the audience (i.e., readers, viewers, and listeners), either directly or through other persons, i.e., distributors;

- 6a. (new, SG No. 100/2023, effective 1.12.2023) "newly established online content sharing service provider" shall be any content sharing service provider providing its services, or having its service provided, in a Member State of the European Union, less than three years before the respective date, and having an annual revenue of less than 10 million euros within the meaning of Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises;
7. (amended, SG No. 25/2011, effective 25.03.2011, SG No. 100/2023, effective 1.12.2023) "sound recording" shall be any action whereby any sequence of sounds is fixed on a tangible medium in a manner allowing said sounds to be perceived, reproduced, broadcasted, or transmitted;
8. "phonogram" shall be the result of a sound recording;
9. (amended, SG No. 25/2011, effective 25.03.2011, SG No. 28/2018, effective 29.03.2018) "works of architecture" shall be any designs of buildings or facilities, development plans, or schematics, approved under the procedure in the effective law, any buildings, other facilities, or elements thereof, tangible products of the synthesis of architecture with other arts, as well as any tangible interior decorations, registered by the relevant collective management organisation;
- 9a. (new, SG No. 25/2011, effective 25.03.2011) "revision of an architectural design" shall be any action whereby the design is adapted or used to create a new design, as well as any modification thereto;
- 9b. (new, SG No. 25/2011, effective 25.03.2011) "redesign of a work of architecture" shall be any addition of structures, on top of, or adjacent to, as well as any reconstruction or repurposing of, the work;
10. (new, SG No. 10/1998, amended, SG No. 28/2000) "decoding device" shall be any device, apparatus, means, or decoding card designed or specifically adapted to allow, standalone or in any combination thereof, access to the original uncoded form of a coded signal;
11. (new, SG No. 28/2000, amended, SG No. 100/2023, effective 1.12.2023) "coded signal" shall be any radio or television signal broadcasted, transmitted, or retransmitted by any technical means, whereby the characteristics of said signal are intentionally modified for the purpose of restricting the access thereto only to a certain audience;
12. (new, SG No. 28/2000, repealed, SG No. 99/2005);
13. (new, SG No. 77/2002) "database" shall be any set of individual works, data, or other material, arranged systematically or methodically, and individually accessible by electronic or other means; any software used to create or operate databases, any recordings of an individual audio-visual, literary, or musical work, as well as any collection of phonograms of musical performances on a compact disc, shall not be databases within the meaning hereof;
14. (new, SG No. 77/2002) "technical means of protection" shall be any technology, device, or component which, during normal use thereof, may prevent or restrict any actions not allowed by the rightholder of a right protected hereby, in respect of any works or other subject matter protected hereby, if such means allow the use of such protected subject matter to be controlled by said rightholder by an access code, by blurring or other modification of said subject matter, or by a copy control;
15. (new, SG No. 99/2005) "renting out" shall be any action whereby protected subject matter is provided for use for a certain period of time, and for a direct or indirect economic benefit;
16. (new, SG No. 99/2005) "lending" shall be any action whereby protected subject matter is provided for use for a certain period of time, not for a direct or indirect economic benefit, by publicly accessible establishments; "lending," within the meaning hereof, shall not be:
- a) any provision of works or other subject matter protected hereunder, whereupon such works or subject matter do not leave the premises of the lending establishment or are provided to another publicly accessible establishment;
 - b) (amended, SG No. 25/2011, effective 25.03.2011) any provision of phonograms or film copies for the purposes of the legal use thereof;
 - c) any provision of works of fine art or photographic works for public display;

17. (new, SG No. 99/2005) "professional protection organisations of the rightholders" shall be any non-governmental organisations, the membership whereof consists entirely or mainly of rightholders of copyright or related rights, empowered by their members to protect the rights thereof against any infringement thereupon, as well as the juridical persons they represent in the Republic of Bulgaria, or any such international organisations;
18. (new, SG No. 25/2011, effective 25.03.2011) "adaptation" shall be any action whereby the work is modified to create a new derivative work thereof, including any adaptation for another genre, as well as any modifications thereto;
19. (new, SG No. 25/2011, effective 25.03.2011) "third states" shall be any non-Member States of the European Union or any states which are not parties to the Agreement on the European Economic Area;
20. (new, SG No. 25/2011, effective 25.03.2011) "media" shall be any standalone media, intended mainly to have subject matter protected by copyright and related rights stored thereon, and allowing, using appropriate technical means, to have said subject matter perceived audibly or visually thereafter;
21. (new, SG No. 47/2019) "automated controls" shall be any standardised or certified, by an independent organisation established on the territory of the European Union, hardware and/or software automatically registering any use of subject matter protected hereby, either in the presence or in the absence of an official or of the person under inspection;
22. (new, SG No. 100/2023, effective 1.12.2023) "information society service" shall be any service within the meaning of Article 1, paragraph 3, and § 1, items 1 to 3 of the Supplementary Provisions of the Electronic Commerce Act;
23. (new, SG No. 100/2023, effective 1.12.2023) "press publication" shall be any publication meeting all of the following criteria:
- (a) contains mainly literary works of journalistic nature but may also include other protected subject matter, such as photographic works, audio, or video material;
 - (b) is a self-contained item in a periodical or a regularly updated publication under a common heading, such as a general-purpose or specialised newspaper or magazine;
 - (c) is intended to provide to the general public information pertaining to news or other topics;
 - (d) is posted in any mass media, i.e., printed on paper or posted on a website, as a part of the business of a service provider, by initiative or under the editorial responsibility and control thereof;
24. (new, SG No. 100/2023, effective 1.12.2023) "very short excerpts of press publications" shall be the heading of any such publication together with the first 100 continuous characters of the text thereof which may be accompanied by a small preview image with a resolution of up to 128 by 128 pixels or by a part of a sound or video file with a duration of up to three seconds;
25. (new, SG No. 100/2023, effective 1.12.2023) "online content sharing service provider" shall be any information society service provider having a primary objective to store and provide electronic access to a large number of works and other protected subject matter uploaded by users of the service of said provider whereby said provider organises and promotes said works for profit;
26. (new, SG No. 100/2023, effective 1.12.2023) "repeated" shall be any violation by a natural person or any failure by a sole trader or a juridical person to perform any obligation to the state or a municipality, within three years after the coming into force of an administrative penalty order for the same type of violation or a financial penalty for a failure to perform the same type of obligation;
27. (new, SG No. 100/2023, effective 1.12.2023) "systematic" shall be any violation by a natural person or any failure by a sole trader or a juridical person to perform any obligation to the state or a municipality, repeated three or more times within one year after the coming into force of the first administrative penalty order for the same type of violation or a financial penalty for a failure to perform the same type of obligation.

§ 3. (Amended, SG No. 28/2000, supplemented, SG No. 99/2005, amended, SG No. 25/2011, effective 25.03.2011) The definitions contained in § 2 of the preceding paragraph shall also apply to the objects under Article 72 and under Chapter Eleven "a".

§ 4. (1) Each copy of a work of fine art signed personally by its author shall be considered an original. The number of originals shall be established by the author and shall be announced in a suitable manner at the first announcement of the work, and cannot be the subject of subsequent change. Each copy shall carry a successive number.

(2) (Repealed, SG No. 99/2005).

§ 5. (1) (Supplemented, SG No. 25/2011, effective 25.03.2011, SG No. 100/2023, effective 1.12.2023) The amounts of the royalties payable to the rightholders of copyright and related rights for any use of their works, performances, phonograms, recordings of films or other audio-visual works, press publications, and radio or television programmes, shall be set under a contract between the rightholders and the users.

(2) (Supplemented, SG No. 25/2011, effective 25.03.2011, amended, SG No. 28/2018, effective 29.03.2018) When the use is agreed upon through a collective management organisation or an independent management entity, the amount of the royalty shall be set as agreed upon between said organisation or entity, and the users or representative organisations thereof.

§ 5a. (New, SG No. 77/2002, repealed, SG No. 74/2005, new, SG No. 100/2023, effective 1.12.2023) Self-regulation and creation of work standards for the effective application of Articles 38, 39a, Article 76, paragraphs 5 and 6, and Article 83a shall be encouraged.

§ 5b. (New, SG No. 99/2005, effective 1.01.2007) Any provisions hereof pertaining to the Member States of the European Union shall further be applicable to the other states of the European Economic Area.

§ 5c. (New, SG No. 99/2005) (1) (Supplemented, SG No. 73/2006) The Ministry of Culture, jointly with the Ministry of Interior, the Ministry of Justice, the Customs Agency, the Patent Office of the Republic of Bulgaria, and other institutions designated by the Council of Ministers, shall develop and maintain a National System for Exchange of Copyright, Related Rights, and Industrial Property to enable interaction and exchange of data pertaining to the protection of rights on works that are protected subject matter under Article 72 or subject matter of industrial property.

(2) The system under paragraph 1 shall be managed, controlled, and used under a procedure laid down by the Council of Ministers.

(3) The funds for the deployment, maintenance, operation, and development of the system shall be provided from the budgets of the institutions under paragraph 1.

§ 5d. (New, SG No. 21/2014) This Act shall transpose the requirements of Directive 2011/77/EC 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 (OJ, L 265, 11.10.2011, p. 1).

§ 5e. (New, SG No. 14/2015) This Act shall transpose the requirements of Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works (OJ L 299, 27.10.2012, p. 5).

§ 5f. (New, SG No. 100/2023, effective 1.12.2023) This Act shall transpose the requirements of Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC (OJ L 130, 17.5.2019, p. 82) and of Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (OJ L 130, 17.5.2019, p. 92).

TRANSITIONAL AND CONCLUDING PROVISIONS

§ 6. (1) (Amended, SG No. 28/2000, supplemented, SG No. 100/2023, effective 1.12.2023) This Act shall further be applicable to any works, performances, phonograms, radio and television programmes created or performed prior to the coming into force hereof, unless the terms of protection provided for have expired. The provisions in Articles 2 to 14, Article 15, paragraph 1,

items 4 and 5, and Article 34 shall further be applicable when the terms of protection provided for have expired before the coming into force hereof.

(2) Any copyright acquired prior to the coming into force hereof shall be reserved.

§ 7. The authors of a literary text which have been used without their consent, pursuant to Article 7, point "b" of the Copyright Act of 1951, together with a musical work may not prevent the further use of said musical work together with said text if said work has already been released together with it.

§ 8. (1) The Copyright Agency is hereby dissolved.

(2) The property of the Copyright Agency shall be transferred to the Ministry of Culture.

(3) The Council of Ministers shall lay down the terms and procedures for the distribution of the property of the Agency among the organisations under Article 40 hereof.

§ 9. This Act hereby revokes:

1. The Copyright Act (promulgated, Izvestia No. 92/1951, corrected, No. 10/1952, amended, No. 55/1956, amended, State Gazette No. 35/1972 and No. 30/1990).

2. Article 270 to 278 of the Obligations and Contracts Act (promulgated, State Gazette No. 275 of 1950, corrected, No. 2 of 1951, amended, No. 69 of 1951, No. 92 of 1952, No. 85 of 1963, No. 27 of 1973, No. 16 of 1977, No. 28 of 1988, No. 30 of 1990 and No. 12 of 1993).

§ 10. This Act shall come into force on 1 August 1993.

§ 11. The implementation hereof shall be assigned to the Council of Ministers.

This Act was adopted by the 36th National Assembly on June 16, 1993 and was sealed with the State Seal.

CONCLUDING PROVISION to the Act on Amending and Supplementing the Copyright and Neighbouring Rights Act (SG No. 10/1998)

§ 4. (Repealed, SG No. 28/2000).

TRANSITIONAL AND CONCLUDING PROVISIONS to the Lev Redenomination Act (SG No. 20/1999, supplemented, SG No. 65/1999, effective 5.07.1999)

.....
§ 4. (1) (Supplemented, SG No. 65/1999) As of the coming into force hereof, all figures in old leva (BGL), contained in the laws that have come into force prior to 5 July 1999, shall be substituted by figures reduced 1,000 times in new leva (BGN). The substitution of all figures in old leva by figures reduced 1,000 times in new leva shall further be applied to any and all laws adopted prior to 5 July 1999 that have come, or will come, into force after 5 July 1999.

(2) The authorities, which have adopted or issued any acts of subordinate legislation that have come into force prior to 5 July 1999, and which contain figures in leva, shall make the hereby resulting amendments thereto so as to be applicable as of the date of coming into force hereof.

.....
§ 7. This Act shall come into force on 5 July 1999.

TRANSITIONAL AND CONCLUDING PROVISIONS to the Act on the Amendments and Supplements to the Copyright And Neighbouring Rights Act (SG No. 28/2000, supplemented, SG No. 107/2000, SG No. 99/2005, effective 10.01.2005)

§ 51. (1) This Act shall further be applicable to the works and protected subject matter under Article 72 created or performed prior to the coming into force hereof, unless the terms of protection provided for herein have expired.

(2) The rightholders may not make any claims in respect of any uses taking place at a time when the term of protection of their respective rights had been expired under the then effective legislation.

(3) (New, SG No. 107/2000) The persons described in The persons under Article 62, paragraph 1 shall be rightholders of copyright to films and other audio-visual works created prior to the coming into force of the Copyright and Related Rights Act.

(4) (New, SG No. 107/2000) Any rightholders of copyright to films pursuant to Article 16, paragraph 1 of the repealed Copyright Act of 1951 may only enjoy the rights under Chapter Ten "a."

(5) (New, SG No. 107/2000, supplemented, SG No. 99/2005) The producer rights under Chapter Ten "a" of persons under paragraph 4 to films produced by the Bulgarian Cinematography State Enterprise (Chief Directorate, State Concern, Creative and Economic Association), the Boyana Live Action Film Studios, the Sofia Animated Film Studios, and the Vreme Documentary Film Studios shall be assigned to the National Film Centre

(6) (New, SG No. 107/2000) The rightholders of producer rights in accordance with paragraphs 4 and 5 may use such films without a contract with the respective rightholders until 1 July 2001 by paying said rightholders, for each use of said films, royalty in an amount determined and payable as agreed upon through the respective collective management organisation.

.....
§ 52. This Act hereby revokes § 4 of the concluding provision of the Act on the Amendments and Supplements to the Copyright and Neighboring Rights Act (SG No. 10/1998).

§ 53. Throughout this Act, the words "the Ministry responsible for culture" shall be replaced by "the Ministry of Culture".

§ 54. (1) This Act shall come into force one month after its promulgation in the State Gazette, with the exception of § 8 which shall come into force on 1 January 2001.

(2) The Council of Ministers shall adopt the Regulation under § 8 within six months after the date of coming into force hereof, which Regulation shall apply as of 1 January 2001.

TRANSITIONAL AND CONCLUDING PROVISIONS to the Act on the Amendments and Supplements to the Copyright And Neighbouring Rights Act (SG No. 77/2002, effective 1.01.2003)

§ 38. (1). The provisions in Article 93c shall apply also in respect of the databases or parts thereof which were created prior to the entry into force of this Act if the terms under Article 93c have not expired.

(2) The holders of rights under Article 93c may not make claims regarding actions that have been carried out prior to the entry into effect of this Act.

§ 39. (Effective 9.08.2002) The Council of Ministers shall adopt the regulations under 14 and 37, item 2 before 1 January 2003.

§ 40. This Act shall enter into effect on 1 January 2003 with the exception of 39, which shall enter into effect on the day of this Act's promulgation in the State Gazette.

ACT on Amending and Supplementing the Copyright and Neighbouring Rights Act (SG No. 99/2005, effective 10.01.2006)

.....
§ 56. Everywhere in the act the words "Ministry of Culture and Tourism", shall be replaced by "Ministry of Culture".

Transitional and Concluding Provisions

§ 57. (1) The provisions of § 1 concerning Article 6 and of § 21 concerning Article 72b shall also apply to the works and objects referred to in Article 72, created or effected before the enforcement of this Act.

(2) The provisions of § 4 concerning Article 20 and of § 5 concerning Article 20a shall apply for resales effected after the enforcement of this Act.

§ 58. (1) Any sale or another transaction completed on the territory of any Member State of European Union, other than the Republic of Bulgaria, before the coming into force of § 3, item 1, shall not lead to termination of the right to distribution under Article 18a, paragraph 1.

(2) Claims pursuant to the provisions in § 37 with regard to Article 94a, and of § 38 with regard to Article 95, may be made if the oral arguments at the court of first instance have not concluded prior to the coming into force hereof.

(3) The provisions pertaining to the evidence and the conditions for the admission thereof under Article 95c and Article 95d shall further be applicable to any facts arising prior to the coming into force hereof.

§ 59. Administrative and administrative penalty proceedings opened prior to the coming into force hereof shall be concluded under the hitherto effective procedure.

.....
§ 62. This Act shall enter into force one month after being promulgated in the "State Gazette", with the exception of:

1. paragraph 12 which shall become effective 6 months after the promulgation of the Act in the "State Gazette";
2. item 1 of paragraph 3, § 34, § 46, § 47 concerning Article 99a (2), § 48 - 52 and item 4 of § 54 effective as of the date of entry of the Treaty concerning the Accession of the Republic of Bulgaria to the European Union into force.

TRANSITIONAL AND CONCLUDING PROVISIONS to the Act on the Amendments and Supplements to the Copyright And Neighbouring Rights Act (SG No. 25/2011, effective 25.03.2011)

§ 42. (1) Collective management organisations which have been registered at the Ministry of Culture under Article 40 and, after 1 January 2005, have collected, distributed, and paid royalties to rightholders shall submit an application for re-registration under Article 40b, paragraph 2 within three months after the coming into force hereof. The documents under Article 40b, paragraph 2, items 2 to 11, and under Article 40e, paragraph 1, items 1, 3, 4, and 5, shall be attached to the application.

(2) The organisations under paragraph 1 shall continue their activity until the issuance of a registration certificate or refusal of registration. Organisations, registered in accordance with Article 40 to collect compensations under Article 26, shall submit an application for registration with the documents under the second sentence of paragraph 1, within the time limit provided for in paragraph 1, without terminating their activity.

(3) Collective management organisations, which, prior to the coming into force hereof, have been registered at the Ministry of Culture in accordance with Article 40, and do not meet the requirements in the first sentence of paragraph 1, shall terminate their collective management activity as of the date of the coming into force hereof. In these cases, Article 40c, paragraph 4 shall be applied accordingly.

§ 43. The collective management organisations registered under § 42 shall send to the Minister of Culture for endorsement a proposal on the amount of royalties collected by said organisations under Article 40f within two months after the receipt of the registration certificate.

§ 44. Within one month after the coming into force hereof, the Minister of Culture shall create the register under Article 40d.

§ 45. Any royalties, agreed upon between the collective management organisations and the users prior to the endorsement of the amounts of the respective royalties under Article 40f, may not be disputed simply because they are not based on amounts of royalties endorsed under the procedure herein.

.....
TRANSITIONAL PROVISIONS to the Act on Amending and Supplementing the Copyright and Neighbouring Rights Act (SG No. 21/2014)

§ 19. (1) The provision in Article 27, paragraph 3 shall be applicable to musical works with lyrics and to works of musical theatre wherein, on 1 November 2013, the music, the lyrics, or both have enjoyed protection in at least one Member State of the European Union, as well as to any such works created after said date, whereupon any rights acquired by any third parties prior to 1 November 2013 in respect of the use of said works shall be reserved.

(2) The provisions in Articles 77, 77a, 82, and 89 shall further be applicable to any recorded performances and phonograms to which the rights of the performing artists and the producers have been effective on 1 November 2013, as well as to any performances and phonograms made after said date.

§ 20. The provisions in Article 40b shall further be applicable to any and all pending registration, or re-registration, proceedings, as the case may be.

§ 21. (1) Contracts providing for granting the right to use of a performance under Article 76 that have been executed prior to 1 November 2013 shall remain in force even after the moment, when, in accordance with the previously effective Article 82, the rights of the performing artist cease to enjoy legal protection, unless the contract contains express and clear instructions to the contrary.

(2) Contracts executed prior to 1 November 2013 under which a performing artist granting or transferring rights shall receive regular payments, may be amended by mutual consent by the parties after the fiftieth year following the legal publication of the phonogram, or, if it has not been published, after the fiftieth year following its legal communication to the audience.

§ 22. Organisations, registered in the register under Article 40d prior to the coming into force hereof, shall provide, within three months after the coming into force hereof, up-to-date information under Article 40d, paragraph 2, item 4a, and Article 40e, paragraphs 1, 2, and 3.

§ 23. Collective management organisations continuing their activity pursuant to § 42, paragraph 2 of the Transitional and Final Provisions of the Act Amending and Supplementing the Copyright and Related Rights Act (SG No. 25/2011) without a registration certificate or outside the scope of the obtained registration shall terminate such activity as of the date of the coming into force hereof.

TRANSITIONAL PROVISION to the Act Supplementing the Copyright and Neighbouring Rights Act (SG No. 14/2015)

§ 4. The provisions in Chapter 7, Section VIII shall be applicable to any and all orphan works and phonograms within the meaning of Article 71b, paragraph 2 enjoying legal protection on 29 October 2014 or thereafter. All rights to such subject matter acquired after said date shall be reserved.

ACT to Amend and Supplement the Copyright and Neighbouring Rights Act (SG No. 28/2018, effective 29.03.2018)

.....
Supplementary Provision

§ 22. This Act shall transpose the requirements of Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licencing of rights in musical works for online use in the internal market (OJ L 84, 20.3.2014, p. 72).

Transitional and Concluding Provisions

§ 23. When a collective management organisation has not granted or does not offer multi-territorial licences for online use of musical works and has not authorised another collective management organisation to do so on its behalf by 10 April 2017, the rightholders that have authorised said organisation to manage their rights thereto may withdraw said rights from said organisation without having to withdraw said rights from coverage on the territory of the Republic of Bulgaria, so as to be able to grant multi-territorial licences for online use of their works directly or through third parties, including through any collective management organisation meeting the requirements in Chapter 11i. Article 94u, paragraph 2, and Article 94w2 shall be applied accordingly.

§ 24. (1) Any management organisation, registered at the Ministry of Culture prior to the coming into force hereof, shall keep its registration for the same categories of rights, types of rights, works, and other protected subject matter for which it has been registered.

(2) Within three months after the coming into force hereof, the collective management organisation under paragraph 1 shall notify its members on the rights under Article 94a1, paragraphs 1, 3, 4, and 5.

(3) The collective management organisation under paragraph 1 shall bring its statute in accordance with the requirements hereof within 8 months after the coming into force hereof.

(4) Any royalties set prior to the coming into force hereof, for any rights granted to and by the collective management organisations, shall remain effective. When the amount of such royalties was set without being discussed with a representative organisation of users, the representative organisation of the users within the meaning of Article 94p, paragraph 2 may request for said royalties to be amended and/or supplemented at any time whereupon Article 94p, paragraphs 3 to 8 shall be applied accordingly.

(5) Any collective management organisation under paragraph 1, intending to obtain a registration for collective management for multi-territorial licencing of online use of musical works under Chapter 11i, shall submit an application to the Minister of Culture under Article 94b1.

(6) Within three months of the coming into force hereof, the Minister of Culture, or a deputy minister authorised thereby shall bring the register under the repealed Article 40d in accordance with Article 94d.

§ 25. (1) Any commercial company that is authorised to manage copyright or related rights at the same time on behalf of more than one rightholder of such rights for the mutual benefit of such rightholders, as its sole or main activity, and is not owned or controlled, directly or indirectly, fully or partially, by such rightholders, may submit an application for registration within 6 months after the coming into force hereof.

(2) Until an independent management entity registration certificate is issued or an order for refusal of registration comes into force, the company under paragraph 1 may perform a collective management activity.

§ 26. Administrative proceedings opened and pending prior to the coming into force hereof shall be concluded under the hitherto effective procedure.

§ 27. Within 6 months after the coming into force hereof, the Minister of Culture shall provide the European Commission with a report on the situation and development of multi-territorial licencing of online rights in the territory of the Republic of Bulgaria. The report shall include information on the availability of multi-territorial licences and compliance by collective management organisations with the provisions of Chapter 11i, together with an assessment of the development of multi-territorial licencing of online use of musical works by users, rightholders, and other interested parties.

§ 28. The Minister of Culture shall provide the European Commission with a list of the registered collective management organisations and shall notify the Commission of any changes to that list within three months after said changes are made.

.....
§ 31. This Act shall come into force on the date of its promulgation in the State Gazette, with the exception of § 18 and § 30 which shall come into force 9 months after its promulgation.

ACT to the Act Amending and Supplementing Copyright and Neighbouring Rights Act
(SG No. 94/2018)

.....
Supplementary provision

§ 9. This Act shall transpose the requirements of Directive (EU) 2017/1564 of the European Parliament and of the Council of 13 September 2017 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled, and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 242, 20.9.2017, p. 6).

Final Provisions

§ 10. Any juridical person that is a non-profit community centre operating in the public interest for the benefit of persons with disabilities under Article 26a, paragraph 3, a state or municipal cultural organisation operating as a library, or a specialised school for educating and supporting pupils with sensory disabilities - impaired hearing or vision - with a seat in the Republic of Bulgaria which, prior to the coming into force hereof, has carried out the actions under Article 26b, paragraphs 1 and 4, within three months after the coming into force hereof, shall submit to the Minister of Culture the notification under Article 26c, paragraph 1.

§ 11. By 11 September 2020, the Minister of Culture shall provide the European Commission with information on the availability of copies in accessible formats of written works and of other protected subject matter related thereto:

1. other than those under Article 26a, paragraph 2, as regards persons with disabilities under Article 26a, paragraph 3;
2. as regards persons with disabilities, other than those under Article 26a, paragraph 3.

TRANSITIONAL AND FINAL PROVISIONS to the Act to Amend and Supplement the Copyright and Neighbouring Rights Act (SG No. 47/2019)

§ 14. Administrative proceedings under Title Two "a" initiated before the Minister of Culture and pending at the time of entry of this Act into force shall be completed in accordance with the new procedure.

.....

TRANSITIONAL AND FINAL PROVISIONS to the Act Amending and Supplementing the Copyright and Related Rights Act (SG No. 100/2023, effective 1.12.2023)

§ 77. (1) This Act shall be applicable to any and all works and other protected subject matter as of 7 June 2021, without prejudice to any contracts executed and any rights acquired before 7 June 2021.

(2) With regard to any agreements on the exercise of any copyright and related rights in respect of any actions involved in any transmission and provision of electronic access to works, parts of works, or other protected subject matter, carried out during any provision of ancillary online services, as well as those related to any actions involved in any reproduction and required for the provision of such ancillary online services, of access thereto, or use thereof, where said agreements are in force on 7 June 2021, the provisions in Articles 21a and 101b shall be applicable as of 7 June 2023 if the term of said agreements expires after said date.

(3) With regard to any licences, as agreed upon between the rightholders acting individually or through a collective management organisation, on the one part, and the broadcasting or transmitting organisation, or a signal broadcaster, on the other part, on any actions involved in any broadcasting or transmission of programmes by direct delivery, where such licences are in force on 7 June 2021, the provisions in Article 21, paragraphs 2 and 3, shall be applicable as of 7 June 2025 if the term of said licences expires after said date.

(4) Chapter 10b shall be applicable to any press publications first published after 6 June 2019.

(5) Within 6 months after the coming into force hereof, the organisations which, prior to said date, were registered in the register under Article 94d, paragraph 2, item 1, and wish to be registered as representative organisations within the meaning of Article 71i, paragraph 2, shall submit to the Minister of Culture an application to that effect under the procedure in Article 94b1, paragraphs 3, 5, and 6. Documents under Article 94b1, paragraph 4, items 3, 6, 7, 9, and 10, which establish compliance with the requirements for representativeness under Article 71i, paragraph 2 and which have not been provided theretofore by the applicant, as well as a proof of payment of the applicable fee, shall be attached to the aforementioned application. The application shall be reviewed under the procedure in Article 94c, paragraph 4 whereupon, in the judgment on the existence of representativeness, account shall further be taken of the documents submitted by the applicant for prior registrations, including for the initial registration of the organisation.

(6) Within 6 months after the coming into force hereof, the Minister of Culture, or a deputy minister authorised thereby shall determine the additional criteria under Article 71i, paragraph 2 for the judgment on the existence of an out-of-commerce subject matter for individual types of protected subject matter.

(7) The term of a contract of use of a work shall be 10 years if said contract was executed prior to the coming into force hereof for a term longer than 10 years. This limitation shall not apply to contracts for works of architecture.

.....
§ 81. This Act shall come into force on the date of its promulgation in the State Gazette, with the exception of § 21 and § 46 which shall come into force one year after its promulgation.

Annex No. 1

to Article 71d, Paragraph (2)

(New, SG No. 14/2015, supplemented, SG No. 28/2018, effective 29.03.2018)

List of Minimum Sources

1. for published books:

- a) legal deposit of works, library catalogues and authority files maintained by libraries and other institutions;
- b) publishers' and authors' associations;
- c) existing databases and registries, WATCH (Writers, Artists and their Copyright Holders), the ISBN (International Standard Book Number) and databases listing books in print;
- d) the databases of the relevant collecting societies, in particular reproduction rights organisations;
- e) sources that integrate multiple databases and registries, including VIAF (Virtual International Authority Files) and ARROW (Accessible Registries of Rights Information and Orphan Works);

2. for newspapers, magazines, journals and periodicals:

- a) the ISSN (International Standard Serial Number) for periodical publications;
- b) indexes and catalogues from library stocks and collections;
- c) legal deposit of works;
- d) publishers', authors' and journalists' associations;
- e) the databases of relevant collecting societies, including reproduction rights organisations;

3. for visual works, including fine art, photography, illustration, design, architecture, sketches of the latter works and other such works that are contained in books, journals, newspapers and magazines or other works:

- a) the sources referred to in Items 1 and 2;
- b) the databases of the relevant collecting societies, in particular for visual works, and including reproduction rights organisations;
- c) the databases of picture agencies, where applicable;

4. for audiovisual works and phonograms:

- a) legal deposit of works;
- b) producers' associations;
- c) databases of film or audio heritage institutions and national libraries;
- d) databases with relevant standards and identifiers such as ISAN (International Standard Audiovisual Number) for audiovisual material, ISWC (International Standard Music Work Code) for musical works and ISRC (International Standard Recording Code) for phonograms;
- e) the databases of the relevant collecting societies, in particular for authors, performers, phonogram producers and audiovisual producers;
- f) credits and other information appearing on the work's packaging;
- g) databases of other relevant associations representing a specific category of rightholders.

Annex No. 2

to Article 94s¹, paragraph 2

(New, SG No. 28/2018, effective 29.03.2018)

I. Information to be provided in the annual reports

1. Annual financial statements comprising a balance sheet, a statement of assets and liabilities, an income and expenditure account for the preceding calendar year and a cash-flow statement.
2. A report on the activities in the preceding calendar year.
3. Information on refusals to conclude contracts with users pursuant to Article 94o, paragraph 1.
4. A description of the legal form and governance structure of the collective management organisation.
5. Information on any legal entities directly or indirectly owned or controlled, wholly or in part, by the collective management organisation.
6. Information on the total amount of remuneration paid to the executive director and the members of the management board in the previous year, and on other benefits granted to them.
7. The financial information referred to in Section II.
8. A special report on the use of any amounts deducted for the purposes of social, cultural and educational services, containing the information referred to in Section III.

II. Financial information to be provided in the annual report

1. Financial information on revenue from collective management of rights, per category of rights managed and per type of use, including information on the income arising from the investment of rights revenue and the use of such income (whether it is distributed to rightholders or other collective management organisations, or otherwise used).
2. Financial information on the cost of collective management of rights and other services provided to rightholders, with a description of:
 - a) all operating and financial costs, with a breakdown per category of rights managed and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs;
 - b) operating and financial costs, with a breakdown per category of rights managed and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs, only with regard to the management of rights, including management fees deducted from or offset against rights revenue or any income arising from the investment of rights revenue in accordance with Article 94k, paragraph 2 and Article 94k¹, paragraphs 1 – 4;
 - c) operating and financial costs with regard to services other than the collective management of rights, but including social, cultural and educational services;
 - d) resources used to cover costs;
 - e) deductions made from revenues from collective management of rights, with a breakdown per category of rights managed and per type of use, and the purpose of the deduction, such as costs relating to the supporting of operations or to social, cultural or educational services;
 - f) the percentages that the cost of the management of the collective management of rights and other services provided by the collective management organisation to rightholders represents compared to the revenue from collective management of rights in the relevant financial year, per category of rights managed, and, where costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate such indirect costs.
3. Financial information on amounts due to rightholders, with a description of:
 - a) the total amount attributed to rightholders, with a breakdown per category of rights managed and type of use;
 - b) the total amount paid to rightholders, with a breakdown per category of rights managed and type of use;

- c) the frequency of payments, with a breakdown per category of rights managed and per type of use;
- d) the total amount collected but not yet attributed to rightholders, with a breakdown per category of rights managed and type of use, and indicating the calendar year in which those amounts were collected;
- e) the total amount attributed to but not yet distributed to rightholders, with a breakdown per category of rights managed and type of use, and indicating the calendar year in which those amounts were collected;
- f) the reasons why the time limits laid down in Article 94l for the distribution and payment of the collected amount were not respected;
- g) the total non-distributable amounts, along with an explanation of the use to which those amounts have been put.

4. Information on relationships with other collective management organisations, with a description of:

- a) amounts received from other collective management organisations and amounts paid to other collective management organisations, with a breakdown per category of rights, per type of use and per organisation;
- b) deductions for supporting the operations and other deductions from the rights revenue due to other collective management organisations, with a breakdown per category of rights, per type of use and per organisation;
- c) deductions for supporting the operations and other deductions from the amounts paid by other organisations, with a breakdown per category of rights and per organisation;
- d) amounts distributed directly to rightholders originating from other, with a breakdown per category of rights and per organisation.

III. Information to be provided in the special report

1. The amounts deducted for the purposes of social, cultural and educational services in the financial year, with a breakdown per type of purpose and, for each type of purpose, with a breakdown per category of rights managed and per type of use.

2. An explanation of the use of those amounts, with a breakdown per type of purpose including the costs of managing amounts deducted to fund social, cultural and educational services and of the separate amounts used for social, cultural and educational services.