

# **COPYRIGHT AND RELATED RIGHTS ACT**

*Prom. SG. 56/29 Jun 1993, amend. SG. 63/5 Aug 1994, amend. SG. 10/27 Jan 1998, amend. SG. 28/4 Apr 2000, suppl. SG. 107/28 Dec 2000, amend. SG. 77/9 Aug 2002, amend. SG. 28/1 Apr 2005, amend. SG. 43/20 May 2005, amend. SG. 74/13 Sep 2005, amend. SG. 99/9 Dec 2005, amend. SG. 105/29 Dec 2005, amend. SG. 29/7 Apr 2006, amend. SG. 30/11 Apr 2006, amend. SG. 73/5 Sep 2006, amend. SG. 59/20 Jul 2007, amend. SG. 12/13 Feb 2009, amend. SG. 32/28 Apr 2009, amend. SG. 25/25 Mar 2011, amend. SG. 21/8 Mar 2014, suppl. SG. 14/20 Feb 2015, amend. and suppl. SG. 28/29 Mar 2018, amend. and suppl. SG. 94/13 Nov 2018, amend. SG. 17/26 Feb 2019, amend. and suppl. SG. 47/14 Jun 2019, amend. SG. 98/13 Dec 2019*

## **Division one. COPYRIGHT**

### **Chapter one. GENERAL PROVISIONS**

#### **Subject-Matter of the Act**

Art. 1. This Act shall regulate the relationships related to the creation and distribution of literary, artistic and scientific works.

#### **Arisal of Copyright**

Art. 2. The copyright in literary, artistic and scientific works shall arise for the author with the creation of the work.

### **Chapter two. SUBJECT MATTER OF COPYRIGHT**

#### **Protected Subject Matter**

Art. 3. (1) Any literary, artistic and scientific work resulting from creative endeavour and expressed by any mode and in any tangible form shall be the subject matter of copyright, such as:

1. literary works, including works of scientific and technical literature, of publicity and computer software;
2. musical works;
3. performing arts works: dramatic or dramatico-musical works, entertainments in dumb show, choreographic, etc.;
4. films and other audio-visual works;
5. works of fine art, including works of applied art, design and national artistic crafts;

6. (amend. – SG 25/11, in force from 25.03.2011) realised works of architecture and implemented spatial plans;

7. photographic works and works created by a process analogous to photography;

8. (amend. – SG 25/11, in force from 25.03.2011) approved architecture projects, approved spatial planning drafts, maps, schemes, plans and others related to architecture, urban planning, geography, topography, museum research and any other area of science and technology;

9. graphic design of publications;

10. (new - SG 29/06) cadastral maps and state topographical maps.

(2) Subject matter of copyright shall be also:

1. translations and adaptations of existing works and works of folklore;

2. arrangements of musical works and works of folklore;

3. periodicals, encyclopaedia, collections, anthologies, bibliographies, databases and other similar subject matter including two or more works or products.

(3) Subject matter of copyright may also be parts of the works referred to in para 1 and 2, preliminary sketches, plans, etc.

## **Exceptions**

Art. 4. Shall not be considered subject matter of copyright:

1. (suppl. – SG 21/14) normative and individual acts of state government bodies, acts of the courts of justice and official translations thereof;

2. ideas and concepts;

3. works of folklore;

4. news, facts, information and data.

## **Chapter three. OWNERS OF COPYRIGHT**

### **Authors and Other Owners of Copyright**

Art. 5. Author shall be the natural person whose creative endeavours have resulted in the creation of a literary, artistic or scientific work. Other natural or legal persons may be owners of copyright only in the cases provided by this Act.

### **Presumption of Authorship**

Art. 6. (1) (prev. text of Art. 06, amend. and suppl. - SG 99/05, in force from 10.01.2006) Until proved otherwise author of the work shall be considered to be the person whose name or other identifying mark is indicated on the original, copies or specimen of the work and/or on their packing in the usual manner.

(2) (new - SG 99/05, in force from 10.01.2006) Para 1 shall be also applied respectively to the owners of copyright in the cases referred to in **Art. 10**, first sentence, **Art. 11, para 1, first sentence** and **Art. 14**.

### **Authorship of Works Made Available to the Public under Pseudonym or Anonymously**

Art. 7. (1) The work may be made available to the public under pseudonym or anonymously.

(2) Until revealing the identity of the author his copyright shall be exercised by the natural or legal person that has made the work available to the public 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**

Art. 8. (1) Copyright in a work created by two or more persons shall belong to them jointly irrespective of whether the 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 single use or adaptation of the work. In case of lack of agreement between the joint authors the issue shall be resolved by the court.

(3) If authorisation 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 shall be entitled without reasonable grounds to object to its further use in the said manner.

(4) The compensation due to the authors for the use of their work, shall be distributed between them in shares by mutual agreement. At lack of agreement, it shall be considered that each of the joint authors has an equal share. In case of disputes, the individual shares shall be determined by the court according to the contribution of each of the authors.

(5) Provided that a work created by joint authors consists of components each having individual significance, each of the joint authors may authorize the individual use of his own component unless the joint authors have agreed otherwise and if this does not hinder the use of the work as a whole.

### **Copyright in Translations and Adaptations**

Art. 9. Copyright in translation or adaptation shall belong to the person who has made it without prejudice to the rights of the author of the original work. This shall not deprive other persons of the right to make their own translation or adaptation of the same work.

### **Copyright in Periodicals and Encyclopaedias**

Art. 10. (suppl. - SG 28/00, in force from 05.05.2000) Copyright in periodicals and encyclopaedias shall belong to the natural or legal person responsible for the creation and publication of the work. Copyright in the individual components included in such work, having the nature of a literary, artistic or scientific work, shall belong to their individual authors.

### **Copyright in Collections, Anthologies, Bibliographies and Databases**

Art. 11. (amend. - SG 28/00, in force from 05.05.2000) (1) Copyright in collections, anthologies, bibliographies, databases, etc. shall belong to the person who has collected or arranged the works and/or material contained therein, unless otherwise agreed in a contract. Copyright in the individual parts included in such work, which themselves constitute literary, artistic or scientific works, shall belong to their authors.

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

## **Copyright in Works of Fine Art and Architecture**

Art. 12. (prev. text of Art. 12 – SG 25/11, in force from 25.03.2011) Copyright in works of fine art and architecture shall belong to the person who has created those works also in case the ownership of the work belongs to another person.

(2) (new – SG 25/11, in force from 25.03.2011) The copyright in the work of architecture, created by implementation of a project, shall belong to the person, who has created the project.

## **Copyright in Portraits**

Art. 13. (amend. – SG 25/11, in force from 25.03.2011) Copyright in works of fine art or photography constituting a portrait of other person shall belong to the author of the work. The consent of the portrayed person shall be required for the creation of such work.

(2) The consent under Para 1 shall not be required, when:

1. the image has been created in the course of the public activities of the portrayed person or on a public place;
2. the image of the person is merely a detail in a work depicting a meeting, procession or landscape;
3. the portrayed person has received remuneration to pose, unless otherwise stipulated by the author and the portrayed person.

(3) The use of a work under Para 1 may be subject to conditions agreed between the author and the portrayed person.

## **Copyright in Computer Programmes and Databases Developed in Employment Relationship**

Art. 14. Unless agreed otherwise, copyright in computer programmes and databases developed in employment relationship shall belong to the employer.

## **Chapter four. CONTENTS OF COPYRIGHT**

### **Section I. Moral Rights**

#### **Types of Moral Copyrights**

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

1. decide whether the work created by him may be made available to the public and to determine the time, place and manner in which this may be done with the exception of the subject matter under **Art. 3, paragraph 1, items 4, 6 and 8** for which this right shall be arranged by contract;
2. claim authorship of the work;
3. decide whether his work shall be made available to the public under pseudonym or anonymously ;
4. require that his name, pseudonym or other identifying mark be indicated in a suitable manner whenever his work is used;
5. require that the entirety of his work is preserved and oppose to any modifications thereof as well as to any other actions that may infringe his legitimate interests or personal dignity;

6. modify his work, provided that this does not infringe the rights acquired by other persons;
7. access the original of the work when it is in the possession of another person and whenever such access is necessary for exercising moral or economic right provided by this Act;
8. stop the use of the work due to changes in his beliefs, with exception of already implemented architectural works, providing compensation for the damages incurred by persons who have lawfully obtained the right to use the work.

(2) (suppl. – SG 25/11, in force from 25.03.2011, amend. – SG 28/18, in force from 29.03.2018) The author shall not be entitled to oppose to the wish of the owner of architectural work to destroy, reconstruct, superstructure or outbuild it, provided that this is undertaken in conformity with existing regulations. For clarification of the way of implementing the changes the owner of the work of architecture may submit a request to the respective collective management organisations which shall be obliged to provide the consultation.

### **Non-Transferability of Moral Rights**

Art. 16. The moral rights referred to in items 2 and 4 of para 1 of the preceding Article shall be non-transferable. Transfer of other moral rights may be carried out only explicitly and in written form.

### **Exercising Moral Rights after the Death of the Author**

Art. 17. After the death of the author and until expiration of the term of copyright protection the moral rights, with the exception of those referred to in **Art. 15, para 1, items 6 and 8**, shall be exercised by the heirs of the author.

## **Section II. Economic Rights**

### **Types of Economic Copyrights**

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

(2) In the sense of para 1 as use shall be considered the actions such as:

1. reproduction of the work;
2. distribution of the original or copies of the work among unlimited number of persons;
3. public presentation or performance of the work;
4. broadcasting of the work;
5. (amend. - SG 99/05, in force from 10.01.2006) transmission and retransmission of the work by cable;
6. public exhibition of a work of fine art or a work created by photographic or analogous method;
7. translation of the work into another language;
8. (suppl. - SG 28/00, in force from 05.05.2000; suppl. – SG 25/11, in force from 25.03.2011) adaptation and synchronisation of the work. Adaptation shall also be the adjustment and any alteration of the work, as well as the use of the work to create a new derivative work;
9. implementation of an architectural project through building or manufacturing of the object described in it;
10. (new - SG 28/00, in force from 05.05.2000; amend. - SG 99/05, in force from 10.01.2006) communication by wireless means or cable, by making the work available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them.

11. (new – SG 77/02, in force from 01.01.2003; suppl. – SG 25/11, in force from 25.03.2011) the import and the export to third countries of copies of the work in commercial quantities, regardless whether they have been lawfully produced or in infringement of the right referred to in item 1.

(3) Use as referred to in para 2, items 3 through 8 shall be considered to have occurred whenever the actions described above have been performed in a manner allowing unlimited number of people to perceive the work.

(4) (revoked – SG 77/02, in force from 01.01.2003).

### **Exhaustion of the Right of Distribution**

Art. 18a. (new – SG 77/02, in force from 01.01.2003) (1) (amend. - SG 99/05) (\*) The first sale or other transaction on the territory of the Member States of the European Union made by the owner of the copyright or with his consent which transfers the ownership of the original or copy of the work shall lead to exhaustion of the right of their distribution on this territory without prejudice to the right to permit their further marketing.

(2) (suppl. - SG 99/05, in force from 01.01.2006) The provision of para 1 shall not affect the right referred to in **Art. 20** and **Art. 22a, para 2**.

(3) The provision of para 1 shall not refer to the cases of conceding originals or copies of the work in digital way, in respect to the materialised copies of the work made by the recipient with the consent of the owner of the copyright.

### **Right of Compensation for All Types of Use**

Art. 19. The author shall have the right of compensation for all types of use of his work and for each successive use of the same type.

### **Right of Compensation at Resale of Work of Art (title amend. – SG 99/05, in force from 10.01.2006)**

Art. 20. (amend. - SG 99/05, in force from 10.01.2006) (1) At resale of original work of art when one of the parties in the transaction or the intermediary is a trader of works of art, in this number art gallery and auction house, the author of the work shall have the right to receive compensations from the sale price.

(2) In the sense of this article original works of art shall be the works of graphic and plastic art such as pictures, collages, paintings, sketches, engravings, prints, lithographs, sculpture figures, tapestries, ceramics, glassware and photographs, provided they are by the author himself, in this number copies considered to be originals according to **§ 4** of the additional provisions.

(3) The right of para 1 shall be inalienable except at inheriting.

(4) Para 1 shall not apply to acts of resale at price lower than the lev equivalent of 300 EURO.

(5) Para 1 shall not apply to acts of resale where the seller has acquired the work directly from the author less than 3 years before the date of the resale and where the resale price does not exceed the lev equivalent of 10 000 EURO.

(6) Any waiver of the right referred to in para 1 shall be invalid.

(7) The right referred to in para 1 shall continue as long as the copyright in the work is being protected.

### **Payment of the Compensations at Resale of Work of Art**

Art. 20a. (new – SG 99/05, in force from 10.01.2006) (1) The compensations referred to in **Art. 20, para 1** shall be determined in the following way:

1. 5 % for the portion of the sale price from the lev equivalent of 300.01 to 3000 EURO, plus
2. 4 % for the portion of the sale price from the lev equivalent of 3000.01 to 50 000 EURO, plus
3. 3 % for the portion of the sale price from the lev equivalent of 50 000.01 to 200 000 EURO, plus
4. 1 % for the portion of the sale price from the lev equivalent of 200 000.01 to 350 000 EURO, plus

5. 0,5 % for the portion of the sale price from the lev equivalent of 350 000.01 to 500 000 EURO, plus
6. 0,25 % for the portion of the sale price exceeding the lev equivalent of 500 000 EURO.

(2) Provided that before payment of the compensation the seller and/or the intermediary have paid any taxes on the occasion of the resale, the sum of the taxes shall be deducted from the sale price when applying of para 1.

(3) The compensation shall be calculated for each resold subject matter separately.

(4) The total amount of the compensation for a single object cannot exceed the lev equivalent of 12 500 EURO.

(5) The compensation shall be due jointly by the seller and the intermediary if available.

(6) The seller or the intermediary, if available, shall be obliged to notify the owner of the right referred to in **Art. 20, para 1** about the resale in a period of two months after it and to pay him the due compensation within the same period through an organization for collective management of rights or directly.

(7) The owners of the copyright and their organizations for collective management of rights may in a period of three years after the resale require from each trader of works of art who has participated in it to furnish any information that may be necessary to secure receiving of the compensation referred to in **Art. 20, para 1**.

(8) Seller in the sense of this article shall be the natural or legal person on whose behalf the sale is carried out.

### **Authorized Transmission over an Electronic Communication Network (Title amend. – SG 25/11, in force from 25.03.2011)**

Art. 21. (1) (suppl. - SG 28/00, in force from 05.05.2000; prev. text of Art. 21, amend. - SG 77/02, in force from 01.01.2003; amend. - SG 99/05, in force from 10.01.2006; amend. – SG 25/11, in force from 25.03.2011) The permission for wireless broadcasting of a work shall include permission to transmit it over any other electronic communication network or provision of electronic access to it as set out in **Art. 18, Para 2, Item 10** by the same organisation without paying additional compensation, provided that the transmission is conducted simultaneously with the broadcast, unabridged and unaltered and does not extend beyond the territory of which the right to broadcast has been granted. No additional compensation shall be due, where, within the scope of the granted authorisation referred to in the previous sentence, the initial transmission, respectively the electronic access to the work, is provided by another organisation and this constitutes the only way it reaches the end consumer.

(2) (new – SG 77/02, in force from 01.01.2003; amend. - SG 99/05, in force from 10.01.2006; amend. – SG 25/11, in force from 25.03.2011) Out of the cases referred to in para 1 permission for retransmission of a work over all other electronic communication networks, simultaneously with the transmission or broadcasting, unabridged and unaltered, by another organisation, shall be given only by organisation for collective management of copyright, unless the rights to retransmission of the works have been granted to the providers of media services in compliance with **Art. 91, Para 5**.

(3) (new – SG 99/05, in force from 10.01.2006; amend. – SG 25/11, in force from 25.03.2011) Provided that author has conceded the right of retransmission by cable his work to a producer of a phonogram or film or other audio-visual work, undertaking providing public electronic communication networks and/or ser

vices, which retransmits this work, shall owe to the author compensation separately from any other. Any waiver of such compensation by the author shall be invalid. The right to collect this compensation may be conceded by the author only to organizations for collective management of the respective category of copyrights.

(4) (new – SG 99/05, in force from 10.01.2006; amend. – SG 25/11, in force from 25.03.2011) The compensation referred to in para 3 shall be collected only through organizations for collective management of the respective categories copyrights. The amount and the method of its payment shall be determined by a agreement between these organizations and the obliged undertakings, providing public electronic communication networks and/or services.

(5) (new – SG 99/05, in force from 10.01.2006; amend. – SG 25/11, in force from 25.03.2011) The provisions of para 2, 3 and 4 shall not impede conclusion of agreements for authorizing rebroadcasting of programmes between radio and television organizations, implementing initial broadcasting or transmission of programmes of their own, and the retransmitting undertakings. Provided that the rights of retransmission of works included in the programmes of radio or television organizations have been duly conceded to them, the permission given by the organizations shall also include these rights.

### **Authorized Broadcasting in an Interrupted Chain of Communication (Title amend. – SG 25/11, in force from 25.03.2011)**

Art. 22. (amend. - SG 28/00, in force from 05.05.2000) (1) (amend. - SG 99/05, in force from 10.01.2006; amend. – SG 25/11, in force from 25.03.2011) The authorization for wireless broadcasting of the work shall also include the right to introduce the work into an interrupted chain of communication leading to satellite and back to the earth through programme-carrying signals under the control and the responsibility of the broadcasting organization in a way allowing its reception by the public. It shall be admissible the reception of the signal by the public to be implemented through the mediation of an organization different from the broadcasting one only if the author has conceded to this intermediary organization the right of wireless broadcasting, to transmit it over any type of electronic communication networks or perform it publicly in other way. In these cases the organization sending the signal to the satellite shall not owe compensation.

(2) When the signal under para 1 is coded the authorization shall be considered granted only on the condition that the decryption device is provided by the broadcasting organisation or with its consent.

### **Right of Compensation at Rental or Lending**

Art. 22a. (new – SG 99/05, in force from 10.01.2006) (1) Where author of musical or audio–visual work has conceded his rental right of audio or video carriers containing his work to the respective phonogram or film producer, the person renting such carriers shall owe to the author fair compensation separate from any other. Any waiver of such compensation by the author shall be invalid. The right to this compensation may be conceded in advance by the author through organizations for collective administration of rights or directly.

(2) At lending of works or copies of carriers containing them the authors shall have the right of compensation due by the person lending them.

(3) The provisions of para 1 and 2 shall not refer to the works of architecture, the applied arts and the national artistic crafts.

(4) Para 2 shall not be applied at lending by state and municipal cultural organizations implementing activity as libraries, school, university and culture centre libraries.

(5) The compensation referred to in para 2 shall be collected only through organizations for collective administration of the respective categories of copyrights. The amount and the method of their payment shall be determined by agreement between these organizations and the obliged persons.

**Chapter five.**  
**FREE USE OF WORKS**

**Section I.**  
**General Provisions (New - SG 94/18)**

**Permissibility of the Free Use (title amend. – SG 77/02, in force from 01.01.2003)**

Art. 23. (amend. - SG 77/02, in force from 01.01.2003) The free use of works shall be permissible only in the cases, pointed out in the law, under the condition, that the normal use of the work is not hampered and the legitimate interests of the owner of the copyright are not impaired.

**Free Use Without Payment of Compensation (title amend. – SG 77/02, in force from 01.01.2003)**

Art. 24. (amend. - SG 77/02, in force from 01.01.2003) (1) Without consent of the owner of the copyright and without payment of compensation shall be permissible:

1. (suppl. - SG 99/05, in force from 10.01.2006) temporary reproduction of works, having transient or incidental character, not having independent economic significance, constituting integral and essential part of the technological process and with the sole purpose to enable:

- a) a transmission in a network between third parties by an intermediary, or
- b) other permitted use of a work;

2. use of quotations from works of other persons already made available to the public at criticism or overview, pointing out the source and the name of the author, unless impossible; the quotation must comply with the usual practice and to be in amount, justified by the purpose;

3. use of parts of published works or of not big number of works in other works in amount, necessary for analysis, commentary or other kind of scientific research; such use shall be permissible only for scientific and educational purposes, indicating the source and the name of the author, unless impossible;

4. use as current information in periodicals and the other mass media of speeches, reports, preaches, etc. and parts thereof, presented at public meetings, as well as pleading, pronounced at court procedures, indicating the source and the name of the author, unless impossible;

5. (amend. - SG 99/05, in force from 10.01.2006) reproduction by the mass media of articles on current economic, political and religious topics already made available to the public unless such use has been explicitly forbidden, indicating the source and the name of the author, unless impossible;

6. reproduction in photographic, cinematographic or analogous way, as well as by sound recording or video recording of works related to current event, in order these works to be used by the mass media in limited extent justified by the informatory purpose, indicating the source and the name of the author, unless impossible;

7. use of works, permanently exhibited at streets, squares and other public places without mechanical contact copying, as well as wireless broadcasting or transmitting by cable or other technical device, if done with informatory or other non-commercial purpose;

8. public presentation and public performance of published works in educational or other learning establishments, provided that no pecuniary revenues are received and no compensation is paid to the participants in the preparation and realization of the presentation or the performance;

9. (amend. - SG 99/05, in force from 10.01.2006) reproduction of already published works by publicly accessible libraries, educational or other learning establishments, museums and archive institutions, with educational purposes or with the purpose of preservation of the works, unless serving for commercial purposes

es;

10. (amend. - SG 94/18) the use of already publicized works benefiting persons with disabilities, if it is directly related to the particular disability and is not done for profit, except for the cases of Section II of this Chapter;

11. granting access to individuals to works, located in collections of the organisations referred to in item 9, under the condition, that it is done with scientific purposes and has no commercial character;

12. temporary recording of work by radio- and television organisations, to which the author has granted the right to use the work, carried out by their own technical devices and for the needs of their own programmes within the margins of the granted authorization; records of important documentary value can be preserved in official archive;

13. use of works for the purposes of the national security, in the court- or administrative procedures or in the parliamentary practice;

14. use of works during religious ceremonies or at official ceremonies, organised by the public authorities;

15. (amend. – SG 25/11, in force from 25.03.2011, amend. – SG 28/18, in force from 29.03.2018) use of a building, which is work of architecture, or of a plan of such building for the purpose of its reconstruction, carried out following coordination with the respective collective management organization.

(2) The provisions of para 1 shall not refer to the computer software. The provisions of **Art. 70** and **71** shall be applied thereto.

### **Free Use with Payment of Compensation (title amend. – SG 77/02, in force from 01.01.2003)**

Art. 25. (amend. - SG 77/02, in force from 01.01.2003) (1) (amend. - SG 99/05, in force from 10.01.2006) Without consent of the owner of the copyright but upon payment of fair compensation shall be admissible:

1. reproduction with non-commercial purposes of printed works, except note materials, on paper or other similar carrier by reprography or other technique, ensuring similar result;

2. reproduction of works, regardless of the carrier, by a natural person for personal use unless done with commercial purposes.

(2) The provision of para 1, item 2 shall not refer to computer software and architectural works. For the computer software shall be applied the provisions of **Art. 70** and **71**.

### **Binding of the Free Use with the Preservation of the Technological Measures for Protection**

Art. 25a. (new – SG 77/02, in force from 01.01.2003) (1) (prev. text of Art. 25a – SG 99/05, in force from 10.01.2006) The use of works under **Art. 24, para 1** and **Art. 25, para 1** cannot be carried out in a way, which is accompanied with removal, damaging, destroying or disruption of technological measures for protection without the consent of the owner of the copyright.

(2) (new – SG 99/05, in force from 10.01.2006, amend.and suppl. - SG 94/18) Users who want to benefit from the provisions referred to in **Art. 24, para 1, items 3, 9, 10, 12 and 13, Art. 25, para 1, item 1,** Art. 26a and 26b for works which they have the legal right to use, but are impeded by technological measures for protection may request from the owner of the right to grant them the respective access in extent justified by the purpose. This provision shall not apply to the cases when works or other subject matter under protection have been made available to unlimited number of persons on agreed contractual terms in a way allowing access from a place and at a time individually chosen by each of them.

## Compensation for Free Use (title amend. SG 77/02, in force from 01.01.2003)

Art. 26. (amend. - SG 25/11, in force from 25.03.2011) (1) Authors of works, performers, producers of phonograms and producers of initial recordings of movies or other audio-visual works shall be entitled to a compensatory remuneration, where the recordings are reproduced for personal use as set out in **Art. 25, Para 1, Item 2**. A right to compensatory remuneration shall also have the authors and publishers of any kind of print works, when such works are reproduced in reprographic manner for personal use under the conditions of **Art. 25, Para 1, Item 1**.

(2) Any waiver of the right to compensatory remuneration by the rightholders referred to in Para 1 shall be invalid.

(3) The remuneration referred to in Para 1 shall be due by the persons who:

1. manufacture blank information carriers;
2. import from third countries blank information carriers.

(4) The remuneration referred to in Para 1 shall be due by the persons referred to in Para 3 for sales of information carriers on the territory of the Republic of Bulgaria, primarily intended for reproduction of works for personal use by natural persons under **Art. 25, Para 1, Item 2**.

(5) The types of information carriers, which primary use is reproduction in the sense of **Art. 25, Para 1**, for which remuneration under Para 1 is due, and the amount of the remuneration shall be determined annually by the organisations referred to in Para 8, agreed upon with representative organisations of the persons under Para 3 and 4, as well as with other interested persons. In negotiating the types of carriers and the amount of remunerations shall be taken into account the recording capacity of the carriers and the extent of their use for reproduction in the sense of **Art. 25, Para 1**. The amount of remuneration shall not be lower than 1.0 percent or exceed 1.5 percent of the supply value according to the accounting standard for processing the stock reserves of the respective blank information carriers. For the persons referred to in Para 3 may be negotiated discounts, which amounts and conditions of use shall be determined in the negotiation procedure set for determining the amount of the basic remuneration.

(6) (Repealed – SG 28/18, in force from 29.03.2018)

(7) (Repealed – SG 28/18, in force from 29.03.2018)

(8) (Amend. – SG 28/18, in force from 29.03.2018) The remunerations referred to in para 1, first sentence, and para 1, second sentence, shall be paid to organisations which shall be different for the two separate categories of rights, established as set out in **Division "a"**, by associations, representing the different categories of rightholders regarding their right to compensatory remuneration and having a mechanism for individual allocation of those remunerations among their members. These organisations shall allocate the remunerations among their members. Before allocation 30 percent of the collected amounts shall be deduced and deposited to the account of the National Fund "Culture". The persons referred to in Para 3 shall be deemed to have fully performed their obligations under this article with the payment of the remunerations referred to in Para 1 to an organisation under the first sentence.

(9) The allocation of the collected amounts among the individual categories of rightholders shall be carried out in the following way:

1. regarding remunerations under para 1, first sentence:
  - a) a half - for the authors;
  - b) a quarter - for the performers;
  - c) a quarter - for the producers;
2. regarding remunerations under para 1, second sentence:
  - a) 50 percent - for the authors;
  - b) 50 percent - for the publishers.

(10) Compensatory remunerations for blank information carriers shall not be due, or, if collected, be stored, when:

1. delivered from the territory of another Member State of the European Union;

2. delivered from the territory of a third country and already levied, without possibility for restoration, with a compensatory remuneration for reproduction, equivalent to the remuneration referred to in **Art. 25, Para 1** according to the legislation of the said Member State of the European Union or the third country;
3. they are subject to transaction for export to third countries or delivery to another Member State of the European Union;
4. purchased in the country by a person that has legally obtained the right to make such recordings and has arranged the authors' rights and related rights questions related to the recording;
5. purchased by a provider of audio-visual media services/radio services, legally carrying out his activity;
6. purchased in the country by manufacturers of movies or other audio-visual works;
7. purchased by medical establishments, specialised rehabilitation hospitals, social establishments and penitentiary establishments;
8. purchased by legal persons, sole entrepreneurs or natural persons - freelancers, whose activity does not presuppose their use for reproduction in the sense of **Art. 25, Para 1**.

(11) When compensatory remunerations have been collected and are subject to restoration, the facts and circumstances justifying the right to restoration shall be proved by the persons claiming it. The requests, accompanied by the evidence, shall be submitted to the respective organisations referred to in Para 8 within the time limits referred to in Para 12. The organisations referred to in Para 8 shall pronounce on the requests within one month from their submission. The amounts subject to restoration shall be paid by the organisations referred to in Para 8 within one month from the date of the protocol for granting the requests with the evidence.

(12) The persons, which under Para 4 are due compensatory remunerations, shall be obliged within one month from the end of every calendar six months to provide to the organisation under Para 8 a summary of the types and total supply value according to the accounting standard for processing the stock reserves of sold carriers of each type, for which compensation is due. No further detailed information may be requested than the information required for the purpose of allocating the remunerations referred to in Para 1 by the organisations referred to in Para 8. The received information shall not be made public or used for any other purpose except for collecting and allocating the remunerations. The remunerations shall be paid to the organisations collecting them within one month from the end of the accounting period.

## **Section II.**

### **Special provisions for persons with disabilities that prevent them from reading printed materials (New - SG 94/18)**

#### **Subject**

Art. 26a. (New - SG 94/18) (1) Without the consent of the right-holder and without payment of remuneration, the use according to the provisions of this Section of written works or related subject matter for the benefit of persons with disabilities that prevent the reading of printed materials.

(2) A written work or related subject matter shall be:

1. a work created in writing that has been disclosed and reproduced in accordance with this law in any way and in any form, such as a book, a specialized publication, a newspaper, a magazine, a note, a musical score and illustration;

2. an object of a related right which includes the object under item 1 or is an integral part of it.

(3) A person with a disability which prevents him from reading printed materials shall be a person who:

1. is blind;

2. is permanently visually impaired and otherwise print-disabled to the same extent as a person with

out such disability;

3. has a perceptual or reading disability and is, as a result, unable to read printed works to the same degree as a person without such disability;

4. is otherwise unable, due to a physical disability, to hold or manipulate a book or to focus or move their eyes to the extent that would be normally acceptable for reading.

### **Creating and making available for use an accessible format copy**

Art. 26b. (New - SG 94/18) (1) The use under **Art. 26a, Para. 1** of a written work or other related subject matter in order to create an accessible format copy must meet the conditions as per **Art. 23**, must be directly related to the particular disability and on a non-profit basis. The use under sentence one shall be admissible:

1. through actions under **Art. 18, Para. 2, items 1-5, 7, 8 and 10**;
2. in case of lending under **Art. 22a, Para. 2** and **Art. 84, 90** and **90c** regarding **Art. 22a, Para. 2**;
3. through actions under **Art. 76, Para. 1, item 1** - on sound recording, video recording, reproduction of recordings and their distribution, and item 3;
4. through actions under **Art. 86, Para. 1, items 1, 3 and 4**, and **Art. 88**;
5. through actions under **Art. 90a, Para. 1, items 1, 5, 6 and 8**;
6. through actions under **Art. 91, Para. 1, item 1** - on re-broadcasting, items 2, 3 and 4;
7. through actions under **Art. 93c**.

In the cases under sentence two, **Art. 18, Para. 3** and **Art. 18a** shall not apply.

(2) An accessible format copy means a copy in the form or format, through which a print-disabled person receives access to a written work or to another related subject matter in the same manner and to the same extent as a person without disability as per **Art. 26a, Para. 3**. Accessible format is the Braille alphabet, large font, adapted e-book, sound recording of the content of a written work (audiobook), radio broadcasting and the like.

(3) An accessible format copy may be created by:

1. a person with a disability under **Art. 26a, Para. 3**, personally or through a person acting on his behalf;
2. a legal entity who has submitted a notification to the Minister of Culture, has its registered office in the Republic of Bulgaria and is:
  - a) a community culture centre, or
  - b) non-profit-making for the provision of socially useful activity for the benefit of persons with disabilities under **Art. 26a, Para. 3**, or
  - c) a state or municipal cultural organization operating as a library, or
  - d) a special school for the training and support of students with perceptual impairments - impaired hearing or impaired vision.

(4) A legal entity under Para. 3, item 2 may provide a copy in an accessible format directly to a person with a disability under **Art. 26a, Para. 3**, or through another person under Para. 3, item 2, irrespective of the Member State of the European Union in which the person's permanent address or registered office is situated. In the cases referred to in the first sentence, the use shall be admissible by acting under:

1. **Art. 18, Para. 2, items 2, 4, 5 and 10**;
2. **Art. 76, Para. 1, item 1** - regarding distribution, item 2 - regarding broadcasting, transmission and retransmission, and item 3;
3. **Art. 86, Para. 1, item 1** - regarding distribution, item 3 - regarding broadcasting, transmission and retransmission, and item 4;
4. **Art. 90a, Para. 1, item 3** - regarding broadcasting, items 4, 6 and 8;
5. **Art. 91, Para. 1, item 2** - regarding distribution, and item 3.

(5) The accessible format copy shall preserve the integrity of the written work or the other related s

subject matter, from which it was created, taking into account the changes necessary for its creation.

(6) A person with a disability under **Art. 26a, Para. 3** or a legal person under Para. 3, item 2 with permanent address or registered office in the Republic of Bulgaria shall be entitled to receive an accessible format copy or access to such copy from another person under Para. 3, item 2, regardless of the Member State of the European Union where it has its registered office.

(7) The contract limiting the rights under this Section shall be void.

### **Obligations of the legal person under Art. 26b Para. 3, item 2**

Art. 26c. (New - SG 94/18) (1) The legal person under **Art. 26b, Para. 3, item 2** shall notify the Minister of Culture about his intention to create and make available accessible format copies, including about any changes having occurred, within three months of the decision of the management body. The notification shall contain a name, legal form and contact details.

(2) The actions under **Art. 26b, Para. 1 and 4** shall be documented and performed by the legal person under **Art. 26b, Para. 3, item 2** with due care and in such a way as to ensure that the accessible format copy:

1. does not violate the non-material rights under **Art. 15, Para. 1, items 4 and 5, Art. 75, Para. 1 and Art. 87**;

2. is provided according to **Art. 26b, Para. 4** only to persons with disabilities under **Art. 26a, Para. 3**, or to legal persons under **Art. 26b, Para. 3, item 2**;

3. is not going to be used in violation of **Art. 26b**.

(3) The legal person under **Art. 26b, Para. 3, item 2** shall publish information on the observance of the obligations under Para. 2 on its website as well as in another appropriate way. The information shall be updated twice a year.

(4) The legal person under **Art. 26b, Para. 3, item 2**, having its registered office in the Republic of Bulgaria, at the request of a person with disability under **Art. 26a, Para. 3**, of another person under **Art. 26b, Para. 3, item 2**, or of a rights holder, shall inform that person in an accessible manner about:

1. the list of written works or the other related subject matter with accessible format copies at its disposal, and the available formats;

2. the name and contact details of legal entities established in other Member States of the European Union, with whom it exchanges accessible format copies.

### **List of legal entities under Art. 26b, Para. 3, item 2**

Art. 26d. (New - SG 94/18) (1) The Minister of Culture or a Deputy Minister authorized by him shall maintain and publish on [the website of the Ministry of Culture](#) a list of the legal persons under **Art. 26b, Para. 3, item 2**, who have filed a notification.

(2) The Minister of Culture or a Deputy Minister authorized by him shall submit to the European Commission the list under Para. 1, and inform the Commission about the changes in it within three months from their occurrence.

### **Personal data protection**

Art. 26e. (New - SG 94/18, amend. - SG 17/19) Personal data provided in connection with this Section shall be processed in accordance with the requirements for its protection.

## **Chapter six.**

### **DURATION OF COPYRIGHT**

#### **General Rule**

Art. 27. (1) (amend. - SG 28/00, in force from 05.05.2000) Copyright shall be protected for the life of the author and seventy years after his death.

(2) In the case of works created by two or more authors the term specified in para 1 shall run from the death of the last surviving author.

(3) (new – SG 21/14) For music pieces with lyrics and musical dramatic works the term referred to in par. 1 shall expire seventy years after the death of the author of the music and the author of lyrics whoever has deceased the latest, notwithstanding whether these individuals are referred to as co-authors, provided that the lyrics and the music have been created to be used jointly.

#### **Anonymous and Pseudonymous Works**

Art. 28. (amend. and suppl. - SG 28/00, in force from 05.05.2000) Copyright in anonymous or pseudonymous work shall expire seventy years after the work has been first made available to the public. Provided that during the said term the author's identity is disclosed or if the pseudonym leaves no doubt as to his identity, the provisions of the preceding Article shall apply.

#### **Computer Programmes and Databases**

Art. 28a. (new - SG 28/00, in force from 05.05.2000; amend. and suppl. - SG 25.03.2011) Copyright in a computer programme or database arising for the employer according to **Art. 14** shall expire 70 years after making the work available to the public.

#### **Films**

Art. 29. (amend. - SG 28/00, in force from 05.05.2000) Copyright in a film or other audio-visual work shall expire 70 years after the death of the last surviving among the director, the scriptwriter, the operator, the author of the dialogue and the author of the music if it has been created especially for the film.

#### **Collection Works**

Art. 30. (1) (prev text of Art. 30, amend. - SG 28/00, in force from 05.05.2000; amend. and suppl. - SG 25/11, in force from 25.03.2011) Copyright in encyclopaedias, periodicals and other works referred to in **Art. 3, para 2, item 3** shall expire seventy years after making them available to the public. If during this term the author is disclosed, the provisions referred to in **Art. 27** shall apply.

(2) (new - SG 28/00, in force from 05.05.2000) In the case of works published in volumes, parts, issues or episodes the term under para 1 shall be calculated for each of them individually.

#### **Beginning of the Terms**

Art. 31. The terms referred to in the preceding Articles of this Chapter shall begin on the first of Jan

uary of the year following the year of the death of the author or in which the work was created, respectively made available to the public or published, according to **Art. 27 to 30**.

### **Copyright Inheriting**

Art. 32. (1) Upon the death of the author the copyright shall pass to his heirs by will or by law according to the **Inheritance Act**.

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

### **Exercising the Rights in Absence of Heirs**

Art. 33. (amend. - SG 28/00, in force from 05.05.2000; suppl. - SG 77/02, in force from 01.01.2003 ; amend. - SG 28/05; amend. - SG 99/05, in force from 10.01.2006) In case the author does not have heirs, or any such heirs die prior to the expiration of the term of protection, the copyright shall pass to the state which shall exercise it until expiration of the term through the Ministry of Culture. In case the dead author or his heir was member of organisation for collective administration of rights under this Act, that organisation shall at its own expense exercise these rights until their expiration.

### **Use of Works after Expiration of the Term of Protection**

Art. 34. After expiration of the term of copyright protection the works may be used freely inasmuch as this does not infringe rights under **Art. 15, items 4 and 5**, which shall be of unlimited duration. The bodies under **Art. 33** shall monitor the observance of these rights and may, as an exception, permit changes in the work.

### **Protection of Unpublished Works**

Art. 34a. (new- SG 28/00, in force from 05.05.2000) Everyone who makes available to the public a work after expiration of the term of protection of the copyright, if not published by then, shall have the rights under **Art. 18**. This right shall expire after 25 years, beginning from the first of January of the year following the year of making the work available to the public.

### **Protection of Works of Unknown Authors**

Art. 34b. (new - SG 25/11, in force from 25.03.2011) For works, which term of protection is not calculated from the death of the author or the authors and which have not been made available to the public within 70 years from their creation, the legal protection under this Act shall be terminated.

## **Chapter seven. USE OF WORKS**

### **Section I. General Provisions**

## **Consent of the Author for Use of the Work**

Art. 35. (amend. - SG 25/11, in force from 25.03.2011) The work shall be used only following the preliminary consent of the author unless otherwise provided for by this Act.

## **Contracts on Use**

Art. 36. (1) By concluding a contract on the use of his work the author shall grant to the user the exclusive or non-exclusive right to use the work created by him under specific terms and against compensation

(2) Whenever an author grants to a user exclusive right to use a work, the author himself may not use it in the manner for the term and on the territory agreed upon in the contract, nor shall he grant such right to third parties.

(3) Whenever an author grants a user non-exclusive right to use a work, the author may continue using it himself, as well as grant non-exclusive right to use the same work to third parties.

(4) The granting of exclusive right under para 2 shall be explicit and in writing. Whenever no such provision exists, it shall be considered that non-exclusive right has been granted.

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

(6) If the contract does not specify a territory on which the user may use the work, the country of citizenship of the user or the country of his seat, if a legal person, shall be considered as such territory.

(7) (New - SG 28/18, in force from 29.03.2018) The contract under Para. 1 shall be concluded individually through a collective management organization or through an independent management entity in accordance with the provisions of **Division "a"**.

## **Effect and Duration of the Contract**

Art. 37. (1) A contract under which the author has granted use of all works which he may create for the rest of his life shall be considered invalid.

(2) A contract on the use of a work may not be concluded for a term exceeding ten years. Whenever the contract has been concluded for a longer term, it shall have effect for ten years only. This limitation shall not apply to contracts related to architectural works.

## **Amount of the Compensation**

Art. 38. (1) (amend. - SG 25/11, in force from 25.03.2011) The compensation of the author for each type of use of his work may be defined as a portion of the revenues received from the use of his work, as single amount or in other form.

(2) Whenever the compensation defined as single amount proves obviously incommensurate with the revenues received from the use of the work, the author may claim increase of the compensation. If no agreement can be reached between the parties, the issue shall be resolved through the courts *ex aequo et bono*.

## **Avoiding a Contract when the Performance has not Commenced**

Art. 39. (1) If a contract granting exclusive rights does not specify a deadline by which the user should commence the use of the work, the author may avoid the contract if the use has not started within two ye

ars from the conclusion, or from the date of ceding the work if done after conclusion of the contract.

(2) Para 1 shall not apply to architectural works.

### **Section I.**

## **"a" Collective Management Organizations (New - SG 25/11, in force from 25.03.2011, repealed – SG 28/18, in force from 29.03.2018)**

### **Collective Management Organisations**

Art. 40. (Repealed – SG 28/18, in force from 29.03.2018)

### **Registration and control**

Art. 40a. (new - SG 25/11, in force from 25.03.2011, repealed – SG 28/18, in force from 29.03.2018)

### **Becoming an Organization of Collective Management of Copyright**

Art. 40b. (new - SG 25/11, in force from 25.03.2011, repealed – SG 28/18, in force from 29.03.2018)

### **Cancellation of the Registration**

Art. 40c. (new - SG 25/11, in force from 25.03.2011, repealed – SG 28/18, in force from 29.03.2018)

### **Register of the Collective Management of Copyright Organizations**

Art. 40d. (new - SG 25/11, in force from 25.03.2011, repealed – SG 28/18, in force from 29.03.2018)

### **Control of the Activity of the Organizations of Collective Management of Copyright**

Art. 40e. (new - SG 25/11, in force from 25.03.2011, repealed – SG 28/18, in force from 29.03.2018)

### **Amounts of Remunerations Collected by Organisations for Collective Management of Copyright**

Art. 40f. (new – SG 25/11, in force from 25.03.2011, repealed – SG 28/18, in force from 29.03.2018)

### **Mediation**

Art. 40g. (new - SG 25/11, in force from 25.03.2011, repealed – SG 28/18, in force from 29.03.2018)

### **Fees**

Art. 40h. (new – SG 25/11, in force from 25.03.2011, repealed – SG 28/18, in force from 29.03.2018)

## **Section I.**

### **Special Cases (New – SG 25/11, in force from 25.03.2011)**

#### **Work Created Under Employment of Civil Service Relationship (Title amend. – SG 25/11, in force from 25.03.2011)**

Art. 41. (1) (suppl. – SG 25/11, in force from 25.03.2011) Copyright in a work created under employment or civil service relationship shall belong to the author unless otherwise provided by this Act.

(2) (amend. - SG 28/00, in force from 05.05.2000; amend. – SG 25/11, in force from 25.03.2011) The employer or the appointing authority shall have the exclusive right without authorization by the author and without paying compensation, unless otherwise provided by the employment contract or the act of appointment, to use such a work for his own purposes. The employer or the appointing authority may exercise this right in a manner and to a degree corresponding to his usual activity.

(3) (amend. – SG 25/11, in force from 25.03.2011) Whenever the remuneration of the author at the time of creation of the work under para 1 proves incommensurate with the revenues in the sense of **Art. 38, para 2** collected from the use of the work, the author may demand additional compensation. If no agreement was reached between the parties, the issue shall be resolved through the court ex aequo et bono.

#### **Work Created under Mandate**

Art. 42. (1) Copyright in a work created under mandate shall belong to the author of the work unless otherwise provided by the assignment contract.

(2) Unless agreed otherwise, the mandator shall have the right to use the work without authorization by the author for the purpose it was commissioned.

## **Section II.**

### **Publishing Contract**

#### **Definition**

Art. 43. By the publishing contract the author grants the publisher the right to reproduce and distribute the work, and the publisher is obliged to perform these actions and to pay the author compensation.

#### **Types**

Art. 44. By publishing contract granted may be the right to reproduce and distribute a work which has been already created, or a work which the author has promised to create.

## **Expanding the Field of Application**

Art. 45. (1) Where by a publishing contract an author has granted a publisher the right to use the work for other purposes besides publishing, the publisher may grant the use of the work for these other purposes to third parties if this is explicitly agreed upon.

(2) In case of granting under para 1, the publisher shall inform the author in writing.

## **Form**

Art. 46. The publishing contract shall be concluded in written form.

## **Special Non-Mandatory Rules**

Art. 47. Unless otherwise provided by the publishing contract, it shall be assumed that:

1. the publisher has been granted rights for one printing only;
2. (amend. - SG 28/00, in force from 05.05.2000 the publisher has been granted the right to publish the work in printing of no more than ten thousand copies;
3. compensation to the amount of fifteen per cent of the retail price of each sold copy of the work shall be due to the author;
4. the number of copies which the publisher may provide to the author free of charge may not be less than five for each printing;
5. the publisher shall publish the work in the language in which it has been ceded to him;
6. the publisher may distribute the printing only on the territory of the country of his citizenship or where his seat is located if a legal person.

## **Making Amendments**

Art. 48. Prior to undertaking a subsequent printing the publisher shall be obliged to give the author a chance to make amendments and supplementations to the work.

## **Returning Originals Offered for Publishing**

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

## **Destroyed Copies**

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

## **Termination**

Art. 51. Unless agreed otherwise, the publishing contract shall be terminated with expiration of its t

erm or when the run is sold out, or when the last run is sold out if more than one printing have been agreed upon.

### **Termination Prior to Expiration of the Term**

Art. 52. (1) Unless agreed otherwise, the author may terminate the publishing contract unilaterally by written notification whenever that contract was concluded for more than one printing and the run of the last printing was sold out and no subsequent reproduction and distribution of the work was undertaken by the publisher within one year, provided that the author had requested the publisher to do so within the same term.

A print run shall be assumed sold-out whenever the number of unsold copies amount to no more than five per cent of the run of the printing.

(2) In the cases referred to in para 1 the author shall not refund the compensation already received.

### **Publishing at the Expense of the Author**

Art. 53. (1) The author may at his own expense assign to publisher the reproduction and distribution of a given number of copies of his work.

(2) The author may agree with a publisher to reproduce and distribute copies of the work by participating in the expenses of the publishing and in the revenues of the distribution.

### **Contracts on Reproduction and Distribution of Phonograms**

Art. 54. (1) (amend. - SG 28/00, in force from 05.05.2006) If the contract for reproduction and distribution of the work in the form of phonograms does not stipulate otherwise and the author has not granted the management of these rights to organisation for collective management it shall be considered that:

1. the user shall be obliged to carry out the recording within six months from the day on which the author has submitted the work in a form allowing the recording, and the reproduction and the distribution - within six months from the recording;
2. the user has been granted the right to reproduce the work in a run of no more than 5000 copies;
3. compensation shall be owed to the author amounting to the respective part of 10 percent of the wholesale price of each sold copy of the sound carrier, proportionally of the duration of his work to the duration of the whole sound carrier;
4. the user shall provide to the author free of charge 5 copies of each produced variant of the sound carriers.

(2) (revoked - SG 28/00, in force from 05.05.2000)

(3) (amend. - SG 99/05, in force from 10.01.2006) The right granted by the author for the recording, reproduction and distribution of his work in the form of phonograms shall not include the right to use the recorded work for public performance, wireless broadcasting, or transmission or retransmission by cable. The inclusion of such rights shall be agreed upon explicitly.

## **Section III.**

### **Contract on Public Presentation or Performance**

#### **Definition**

Art. 55. With a contract on public presentation the author of a performing arts work shall grant a user the right to present the work, and the user shall be obliged to present the work and pay compensation to the author.

### **Non-Mandatory Rules**

Art. 56. Unless otherwise provided by contract, it shall be assumed that:

1. the author may grant the right of public presentation to other users outside the population centre where the user has his seat;
2. the term of the contract shall be three years;
3. the user shall present the work to the public within a term of one year from receiving it;
4. (amend. - SG 28/00, in force from 05.05.2000) the compensation to the author shall be determined in amount of fifteen per cent of the gross revenues of each presentation of the work;
5. the user shall report to the author twice per year on the number of public performances and the amount of revenue received;
6. the author may terminate the contract whenever the user has halted the public presentation of the work for a period longer than one year.

### **Contracts on the Use through Wireless, Cable or Other Technical Means**

Art. 57. (amend. - SG 99/05, in force from 10.01.2006) The provisions of items 1, 2, and 3 of **Art. 56** shall also apply to contracts on broadcasting by wireless or transmission and retransmission by cable of performing arts works, as well as of musical or literary works that have not been made available to the public. Unless agreed otherwise in the contract it shall be assumed that the author has granted the user the right of a single broadcast or transmission of the work.

### **Contracts for Live Performance, Wireless Broadcasting, Transmission or Re-transmission by Cable, and for Granting Access (Title amend. – SG 28/18, in force from 29.03.2018)**

Art. 58. (1) (Previous text of Art. 58, suppl.- SG 28/00, in force from 05.05.2000, amend. - SG 99/05, in force from 10.01.2006, suppl. - SG 25/11, in force from 25.03.2011, suppl. - SG 21/14, amend. - SG 28/18, in force from 29.03.2018) Any author of a musical, literary or audiovisual work which has been made public shall give his prior and written consent for it being performed live in public or recorded, for wireless broadcasting, for transmission or retransmission by cable, and for granting of wireless or cable access of a work or part thereof to unlimited number of people, in a manner permitting this access to be from a place and at a time individually chosen by each of them. The consent can be given individually by the author, through a registered collective management organization, or through a registered independent management entity, unless the Act otherwise provides.

(2) (New - SG 28/00, in force from 05.05.2000, revoked - SG 77/02, in force from 01.01.2003, new – SG 25/11, in force from 25.03.2011) The contracts conceding the right to public performance of works during concerts shall be concluded with the persons - organizers of the concerts who are to ensure the venue of the performance, technical and other means, the participation of the performers and the announcement of the concerts, regardless of at whose expense this happens.

(3) (New - SG 28/18, in force from 29.03.2018) The venue for the concert shall be provided to the organizer of the concert for use on the basis of certified copies of the contracts for conceding the right to public performance of the works to be performed. In case of non-fulfillment of the obligation under Sentence one, the person providing the venue to be used shall be jointly liable together with the concert organizer for pa

yment of the outstanding remuneration to the authors regarding the public performance.

(4) (New - SG 28/18, in force from 29.03.2018) In the event of works being publicly performed in concerts, the user shall provide the organization for collective management of rights, within three days prior to the performance, a preliminary list of the works which are to be performed during the concert, and their authors, and after the public performance - an accurate account of the works performed and their authors, as well as an accurate account of the concert revenue.

(5) (New – SG 25/11, in force from 25.03.2011, previous Para. 3 - SG 28/18, in force from 29.03.2018) “Organizer” in the sense of Para. 2 shall also be any other person presenting himself as such in advertisement materials, press releases, posters, billboards, brochures, etc.

(6) (New – SG 25/11, in force from 25.03.2011, previous Para. 4 - SG 28/18, in force from 29.03.2018) The concert organizer shall be obliged to place their name, logo or other identifying mark on advertisement materials, press releases, posters, billboards, brochures, concert tickets, etc.

## **Section IV. Contract on Publishing in a Periodical**

### **Right to Use an Ordered Work**

Art. 59. (1) The author of a work under mandate may not, without the consent of the publisher, offer that work or parts thereof to other periodicals for publishing as a separate publication as well as for wireless broadcasting prior to its publishing by the publisher.

(2) Unless agreed otherwise, the restrictions under the preceding Paragraph shall not apply where fifteen days, for newspapers, and three months, for magazines, have elapsed since the submission of the manuscript and the publisher has not published it or has not informed the author within those terms that the work will be published indicating the number of the issue in which it will be published.

### **Right of Second Use**

Art. 60. The author may use his work, already published in a periodical, after the date of publication unless agreed otherwise in writing.

### **Returning of Materials Offered for Publication**

Art. 61. The publishers of periodicals shall return the originals of works of fine art, original documents and illustrations offered for publication, unless agreed otherwise in writing.

## **Section V. Creating and Using Films and Other Audio-Visual Works**

### **Owners of Rights**

Art. 62. (1) (suppl. - SG 77/02, in force from 01.01.2003) Copyright in films and other audio-visual work shall belong to the director, the scriptwriter and the operator. In respect of cartoons the production designer shall also have copyright.

(2) The authors of the music, the dialogue, the already existing literary work upon which the audio-visual work was made, the scenery, the costumes, as well as of all other works included in it shall retain copyrights in their own works.

(3) Producer in the sense of this section shall be the natural or legal person who organises the creation of the work and provides its financing.

### **Contracts on Creation and Use**

Art. 63. (1) (amend. and suppl. - SG 99/05, in force from 10.01.2006) The authors under **Art. 62** shall all conclude written contracts with the producer that, unless agreed otherwise or otherwise provided by this Act, shall be deemed to grant the producer within the country and abroad the exclusive right of reproduction of the work, communication to the public, wireless broadcasting or transmission and retransmission by cable, reproduction on video carriers and their distribution, making it or part of it available to unlimited number of persons by wireless means or by cable in a way allowing access from a place and at a time individually chosen by each of them, as well as the right to authorise the translation, dubbing and subtitling of the text.

(2) The producer shall pay the authors under the preceding Article compensation for the rights granted. In this case the provisions of **Art. 41, para 2** and **Art. 42, para 2** shall not apply.

(3) Provided that any of the authors under **Art. 62** refuses to complete his part in the creation of the film or other audio-visual work, or cannot complete it through no fault of himself, he shall not prevent the use of the work completed by him for the completion of the project. That shall not deprive him of the copyright in the portion of the work completed by him with all ensuing consequences.

(4) An audio-visual work shall be considered completed whenever a final version was established by agreement between the director and producer.

(5) Any changes in the final version through addition, elimination or change of some of the elements require the consent of the persons under para 4.

(6) (amend. - SG 63/94) Upon declaring bankruptcy of a producer any author under **Art. 62** shall be entitled to purchase the source materials of the work at the highest offered price provided that within three days from closing of the biddings he requests that in writing.

(7) (amend. - SG 77/02, in force from 01.01.2003) In case the producer cannot finish the work or after finishing it he wants to dispose of the source working materials containing initial record or respectively the source materials of the final version of the work, he shall be obliged to concede them to the authors under **Art. 62, para 1** for free.

(8) (new - SG 28/00, in force from 05.05.2000) Within five years from the date of making the work available to the public the producer or the persons who have become owners of the source materials of the final version of the work shall deposit these materials into the National Film Archive. This shall concern only films whose producer is a Bulgarian natural or legal person.

### **Secondary Use**

Art. 64. (amend. - SG 99/05, in force from 10.01.2006; amend. – SG 25/11, in force from 25.03.2011) The producer may grant to third parties, at assuming the obligations under **Art. 65**, the right to broadcast the work by wireless means or to transmit and retransmit it over electronic communications network and provision of electronic access, to reproduce it on any type of carriers, such as video carriers for distribution or presentation for public display, where he shall be obliged to notify the authors under **Art. 62, para 1** in writing within one month, unless otherwise provided by this Act.

### **Compensations**

Art. 65. (1) (amend. - SG 28/00, in force from 05.05.2000; suppl. - SG 77/02, in force from 01.01.2003; suppl. - SG 99/05, in force from 10.01.2006) The director, the scriptwriter, the operator and the compos

er, and in respect of cartoons – also the production designer, shall be entitled to fair compensation, separate from the one referred to in **Art. 63, para 2**, also for each type of use of the film or audio-visual work, while the rest of the authors referred to in **Art. 62** – only in case such compensation has been agreed upon. The compensations from the different types of use of the work granted by the authors to the producer referred to in **Art. 63, para 1**, as well as the way in which the author wants to receive them in compliance with para 2 shall be determined separately for each type of use.

(2) (amend. – SG 25/11, in force from 25.03.2011) Compensations for the different types of use of the work shall be due by the respective users. The compensations, upon request by the authors, may be received through the producer or through organisation for collective administration of copyrights. In the latter case, the producer shall include such a provision in the contracts for use of the work concluded by him.

(3) In case already announced work is communicated to the public for an admission fee, the compensation shall be proportional to the revenue of the producer.

(4) (suppl. - SG 77/02, in force from 01.01.2003; amend. - SG 99/05, in force from 10.01.2006) Regardless of the compensation referred to in para 2, the authors under para 1 shall be entitled to a percentage of every revenue of the producer, realised from the use of the work.

(5) (new – SG 25/11, in force from 25.03.2011) Irrespective of the contract between the authors and the producer, where the work is presented on public places, in which the access is provided against payment of an entrance fee or a total amount, the authors shall be entitled to a percent of the income from every occasion of such presentation. Any waiver of such right to remuneration by the authors shall have no effect.

(6) (new – SG 99/05, in force from 10.01.2006; prev. text of Para 05 – SG 25/11, in force from 25.03.2011) Where the use is in the form of rental or lending of copies of the work the provisions of **Art. 22a** shall be applied.

(7) (new – SG 99/05, in force from 10.01.2006; prev. text of Para 06 – SG 25/11, in force from 25.03.2011) Where the use is in the form of retransmission of the work by cable the provisions of **Art. 21, para 3, 4 and 5** shall be applied.

### **Accounting to the Authors**

Art. 66. At the request of the persons referred to in **Art. 62**, the producer shall provide to them at least once a year a statement on the revenues from each type of use of the work.

### **Use of Parts of a Film**

Art. 67. The producer may use parts of the work or individual frames in amount justified by the film advertising without the consent of the authors and without payment of compensation. He may use such parts or frames for other purposes only with the consent of the authors under **Art. 62, para 1** and shall pay them compensation. Other persons may use parts or frames only with the consent of the authors under **Art. 62, para 1** and shall pay them compensation.

## **Section VI.**

### **Use of Works of Fine Art, Architecture and Photography**

#### **Assumption of Granted Right of Public Exhibition**

Art. 68. (1) (prev. text of Art. 68, amend. - SG 28/00, in force from 05.05.2000) The transfer of ownership of works of fine art and works created by photographic or analogous method shall also transfer, unless agreed otherwise in writing, the transfer of the right of public exhibition of the works.

(2) (new - SG 28/00, in force from 05.05.2000) The transfer of the right of using architectural design, unless otherwise agreed, shall also transfer the right of public exhibition of the design.

### **Subsequent Use of Architectural Project**

Art. 69. The written consent of the author shall be required for every subsequent use of the architectural project of an already completed building or other created object.

## **Section VII. Use of Computer Programmes**

### **Non-Mandatory Rules**

Art. 70. Unless agreed otherwise, it shall be deemed that the person who has lawfully acquired the right to use a computer programme may use that programme, display it on a screen, execute it, transmit it, store it in the memory of computer, translate it, adapt it and introduce other changes in it as much as these actions are necessary for attaining the objective for which the right to use that programme was acquired, including for elimination of errors.

### **Mandatory Rules**

Art. 71. The person who has lawfully acquired the right to use a computer programme may without the consent of the author and without payment of separate compensation:

1. make a back-up copy of the programme insofar as it is necessary for the respective use for which the program had been acquired;
2. observe, study and test the functioning of the programme in order to determine the ideas and principles which underlie any of its elements as much as this is done in the process of loading the programme, displaying it on a screen, running, transmitting or storing it in the computer memory on the condition that he is entitled to carry out these actions pursuant to **Art. 70**;
3. (suppl. - SG 28/00, in force from 05.05.2000) translate the programming code from one form into another only if that is absolutely necessary for obtaining information to achieve interoperability of an existing program with other programs and on the condition that the necessary information on how to do that is not readily provided and that these acts are undertaken only in respect of such parts of the programme that are necessary to achieve interoperability. The obtained information shall not be used for the creation and distribution of a computer programme insignificantly different from the programme the code of which is being translated, nor for any other action that may infringe the copyrights in the programme.

## **Administration and Control of Software Assets by the Bodies of the State Authority and the Local Government**

Art. 71a. (new – SG 77/02, in force from 01.01.2003; revoked – SG 99/05, in force from 10.01.2006)

## **Section VIII. Special rules for the use of orphan works and sound records (new – SG 14/15)**

## Field of application

Art. 71b. (new – SG 14/15) (1) The provisions of this Section can be enjoyed by generally accessible libraries, educational institutions and museums, and also archival repositories, institutions keeping film and sound record heritage and public radio- and television organizations with a main office in the Republic of Bulgaria only in view of achievement of objectives related to their public purpose of use.

(2) The provisions of this section shall apply to:

1. works, published in the form of books, specialized editions, magazines, newspapers, and other printed works, being a part of the funds of generally accessible libraries, educational institutions or museums, archival repositories or institutions keeping film and sound record heritage;

2. films and other audio-visual works and sound records, being a part of generally accessible libraries, educational institutions, museums, archival repositories or institutions keeping film and sound record heritage;

3. films or other audio-visual works and sound records, produced by public radio- and television organizations by 31 December 2002, including those in their archival repositories, which are subject to copyright or a right related thereto, and have been published for the first time in a European Union Member State, or, in case they have not been published, they have been shown for the first time in such state, as long as they are regarded as orphan ones within the meaning of **Art. 71c**.

(3) The provisions of this Section shall also apply to works and sound records within the meaning of par. 2, which have never been published or shown, but have been made publicly available by the organizations under par. 1 with the consent of bearers of rights thereon, provided that there is a reason to assume, that right bearers will not object uses within the meaning of **Art. 71g**.

(4) This Section shall also apply to works and other items subject to protection which have been included in or are an integral part of the items under par. 2 and 3.

(5) The provisions of this Section shall not affect the application of the regulations concerning rights management.

## Orphan works and sound records

Art. 71c. (new – 14/15) (1) A work or a sound record shall be regarded as orphan ones if any of bearers of rights thereon is not identified, or provided that one or more of them are identified, the location of neither of them cannot be identified notwithstanding the carried out and documented due searching for, made in compliance with **Art. 71d**.

(2) If a work or a sound record has got more than one bearer of rights and not all of them have been identified or even being identified their location remains unknown after carrying out and documenting of a due searching made according to **Art. 71d**, the work or the audio record may be used according to the provisions of this Section provided that the rights bearers having been identified and whose location is known, have authorized in terms of the rights they hold, the organizations under **Art. 71b, par. 1** to copy them and to provide access within the meaning of **Art. 18, par. 2, item 1 and 10**.

(3) The provision of par. 2 cannot affect the rights on a work or sound record of right holders, who have been identified and whose location is known.

(4) The provisions of this Section do not cover the rules regarding works, made known under a pen-name or anonymously.

## Due search

Art. 71d. (new – SG 14/15) (1) Organizations under **Art. 71b, par. 1** shall carry out due searching for every work or sound records in order to find whether they got orphan or not by studying the respective sources of information. The due search must be carried out before the use of the work or of the sound record.

(2) (Amend. – SG 28/18, in force from 29.03.2018) Sources under which due search is carried out in the Republic of Bulgaria, shall be determined by the Minister of Culture or by a Deputy Minister nominated by them after consultations with the associations of rightsholders and users. The list of minimum sources is shown in **Attachment 1** to this act.

(3) Due search is carried out in the Republic of Bulgaria regarding:

1. the works and sound records which have been published for the first time in the Republic of Bulgaria, or if they have not been published – which have been broadcasted for the first time in the country;

2. films or other audio-visual works, where the main office or the usual residence of the producer is in the Republic of Bulgaria;

3. the works and audio-records under **Art. 71b, par. 3** where the main office of the organization is based on the Republic of Bulgaria.

(4) If there are data that the respective information about rights bearers may be found in other states, an inquiry is carried out in sources of information available in such other states.

(5) The organizations under **Art. 71b, par. 1** shall maintain documentation about the carried out due searches and shall inform the Minister of Culture about:

1. the results of due searches having been carried out and leading to the conclusion that a specific work or a sound record may be regarded as being orphan within the meaning of **Art. 71c**;

2. the actions for the use of such orphan works or sound records according to this Section;

3. any change within the meaning of **Art. 71f** of the status of the used by them orphan works and sound records;

4. their contact details.

(6) The Minister of Culture or a Deputy Minister authorized by them, after receiving the information under par. 5 shall send it to the Office for Harmonization in the Internal Market in compliance with Regulation (EU) No. 386/2012 of the European Union 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 assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights (OJ, L 129/1 of 16 May 2012).

### **Mutual recognition of the status of an orphan work or audio-record**

Art. 71e. (new – SG 14/15) Works or audio records regarded as orphan within the meaning of **Art. 71c** in any European Union Member State shall be regarded as such and can be used according to the provisions of this Section also in the Republic of Bulgaria. This shall also apply to works and audio records under **Art. 71c, par. 2**, as long as it refers to right holders who are not identified or whose location is not known.

### **Termination of the status of an orphan work or audio-record**

Art. 71f. (new – SG 14/15) A holder of rights on a work or sound record regarded as orphan may at any time terminate this, including in cases referred to in **Art. 71c, par. 2**, where their rights are affected.

### **Authorized use of orphan works and sound records**

Art. 71g. (new – SG 14/15) (1) Organizations under **Art. 71b, par. 1** may without the consent of the holder of a copyright or related right and without payment of a fee, use an orphan work or sound record available in their funds, by:

1. providing access thereto subject to compliance with the provision of **Art. 18, par. 2, item 10**;

2. copy it in order to digitalize, make it available, index, list in a catalogue, preserve or restore it.

(2) Organizations under **Art. 71b, par. 1** may use an orphan work or sound record in compliance with par. 1 only in view of achievement of objectives related to their public purpose of use, in particular to preservation, restoration and provision of access for cultural and educational purposes to works and sound records.

ds available in their funds. These organizations may collect for this use fees, however as far as this is relevant in order to cover the cost of digitalization of the orphan works and sound records and of provision of public access thereto.

(3) Organizations under **Art. 71b, par. 1** shall be obliged to provide for every use of orphan works and sound records indication of the names of authors and of other right holders, which are identified.

(4) The provisions of this Section do not affect the right of the organizations under **Art. 71b, par. 1** to conclude contracts within the scope of their activity, related to the fulfillment of their public purpose of use.

(5) Bearers of rights having terminated the status of an orphan work or of another object of a copyright or of another related right, shall have the right to get a fair fee for use which has taken place according to par. 1 by organizations under **Art. 71b, par. 1**, with a main office in the Republic of Bulgaria. The fees under sentence one shall be payable for uses, which have taken place within the 5-year period, preceding the termination of the status of an orphan work or another object of a copyright or another related right.

### **Applicability with reference to other acts**

Art. 71h. (new – SG 14/15) This Section shall not affect the provisions regulating the legal protection of patents for inventions, trademarks, industrial design, utility models, integrated circuit layouts, fonts, conditional access, access to electronic communication networks and/or services, protection of national wealth, requirements for depositing, imposed by laws, protection of competition, business secret, protection of personal data and privacy right, protection of cultural valuables, access to public information, laws, regulating contractual relations, as well as freedom of expression in media and freedom of press.

### **Division two.**

## **RELATED RIGHTS AND OTHER SPECIAL RIGHTS (title suppl. - SG 77/02, in force from 01.01.2003)**

### **Chapter eight.**

## **GENERAL PROVISIONS**

### **Owners and Subject Matter of Related Rights (amend. - SG 28/00, in force from 05.05.2000)**

Art. 72. Rights, related to the copyright, shall have:

1. the performers in their performances;
2. the producers of phonograms in their phonograms;
3. the producers of the initial record of a film or other audio-visual work in the original and the copies obtained as a result of this record;
4. the radio and television organisations in their programmes.

### **Collision with Copyrights**

Art. 72a. (new - SG 28/00, in force from 05.05.2000) The related rights shall not be exercised in a way which may lead to infringement or restriction of copyrights.

### **Assumption of Ownership of Related Rights**

Art. 72b. (new – SG 99/05, in force from 10.01.2006) Unless proven otherwise owner of right under **Art. 72** shall be considered the person whose name, firm or other identifying mark are indicated or mentioned.

ned in the usual way on the respective record, copies and/or their packing, or in the course of broadcasting the programme.

### **Exercising Related Rights through Organisations for Collective Administration**

Art. 73. (suppl. - SG 28/00, in force from 05.05.2000; amend. and suppl. – SG 25/11, in force from 25.03.2011, amend. – SG 28/18, in force from 29.03.2018) The economic rights of the performers, producers of phonograms, producers of films or other audio-visual works and radio and television organisations may be exercised by organisations for collective management or independent management entities authorized by them in compliance with the provisions of **Division Two "a"** and **§ 5** of the Transitional and Concluding Provisions.

## **Chapter nine. RIGHTS OF THE PERFORMER**

### **Owner of the Right**

Art. 74. (amend. and suppl. - SG 28/00, in force from 05.05.2000) Performer shall be a person who presents, sings, plays, dances, declaims, acts, directs, conducts, comments, dubs roles or performs in other manner a work, circus or variety performance, puppet show or a folklore work.

### **Moral Rights**

Art. 75. (1) The performer shall have the following moral rights:

1. the right to require that his name, pseudonym or artistic name is indicated or announced in the usual manner at each live performance and at each use of the recorded performance in any manner;
2. the right to require that the recorded performance is preserved entire and unmodified at its reproduction or use in any other manner.

(2) The right under item 1 of the preceding Paragraph shall be inalienable. Transfer of the right referred to in item 2 may be only explicit and in written form.

### **Economic Rights**

Art. 76. (1) The performer shall have the exclusive right to permit for compensation:

1. (amend. - SG 99/05, in force from 10.01.2006) wireless broadcasting of his performance, transmission and retransmission by cable, as well as sound or video recording of the performance, reproduction of the recordings on audio or video carriers and their distribution;
2. (amend. - SG 99/05, in force from 10.01.2006) public performance, wireless broadcasting, transmission and retransmission by cable of these recordings.
3. (new - SG 28/00, in force from 05.05.2000; amend. - SG 99/05, in force from 10.01.2006) providing access to his recorded performance or part of it by wireless means or by cable to unlimited number of people in such a way that it may be accessed from a place and at a time individually chosen by each of them.
4. (new – SG 77/02, in force from 01.01.2003; suppl. – SG 25/11, in force from 25.03.2011) import and export to third countries of copies of the recording of the performance in commercial quantity, regardless whether the copies are lawfully produced or in infringement of the rights referred to in item 1.

(2) (amend. – SG 21/14) Performing artists shall grant the rights under par. 1 against payment by a

separate written contract. The compensation may be negotiated as portion of the revenues or in any other form.

(3) Unless agreed otherwise in the contract between the performer and the producer of phonograms, the performer shall be entitled to authorize other persons to record and distribute his performances as well. Any agreement limiting the right of the performer to grant such authorization shall not be valid for more than five years.

(4) (revoked - SG 28/00, in force from 05.05.2000)

### **Additional pay**

Art. 77a. (new – SG 21/14) (1) Provided that a contract, by which an artist-performer has transferred to a producer their right to use an audio-record with their performance provides that the pay shall be paid not in the form of periodic payments, the artist-performer shall have the right to get an additional annual pay from the producer for every completed calendar year after the fiftieth year after the legitimate publication of the audio-record or if it has not been published – after the fiftieth year of its legitimate announcement to the audience. The waiver by the artist-performer of the right to get additional pay shall be void.

(2) The total amount of the additional pay for one year payable by the producer to the artist-performer subject to compliance with the provision of para. 1 shall be equal to 20 percent of the income, received by the producer over the year preceding the year for which the additional annual pay is due. The producer shall be obliged upon request once a year to provide to the respective artist-performers collective rights management organization and to artist-performers entitled to additional pay subject to compliance with the provision of par. 1 the information required to the payment of this pay.

(3) The additional pay under par. 1 shall be collected, distributed and paid only through a collective rights management organization.

(4) Producer's income within the meaning of par. 2 shall be revenues arising out of reproduction and distribution of the record, and also of the offering of wireless or cable access to an unlimited number of individuals to the record or to a part thereof in a way allowing this access to take place from a place and at a time, chosen individually by everyone thereof, received by the producer before the deduction of expenses.

### **Additional remuneration**

Art. 77a. (New - SG 21/14) (1) In the event that a contract, by which an performer has given a producer the right to use a phonogram with his performance, has provided that the remuneration be paid not in the form of periodic payments, the performer shall be entitled to receive an additional annual remuneration from the producer for each full calendar year following the 50th anniversary of the lawful publication of the phonogram or, if it has not been published, after the 50th anniversary of its lawful communication to the public. Any refusal by the performer of the right to receive additional remuneration shall be invalid.

(2) The total amount of the additional annual remuneration for one year, which the producer owes to the performer under Para. 1, shall correspond to 20% of the revenue received by the producer in the year preceding the year for which the additional annual remuneration is paid. The producer shall be required, on request once a year, to provide the relevant collective rights management organization of performers and of performers entitled to additional remuneration under Para.1, the information necessary for the payment of that remuneration.

(3) The additional remuneration under Para. 1 shall be collected, distributed and paid out only through a collective rights management organization.

(4) Revenues of the producer within the meaning of Para. 2 shall be the revenue resulting from the reproduction and distribution of the record, as well as from the provision of access by wireless or cable to an unlimited number of persons to the record, or part of it, in a way allowing such access to be made from local

ion and at times individually chosen by each of them, received by the producer before deduction of costs.

### **Participation in Filming**

Art. 78. (1) (suppl. - SG 28/00, in force from 05.05.2000; amend. SG 99/05, in force from 10.01.2006) Unless agreed otherwise in the performance contract, it shall be deemed that the performer who has participated in the making of a film or other audio-visual work has thereby granted to the producer of the work also the right of public communication of the recorded performance, its wireless broadcasting, transmission and retransmission by cable, as well as its reproduction on video carriers and their distribution.

(2) A role performed by a performer in a film or another audio-visual work may be dubbed in the same language by another person only with the consent of the performer who has performed the role.

(3) (New - SG 28/00, in force from 05.05.2000) The contracts under para 1 with performers playing main roles shall also stipulate extra compensation in percentage of each gross revenue of the producer from using the work. Their compensation shall be paid, according to the contract, by the producer or by the respective users. Where their compensation shall be paid by the respective user, the producer shall be obliged to provide for this in the contracts for using the work concluded by him. If the compensation was not negotiated it shall be determined according to agreement between the associations of the actors on one side and the producers or their associations on the other.

(4) (New - SG 28/00, in force from 05.05.2000) Performers playing main roles in the sense of para 3 shall be the persons announced in the captions of the film in a way, unambiguously indicating that they are considered as such, until proven otherwise. Where such indications are missing, taken into consideration shall be eventual explicit agreements on this issue in the contract between the producer and the performer, and if it does not contain such agreements or the contract is not presented, taken into consideration shall be the explicit opinion of the scriptwriter, presented in writing regardless at what time.

(5) (new – SG 77/02, in force from 01.01.2003) In case the television organisation is also a producer of a film or an audio-visual work, the persons referred to in para 3 shall have right of additional compensation for each use of the work by this organisation, where the amount of this compensation shall be determined according to para 3, sentences two and four.

(6) (new – SG 77/02, in force from 01.01.2003) Persons performing a role in audio-visual work intended for advertising, shall have the right for the period, during which the work is communicated to the public, of additional compensation as percentage of the profit of the advertiser from the advertising activity, product or service in the country. This compensation shall be agreed in the contract between the producer and the advertiser. If the producer and the advertiser are not in direct contractual relation, the producer shall be obliged to provide the payment of this compensation in his contract with the person, who has assigned the creation of the work.

(7) (new – SG 99/05, in force from 10.01.2006) Where the use under para 3 is in the form of rental or lending of copies, the provisions of **Art. 22a** shall be applied.

### **Authorization by Collective Performers**

Art. 79. The participants in collective performances, such as choir, orchestra, ensemble and other artistic group, shall authorize in writing one person to grant the authorizations under this Chapter regarding the use of their performances. The soloists and the conductor, as well as the director of a performing art work shall provide authorization separately.

### **Indicating Names in Collective Performances**

Art. 80. In respect of collective performances the name of the ensemble or the group as a whole and

the names of the soloists, the conductor and the director of the performing art work, unless agreed otherwise with these persons, shall be indicated or announced in the usual manner.

### **Performance under Employment Relationship**

Art. 81. The authorization for use as referred to in **Art. 76, para 1** of a performance performed under employment relationship shall be granted by the employer unless agreed otherwise with the performer.

### **Duration**

Art. 82. (amend. – SG 25/11, in force from 25.03.2011; amend. – SG 21/14) (1) The rights of the artists-performers shall expire after fifty years after the date of the performance.

(2) In case a record has been made of the performance, other than an audio-record, and it has been legitimately published or legitimately made available to the audience within the term referred to in par. 1, the validity of the right shall remain for fifty years after the date of this event, and if both events have taken place – from the earlier of both dates.

(3) In case a record has been made of the performance, and it has been legitimately published or legitimately made available to the audience within the term referred to in par. 1, the validity of the right shall remain for seventy years after the date of this event, and if both events have taken place – from the earlier of both dates.

(4) The terms referred to in par. 1, 2 and 3 shall start expire from the first day of January of the year following the year in which the event giving rise thereto has occurred.

### **Protection of the Names of Artistic Groups**

Art. 83. (1) (amend. and suppl. - SG 28/00, in force from 05.05.2000; amend. - SG 28/05; amend. - SG 99/05, in force from 10.01.2006) The name of artistic group shall be registered by the Ministry of Culture according to order established by the Council of Ministers. For submission of application for registration, for making reference in the register and for issuance of documents for facts entered into the register fees shall be collected in amounts determined by a tariff approved by the Council of Ministers.

(2) (new - SG 28/00, in force from 05.05.2000) The names of the artistic groups shall be registered obligatorily in Cyrillic. Upon request of the applicant added to the registration may be the same name in other alphabet.

(3) (prev. text of para 02 - SG 28/00, in force from 05.05.2000) The name registered under para 1 shall not be used by other groups.

(4) (prev. text of para 03 - SG 28/00, in force from 05.05.2000) Provided that another group has used the same or a similar name prior to the registration, it may request deletion of the registration.

(5) (prev. text of para 04 - SG 28/00, in force from 05.05.2000) Disputes over similarities of names, or over which group was the first to use a name, shall be settled by the court.

(6) (prev. text of para 05 - SG 28/00, in force from 05.05.2000) The right of name under para 1 shall be protected for a period of ten years after the artistic group has discontinued its activity. This term shall run from the first of January of the year following the year of discontinuance.

### **Application by Analogy**

Art. 84. (amend. and suppl. - SG 28/00, in force from 05.05.2000; amend. - SG 77/02, in force from 01.01.2003; amend. - SG 99/05, in force from 10.01.2006; suppl. – SG 21/14) The provisions of **Art. 18, pa**

ra 3, Art. 18a, 19, 21, 22, 22a, 23, Art. 24, para 1, items 1, 6, 8, 12 and 14, Art. 25, para 1, item 2, Art. 25a, 26, 32, 33, 34, 36, 37, 42 and Art. 58, para 1 shall be applied respectively also to the rights of the performers, and of Art. 66 – to the rights of the persons under Art. 78, para 3.

## **Chapter ten.**

### **RIGHTS OF THE PRODUCERS OF PHONOGRAMS**

#### **Owner of the Right**

Art. 85. Producer of a phonogram shall be the natural or legal person who organises the first recording and provides its financing.

#### **Economic Rights**

Art. 86. (1) The producer shall have the exclusive right to authorize for compensation:

1. reproduction and distribution of the phonogram;
  2. (suppl. - SG 77/02, in force from 01.01.2003; suppl. – SG 25/11, in force from 25.03.2011) import and export to third countries of copies of the phonogram in commercial quantity, regardless whether they have been manufactured legally or in infringement of the rights under item 1;
  3. (amend. - SG 99/05, in force from 10.01.2006) public performance and wireless broadcasting and transmission and retransmission of the phonogram by cable;
  4. (new - SG 28/00, in force from 05.05.2000) providing access to the phonogram or part of it by wireless means or by cable to unlimited number of people in such a way that it may be accessed from a place and at a time individually chosen by each of them;
  5. (new - SG 25/11, in force from 25.03.2011) the adaptation and synchronisation of the recording.
- (2) The producer may grant under contract some of his rights under para 1 to other persons, including authors and performers of the recorded works.

#### **Moral Rights**

Art. 87. (1) The producer shall have the right to require his name to be indicated in the usual manner on the sound carriers, including their cover and boxes, at the reproduction and distribution of the phonograms made by him.

(2) (revoked – SG 99/05, in force from 10.01.2006)

#### **Secondary Use**

Art. 88. (amend. - SG 99/05, in force from 10.01.2006) The compensations of the producers of phonograms due for wireless broadcasting, transmission and retransmission by cable, or for public performance by sound equipment or other means of their phonograms that have been already made available to the public, shall be determined and paid in the way and order provided by Art. 77.

#### **Duration**

Art. 89. (amend. - SG 77/02, in force from 01.01.2003; amend. – SG 25/11, in force from 25.03.2011; amend. – SG 21/14) (1) The rights of producers of audio-records shall expire after fifty years after the re

cord has taken place.

(2) Provided that the audio-record has been legitimately published within the time, referred to in par. 1, the validity of the right shall remain for a period of seventy years after this event. If the audio-record has not been legitimately published, but has been legitimately made available to the audience within the time, referred to in par. 1, the validity of the right shall remain for a period of seventy years thereafter.

(3) The terms under par. 1 and 2 shall start elapsing on the first day of January of the year following the year in which the event giving rise thereof has occurred.

(4) Provided that a contract between the producer of an audio-record and an artist-performer participating in the record gets terminated following the provision of **Art. 77, par. 3**, the producer's right on this record shall cease as from the time of termination of the contract with the artist-performer.

### **Application by Analogy**

Art. 90. (amend. - SG 28/00, in force from 10.01.2006; amend. - SG 77/02, in force from 01.01.2003; amend. - SG 99/05, in force from 10.01.2006) The provisions of **Art. 8, Art. 18, para 3, 18a, 19, 21, 22, 22a, 23, Art. 24, para 1, items 1, 3, 6, 8, 11, 12, 13 and 14, Art. 25, para 1, item 2, Art. 25a, 26, 32, 33, 34 and 36** shall also apply respectively also to the producers of phonograms.

## **Chapter ten "a".**

### **RIGHTS OF THE FILM PRODUCERS (new - SG 28/00, in force from 05.05.2000)**

#### **Contents of the Right**

Art. 90a. (1) The producer of the initial recording of the film or another audio-visual work shall have in respect of the original of the film and the copies of it, obtained as a result of this recording, an exclusive right to authorize for payment:

1. their multiplication;
2. their public showing;
3. (amend. - SG 25/11, in force from 25.03.2011) their public performance and wireless broadcasting;
4. (amend. - SG 99/05, in force from 10.01.2006) their transmission and retransmission by cable;
5. their reproduction;
6. their distribution;
7. their translation, dubbing and subtitling;
8. (amend. - SG 99/05, in force from 10.01.2006) providing access to the film or part of it by wireless means or by cable to unlimited number of people in such a way that it may be accessed from a place and at a time individually chosen by each of them;
9. (new – SG 77/02, in force from 01.01.2003; suppl. – SG 25/11, in force from 25.03.2011) the import and the export to third countries of copies of the film in commercial quantity, regardless of whether they have been manufactured lawfully or in infringement of the right referred to in item 1 or item 5;
10. (new - SG 25/11, in force from 25.03.2011) the adaptation and synchronisation of the recording

(2) The producer shall have the right to require his name or firm to be indicated in the usual manner at using the film.

#### **Duration**

Art. 90b. (new – SG 28/00, in force from 05.05.2000; amend. – SG 21/14) The rights of the producer under this Chapter shall expire after fifty years. The term shall run from 1 January of the year in which the record has been made, but where the recording was lawfully published or legitimately made available to the public during this period, the term shall commence from 1 January of the year following the event, and where both events have occurred – of the one that is earlier.

### **Application by Analogy**

Art. 90c. (new – SG 28/00, in force from 05.05.2000; amend. - SG 77/02, in force from 01.01.2003; amend. - SG 99/05, in force from 10.01.2006) The provisions of **Art. 8, Art. 18, para 3, Art. 18a, 19, 21, 22, 22a, 23, Art. 24, para 1, items 1, 2, 3, 6, 8, 11, 12, 13 and 14, Art. 25, para 1, item 2, Art. 25a, 26, 32, 33, 34 and 36** shall apply respectively also to the film producers.

## **Chapter eleven.**

### **RIGHTS OF RADIO AND TELEVISION ORGANISATIONS**

#### **Contents of the Rights**

Art. 91. (1) (amend. - SG 28/00, in force from 05.05.2000; amend. - SG 77/02, in force from 01.01.2003) The radio and television organisation which has carried out the initial broadcasting or transmission of its own programme shall have exclusive right to authorize for payment:

1. (amend. - SG 99/05, in force from 10.01.2006 ; amend. – SG 25/11, in force from 25.03.2011) wireless rebroadcasting or retransmission over electronic communication networks of the programme;

2. the recording, the reproduction and the distribution of the recordings of the programme;

3. (amend. - SG 99/05, in force from 10.01.2006; amend. – SG 25/11, in force from 25.03.2011) providing access to the programme or part of it by wireless means or over another electronic communication network to unlimited number of people in such a way that it may be accessed from a place and at a time individually chosen by each of them;

4. (new - SG 25/11, in force from 25.03.2011; suppl. – SG 21/14) public performance of the programme, if this takes place in places available to the audience against payment of an access fee.

(2) The provision of the preceding Paragraph shall also apply where a programme sent by a radio or television organisation through signal to a communications satellite, is rebroadcasted, retransmitted, recorded, reproduced or distributed by other persons.

(3) (new - SG 28/00, in force from 05.05.2000) Where the radio and television organisation under paragraph 1 or a person authorised by it restricts the circle of persons receiving its programme by encrypting the signal containing it, the authorization shall be considered granted only on the condition that the decrypting device is provided by the broadcasting organisation or with its consent.

(4) (new - SG 28/00, in force from 05.05.2000) For each use of the programme in the sense of paragraph 1 the using organisation shall be obliged to indicate in a suitable way the name of the organisation which has carried out the first broadcasting or transmission of the programme.

(5) (new – SG 77/02, in force from 01.01.2003; amend. - SG 99/05, in force from 10.01.2006 ; amend. – SG 25/11, in force from 25.03.2011) Where a radio or television organisation authorizes the simultaneous, entire and unmodified broadcasting of its programme through an electronic communication network of another organization, the authorization granted by the radio or television organization shall explicitly include also the rights of broadcasting and transmission of the works included in the programme if these rights have been duly granted to it.

## **Duration**

Art. 92. The rights of radio and television organisations under this Chapter shall expire after fifty years. This term shall run from the first of January of the year following the year in which the programme was broadcasted or transmitted for the first time.

## **Application by Analogy**

Art. 93. (amend. - SG 77/02, in force from 01.01.2003; amend. - SG 99/05, in force from 10.01.2006) The provisions of **Art. 8, Art. 18, para 3, Art. 18a, 19, Art. 21, para 1, 22, 23, Art. 24, para 1, items 1, 2, 3, 8, 12, 13 and 14, Art. 25a and 36** shall respectively apply also to the radio and television organisations.

## **Certifying the Right to Manufacturing and Distribution**

Art. 93a. (new – SG 10/98; revoked – SG 28/00, in force from 05.05.2000)

## **Chapter eleven.**

### **"a" RIGHTS OF THE MAKERS OF DATABASES (new – SG 77/02, in force from 01.01.2003)**

#### **Owner of the Right**

Art. 93b. (new – SG 77/02, in force from 01.01.2003) (1) Owner of the right shall be the maker of the database.

(2) Maker of database shall be the natural or legal person, who has taken the initiative and the risk to invest in collecting, verifying or using the contents of a database, if this investment is significant in qualitative or quantitative respect.

#### **Contents of the Right**

Art. 93c. (new – SG 77/02, in force from 01.01.2003) (1) The maker of database shall have the right to prohibit:

1. the extraction through permanent or temporary transfer of the contents of the database or its significant in quantitative or qualitative respect part to another carrier by any means or in any form;
2. re-utilization of the contents of the database or a substantial in qualitative or quantitative respect part of it by making it available to the public by any means or in any form, including by distribution of copies, renting or by providing in digital way.

(2) Lending shall not be considered extraction or re-utilization in the sense of para 1.

(3) The right of para 1 may be transferred or granted to other persons.

(4) The maker of database shall have the right to prohibit the activities referred to in para 1 also regarding insubstantial part of its contents, when these activities are carried out repeatedly and systematically in a way conflicting with its normal exploitation or may prejudice the legitimate interests of the maker.

#### **Exhaustion of the Right**

Art. 93d. (new – SG 77/02, in force from 01.01.2003) (1) (amend. and suppl. - SG 99/05) (\*) The fi

first sale on the territory of the Member States of the European Union of a material copy of a database by the owner of the right referred to in **Art. 93c** or with his consent shall exhaust his right to control the further selling of its copy on this territory.

(2) Where a database is transferred in digital form, including in communication network, the right referred to in **Art. 93c** shall not exhaust regarding the materialised copies of the database made by the recipient with the consent of the owner of this right.

### **Collision with Other Rights**

Art. 93e. (new – SG 77/02, in force from 01.01.2003) (1) The right referred to in **Art. 93c** shall arise regardless of whether the database or the parts of its contents are protected by copyright or related rights.

(2) The right referred to in **Art. 93c** may not be exercised in a way, which could lead to infringement or restriction of copyright or related rights in the contents of the database.

### **Rights and Obligations of the Lawful Users**

Art. 93f. (new – SG 77/02, in force from 01.01.2003) (1) (new – SG 99/05, in force from 10.01.2006) (2) The person who has lawfully acquired the right to use a database or copy of it may freely carry out in respect of it the activities referred to in **Art. 18, para 2, items 1, 2, 3, 4, 5, 7 and 8** as well as activities related to the results eventually obtained from the translation, adaptation, processing and whatever other modifications which he has made to it when this is necessary to access the contents of the database and for its normal use. Where this person has right to use only part of the database, this provision shall be applied only with regard to this part.

(2) (prev. text of para 01 – SG 99/05, in force from 10.01.2006) Where a database has been made available to the public in whatever manner, its maker may not prevent the extraction or re-utilization of insubstantial part of its contents for any purposes by a person, who has acquired in a lawful way access to it. Where the lawful user has right to extract or re-utilize only part of the database, this provision shall apply only to that part.

(3) (prev. text of para 02 – SG 99/05, in force from 10.01.2006) The lawful user of a database which has been made available to the public in whatever manner may not carry out activities which conflict with its normal exploitation or prejudice the legitimate interests of its maker.

(4) (prev. text of para 03 – SG 99/05, in force from 10.01.2006) The lawful user of a database which has been made available to the public in whatever manner may not infringe the rights of the owner of the copyright or related right in the works or subject matter contained in it.

(5) (new – SG 99/05, in force from 10.01.2006) Any agreement contradicting to the provisions of paragraph 1, 2, 3 and 4 shall be invalid.

### **Exceptions**

Art. 93g. (new – SG 77/02, in force from 01.01.2003) The lawful user of a database which has been made available to the public in whatever manner may, without the consent of its maker, extract or re-utilize in the sense of **Art. 93c** a substantial part of its contents in the following cases:

1. extraction for personal use of contents of a database of non-electronic form;
2. extraction without commercial purpose for illustration for teaching and scientific research to extent justified by the purpose as long as the source is indicated;
3. extraction or re-utilization for the purposes of the national security or in the administrative or court procedures.

## **Duration**

Art. 93h. (new – SG 77/02, in force from 01.01.2003) (1) The rights referred to in **Art. 93c** shall expire after fifteen years. The term shall run from the first of January of the year following the year of completion of the making of the database.

(2) In case the database has been made available to the public in whatever manner before the expiration of the term referred to in para 1, the term shall run from the first of January of the year, following the year of making it available to the public.

(3) Each new substantial investment in the database leading to significant change in the contents of the database shall qualify the part resulting from this investment for its new independent term of protection.

## **Division two "a".**

# **COLLECTIVE MANAGEMENT OF COPYRIGHT AND RELATED RIGHTS (NEW – SG 28/18, IN FORCE FROM 29.03.2018)**

## **Chapter eleven "b".**

# **GENERAL PRINCIPLES (NEW – SG 28/18, IN FORCE FROM 29.03.2018)**

## **Basic Principles**

Art. 94. (New – SG 28/18, in force from 29.03.2018) (1) Collective management of copyright and related rights (collective management) shall be the activity related to the management of the author's (copyright) and / or related rights at the same time on behalf of and at the expense of more than one holder of copyright and / or related rights (rightholder) for their mutual benefit.

(2) Collective management shall include:

1. conceding to users of copyright and / or related rights in order to use protected works and other protected subject-matter;
2. collection of the proceeds from the exercise of these rights, as well as from the rights to receive remunerations due according to this Act, including compensatory;
3. distribution and payment to rightholders of the sums collected from the use;
4. protection of the rights managed;
5. monitoring how rights are being exercised.

(3) Not considered as collective management shall be any activities of producers of films or other audio-visual works, sound recording producers, radio- and television broadcasting organizations and publishers, including publishers of books, musical works and periodicals, as well as any activities of persons acting as agents or intermediaries when representing authors or performers in their relations with collective management organizations.

## **Collective Management Entities**

Art. 94a. (New – SG 28/18, in force from 29.03.2018) (1) Collective management may be exercised by:

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

(2) A collective management organization shall be any non-profit-making organization which is to

be established, managed and controlled by its members-rightholders and which, under contracts with rightholders or with other collective management organizations, having concluded a mutual representation contract with them, is authorized to perform collective management of rights as its sole or principal activity, or this is entrusted to it under this Act.

(3) An independent management entity shall be any commercial entity which is not owned or controlled directly or indirectly, wholly or partly, by rightholders, and is authorized under contracts with rightholders to perform activities to do with collective management of rights, as its sole or principal activity. Contracts with rightholders shall enter into force on the day of the issuance of a certificate of registration of the independent entity.

(4) Collective management organizations may not professionally pursue activities in which works or other protected subject-matter are used within the meaning of this Act.

(5) (amend. - SG 17/19) Collective management organizations and independent management entities shall process the personal data provided to them in accordance with the requirements for its protection.

## Authorization

Art. 94a<sup>1</sup>. (New – SG 28/18, in force from 29.03.2018) (1) Authorization for collective management of rights shall be made in writing and explicitly for each category of rights, types of rights, types of works or other types of protected subject-matter (types of rights, works or other protected subject-matter).

(2) Any rightholder who is the citizen of another Member State of the European Union or has established himself there, or is resident in such a country, may authorize following a contract any organization of his choice for collective management of rights, irrespective of the Member State, in which said organization has its seat, to manage collectively his various categories and types of rights for all his works or other protected subject-matter, or for parts thereof and for territories of his own choosing. The collective management organization may refuse to perform collective management, for which it has received registration under **Art. 9 4b**, only when there are objectively justified reasons for this.

(3) The rightholder may authorize different organizations for collective management, or independent management entities, to manage different categories of his rights, types of rights, works, or other subject-matter. The rightholder may independently allow the non-commercial use of his works or other subject-matter of protection by notifying the collective management organization, in which he is a member. In all other cases of individual conceding of rights of use, permitted by the Statute of the organization, the rightholder shall owe notification, if the Statute so requires.

(4) The rightholder may terminate his authorization of the collective management organization or may withdraw from it the collective administration of selected categories of rights, types of rights, works or other protected subject-matter for territories of his choice, by written notice whose period is to be no longer than 6 months. The collective management organization may provide in its Statutes that such termination or withdrawal is to take effect from the beginning of the following calendar year. Where collective administration of rights is mandatory, the rightholder may only authorize another collective management organization.

(5) The rightholder shall retain his rights under **Art. 94k<sup>1</sup>, 94l, 94q<sup>1</sup>, 94r<sup>1</sup>, 94u<sup>2</sup> and 94w<sup>1</sup>** for amounts, which the collective management organization owes him for the use of his works or other subject-matter, effected prior to the entry into force of the termination or withdrawal, or for amounts received following an authorization to use granted by the organization until the termination or withdrawal takes effect.

(6) No collective management organization may restrict the exercise of the rights under Para. 4 and 5 with requirements that the management of rights being terminated or withdrawn be entrusted to another collective management organization.

## Relevancy

Art. 94a<sup>2</sup>. (New – SG 28/18, in force from 29.03.2018) The provisions of this Act shall also apply to organizations and companies owned or controlled, directly or indirectly, wholly or in part, by collective management organizations or by independent management entities, when exercising activities of collective management.

## **Chapter eleven "c".**

### **REGISTRATION (NEW – SG 28/18, IN FORCE FROM 29.03.2018)**

#### **Registration requirement**

Art. 94b. (New – SG 28/18, in force from 29.03.2018) (1) Collective administration of rights shall be carried out after registration from the Minister of Culture or a Deputy Minister authorized by him.

(2) The registration under Para. 1 shall be for an indefinite term.

#### **Terms of Registration**

Art. 94b<sup>1</sup>. (New – SG 28/18, in force from 29.03.2018) (1) The registration shall be made upon submission of an application by:

1. a non-profit association or a commercial company registered under the Bulgarian legislation or under the legislation of another Member State of the European Union or of another state-party to the Agreement on the European Economic Area or of the Swiss Confederation;

2. a person entitled to collectively manage copyright or related rights under the legislation of another Member State of the European Union or of another state-party to the Agreement on the European Economic Area or of the Swiss Confederation, or of a third country.

(2) The registration shall be made when:

1. the applicant has been authorized following two or more written contracts with rightholders, or by other collective management organization under a mutual agency contract to carry out on its behalf collective management, as specified in the application;

2. the applicant has met the conditions under Art. 94t<sup>1</sup>, if the application is for multi-territorial grant of use of musical works over the Internet under **Chapter Eleven "i"**;

3. the Statutes, respectively the company agreement or the instrument of incorporation of the applicant provides for collective administration of the categories of rights, types of rights, works or other subject-matter, to which the application for registration relates, as a single or principal activity;

4. the applicant is not in insolvency or liquidation proceedings;

5. the application for registration has been filed after the expiration of 12 months from the entry into force of an order for deletion of the registration.

(3) The application for registration shall be in the form of a template approved by the Minister of Culture, and shall state the legal status of the applicant, the categories of rights, the types of rights, the works and other subject-matter, for which registration is sought, and whether the conditions under **Art. 94c, Para. 3** or of **Chapter Eleven "i"** are present.

(4) The following shall be attached to the application for registration:

1. a document certifying the creation, issued up to one month before the date of filing the application - for an applicant who is a foreign person;

2. a certified copy of the Statutes - for an applicant non-profit organization, respectively document of establishment - for an applicant who is a foreign person;

3. a list of the members indicating in what capacity the person is a member – for an applicant who is a non-profit-making organization, respectively a list of the rightholders who have assigned collective administration

nistration of rights - for an applicant who is a trade company;

4. a declaration that the applicant is not in insolvency or liquidation proceedings;

5. a declaration of the address of the applicant's website;

6. (amend. - SG 47/19) certified copies of two or more contracts under which right holders authorize the applicant collectively manage all copyright, and where the application is for registration under **Art. 94c, Para. 3** - certified copies of two or more contracts under which right-holders authorize the applicant to collectively manage all copyright and related rights in the works and other objects of protection specified in the contracts;

7. a certified copy of a Representation agreement;

8. Information on the contracts under **Art. 94a, Para. 3**, which assign collective administration of rights: rightholder, categories of rights, types of rights, works and other subject-matter, term and territory - for an applicant who is a trade company;

9. certified copies of the contracts of mutual representation with similar foreign organizations for collective administration of rights, if concluded, and a list of these organizations, indicating the term, territory, categories of rights, types of rights, works and other protected subject-matter – for an applicant non-profit organization;

10. a declaration that the applicant - a collective management organization - meets the conditions under **Art. 94t<sup>1</sup>, Para. 2** - when the application is under **Chapter Eleven "i"**;

11. a document for paid fee.

(5) The application for registration and the documents attached thereto shall be submitted in Bulgarian. If any document under Para. 4 is in a foreign language, it must be accompanied by an accurate translation into Bulgarian by a sworn translator.

(6) (Suppl. - SG 47/19) The application for registration and the documents attached thereto shall be submitted in writing, or electronically signed with a qualified electronic signature, as required by Regulation (EU) № 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services of e-commerce transactions in the internal market and on repealing Directive 1999/93/EC (OJ, L 257/73 of 28 August 2014), hereafter referred to as "Regulation (EU) № 910/2014", of the **Electronic Document and Electronic Trust Services Act** and the **Electronic Government Act**.

## Registration

Art. 94c. (New - SG 28/18, in force from 29.03.2018) (1) Where the application is for registration of or collective administration of rights under **Chapter Eleven "i"**, and during the registration procedure an application has been filed by another non-profit association, the applicant who has already been registered for collective administration of such rights on the territory of the Republic of Bulgaria shall receive the registration and, where there is none such - the applicant with a wider representation. In case a registered collective management organization already exists, the applicant must submit a representation agreement under Para. 2 with the registered organization.

(2) Where the application is for registration for the collective management to broadcast by wireless means, transmission or re-transmission by cable, live performance or granting wireless or cable access of an unlimited number of persons to any work or other subject of protection, or to parts thereof in such a way as to allow such access to be carried out at a time and place individually chosen by each of them, or only for one of those rights, and for this there already is a registered collective management organization, the applicant-collective management organization or an independent management entity, shall obtain the registration following the submission of a representation agreement with the already registered organization. The registered organization can not unreasonably refuse to conclude such an agreement. Any refusal shall be deemed unjustified where the grounds for it are not related to the content of the representation agreement and / or with the r

egistration of the collective management organization.

(3) Agreement under Para. 2 shall not be required when the application for registration has been filed by an applicant-independent management entity, and refers to the collective management of live performance by providing the sound in publicly accessible premises, areas and vehicles. The applicant shall maintain on its website the information on the assigned collective administration of rights by rightholders: rightholders, categories of rights, types of rights, works and other subject-matter, term and territory.

(4) (Suppl. - SG 94/18) Where the application and the documents attached thereto do not meet the requirements of Para. 1-3 and **Art. 94b<sup>1</sup>**, Para. 3 - 6, the applicant shall be informed of this by giving him a one-month time limit to remedy the irregularities, together with instructions that the proceedings will be terminated if they are not removed.

(5) The application under **Art. 94b<sup>1</sup>, Para. 3** and the documents attached thereto shall be considered within two months from their submission, and in the cases under Para. 4, second sentence – from the removal of the irregularities.

(6) (Suppl. - SG 94/18) Within the term under Para. 5, the Minister of Culture or a Deputy-Minister authorized by him shall issue an order for registration, or for refusal to register.

(7) (Suppl. - SG 94/18) The Minister of Culture or a Deputy-Minister authorized by him shall refuse the registration when:

1. evident from the submitted documents it has been established that the applicant does not meet the requirements under **Art. 94b<sup>1</sup>, Para. 2**;

2. the content of the representation agreement under Para. 2 does not meet the requirements under **Art. 94c<sup>1</sup>**;

3. the application was filed before the expiration of 12 months from the entry into force of an order for deletion of the registration.

(8) The refusal to register may be challenged by the order of the **Administrative-Procedure Code**.

(9) Any registered applicant shall be issued a registration certificate. The certificate shall be of indefinite term and shall contain:

1. the number and the date of issue;

2. the name, the registered office and the address of management, the registration data and representation data of the registered legal person and the unique identification code, respectively the BULSTAT code;

3. the categories of rights, types of rights, works and other subject-matter covered by collective management;

4. the name of the organization authorized by the representation agreement to manage the rights under item 3 - in the cases under Para. 2;

5. the information that the collective administration of rights refers only to the categories of rights, types of rights, works and other subject-matter indicated on the registered person's website - in the cases under Para. 3;

6. the information that collective management also applies to multi-territorial authorization of the use of musical works on the Internet - in the cases of Chapter Eleven "i".

(10) In the event of a change in the circumstances entered in the issued certificate or under **Art. 94b<sup>1</sup>, Para. 2 and 4**, the registered person shall notify the Minister of Culture within 14 days of the change occurring, and shall present certified copies of the relevant documents and a document for paid fee. The provisions of this Chapter shall apply accordingly.

## **Representation Agreement**

Art. 94c<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) The representation agreement under **Art. 94c, Para. 2** shall contain:

1. the authorization of the registered organization to authorize the use of works and other protected

subject-matter, for which the applicant has been assigned collective management;

2. the authorization of the registered organization to collect - according to its tariffs - the remuneration due for the use under item 1;

3. the categories of rights, types of rights, works and other protected subject-matter, as well as the holders of rights, to whom the agreement relates;

4. the types of works and other protected subject-matter, for which the applicant has been assigned collective management;

5. the term and the territory of the representation;

6. the evidence by the applicant about the rightholders and works of art and other protected subject-matter represented by him, as well as the periodicity of their updating;

7. the way of determining the share of the collected remuneration due to the applicant according to the use of the works and other protected subject-matter, for which collective management is assigned, and the terms for their payment to the applicant; the registered organization shall not be responsible for the subsequent distribution of the remuneration paid to the applicant;

8. the way of exchange of information for the identification of the works or other protected subject-matter and the holders of rights;

9. the manner and the term for settling the relations between the parties to the agreement and the users upon termination or dissolution of the Representation agreement;

10. the manner and the deadline for notifying the Minister of Culture of the termination or dissolution of the Representation agreement, which may not be longer than 14 days from the termination or dissolution.

(2) The Representation agreement may contain other provisions as well.

## Register

Art. 94d. (New - SG 28/18, in force from 29.03.2018) (1) (Suppl. - SG 94/18) The Minister of Culture or a Deputy-Minister authorized by him shall keep and maintain a public register of the persons who have received a registration under **Art. 94b** for collective administration of rights. The register shall be published on the [website](#) of the Ministry of Culture.

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

1. first section – for organizations for collective administration of rights;

2. second section - for independent management entities.

(3) In the section under Para. 2, item 1 shall be entered:

1. the number and date of the certificate;

2. the name, the registered office, the address of management, the registration data of the legal person and the single identification code, respectively the BULSTAT code;

3. the members of the governing bodies subject to election and the representative persons;

4. telephone number, e-mail address and contact person;

5. the categories of rights, types of rights, works and other protected subject-matter covered by collective management;

6. the collective management organization authorized under a Representative agreement to authorize the use of the types of works and other protected subject-matter, for which the registered person-collective management organization has been assigned collective administration of rights in the cases under **Art. 94c, Para. 2**;

7. similar foreign organizations for collective administration of rights, with which mutual representation contracts have been concluded, indicating the categories of rights, types of rights, works or other protected subject-matter, the term and the territory under the contract;

8. the changes in the circumstances under items 2 - 7;

9. the grounds and the date of amendment of the issued certificate;

10. the deletion of the registration;  
11. the information about the persons applying for registration, the number and the type of the attached documents.

(4) In the section under Para. 2, item 2 shall be entered:

1. the number and date of the certificate;
2. the name, registered office, management address, commercial registration data and the unique identification code;
3. representative persons;
4. telephone number, e-mail address and contact person;
5. the categories of rights, types of rights, works and other protected subject-matter covered by the collective administration of rights;
6. the collective management organization authorized under a representation agreement to authorize the use of the types of works and other protected subject-matter, for which the registered person-independent management entity, has been assigned collective management in the cases under **Art. 94c, Para. 2**;
7. the information that collective administration of rights refers only to the categories of rights, types of rights, works and other protected subject-matter indicated on the registered person's website in the cases under **Art. 94c, Para. 3**;
8. the rightholders who by contract have authorized the registered person to perform activities to do with collective management;
9. the changes in the circumstances under items 2 to 8;
10. the grounds and the date of amendment of the issued certificate;
11. the deletion of the registration;
12. the information about the persons who have applied for registration, the number and the type of the attached documents.

(5) (Suppl. - SG 94/18) Upon change of circumstances entered in the register, the Minister of Culture, or a Deputy-Minister authorized by him, shall update it.

### **Deletion of Registration**

Art. 94d<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) The registration shall be deleted and the certificate shall be invalidated by an order of the Minister of Culture or a Deputy Minister authorized by him where:

1. the registration of the legal entity has been deleted;
2. the registered person has filed a written request for deletion of the registration in whole or for certain categories of rights, types of rights, works or other protected subject-matter;
3. following due order, it has been established that incorrect data is entered in the documents attached to the application for registration under **Art. 94b<sup>1</sup>, para. 4**;
4. the registered person is in insolvency or liquidation proceedings;
5. the registered person-independent management entity does not publish or systematically does not update the data under **Art. 94c, Para. 3**, sentence two on his website;
6. the Representation agreement is terminated or dissolved when it is a condition for registration;
7. the registered person has not concluded contracts with users for two years from the date of registration;
8. the registered person-organization for administration of collective rights systematically fails to distribute the collected remuneration from the collective administration of rights to its members in accordance with the requirements of this Act and / or the internal rules for distribution under **Art. 94h, Para. 2, item 5**;
9. it is established with an enforceable judicial act that the registered person-independent management entity fails to fulfill its obligations under contracts with more than three rightholders, whose rights it manages;

10. the registered person fails to comply with mandatory prescription under **Art. 94y, Para. 9**;

11. the registered person performs systematic violations of this Title.

(2) The order for deletion of the registration may be challenged by the order of the **Administrative-Procedure Code**.

## **Fees**

Art. 94e. (New - SG 28/18, in force from 29.03.2018) For the examination of applications for registration, for entering any changes in registration, for issuance of a certificate of a registered person and for approval of the tariff under **Art. 94p**, including its amendment and supplement, fees shall be collected at the rates determined by a fee tariff for the fees collected in the system of the Ministry of Culture, approved by the Council of Ministers.

## **Chapter eleven "d".**

### **COLLECTIVE MANAGEMENT ORGANIZATIONS (NEW - SG 28/18, IN FORCE FROM 29.03.2018)**

#### **Establishment**

Art. 94e<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) Collective management organizations of rights shall be established by rightholders.

(2) Any publisher, to whom the author has ceded other rights, in addition to the right to reproduction and distribution, may grant the management of these rights to an organization under Para. 1.

(3) Collective management organizations can not make profit and shall be obliged to distribute and pay all the amounts received by the collective management between the rightholders after deducting the necessary for the maintenance of their activities.

#### **Membership In Collective Management Organizations**

Art. 94f. (New - SG 28/18, in force from 29.03.2018) (1) Members of collective management organizations may be natural and legal persons-holders of rights, other collective management organizations, associations of rightholders and other organizations which meet the membership requirements laid down in the Statutes of the given organization.

(2) Membership requirements of collective management organizations shall not include conditions which to lead to discrimination of members on the basis of their nationality, place of residence or place of establishment.

(3) Collective management organizations shall be obliged to publish membership requirements on their websites.

(4) Collective management organizations may refuse to accept as a member a person who:

1. wishes to authorize such organization to manage categories of rights, types of rights, works or other protected subject-matter, the management of which does not fall within the scope of the organization's activities;

2. is represented by another organization or association - member of the organization for collective management.

(5) Should any collective management organization refuse membership, it shall be obliged to provide the rightholder with a reasoned written refusal.

(6) The activity of any collective management organization shall be carried out in the interest of the

persons, whose rights it manages, and cannot impose on them obligations which are not objectively necessary for the protection of their rights and interests, or for the effective management thereof.

(7) Members of any collective management organization shall have the right to be informed about its activities and to participate in the decision-making process related to said activities.

(8) Collective management organizations shall be obliged to create conditions for communication with its members by electronic means.

(9) Collective management organizations shall be obliged to keep a file for each of its members and to update it on a regular basis.

### **Rights of Rightholders Who Are Not Members of a Collective Management Organization**

Art. 94g. (New - SG 28/18, in force from 29.03.2018) The provisions of **Art. 94f, Para. 8, Art. 94r<sup>1</sup>, Art. 94v, Para. 2** and **Art. 94w<sup>1</sup>** shall also apply to right holders who, by contract or by law, have a direct relationship with a collective management organization, but are not its members.

### **Statutes and Organization of the Activity**

Art. 94g<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) The statutes of the collective management organization shall contain:

1. the categories of rights, types of rights, works or other protected subject-matter, which the organization manages collectively; the statutes shall state whether the rights for collective management are to be ceded on an exclusive or non-exclusive basis;
2. the rights and obligations of the members;
3. membership requirements in the organization;
4. the criteria on the basis of which membership of the organization may be refused, and the procedure for appeal against refusals;
5. the order for accepting new members, and for termination of membership;
6. the procedure for convening the general meeting, taking the decisions, keeping and documenting the meetings;
7. the organization's management and supervisory bodies;
8. the conditions under which a person cannot be elected as a member of the management and supervisory bodies, which may also include restrictions on the duration of membership and/or the amount of the sums received by the organization;
9. the conditions and the procedure for changing a member of the Management Board before the expiration of his term of office;
10. the options for early termination of the mandate of a member of the Management Board, including the cases in which the legal persons - members of the management board are obliged to return their representative to the council;
11. the order for convocation of the Management Board, the taking of the decisions, keeping and documenting its meetings;
12. the order of members to participate in the decision-making and the criteria for limiting it;
13. the order for deciding on the conclusion of a Representation agreement;
14. the termination and liquidation of the organization.

### **General Assembly**

Art. 94h. (New - SG 28/18, in force from 29.03.2018) (1) The General Assembly of the collective

management organization shall convene at least once a year.

(2) The General Meeting shall:

1. adopt, amend and supplement the Statutes;
  2. elect and dismiss members of the Management Board and of the Supervisory Board;
  3. approve the amount of remuneration and other benefits, which members of the Management Board and the Supervisory Board receive from the organization;
  4. decide to terminate the existence of the organization;
  5. adopt, amend and supplement the rules for distribution of revenues from collective management;
  6. decide on:
    - a) the rules for the use of the amounts which can not be distributed;
    - b) the overall investment policy on revenue from collective management and from the invested revenue generated by collective management;
    - c) the general policy on revenue deductions from collective management and from any revenue from the investment of that revenue;
    - d) the use of amounts which cannot be distributed;
    - e) the risk management policy;
    - f) the approval of any acquisition, sale or mortgage of the real estate of the organization;
    - g) the approval of any merger, association, the formation of subsidiaries and the acquisition of undertakings, shares or rights in other undertakings;
    - h) the approval of proposals for borrowing, lending and providing collateral for loans related to the organization's activities;
  7. appoint and dismiss a registered auditor;
  8. approve the annual report;
  9. determine the criteria, terms and conditions for the provision of social, cultural or educational services;
  10. take other decisions provided in the Statutes.
- (3) The General Assembly may delegate the powers under Para. 2, item 6, letters "e", "f", "g" and "h" to the Supervisory board by decision or according to the Statutes.

### **Participation in the General Assembly**

Art. 94h<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) The members of the collective management organization shall be entitled to participate in the General Assembly and to vote, unless otherwise provided for in the Statutes.

(2) In its Statutes, the organization may provide for restrictions on the right under Para. 1 on the basis of one or two of the following criteria, provided that they are established in a fair and proportionate manner:

1. duration of membership;
2. amount of the sums received or due by the organization.

(3) Where the organization has different categories or groups of members depending on the categories of rights or types of works and other protected subject-matter, including by genre, they must be represented fairly and with balance in the General Assembly.

(4) The criteria under Para. 2 shall be publicly available in accordance with **Art. 94r** and **94s**.

### **Voting in the General Assembly**

Art. 94i. (New - SG 28/18, in force from 29.03.2018) (1) Any member of a collective management organization, entitled to participate in the General Assembly, when voting on the decisions of the assembly,

shall have the right of one vote.

(2) Unless otherwise provided in the Statutes of the organization, any member entitled to participate in the General Assembly may authorize another member - a natural or legal person - to attend and vote on his behalf, provided that this does not lead to a conflict of interest. There is a conflict of interest present whenever the authorizing officer and the authorized belong to different categories or groups of rightholders.

(3) The authorization under Para. 2 shall be in writing and be valid for the respective general assembly.

## **Management Board**

Art. 94i<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) The collective management organization shall have a Management Board.

(2) The members of the Management Board and the term for which they are to be elected shall be determined in the Statutes of the organization. Any legal person-member of the Management Board shall be represented in the board by its legal representative or an explicitly authorized natural person.

(3) The Management Board shall elect a Chairperson from among its members. The Statutes may provide that the Chairperson is to be elected by the General Assembly.

(4) Each member of the Management Board shall submit annually to the General Assembly an individual declaration with information on:

1. the interests related to the collective management organization;
2. the forms of tangible and intangible remunerations and benefits received during the previous calendar year by the organization, including from pension, social, cultural and other funds;
3. the sums it received in the previous calendar year from the organization in its capacity of rightholder;
4. the actual or potential conflict of interest between the declarant's personal interests and those of the organization, or between any other obligations towards the organization and obligations towards other natural or legal persons.

(5) Any person who is proposed to become member of the Management Board before the elections shall submit to the General Assembly a declaration on the absence of obstacles preventing him from being chosen according to the Statutes, as well as for circumstances under Para. 4, items 1 and 4.

(6) The Management Board shall:

1. prepare and submit for voting at the General Assembly the rules for distribution of revenues from the management of copyright by the organization;
2. elect or appoint an Administrative Head of the organization, and determine their remuneration;
3. accept and exclude members of the organization, unless the Statutes provides otherwise;
4. fulfill other obligations provided for in law or in the Statutes.

## **Supervisory Board**

Art. 94j. (New - SG 28/18, in force from 29.03.2018) (1) The collective management organization shall have a Supervisory Board. The Supervisory Board shall not participate in the management of the organization and shall not represent it.

(2) The Supervisory Board shall consist of at least three members of the organization. They shall be elected for a term not exceeding five years.

(3) The requirements of **Art. 94i1, Para. 4 and 5** shall also apply to the members of the Supervisory Board.

(4) The Supervisory Board shall elect a Chairperson from among its members. The Statutes may provide that the Chairperson be elected by the General Assembly.

(5) The Supervisory Board shall:

1. monitor the activities and the fulfillment of the obligations of the persons who manage the organization, including the implementation of the decisions of the General Assembly, taken on the grounds of **Art. 94h, Para. 2, items 1-5**;

2. exercise the powers assigned to it by the General Assembly or the Statutes of the organization according to **Art. 94h, Para. 3**.

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

### **Subsidiarity in Application**

#### **Subsidiarity in application**

Art. 94j<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) For the issues not settled in this chapter, the **Non-Profit Legal Entities Act** shall apply.

### **Chapter eleven "e".**

#### **MANAGEMENT OF REVENUE FROM COLLECTIVE MANAGEMENT (NEW - SG 28/18, IN FORCE FROM 29.03.2018)**

#### **Collection and Use of Remuneration**

Art. 94k. (New - SG 28/18, in force from 29.03.2018) (1) The collective management organization shall separately indicate in its accounting report:

1. the revenues from collective management and from the investment of these revenues;
2. all own assets and income thereof, from deductions for own subsistence and from other activities.

(2) The organization under Para. 1 may not use the revenues from the collective management or the revenues from the investment of these revenues for purposes other than their distribution among the rightholders, except where, in accordance with a decision taken pursuant to **Art. 94h, Para. 2, item 6, letter "c"** is allowed to reduce or offset own-funding deductions, or to use revenue from the collective management or the investment of that revenue in accordance with a decision taken pursuant to **Art. 94h, Para. 2, item 6**.

(3) The organization under Para. 1 shall invest the revenues from the collective management and the revenues from the investment of these revenues in the interest of the rightholders, which it represents, in accordance with the general investment policy and the risk management policy in the meaning of **Art. 94h, Para. 2, item 6, letters "b" and "e"**. Investment must also meet the following requirements:

1. where there is any potential conflict of interest, the organization shall ensure that the investments have been made only in the interest of rightholders;
2. assets are invested so as to ensure the security, quality, liquidity and profitability of the investment as a whole;
3. assets are allocated in such a way as to avoid over-reliance on an asset and excessive accumulation of risk in the investments.

#### **Deductions**

Art. 94k<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) The collective management organization shall provide in advance to any rightholder wishing to become a member information on the deductions performed by the organization from revenue from collective management and from any revenue from investing these revenues.

(2) Deductions shall be determined on the basis of objective criteria and must take into account the services rendered to the holders of rights, including the services provided under Para. 5.

(3) Deductions may not exceed the justified and documented costs for the collective management made by the organization.

(4) Requirements relating to use and transparency in the use of amounts collected as deductions or compensated by deductions must apply to any other charge made to cover the cost of collective management.

(5) In the event that the organization provides social, cultural or educational services financed by income deductions or other revenue arising from the investment of that revenue, services shall be provided on the basis of fair criteria with regard to access to them and to their scope.

### **Distribution of Due Amounts to Rightholders**

Art. 94l. (New - SG 28/18, in force from 29.03.2018) (1) Any collective management organization, or its collective member representing rightholders, shall distribute and pay regularly, accurately and with due care the amounts due according to the rules of distribution of revenue from collective management. The organization or its collective member shall pay the entitled rightholders they are representing the amounts due as soon as possible but not later than 30 September of the year following the year in which the sums are collected. This deadline may be disregarded only for objective reasons relating to the receipt of information by users, the establishment of rights, the identification of right holders or the establishment of a link between the information on the works used and other protected subject-matter with the information on the rightholders on them.

(2) The collective management organization shall take action to identify and establish the location of the rightholders.

(3) Amounts which cannot be distributed within the term under Para. 1 as rightholders cannot be identified or their whereabouts cannot be established and there are no objective reasons why the time limit is not to be respected, shall be indicated separately in the organization's accounts report.

(4) Within three months after the expiration of the term under Para. 1, second sentence, the collective management organization shall provide access to the information on works and other protected subject-matter, for which one or more rightholders have not been identified or whose location has not been established, to:

1. the rightholders they represent or their collective members;
2. collective management organizations, with which it has concluded contracts for mutual representation.

(5) The information under Para. 4 shall include, if possible:

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

(6) Where rightholders cannot be identified, or their location cannot be established, within one year after the expiration of the term under Para. 4, the collective management organization shall publicly disclose on its website the information under Para. 5.

(7) Remunerations payable to rightholders which can not be distributed within three years from the end of the year in which they were collected, and for which the organization for collective administration of rights has taken actions in accordance with Para. 2 to identify rightholders and establish their location, shall be considered non-distributable.

(8) Amounts not subject to distribution shall be used by decision of the General Assembly, taken under the procedure of **Art. 94h, Para. 2, item 6, letter "d"**. They can be spent on financing social, cultural a

and educational activities for the benefit of rightholders.

(9) Any rightholder may bring an action against the collective management organization for any due remuneration of his, under the general claim order.

## Chapter eleven "f".

### COLLECTIVE MANAGEMENT ON BEHALF OF OTHER COLLECTIVE MANAGEMENT ORGANIZATIONS (NEW - SG 28/18, IN FORCE FROM 29.03.2018)

#### Obligation for Equal Treatment

Art. 94l<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) The collective management organization shall not discriminate against rightholders, whose rights it manages following a contract for mutual representation, especially as regards the application of its tariffs, the conditions for collecting remuneration, the deductions for its own maintenance, and the distribution of the amounts due to rightholders.

#### Deductions and Payments in Contracts for Mutual Representation

Art. 94m. (New - SG 28/18, in force from 29.03.2018) (1) The collective management organization shall, regularly, accurately and diligently, distribute and pay the amounts collected from the collective management or from the proceeds from the investment of such amounts, which are payable under contracts for mutual representation to other collective management organizations.

(2) The collective management organization may make deductions on the amounts under Para. 1 only for its own maintenance, unless the organization, with which the contract for mutual representation is concluded, has explicitly given permission to make other types of deductions.

#### Payment of the Collected Amounts

Art. 94m<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) The collective management organization shall distribute and pay the amounts under **Art. 94m, Para. 1** no later than September 30<sup>th</sup> of the year following that in which the amounts are collected.

(2) The term under Para. 1 may be disregarded only for objective reasons relating to the receipt of information by users, the establishment of rights, or the identification of rightholders, or the establishment of compliance between information on works and other protected subject-matter with the information on the holders of rights.

#### Distribution and Payment of the Amounts Received

Art. 94n. (New - SG 28/18, in force from 29.03.2018) The collective management organization or its collective members representing rightholders, shall distribute and pay the sums received under the procedure of **Art. 94m, Para. 1**, to the holders of rights they represent, within 6 months of their receipt. This time limit may be disregarded only for objective reasons relating to the receipt of information by users, the establishment of rights, the identification of rightholders, or the establishment of consistency between the information on the works used and other protected subject-matter with the information on the rightholders of these subject-matter.

**Chapter eleven "g".**  
**RELATIONS WITH USERS (NEW - SG 28/18, IN FORCE FROM 29.03.2018)**

**Ceding of Usage Rights**

Art. 94n<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) The collective management organization or the independent management entity shall, under contract, cede to the users the collectively managed rights of use of works or other protected subject-matter.

(2) Negotiations for concluding contracts under Para. 1 shall be conducted in good faith. Each Party shall provide the other Party with the information required to conclude a contract, if available.

(3) The terms of the contracts under Para. 1, concluded by an organization for collective management, shall be based on objective and non-discriminatory criteria.

(4) Where the collective management organization cedes rights to use through Internet service of a new type, offered in the territory of the Member States of the European Union, for less than three years, the organization shall not be bound by the terms agreed with a user to surrender rights for other types of use through an internet service.

**Concluding Contracts with Users**

Art. 94o. (New - SG 28/18, in force from 29.03.2018) (1) The collective management organization shall, within a reasonable time, respond to a request by a user for concluding a contract to cede the collectively managed rights. The organization shall inform the user of the information necessary to prepare a draft contract. When it receives this information, the collective management organization shall send a draft contract together with its tariff for the respective type of use, or shall submit a motivated written refusal.

(2) The collective management organization shall provide conditions for exchange of information by electronic means, including information relating to users' reports, on the use of the rights ceded.

(3) The collective management organization shall provide users with a list of rightholders expressly disagreeing with the organization representing them, or to receive remuneration from it, the categories of rights, types of rights, works and other protected subject-matter for which this refusal applies, as well as the address of its website for additional information, if any.

**Obligations of Users**

Art. 94o<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) Any user who has entered into a contract with a collective management organization shall give the information at his disposal which is necessary for the collection, distribution and payment of the amounts due to the rightholders.

(2) The format of the reports and the deadlines for their submission shall be determined in advance by the collective management organization, depending on the rights granted and the methods of use, or shall be defined in the contract with the user, taking into account good practices, data from public registries and other publicly available information.

**Approval of Tariffs**

Art. 94p. (New - SG 28/18, in force from 29.03.2018) (1) The contracts under **Art. 94n<sup>1</sup>, Para. 1, c** concluded with a collective management organization, provide remuneration for rightholders on the basis of tariffs. Contractual tariffs must be tailored to the economic value of the use of rights in commercial activity,

taking into account the nature and extent 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 organization, to treat users of the same category on an equal footing. Tariffs shall not be mandatory when negotiating the use of stage works within the meaning of **Art. 3, Para. 1, item 3**. On request, the collective management organization shall inform users of the economic criteria used to determine the tariffs.

(2) The tariffs under Para. 1 shall be prepared after prior consultation with the representative user organization for each use, if such organization exists. A representative user organization shall be such organization which represents users with a larger market share for the respective mode of use of the relevant category and type of rights, and where there is no objective data on this share - a larger number of users, and its Statutes provide for negotiation with organizations for collective administration of rights.

(3) The discussion under Para. 2 shall start at the proposal of the collective management organization towards the representative user organization, accompanied by a draft tariff and economic justification. Upon agreement, the parties shall sign a written agreement on the tariff. The collective management organization shall submit a written application to the Minister of Culture for the approval of a tariff. The tariff shall be approved by an order of the Minister of Culture, or a Deputy Minister empowered by him, on the basis of the written tariff agreement.

(4) Where, within 9 months of receipt of the proposal under Para. 3, no agreement is reached, the collective management organization shall file a written application to the Minister of Culture for the approval of a tariff. The documents under Para. 13 shall be attached to the application. The application shall be examined by a commission appointed by the Minister of Culture, or a Deputy Minister empowered by him, on a case-by-case basis. The Commission shall be appointed for a term of no more than three months, and shall consist of 5 members - one representative proposed by the collective management organization and by the representative user organization, and three experts jointly approved by the organizations.

(5) (Amend. - SG 47/19) Within 14 days from the submission of the application under Para. 4, the Minister of Culture, or a Deputy Minister empowered by him, shall send an invitation to the collective management organization and to the representative user organization to nominate the members of the Commission under Para. 4. Where, within 20 days of receipt of the invitation, the organizations do not meet any of the requirements of Para. 4, sentence 4, the Minister of Culture, or a Deputy Minister empowered by him, shall appoint a representative of the organization which has not made a proposal, among the persons who by law have the right to represent it, respectively shall supplement the commission with experts from the list of mediators under **Art. 94x, Para. 1**. The Minister of Culture shall determine the date for the first meeting of the Commission. The members of the Commission shall elect a Chairperson and may adopt work rules. The three experts shall be entitled to remuneration, which is to be paid equally by the organizations in the amounts determined by agreement between them.

(6) The meetings of the Commission shall be validly held, if at least 4 members are present. Decisions shall be taken by a majority of no less than 4 votes from the members of the Commission.

(7) (Amend. - SG 47/19) The Commission shall examine the application under Para. 4 and the documents annexed thereto and shall take a decision under the procedure of Para. 6 for the final version of the tariff. The Chairperson of the Commission shall immediately send the decision with the tariff to the Minister of Culture. The Minister of Culture, or a Deputy Minister empowered by him, shall approve with an order the tariff on the basis of the decision within 14 days of its receipt.

(8) (Suppl. - SG 47/19) Where the Commission does not decide to approve a tariff within the term under Para. 4, sentence four and by the order of Para. 6, its Chairperson shall immediately notify the Minister of Culture who is to terminate the procedure within 14 days of the notification.

(9) Where there is no representative organization of users for the respective mode of use of the respective category or type of rights, the collective management organization shall submit a written application to the Minister of Culture. The documents under Para. 13 shall be attached to the application. Within 14 days of receipt of the application, the Minister of Culture, or a Deputy Minister empowered by him, shall publish the draft tariff, the economic justification and the methodology thereon on the [website](#) of the Ministry of Cu

Iture. Within 30 days of publication of the tariff plan, interested parties may submit reasoned written proposals on it. Within 14 days after expiry of the term under sentence four, the Minister of Culture, or a Deputy Minister empowered by him, shall send the proposals, if any, to the collective management organization which, within 14 days following receipt, is to submit a reasoned written opinion. Within 30 days of receipt of the opinion under sentence five, the Minister of Culture, or a Deputy Minister empowered by him, shall approve the tariff with an order, or refuse to approve it.

(10) The remunerations applied under the contracts under **Art. 94n<sup>1</sup>, Para. 1** concluded with the Bulgarian National Radio and the Bulgarian National Television for the works and other protected subject-matter they use shall be determined after negotiation with them individually, and shall meet the conditions of Para. 1, sentences 1 and 2, and to treat users of the same category equally. For remunerations shall apply respectively Para. 3-8.

(11) Tariffs may be amended and supplemented at the proposal of:

1. any collective management organization;

2. representative organization of users:

a) where the tariff is approved by the order of Para. 9, or

b) a reasoned request for admission of an amendment or supplement to the tariff by the Minister of Culture, or a Deputy Minister empowered by him, when three years have elapsed since the entry into force of the tariff, or where force majeure or economic intolerance has occurred; in this case, the order for admission of an amendment or supplement to the tariff shall be subject to appeal under the **Administrative-Procedure Code** where the court is to decide within 6 months.

(12) For amendments and supplements to the tariffs shall apply respectively Para. 3 - 8. The amendments and supplements to the tariffs shall be approved by the Minister of Culture, or a Deputy Minister empowered by him.

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

1. a draft tariff or a draft amendment or supplement;

2. a decision of the competent body of the collective management organization for acceptance of the project under item 1;

3. a contract with the Bulgarian National Television, the Bulgarian National Radio, agreement with a representative organization of users under Para. 3, or evidence that the negotiations under Para. 3 have completed without agreement;

4. a declaration under Para. 9 that there is no representative user organization for the respective mode of use of the relevant category or type of rights;

5. a methodology for determining the amount of the remuneration proposed, taking into account the economic value of the rights for the particular type of use, as well as the economic value of the services provided by the collective management organization;

6. economic justification of the project under item 1;

7. a document for paid fee.

(14) Where the application is not accompanied by the documents under Para. 13, the Minister of Culture, or a Deputy Minister empowered by him, shall notify the organization for collective administration of rights and provide a 14-day time limit for the removal of the irregularities with an instruction that the procedure will be terminated upon their non-removal.

(15) The order of the Minister of Culture, or a Deputy Minister empowered by him, to approve the tariff or to refuse to approve the tariff, including amending or supplementing the tariff and terminating the procedure, shall be subject to dispute under the **Administrative-Procedure Code**.

(16) Until the approval of a tariff or an amendment or supplement thereto, the user shall be obliged to pay remuneration for the works and other protected subject-matter used under the last contract concluded with the collective management organization or, failing that, under the applicable tariff of the organization.

## **Representation of Collective Management Organizations and Independent Management Entities**

Art. 94p<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) The collective management organization and the independent management entity may cede to a user only rights, for which they have been expressly authorized to administer collectively by the rightholders, or represent them under a Mutual Representation contract, or under a Representation agreement.

(2) The collective management organization and the independent management entity may cede to a user only rights within the frame of categories of rights, types of rights, works and other protected subject-matter specified in the issued certificate under **Art. 94c, Para. 9**.

(3) Where the law provides for the authorization to use to be granted only through collective management organizations, any organization registered for the administration of the respective rights shall also act on behalf of rightholders who are not its members or are not being represented by it under a Mutual Representation contract or under a Representation agreement. In such cases, the collective management organization must settle its relations with each of the rightholders in the same way as with its members.

(4) Any collective management organization may receive and pay to rightholders, who are not its members or are not being represented by it, remunerations which are attributable to them as a result of the distribution of the remuneration received by the organization for the respective kind of use, unless this is in contradiction with a Representation agreement, or to the extent that some of these rightholders have not expressly and in writing disagreed. Such disagreement shall take effect from the beginning of the calendar year following the year, in which it was made.

(5) (Suppl. - SG 47/19) In cases relating to the administration of rights on public performances, whether live or by way of recording, for wireless transmission, for cable transmission or retransmission, or for the provision of wireless or cable access to an unlimited number of persons, to works or other protected subject-matter, or parts thereof, in such a way as to allow such access to be carried out at a time and place individually chosen by each of them, or only one of those rights, the conclusion of a contract with the first registered organization which manages those rights, and the payment of the remuneration agreed under this contract, shall relieve the user of liability both to members of that organization and to all other local and foreign rightholders for the same categories of rights, types of rights, works and other protected subject-matter, except as regards to those rightholders who expressly and in writing have expressed disagreement with this in front of this organization. Such disagreement shall take effect from the beginning of the calendar year following that in which it was made.

### **Representation During Protection of Rights**

Art. 94q. (New - SG 28/18, in force from 29.03.2018) (1) Any collective management organization shall have the right to represent its members, other collective management organizations, with which it has concluded Mutual Representation contracts, and their members, before all judicial and administrative authorities in the protection of the rights conferred on them for collective administration.

(2) (amend. - SG 98/19) For the protection of the rights under Para. 1, the collective management organizations may, on their own behalf, undertake legal action, including the bringing of claims under **Art. 95, 95a and 95b**, and may request the imposition of measures under **Art. 95e, 95f and 96b**, whereby also applying **Art. 95c, Para. 2**.

### **Chapter eleven "h".**

#### **TRANSPARENCY AND ACCOUNTABILITY (NEW - SG 28/18, IN FORCE FROM 29.03.2018)**

## Information Provided to Rightholders

Art. 94q<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) The collective management organization and the independent management entity shall, at least once a year, provide to the holders of rights, to whom revenues are accrued from the collective management or to whom payments have been made during the relevant period, information on the following:

1. the data provided by the rightholder to be used with the purpose of identifying and determining his whereabouts;
2. revenue accrued to the right holder by collective management;
3. the amounts paid to the rightholder by category of rights and by type of use;
4. the period during which the use has happened, for which revenue has been accrued and amounts paid to the rightholder, except when the organization or the company, for objective reasons relating to the receipt of information from users, cannot provide this information;
5. deductions for collective management for the respective type of use;
6. deductions made for another purpose, including deductions for social, cultural or educational services due under other laws;
7. revenue from the collective management that is accrued but not paid to the rightholder.

(2) The information under Para. 1 shall be provided by the collective management organization to its collective members representing rightholders among which it is to allocate revenue from collective management. Information shall be provided by the organization when it has accrued revenue from collective management and if the collective members do not have it. The information under Para.1 shall be provided at least once a year to the rightholders which they represent and to whom revenue from the collective management has been accrued, or to whom payments have been made during the period, to which the information relates.

## Information Provided to Other Collective Management Organizations

Art. 94r. (New - SG 28/18, in force from 29.03.2018) The collective management organization shall, at least once annually, grant to the collective management organizations with which it has Mutual Representation contracts concluded, information in electronic form for the relevant period which is to include:

1. the accrued revenue and the amounts paid by the collective management of rights managed under the Mutual Representation Agreement, by categories and types of rights, as well as any accrued but unpaid revenue from collective management;
2. the deductions under **Art. 94m, Para. 2:**
  - a) for its own support;
  - b) other deductions;
3. the information about the concluded contracts with users and the refusals to conclude such contracts, which concern the collective management under the Mutual Representation contract;
4. the decisions of the General Assembly which concern the collective management under the Mutual Representation Agreement.

## Information Provided on Request to Rightholders, to Other Collective Management Organizations, or to Users

Art. 94r<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) The collective management organization, upon receipt of a justified request from another collective management organization, with which a contract for Mutual Representation has been concluded by a rightholder or a user, shall, by electronic means and within a reasonable period of time, provide at least information on the works and other protected subject-matter w

which it represents, on the rights it administers directly or on contracts for mutual representation, and for the territories covered.

(2) Where, due to the scope of the organization's activities, the works or subject-matter cannot be established, the organization shall be obliged to announce, by the order of Para. 1, the types of works and other protected subject-matter which it represents, the rights it administers and the territories covered.

(3) Paragraphs 1 and 2 shall apply accordingly to independent management entities.

### **Information Which Must Be Publicly Disclosed**

Art. 94s. (New - SG 28/18, in force from 29.03.2018) (1) The collective management organization shall disclose on its website at least the following information:

1. the content of the Statutes;
2. conditions for termination of the authorization for collective management, if they are not included in the Statutes;
3. standard contracts for ceding of collectively managed rights and the applicable tariffs, including the discounts provided;
4. a list of the members of the elected management and supervisory bodies and the persons representing;
5. the general policy for the distribution of amounts due to rightholders;
6. the general deduction policy for own support;
7. the general policy for deductions from collective management revenue and from revenue from investing the revenue from collective management, including deductions for social, cultural or educational services other than self-supporting deductions;
8. a list of the Mutual Representative contracts and representation agreements, as well as the names of the organizations or independent entities, with which they have been concluded;
9. the general policy for the use of amounts that can not be distributed;
10. list of members;
11. a list of rightholders who expressly disagree with the organization to represent them or to receive remuneration from it, as well as the categories of rights, types of rights, works and other protected subject-matter, for which this disagreement is concerned;
12. a list of rightholders, for whom there are remunerations distributed but not taken;
13. the procedure for dealing with complaints and resolving disputes under **Art. 94w<sup>1</sup>, 94w<sup>2</sup> and 94x<sup>1</sup>**.

(2) The independent management entities shall disclose on their website at least the information under Para. 1, items 1 - 3, items 5 - 7, as well as the information under **Art. 94c, Para. 3**.

(3) Collective management organizations and independent management entities shall keep the information up to date under Para. 1 and 2.

### **Annual Report**

Art. 94s<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) The collective management organization shall publish annually, but not later than 30 August, an annual report. The report shall be published on the website of the organization for a period of not less than 5 years.

(2) The annual report must contain the information according to **Appendix 2**.

(3) The report under Para. 1 must necessarily include a separate report on the use of amounts deducted for social, cultural and educational services. The report shall contain the information in accordance with Section III of **Appendix 2**.

(4) The accounting information contained in the annual report shall be subject to an independent fin

annual audit by one or more registered auditors. The auditor's report must be included in its entirety in the annual report. Accounting information shall be the information from the annual financial report under Section I, item 1 of **Appendix 2**, as well as the financial information under Section I, items 7 and 8 and Section II of that Appendix.

## **Chapter eleven "I".**

### **MULTI-TERRITORIAL AUTHORISATION FOR MUSICAL WORKS FOR ONLINE USE (NEW - SG 28/18, IN FORCE FROM 29.03.2018)**

#### **General Provisions**

Art. 94t. (New - SG 28/18, in force from 29.03.2018) (1) Multi-territorial authorization for online use of musical works by holders of copywriter through collective management organizations registered in the Republic of Bulgaria shall be carried out in accordance with the provisions of this Chapter.

(2) The provisions of this Chapter shall also apply to the authorization for online use of literary works relating to music, as well as to musical works included in a film or other audiovisual work.

(3) The provisions of this Chapter shall not apply to authorizations for online use of musical works in the form of scores.

#### **Legal Capacity**

Art. 94t<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) Multi-territorial authorization for online use of musical works shall be performed only by a collective management organization which can process data electronically in an efficient and transparent manner, and which possesses sufficient information so as to be able to identify the repertoire and track its use, to issue invoices to users, to collect revenue from the rights management and allocate the amounts due to rightholders.

(2) The collective management organization must be able to:

1. establish exactly, in whole or in part, the musical works authorized to represent;
2. establish exactly, in whole or in part, in respect of each relevant territory, the rights and their rightholders for each musical work, or part thereof, which it is authorized to represent;
3. use unique codes to identify right-holders and musical works, taking into account, as far as possible, the standards and practices applied at international or European Union level;
4. use appropriate means of identifying and removing, quickly and effectively, inconsistencies in the data available to the other collective management organizations which authorize the multi-territorial online use of musical works.

#### **Transparency of Repertoire Information While Authorising Multi-territorial Online Use of Musical Works**

Art. 94t<sup>2</sup>. (New - SG 28/18, in force from 29.03.2018) (1) A collective management organization, which gives authorization for multi-territorial online use of musical works shall send to the Internet service providers, to rightholders it represents and to other collective management organizations up-to-date information allowing the identification of the musical repertoire it represents. Information shall be sent electronically upon receipt of a reasoned request, and shall include:

1. the musical works it represents;
2. the rights it represents, in whole or in part;
3. the territories covered.

(2) The collective management organization may take appropriate measures to protect the integrity and accuracy of the data it provides under Para. 1, as well as to control their re-use, or to protect information that may be of commercial importance.

### **Accuracy in the Information About the Multi-Territorial Repertoire**

Art. 94u. (New - SG 28/18, in force from 29.03.2018) (1) The collective management organization gives authorization for multi-territorial online use of musical works shall, within a reasonable time, make the necessary corrections to the data or in the available information under **Art. 94t1, Para. 2** and **Art. 94 t<sup>2</sup>** when rightholders, other collective management organizations and Internet service providers consider, based on a substantiated request with evidence, that the data or information regarding their rights of musical works for online use are inaccurate.

(2) The collective management organization shall give rightholders, whose musical works are included in its own repertoire, and rightholders who have entrusted it with the management of their rights of musical works for online use, the opportunity to electronically send information about the works, the rights thereof and the territories in respect of which they have granted management rights. The information shall be provided in accordance with the standards and practices applied in the exchange of data at international or European Union level.

(3) Where any collective management organization mandates another organization to authorize multi-territorial use of musical works online in accordance with **Art. 94v** and **94v<sup>1</sup>**, the authorized organization shall apply the provision of Para. 2 in respect of rightholders, whose musical works are included in the repertoire of the authorizing organization, unless otherwise agreed between the two organizations.

### **Exchange of Reports and Invoices**

Art. 94u<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) Any collective management organization which has authorized multi-territorial use of musical works online shall monitor that use by the service providers.

(2) The collective management organization shall give online service providers the opportunity to electronically report the actual use of the rights granted to them, and providers shall be required to report accurately on the actual use of the works. The organization shall propose using at least one reporting methodology which to comply with international standards or practices used to exchange such data electronically. Where the organization allows reporting using an industry standard for electronic data exchange, it may refuse to accept a report from a provider non-compliant with the standard.

(3) Any collective management organization shall issue invoices to Internet service providers electronically, whereby proposing the implementation of at least one format compliant with international standards or practices. The invoice must allow the identification of the works and the rights granted for them on the basis of the data under **Art. 94t<sup>1</sup>, Para. 2**, as well as their actual use, if possible, on the basis of the information provided by the service provider, and also the format used. The provider cannot refuse to accept the invoice because of its format, provided that the collective management organization has used a standard of billing adopted in the wider practice.

(4) The collective management organization shall issue an invoice to the provider accurately and within a reasonable time after receiving the report on the actual use of the right granted on the relevant musical work, unless this is impossible due to reasons attributable to the provider.

(5) The collective management organization shall apply appropriate procedures to enable providers to challenge the accuracy of the invoice, including when they receive invoices from one or more organizations for the same rights on the same work.

## **Paying the Rightholders**

Art. 94u<sup>2</sup>. (New - SG 28/18, in force from 29.03.2018) (1) Any collective management organization which has authorized multi-territorial use of musical works online shall distribute the received remunerations to the rightholders accurately and within a reasonable time after receiving information about the use of the works, except where this is not possible for reasons due to the service provider.

(2) The collective management organization shall provide rightholders, together with any payment under Para. 1, at least with the following information:

1. the period during which the use is done, for which remuneration is due, and the territories where said use is made;

2. the amounts collected, the deductions made and the amounts distributed for each type of right used on each musical work, for which the rightholders have authorized the organization to represent them in full or in part;

3. the amounts collected, the deductions made for the management of rights, and the amounts distributed to each service provider.

(3) Where a collective management organization has authorized another collective management organization to authorize multi-territorial online use of musical works by the order of **Art. 94v** and **94v<sup>1</sup>**, the authorized organization shall distribute precisely and within a reasonable time the amounts under Para. 1, and shall send the information under Para. 2 to the authorizing organization responsible for the subsequent distribution of these amounts and the provision of information to rightholders, unless otherwise agreed between the two organizations.

## **Agreements Between Collective Management Organizations**

Art. 94v. (New - SG 28/18, in force from 29.03.2018) (1) The representation agreement between collective management organizations, by which an organization mandates another organization to authorize multi-territorial online use of musical works from its repertoire, shall only be on a non-exclusive basis. The mandated organization shall manage the acquired rights without allowing any discrimination.

(2) The mandating collective management organization shall inform its members about the terms of the agreement under Para. 1, including its duration and the costs of services rendered by the mandated organization.

(3) The mandated collective management organization shall inform the mandating organization of the conditions under which it grants licences for the online use of the repertoire of the mandating organization, including of the types of rights and works, the amount of remuneration, the duration of the authorization, the payment terms and the covered territories.

## **Obligation to Represent Another Collective Management Organisation**

Art. 94v<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) In the event where a collective management organisation which does not grant or offer to grant multi-territorial licences for the online rights in musical works in its own repertoire requests another collective management organisation to enter into a representation agreement to represent that repertoire, the requested collective management organisation shall be required to agree to such a request, if it is already granting or offering to grant for the same category of rights multi-territorial licences for the online rights in musical works from the repertoire of one or more other collective management organisations.

(2) The requested collective management organisation under Para. 1 shall respond to the request in writing and without undue delay.

(3) The mandated organization shall manage the repertoire of the mandating one on the same conditions as those which it applies to the management of its own repertoire.

(4) The mandated organization shall include the repertoire of the mandating organization in all offers to grant licences it addresses to online service providers.

(5) The mandated organization cannot make deductions for its own maintenance, bigger than the ones which are usual for the execution of the authorization.

(6) The mandating organization shall make available to the mandated organization all the information about its own musical repertoire required for the provision of multi-territorial licences for online use of musical works. In the event that this information proves to be insufficient or in a form that does not allow the mandated organization to act in accordance with the requirements of this Chapter, it shall be able to do the necessary to meet these requirements at the expense of reasonably justifiable costs, or to exclude from the scope of the agreement those works for which the information is insufficient or cannot be used.

### **Exception for Radio and Television Organizations**

Art. 94w. (New - SG 28/18, in force from 29.03.2018) This Chapter shall not apply to collective management organizations where they grant multi-territorial licences for the online use of musical works of radio- or television organizations, whose programs are used online simultaneously or after initial broadcasting, including in material such as preliminary reviews and self-promotional messages which are ancillary to the original radio- or television programs.

## **Chapter eleven "j".**

### **DISPUTE RESOLUTION (NEW - SG 28/18, IN FORCE FROM 29.03.2018)**

#### **Filing Complaints and Written Alerts**

Art. 94w<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) The collective management organization shall ensure its members and the other organizations, with which mutual relations have been concluded, the application of procedures for filing complaints and written alerts, and for resolving disputes relating to the authorization of collective management of rights, its withdrawal or termination, the conditions for membership, the collection of remunerations payable to rightholders, their deductions and their distribution.

(2) The collective management organization shall respond in writing to every complaint under Para. 1 within one month of its receipt. The answer may also be provided electronically. The refusal to accept the complaint shall include the reasons thereof.

#### **Mediation**

Art. 94w<sup>2</sup>. (New - SG 28/18, in force from 29.03.2018) (1) Through mediation, disputes may be resolved under Chapter eleven "i" related to a collective management organization established on the territory of the Republic of Bulgaria which authorizes or proposes to authorize multi-territorial online use of musical works for the application of:

1. Articles **94n<sup>1</sup>**, **94t<sup>2</sup>**, **94u** and **94u<sup>1</sup>** with an actual or potential service provider;
2. Articles **94t<sup>2</sup>** – **94v<sup>1</sup>** with one or more rightholders;
3. Articles **94t<sup>2</sup>** - **94v<sup>1</sup>** with another collective management organization.

(2) Through mediation, other disputes may be resolved for the application of the Act, other than those under Para. 1, between collective management organizations and:

1. its members;

2. rightholders;
3. representative user organizations;
4. users.

### **Mediation Procedure**

Art. 94x. (New - SG 28/18, in force from 29.03.2018) (1) (Amend. and suppl. - SG 47/19) Under Art. 94w<sup>2</sup>, mediator can only be a person who meets the requirements of the **Mediation Act**, has been entered in the unified register of mediators with the Minister of Justice, possesses special knowledge in the field of copyright and related rights, and has been entered in the special list of mediators with the Minister of Culture. Before the entry, the Minister of Culture or a Deputy Minister empowered by him shall request an opinion from the registered collective management organizations and from the users' representative organizations. The opinion shall be delivered within 14 days of receipt of the request. The absence of an opinion shall not stop the entry procedure.

(2) The mediation procedure shall be conducted under the order of the **Mediation Act**.

(3) In the case of a dispute between a collective management organization and a user, or a representative user organization, the initiation of a mediation procedure shall not invalidate the obligation of the user to pay remuneration on ceded rights for the respective method of use according to the last agreed remuneration or, if not available, according to the tariff of the organization.

### **Disputes Resolution**

Art. 94x<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) Filing a complaint under Art. 94w<sup>1</sup> or the commencement of a mediation procedure under Art. 94w<sup>2</sup>, or procedure under Art. 94p, shall not prevent any party from bringing the dispute to the court, or submitting a request to the Commission for the Protection of Competition.

## **Chapter eleven "k".**

### **CONTROL OVER THE COLLECTIVE RIGHTS MANAGEMENT (NEW - SG 28/18, IN FORCE FROM 29.03.2018)**

#### **Control**

Art. 94x<sup>2</sup>. (New - SG 28/18, in force from 29.03.2018) (1) The Minister of Culture, or a Deputy Minister authorized by him, shall exercise preliminary, ongoing and follow-up control over the legality of the manner, in which collective rights management is being performed.

(2) The control under Para. 1 shall be carried out by means of inspections under Art. 94y.

#### **Actions to Carry Out the Control**

Art. 94y. (New - SG 28/18, in force from 29.03.2018) (1) The Minister of Culture, or a Deputy Minister empowered by him, may request from any collective management organization, or independent rights management entity, information related to the collective rights management activity, as well as the necessary documents related to the implementation of the control. The Minister of Culture, or a Deputy Minister empowered by him, shall set a deadline for the provision of the information.

(2) (Suppl. - SG 47/19) Where there is evidence of a violation of this Division by a collective mana

gement organization or an independent management entity, or the information or documents under Para. 1 are not provided, the Minister of Culture, or a Deputy Minister empowered by him, shall assign an inspection.

(3) The inspection under Para. 2 shall be carried out by officials designated by the Minister of Culture, or a Deputy Minister empowered by him.

(4) The officials under Para. 3 shall have the right to require:

1. within terms set by them, to receive references, certified copies of documents and other information, including in electronic form;

2. the necessary data, information, explanations and other information related to the collective rights management activities.

(5) The officials under Para. 3 shall be obliged to:

1. accurately reflect the facts of the inspection which has been carried out;

2. keep the official and commercial secrets which have become known to them in connection with the inspection carried out;

3. not disclose any data from the inspection;

4. (amend. - SG 17/19) process the personal data in accordance with the requirements for its protection.

(6) The management bodies of the audited organization or entity shall be obliged to assist the officials under Para. 3. in carrying out the inspection, to provide the requested documents and evidence, and to provide appropriate premises and technical means for conducting the inspection, including the use of telecommunication means. Managing authorities shall not rely on commercial or other secrecy protected by law in carrying out the inspection. When providing information to officials, the governing bodies shall identify the materials they believe contain a trade secret or other secret protected by law, and which are to be considered by the inspectors as confidential. In this case, the material shall be provided, whereby the data considered to be confidential are to be deleted.

(7) The draft inspection report shall be handed to the collective management organization or the independent management entity. The organization or entity may submit a written statement and additional evidence on the report within 14 days of its service.

(8) The Minister of Culture, or a Deputy Minister empowered by him, on the basis of the draft report, the statements and the additional evidence under Para. 7, shall approve a final report. The final report shall be sent to the collective management organization or the independent management entity and is to be published on the [website](#) of the Ministry of Culture.

(9) In the event of a violation of this Division by a collective management organization or independent management entity, the Minister of Culture, or a Deputy Minister authorized by him, shall issue a mandatory prescription and shall set a suitable term for its execution. The prescription shall be given to the person and shall be published on the [website](#) of the Ministry of Culture within three days of its issuance.

(10) The mandatory prescription under Para. 9 may be challenged by the order of the [Administrative-Procedure Code](#).

## **Exchange of Information**

Art. 94y<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) The Ministry of Culture shall respond within a reasonable time to any reasoned request received by the relevant body of another Member State of the European Union, designated to exercise control over the activity of collective rights management, on the activities of the registered collective management organizations.

(2) Where the Ministry of Culture considers that a collective management organization, established in another Member State of the European Union but operating on the territory of the Republic of Bulgaria, has not complied with the provisions of its national law on collective rights management, it may send the necessary information to the competent authority of that country, accompanied, if necessary, by a request to that authority to take appropriate measures within the limits of its powers.

**Division three.**  
**ENFORCEMENT OF COPYRIGHT AND RELATED RIGHTS**

**Chapter twelve.**  
**CIVIL LAW ENFORCEMENT**

**Claim for Indemnification**

Art. 95. (amend. - SG 99/05, in force from 10.01.2006, previous Art. 94 - SG 28/18, in force from 29.03.2018) (1) Whoever infringes copyright, related right or other right under this Act, shall owe indemnification to the owner of the right or the person who has been granted exclusive right of use.

(2) Indemnification shall be due for all damages which are direct and immediate consequence of the infringement.

(3) At determining the amount of the indemnification the court shall take into consideration also all circumstances related to the infringement, the lost profits and moral damages as well as the revenues realized by the infringer due to the infringement.

(4) The court shall determine fair indemnification having preventive and warning influence to the infringer and the other members of the society.

**Special Cases of Claim for Indemnification**

Art. 95a. (new – SG 99/05, in force from 10.01.2006, previous Art. 94a - SG 28/18, in force from 29.03.2018) (1) Where the claim has been determined by ground but there is no sufficient data about its amount the claimant may require for indemnification:

1. (amend. - SG 28/18, in force from 29.03.2018) from five hundred to hundred thousand BGN, where the exact amount shall be determined by assessment of the court under the conditions of **Art. 95, para 3 and 4**, or

2. the equivalent of the subject matter of the infringement at retail price of lawfully reproduced copies.

(2) At determining the indemnification referred to in para 1, the revenues received as a result of the infringement shall also be taken into consideration.

**Other Claims**

Art. 95b. (Previous Art. 95 - SG 28/18, in force from 29.03.2018) (1) (amend. - SG 28/00, in force from 05.05.2000; amend. - SG 77/02, in force from 01.01.2003; prev. text of Art. 95 – SG 99/05, in force from 10.01.2006) Where a work, subject matter under **Art. 72** or databases under **Chapter eleven "a"** are used in infringement of the provisions of this Act, the owner of the copyright or the person to whom the he has granted exclusive right to use, may bring an action before the court for:

1. (new – SG 99/05, in force from 10.01.2006) finding the fact of the infringement;

2. (amend. - SG 77/02, prev. text of item 01 – SG 99/05, in force from 10.01.2006) discontinuance of the illegitimate use or prohibition of implementation of the activity, which will constitute illegitimate use;

3. (suppl. - SG 77/02, in force from 01.01.2003; prev. text of item 02 – SG 99/05, in force from 10.01.2006) seizing and destroying illegitimately produced copies of the work, the subject matter under **Art. 72** or the databases under **Chapter Eleven "a"**, including negatives, master copies, printing forms and others u

sed for the purposes of reproduction of copies;

4. (suppl. - SG 28/00, in force from 05.05.2000; prev. text of item 03 – SG 99/05, in force from 10.01.2006) seizing and pulling out of operation the copying, reproducing and decryption equipment used exclusively for committing violations;

5. (amend. - SG 28/00, in force from 05.05.2000; prev. text of item 04, amend. - SG 99/05, in force from 10.01.2006) conceding the subject-matter under item 3.

6. (new – SG 99/05, in force from 10.01.2006) announcing to the account of the infringer of the operative part of the court decision in two daily newspapers and in television organization with national coverage at time determined by the court.

(2) (new – SG 99/05, in force from 10.01.2006) Seizure in the sense of para 1, items 3 and 4 may be requested both of objects being at a certain place and of subjects being in the commercial network as a whole.

### **Special Claimants**

Art. 95c. (new – SG 99/05, in force from 10.01.2006, previous **Art. 95a** - SG 28/18, in force from 29.03.2018) (1) (Amend. - SG 28/18, in force from 29.03.2018) Besides the owners of the respective right and the persons granted exclusive right of use, right of claim under **Art. 95, 95a** and **95b** shall also have the organizations for collective administration of rights and the professional protection organizations of the owners of rights.

(2) (amend. – SG 59/07, in force from 01.03.2008; amend. – SG 21/14, amend. - SG 94/18, amend. - SG 47/19) The organizations referred to in para 1 may lay claims and request imposition of measures only in respect of rights which have been assigned for administration, respectively – for protection. The organizations for collective rights management, when laying claims or requesting imposition of measures, must not establish individual management rights, protection rights respectively, of their members, disclosed in the list under **Art. 94s, Para. 1, item 10**, and of the foreign related collective rights management organizations, entered in the register under **Art. 94d, Para. 3, item 7**. In these cases, the provision of **Art. 26, para 4 of the Civil Procedure Code** shall not be applied.

### **Liability**

Art. 95d. (new – SG 99/05, in force from 10.01.2006, previous **Art. 95b** - SG 28/18, in force from 29.03.2018) The legal persons and the sole entrepreneurs shall bear civil responsibility for the infringement of rights under this Act guiltily perpetrated by the persons representing them, respectively by their employees or persons hired by them. In this case the guilt shall be assumed until proven otherwise.

### **Providing Evidence in Claim and Securing Procedures**

Art. 95e. (new – SG 99/05, in force from 10.01.2006, previous Art. 95c - SG 28/18, in force from 29.03.2018) (1) Where the claimant has presented evidence supporting his claims and has also pointed out other evidence of significance for the solution of the case which is under the control of the defendant the court can oblige the defendant to present this evidence.

(2) Under the conditions of para 1, upon request of the claimant the court can oblige the defendant to provide opportunity for acquainting with bank, financial and commercial documents which are under his control.

(3) The claimant shall be obliged not to announce the information contained in the documents of para 2.

(4) The presentation of evidence for single or one time unlawful use of protected subject matter under this Act shall be accepted to be sufficient ground for applying the provisions of para 1 and 2.

(5) The existence of the circumstances connected with claimed infringement may also be established by the presentation of evidence for single or one time unlawful use of subject matter protected under this Act.

### **Requesting Information about the Origin and the Distribution Networks upon Infringement**

Art. 95f. (new – SG 99/05, in force from 10.01.2006, previous Art. 95d - SG 28/18, in force from 29.03.2018) (1) The court may upon request by the claimant to oblige the defendant or third person to present information about circumstances which are of importance for resolving the case.

(2) Third person in the sense of para 1 shall be each person who:

1. keeps goods – subject of infringement, or
2. provides services leading to infringement, or
3. uses services representing infringement, or
4. has been pointed out by person under items 1 – 3 as participant in the manufacturing, production or distribution of these goods or services.

(3) The information referred to in para 2 may include:

1. the names and the addresses of the producers, manufacturers, distributors, suppliers and other persons who have been previously holders of the goods or the services as well as the supposed wholesale and retail distributors;
2. information about the produced, manufactured, supplied, received or ordered quantities as well as the resources received for the goods or services in question.

(4) Para 1 shall not be applied when its implementation may lead to infringement of a provision of another law.

(5) The provisions of para 1 – 3 shall be applied only for acts carried out for direct or indirect economic or commercial benefit.

### **Competent Courts**

Art. 96. Disputes under this Act shall be settled by the district courts.

### **Security or Provisional Measures (Title suppl. – SG 25/11, in force from 25.03.2011)**

Art. 96a. (new - SG 28/00, in force from 05.05.2000 г.) (1) (amend. SG 77/02, in force from 01.01.2003; amend. - SG 99/05, in force from 10.01.2006; suppl. – SG 25/11, in force from 25.03.2011) In case of infringement of a copyright, related right or right under **Art. 93c**, or where enough data is available to consider that such infringement will be committed or some evidence will be lost, destroyed or concealed, the court upon request by the owner of the respective right or the person who has been granted exclusive right of use may, without informing the person with regard to whom security or provisional measure is requested, admit also some of the following measures:

1. (amend. - SG 77/02, in force from 01.01.2003) prohibition of carrying out the activity which is claimed to constitute or will constitute illegal use of a work, subject matter under **Art. 72** or database under **Chapter eleven "a"**;

2. (amend. - SG 77/02, in force from 01.01.2003; amend. - SG 99/05, in force from 10.01.2006) seizure of the copies of the work, the subject matter under **Art. 72** or the databases under **Chapter eleven "a"** which are claimed to be illegally reproduced, the negatives, the matrices, the cliches and the like, intended f

or reproduction of the copies, as well as other evidence of importance for proving the infringement;

3. seizure or sealing of the equipment which is claimed to have been used or will be used for infringement;

4. sealing of the premises in which infringement is claimed to have been committed or will be committed.

(2) (amend. - SG 99/05, in force from 10.01.2006; amend. – SG 59/07, in force from 01.03.2008; suppl. – SG 25/11, in force from 25.03.2011) The admission, imposing and revocation of the security or provisional measures shall be carried out according to the order referred to in **Art. 389-403 of the Civil Procedure Code**, with exception of **Art. 398, first sentence** and as much as this Act does not stipulate otherwise.

(3) (suppl. - SG 25/11, in force from 25.03.2011) The security or provisional measure prohibition of carrying out the activity shall be imposed by its announcement by the court.

(4) (amend. - SG 43/05, in force from 01.09.2005; amend. - SG 99/05, in force from 10.01.2006; suppl. – SG 25/11, in force from 25.03.2011) The security or provisional measures under para 1, item 2, 3 and 4 shall be imposed by state or private bailiff who shall carry out the act simultaneously with the handing over of the announcement for admitting the security to the defendant in three days term after receiving the application of the claimant to the bailiff. The security measures admitted for prevention of forthcoming infringement shall be imposed in term complied with its purpose. The seized property shall be submitted by an inventory for keeping to the claimant who can use it solely as evidence.

(5) (suppl. - SG 25/11, in force from 25.03.2011) The claimant or his representative shall have the right to attend and assist the imposition of the security or provisional measures.

(6) (revoked - SG 43/05, in force from 01.09.2005)

(7) (suppl. - SG 25/11, in force from 25.03.2011) If it is found that an imposed security or provisional measure has been requested without justification the defending party may require from the person who has requested it to pay the damages caused as a result of the security.

(8) (new – SG 99/05, in force from 10.01.2006; suppl. – SG 25/11, in force from 25.03.2011) The security or provisional measure referred to in para 1, item 1 may be imposed also to third persons for whom sufficient data is available that they facilitate the implementation of the activity for which is claimed to represent or will represent unlawful use.

(9) (new – SG 99/05, in force from 10.01.2006) The owner of the respective right or the person to whom he has granted exclusive right of use shall be obliged not to announce information that has become known to him at or on occasion of the measures referred to in para 1.

## **Chapter twelve "a".**

### **PROTECTION MEASURES BY THE CUSTOMS AUTHORITIES (new - SG 28/00, in force from 05.05.2000, TITLE AMENDED - SG 98/19)**

#### **Grounds and Field of Application**

Art. 96b. (new - SG 64/06, in force from 09.11.2006, amend. - SG 98/19) (1) The customs authorities shall apply measures to goods under customs supervision or customs control for allegedly infringing a right protected by this Act, under the terms and procedures of 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 (OB, L 181/15 of 29 June 2013).

(2) Paragraph 1 shall also apply to goods, whether or not they are the subject of a customs regime, which were found as a result of the check carried out by the customs authorities in the exercise of their powers within the territory of the Republic of Bulgaria.

(3) When implementing the measures, the customs authorities shall collect fees to cover the costs of storage of the goods to the extent determined by the Council of Ministers in accordance with Art. 12 of the

### **Procedure of Suspension**

Art. 96c. (new – SG 28/00, in force from 05.05.2000, revoked - SG 98/19)

### **Actions on the Initiative of the Customs Bodies**

Art. 96d. (new – SG 28/00, in force from 05.05.2000, revoked - SG 98/19)

### **Additional Stipulation**

Art. 96e. (new – SG 28/00, in force from 05.05.2000, revoked - SG 98/19)

## **Chapter twelve "b". Administrative Injunction Measures**

### **Administrative Injunction Measures**

Art. 96f. (new - SG 25/11, in force from 25.03.2011) (1) For prevention or interception of infringements under this Act, as well as for prevention or remedy of damages resulting thereof, the Minister of Culture or a deputy minister determined by him shall be entitled to:

1. order in writing the infringer to desist from the infringement of this Act;
2. order in writing the infringer to undertake specific measures for remedying the infringement within a suitable time limit;
3. request from the infringer to declare he will desist from the infringement of this Act, if necessary, request that he makes the declaration available to the public;
4. order termination of every infringement of this Act, if necessary, to make the order for termination of the infringement available to the public.

(2) The administrative injunctions referred to in Para 1 shall be imposed in a written order of the Minister of Culture or a deputy minister authorised by him. The order shall specify the type of the administrative injunction measure, as well as a suitable time limit to present evidence for its performance.

(3) The order referred to in Para 2 shall be delivered by registered mail with acknowledgement of receipt or through the municipal administration at the permanent address of the person, and to sole entrepreneurs and legal persons – at the seat and address of management, according to the judicial, respectively trade registration.

(4) The order for imposing an administrative injunction shall be subject to appeal as set out in the [Administrative Procedure Code](#).

## **Chapter thirteen. PENAL ADMINISTRATIVE PROVISIONS**

### **Penalties**

Art. 97. (1) (amend. - SG 10/98) Whoever commits the following in offence of this Act:

1. (amend. - SG 28/00, in force from 05.05.2000; amend. and suppl. - SG 99/05, in force from 10.01.2006) reproduces and distributes video carriers holding reproduced films or other audio-visual works, performances, records of films or other audio-visual works;
2. (amend. - SG 28/00, in force from 05.05.2000; amend. and suppl. - SG 99/05, in force from 10.01.2006) reproduces and distributes audio carriers holding reproduced works, performances or phonograms;
3. organises in any manner whatsoever communication to the public of films or other audio-visual works;
4. (amend. - SG 28/00, in force from 05.05.2000) offers sound or video recording services to third parties with the purpose to prepare single copies of works or other protected subject-matter by this Act;
- 4a. (new - SG 28/18, in force from 29.03.2018) organizes live public performance of works;
5. (amend. – SG 25/11, in force from 25.03.2011, amend. - SG 28/18, in force from 29.03.2018) uses through recorded public performance of works, recorded performances, recordings, recorded films or other audio-visual works, radioprograms or television programs;
- 5a. (new – SG 25/11, in force from 25.03.2011) organise public presentation of a work;
6. (amend. - SG 99/05, in force from 10.01.2006) wireless broadcasting, transmission or retransmission by cable of works, performances, phonograms, records of films or other audio-visual works or radio or television programmes;
7. (amend. - SG 28/00, in force from 05.05.2000; amend. - SG 99/05, in force from 10.01.2006) publishes, reproduces or distributes already published works;
8. (amend. - SG 28/00, in force from 05.05.2000) owns a computer programme knowing or having grounds to suppose that this is illegal;
9. (new - SG 28/00, in force from 05.05.2000; amend. - SG 99/05, in force from 10.01.2006) reproduces, preserves in the memory of computer, distributes or uses in another way computer programmes;
10. (new – SG 28/00, in force from 05.05.2000) reproduces or distributes works of the applied art, design and the national artistic crafts, photographic works and works created by a process analogous to photography;
11. (new - SG 28/00, in force from 05.05.2000; amend. - SG 77/02, in force from 01.01.2003) illegally uses a work under **Art. 3, para 1, items 6 and 8**;
12. (new – SG 99/05, in force from 10.01.2006) saves in digital form on electronic carrier films or other audio–visual works, musical compositions, performances, phonograms, records of films or other audio – visual works;
13. (new – SG 99/05, in force from 10.01.2006) provides access to the work, the object under **Art. 72** or part of it by wireless means or by cable to unlimited number of people in such a way that it may be accessed from a place and at a time individually chosen by each of them;
14. (new - SG 28/00, in force from 05.05.2000; prev. text of item 12 – SG 99/05, in force from 10.01.2006; revoked – SG 25/11, in force from 25.03.2011)
15. (new – SG 77/02, in force from 01.01.2003; prev. text of item 13, amend. - SG 99/05, in force from 10.01.2006; revoked – SG 25/11, in force from 25.03.2011)
16. (new – SG 77/02, in force from 01.01.2003; prev. text of item 14 - SG 99/05, in force from 10.01.2006; revoked – SG 25/11, in force from 25.03.2011)  
(amend. - SG 99/05, in force from 10.01.2006; amend. – SG 25/11, in force from 25.03.2011, amend. and suppl. - SG 28/18, in force from 29.03.2018) shall be punished with fine or proprietary sanction in amount from two thousand to twenty thousand BGN, if he/she is not subject to graver penalty. The subject matter of the violation, regardless of the ownership, may be seized in favour of the state. Seized property shall be submitted for destruction by the bodies of the Ministry of Interior.
- (2) (amend. - SG 10/98; suppl. - SG 28/00, in force from 05.05.2000; suppl. - SG 77/02, in force from 01.01.2003; amend. – SG 25/11, in force from 25.03.2011) Repeated and subsequent offence under para 1 committed within one year from the imposition of the previous penalty, shall be punished by a fine or proprietary sanction from three thousand to thirty thousand BGN and the subject matter of the violation regardless

of the ownership shall be seized in favour of the state and shall be submitted for destruction by the bodies of the Ministry of Interior.

(3) In event of systematic offences the facility where these offences have been committed, such as a store, studio, establishment, cinema, theatre, company's head office, etc. shall be closed for a period from three to six months.

(4) (amend. - 10/98; amend. - SG 99/05, in force from 10.01.2006; amend. – SG 25/11, in force from 25.03.2011; suppl. – SG 21/14, amend. - SG 28/18, in force from 29.03.2018) Organisation for collective administration of rights or independent management entity which exercises activity in violation of **Art. 94p<sup>1</sup>, Para. 1 or 2**, a pecuniary sanction shall be imposed from five thousand to twenty thousand BGN.

(5) (new - SG 28/00, in force from 05.05.2000) The sanctions under para 1 or 2 shall be imposed to a person who produces, distributes, advertises or imports, as well as possesses with a commercial purpose a decoding device able to provide access to encrypted signal to persons outside the audience determined by the broadcasting organisation.

(6) (new - SG 28/00, in force from 05.05.2000; amend. and suppl. - SG 77/02, in force from 01.01.2003; suppl. - SG 99/05, in force from 10.01.2006) The sanctions under para 1 or 2 shall be imposed to a person who intentionally removes, damages, destroys or disrupts or in other way evades, without having right to do that, technological means for protection used by owners of rights protected by this Act, provided that he knows or there are grounds to suppose that these means have such functions.

(7) (new – SG 77/02, in force from 01.01.2003; amend. - SG 99/05, in force from 10.01.2006) The sanctions under para 1 or 2 shall also be imposed to a person, who produces, imports, distributes, sells, rents, offers for sale, advertises with purpose of sale or rent or possess with commercial purpose devices, products or components of products, or provides services, which:

1. are offered or advertised as means for evading of technological measures for protection, or
2. have only limited commercial purpose or application different from this to be evaded technological measures for protection, or
3. are basically intended, produced, adapted or used to make possible or to facilitate the evasion of technological measures for protection.

(8) (new - SG 28/00, in force from 05.05.2000; prev. text of para 07 – SG 77/02, in force from 01.01.2003) The sanctions under para 1 or 2 shall also be imposed to a person who, without having the right to do that and knowing or having grounds to know that this act will cause, allow, facilitate or conceal infringement of a right protected by this Act:

1. removes or changes information in electronic form about the regime of the rights on a subject matter of copyright or related right;

2. (amend. - SG 99/05, in force from 10.01.2006) distributes, including by importation for distribution, publicly performs, broadcasts by wireless means, transmits or retransmits by cable a subject matter of copyright or related right, as well as offers access to unlimited number of persons to such subject matter in a way allowing this access from a place and in time individually chosen by each of them, knowing that the information in electronic form about the regime of the rights on this subject matter has been removed or changed without the right to do that.

(9) (new - SG 28/00, in force from 05.05.2000; prev. text of para 08 – SG 77/02, in force from 01.01.2003; amend. - SG 99/05, in force from 10.01.2006) Information about the regime of the rights in the context of para 8 is any information allowing the identification of the subject matter of copyright or related right, the owner of the right, as well as information about the conditions of use of the subject matter, as well as any number and code representing such information on condition that any of these elements of the information is present on the copies of the subject matter or appears in connection with its communication to the public.

(10) (new – SG 25/11, in force from 25.03.2011, amend. - SG 28/18, in force from 29.03.2018) The sanction referred to in Para 1 or 2 shall be imposed also to any person, who fails, within the set deadline, to submit evidence of the performance of the imposed administrative injunction measure under **Art. 96f**.

(11) (new – SG 25/11, in force from 25.03.2011) The sanction referred to in Para 1 or 2 shall be im

posed also to any person, who impedes the performance of an imposed administrative injunction measure under **Art. 96f**.

(12) (new – SG 25/11, in force from 25.03.2011, amend. - SG 28/18, in force from 29.03.2018) The sanction referred to in Para 1 or 2 shall be imposed also to any person, who fails to perform their duties under **Art. 20a, Para 6, Art. 26, Art. 58, Para 6, Art. 95e, Para 3 or Art. 96a, Para 9**.

(13) (new – SG 25/11, in force from 25.03.2011) The sanction referred to in Para 1 or 2 shall be imposed also to any person, who violates a prohibition under **Art. 93c**.

(14) (New - SG 28/18, in force from 29.03.2018) Any collective management organization or independent management entity which fails to comply with mandatory prescription under **Art. 94y, Para. 9** shall be imposed a proprietary sanction in the amount from BGN 5 000 to 25 000. For repeated and any subsequent offense within one year from the imposition of the previous penalty, the proprietary sanction under sentence one shall be imposed in double amount.

(15) (New - SG 28/18, in force from 29.03.2018) Any person who exercises activities to do with collective management of rights without registration, or whose registration has been deleted, shall be subject to a fine or proprietary sanction from two thousand to twenty thousand BGN.

(16) (New - SG 28/18, in force from 29.03.2018) Any person who does not fulfill an obligation under **Art. 94y, Para. 6 or Art. 98b**, a fine or proprietary sanction from five hundred to five thousand BGN shall be imposed.

(17) (New - SG 94/18) A legal person under Art. 26b, Para. 3, item 2 which fails to fulfill an obligation under Art. 26c, Para. 2 - 4 shall be imposed a pecuniary sanction of five hundred to ten thousand BGN.

#### **Detection of the Offences and Competences of the Officials (title amend. - SG 99/05, in force from 10.01.2006)**

Art. 98. (amend. - SG 99/05, in force from 10.01.2006) (1) (Amend. - SG 47/19) The offences under **Art. 97** shall be detected by an act which shall be prepared by officials determined by an order of the Minister of culture.

(2) (Amend. - SG 47/19) The officials referred to in para 1 shall have right to:

1. carry out on-the-spot and document-based inspections;
2. request access to the sites subject to control;
3. request the documents necessary for the inspections held;
4. seize durable material carriers containing subject matter protected by the law connected with the violation;
5. use automated means of control in establishing violations under Art. 97;
6. use a specialist - technical assistant;
7. issue obligatory orders for remedying deficiencies and violations of the law;
8. require assistance from the authorities of the Ministry of Interior, municipalities and mayoralities during or in connection with the inspections under item 1.

(3) The officials referred to in para 1 shall be obliged to:

1. reflect precisely the facts detected at the inspection in the act for offence;
2. preserve the official and the commercial secret that has become known to them in connection with the inspections;
3. not publicly announce data from the inspections;
4. use the information from the inspections only for the purposes of the procedure regarding the offence.

(4) (New - SG 47/19) The use of automated means of control under Para. 2, item 5 shall be determined by an order of the Minister of Culture or a Deputy-Minister authorized by him.

## Record on Seizure

Art. 98a. (new – SG 99/05, in force from 10.01.2006) (1) Durable material carriers containing subject matter protected by the law connected with the offence shall be seized by the officials referred to in **Art. 98, para 1** with a record.

(2) (Suppl. - SG 47/19) In the record under para 1 shall be pointed out: the date and the place of the actions; time when the actions have started and finished; persons who have participated; detected facts and circumstances; any requests made, notes and objections if available; collected evidence, including the durable material carriers to be seized – number, types of carriers, as well as other data.

(3) (Amend. - SG 47/19) The record shall be signed by the official person under Art. 98, Para. 1, by the inspected person and by at least one witness.

(4) In case the inspected person refuses to sign the record or is absent, it shall be signed by at least one more witness.

## Obligation for Cooperation

Art. 98b. (new – SG 99/05, in force from 10.01.2006, amend. - SG 47/19) The inspected person shall be obliged to:

1. ensure unimpeded access to the checked subjects;
2. render cooperation to the officials under **Art. 98, para 1**;
3. provide the documents requested by the officials under Art. 98, Para. 1, as well as any durable material carriers containing objects protected by law, and other evidence.

## Service of an act of establishing an administrative violation to sole traders and legal entities

Art. 98b<sup>1</sup>. (New - SG 47/19) (1) Where the offender is a sole trader or legal entity, the act establishing the administrative violation shall be served against the signature of the trader, the legal representative of the legal entity, or a person authorized by him.

(2) When drawn up in the absence of the offender, the act shall be sent:

1. in paper form by registered letter with acknowledgment of receipt at the address of management or correspondence entered in the relevant register kept by the Registry Agency, or
2. as an electronic image of the hard copy by means of an electronic message signed with a qualified electronic signature as per the **Electronic Document And Electronic Trust Services Act**, at an electronic address specified in a regulated register, in which the addressee is listed, or at an address in an information system for secure service; the sending of the electronic message shall be certified by electronic time stamp under Chapter III, Section 6 of Regulation (EU) № 910/2014 or reproduction of the electronic image of the message in paper form, the identity of which is to be certified by the signature of the official, on each page, and is to be enclosed together with the file.

(3) The act sent by post shall be deemed to have been served on the date, on which the acknowledgment of receipt was signed by the trader, by the legal representative of the legal entity, or by their proxy or by an employee designated to receive papers and messages.

(4) The act sent by e-mail shall be deemed to have been served if, within 7 days of the sending of the e-mail, the addressee sends a confirmation of receipt by a return e-mail, activating an electronic link or downloading it from a secured information system.

(5) Where the act is served with a return receipt and an electronic message, the date of service shall be the later date.

(6) Where the act cannot be served by the order of Para. 2 - 5, a message of its drafting shall be plac

ed immediately on the notice board and in a special section on the [website of the Ministry of Culture](#), visible when initially loading the page. The message shall also indicate the date it was placed.

(7) When, within 14 days from the placing of the message under Para. 6, the person fails to appear in the Ministry of Culture for the presenting and signing of the act, the person drafting it shall note this in the act, the latter shall be annexed to the file and shall be deemed to be duly served on the day of the noting.

### **Imposing and Executing the Administrative Penalties**

Art. 98c. (new – SG 99/05, in force from 10.01.2006) (1) (Amend. - SG 47/19) The Punitive Decrees shall be issued by the Minister of culture or by a Deputy-Minister authorized by him.

(2) (New - SG 47/19) A copy of the penalty decree shall be served on the offender against signature

(3) (New - SG 47/19) Where the penalty decree cannot be served on the sole trader or the legal entity at the address indicated by him or at the management address or correspondence address, entered in the relevant registry kept by the Registry Agency, **Art. 98b<sup>1</sup>, Para. 6 and 7** shall apply accordingly, including regarding refusal to obtain a copy of the penal decree, and the noting of it shall be carried out by the body under Para. 1.

(4) (Previous Para. 2 - SG 47/19) The penalties fine or proprietary sanction shall be performed voluntarily within a term of 7 days after the Punitive Decree or the decision of the court with which they have been imposed enters into force. Fifty percent of the amounts shall be submitted to the account of National Fund "Culture" and the rest – to the budget of the Ministry of Culture.

(5) (Amend. - SG 105/05, in force from 01.01.2006; amend. – SG 12/09, in force from 01.01.2010, previous Para. 3, amend. - SG 47/19) After the expiration of the term referred to in para 4, a copy of the Punitive Decree shall be sent to the National Revenue Agency for enforcement of the imposed fine or proprietary sanction according to the order of the **Tax Insurance Procedure Code**.

(6) (Amend. – SG 25/11, in force from 25.03.2011, previous Para. 4 - SG 47/19) After the Punitive Decree enters into force the durable carriers seized in favour of the state shall be delivered for destruction to the bodies of the Ministry of Interior.

### **Powers of the mayors of municipalities (Title new - SG 47/19)**

Art. 98c<sup>1</sup>. (New - SG 28/18, in force from 29.03.2018) (1) The mayors of municipalities shall exercise control over the commercial sites and tourist sites under **Art. 3, Para. 2 of the Tourism Act** for the pre-arranged rights to live public performance or by recording of works, recorded performances, sound recordings, recorded films or other audio-visual works, or parts thereof.

(2) Any persons who manage commercial sites and tourist sites under **Art. 3, Para. 2 of the Tourism Act**, upon request, at least once a year, shall provide the mayors of municipalities evidence of their public performance rights assigned to them.

(3) In case of violation of Para. 2, the persons who manage the commercial or tourist sites under **Art. 3, Para. 2 of the Tourism Act** shall be imposed a proprietary sanction in the amount from two thousand to ten thousand BGN.

(4) The violations shall be established by officials assigned to it by an order of the mayor of the municipality.

(5) The penal decrees shall be issued by the mayor of the municipality.

(6) (Amend. - SG 47/19) The proprietary sanctions under Para. 3 shall be executed in accordance with **Art. 98c, Para. 4, sentence one and Para. 5**. Fifty percent of the proceeds of the proprietary sanctions shall be paid into the account of the National Fund "Culture", and the remaining revenues - into the budget of the respective municipality.

## **Application of the Administrative Violations and Penalties Act**

Art. 98d. (new – SG 99/05, in force from 10.01.2006) Unless otherwise provided by this Chapter, the detection of the offences, issuing, appealing and enforcement of the Punitive Decrees shall be carried out according to the order of the **Administrative Violations and Penalties Act**.

### **Division four. APPLICABLE LAW**

#### **Law Applicable to Works**

Art. 99. (1) This Act shall apply to:

1. (amend. - SG 77/02, in force from 01.01.2003) works which authors are citizens of the Republic of Bulgaria or whose permanent address is in it regardless of where the works have been published for the first time;
2. (new – SG 99/05) (\*) works which authors are citizens of a Member State of the European Union or persons who have permanent address in such State regardless of where the works have been published for the first time;
3. (amend. - SG 77/02, in force from 01.01.2003; prev. text of item 02 – SG 99/05) (\*) works whose authors are citizens of a State with which the Republic of Bulgaria is bound by a copyright treaty, or persons with permanent address in such a State regardless of where the works have been published for the first time;
4. (prev. text of item 03 – SG 99/05) (\*) works published for the first time or incorporated as architectural projects on the territory of the Republic of Bulgaria or on the territory of a State which has a copyright treaty with the Republic of Bulgaria, regardless of the nationality of the authors;
5. (prev. text of item 04 – SG 99/05) (\*) works which have been published for the first time on the territory of a State with which the Republic of Bulgaria is not bound by a copyright treaty but simultaneously or within thirty days have been published on the territory of the Republic of Bulgaria or on the territory of a State with which the Republic of Bulgaria has such treaty.

(2) Where this Act is applied to works created by citizens of other states or to works which have been published abroad first the owner of the copyright shall be determined according to the respective foreign law.

(3) (new - SG 28/00, in force from 05.05.2000; amend. – SG 25/11, in force from 25.03.2011) In respect of works, created by citizens of third countries published for the first time in third countries, the term of validity shall be determined by the respective foreign law if it stipulates terms of protection shorter than this Act.

#### **Law Applicable to the Right of Compensation under Art. 20**

Art. 99a. (new – SG 99/05, in force from 10.01.2006) (1) The provisions of **Art. 20** shall be applied at resale of works of authors citizens of the Republic of Bulgaria or persons who have permanent address in it, in case the place of the resale is on its territory.

(2) **Art. 20** shall be also applied to all authors and their heirs who are citizens or have permanent address in a Member State of the European Union.

(3) In respect of authors who are citizens of other State and have no permanent address in the Republic of Bulgaria the provisions of **Art. 20** shall be applied only under the condition that the respective foreign

n country admits analogous right to the Bulgarian citizens.

### **Law Applicable to Broadcasting by Satellite**

Art. 99b. (new – SG 99/05) (\*) (1) This Act shall be applied to the broadcasting of a work by satellite in case the signal is transmitted to the satellite:

1. from the territory of the Republic of Bulgaria ;

2. from the territory of a State not member of the European Union which does not provide level of protection of this right corresponding to this Act under the condition that:

a) the ascending connection to the satellite starts from a station located on the territory of the Republic of Bulgaria, or

b) the ascending connection to the satellite does not start from a station located on the territory of a Member State of the European Union but the broadcasting has been carried out by order of an organization having its seat on the territory of the Republic of Bulgaria.

(2) The responsibility of the broadcasting shall be born: in the cases of para 1, item 1 – by the broadcasting organization; in the cases of para 1, item 2 letter "a" – by the operator of the station; in the cases of para 1, item 2 letter "b" – by the organization under which ordered the broadcasting has been carried out.

(3) The provisions of para 1 and 2 shall be applied respectively also to the rights referred to in **Art.**

**72.**

### **Law Applicable to Performances**

Art. 100. (1) (amend. - SG 77/02, in force from 01.01.2003) This Act shall apply to the performances of performers who are citizens of the Republic of Bulgaria or who have permanent address in it regardless of where the performances have been carried out.

(2) This Act shall apply to the performances of foreign performers on the territory of the Republic of Bulgaria.

(3) (new – SG 99/05) (\*) This Act shall also apply to the performances of foreign performers, citizens of a Member State of the European Union or having permanent address in such state regardless of where the performances have been carried out.

### **Law Applicable to Records, Programmes and Films**

Art. 101. (amend. - SG 28/00, in force from 05.05.2000; amend. - SG 77/02, in force from 01.01.2003; suppl. - SG 99/05) (\*) This Act shall apply to the subject matter under **Art. 72, item 2, 3 and 4** made by natural persons who are citizens of the Republic of Bulgaria or who have permanent address in it, by citizens of Member States of the European Union or having permanent address in some of them, or by legal persons which seat is on the territory of the Country or on the territory of such State, regardless of where the recordings have been made, as well as to recordings made or simultaneously published for the first time by foreign persons on the territory of the Republic of Bulgaria or a Member State of the European Union.

### **Law Applicable to Makers of Databases**

Art. 101a. (new – SG 77/02, in force from 01.01.2003) (1) (suppl. - SG 99/05) (\*) This Act shall apply to the makers of databases, if they are citizens of the Republic of Bulgaria or have permanent address in it or are citizens of a Member State of the European Union or have permanent address in such state.

(2) (suppl. - SG 99/05) (\*) The provision of para 1 shall also apply to the legal persons, established

in compliance with the legislation of the Republic of Bulgaria having their seat, central administration or primary activity on its territory, as well as to the legal persons established in compliance with the legislation of some Member State of the European Union having seat, central administration or primary activity on its territory. If the legal person has seat only in the Republic of Bulgaria or in a Member State of the European Union, it shall be required its activity to have real relation to the economy of the State.

### **Application of International Treaties**

Art. 102. (1) (amend. and suppl. - SG 28/00, in force from 05.05.2000; prev. text of Art. 102 – SG 77/02, in force from 01.01.2003; amend. and suppl. – SG 25/11, in force from 25.03.2011) The rights of foreign performers, producers of phonograms, radio and television organisations and film producers other than those referred to in **Art. 100, para 2 and 3** and **Art. 101**, shall be protected in compliance with the treaties in the field of the rights related to copyright to which the Republic of Bulgaria is a party. The duration of protection in such cases shall not last beyond the duration of protection provided in the country of nationality of the rightholder, and shall not exceed the time limits referred to in **Art. 82, 89, 90b** and **92**.

(2) (new – SG 77/02, in force from 01.01.2003; suppl. - SG 99/05) (\*) The foreign makers of databases, except those referred to in **Art. 101a**, shall be protected in compliance with the international treaties to which the Republic of Bulgaria is a party.

### **Additional provisions**

§ 1. (1) The owner of copyright as well as a person who has been granted the exclusive right to use a work protected by this Act may place the Latin letter "C" surrounded by a circle in front of their names or firms and the year of making the work available to the public at a suitable place on the copies of the work.

(2) The producer of a phonogram as well as a person who has been granted the exclusive right to reproduce a phonogram protected by this Act, may place the Latin letter "P" surrounded by a circle in front of their names or firms and the year of the first publication at a suitable place on the copies of the phonogram and their packing.

§ 1a. (new - SG 28/00, in force from 05.05.2000) (1) Prohibited shall be the acquisition, seizure and keeping with commercial purpose, durable material carriers containing subject matter protected by the Law, which have been reproduced in violation of the Law.

(2) The durable material carriers under para 1 shall be seized in favour of the State by an act of the administrative punitive body or the court and shall be provided for destruction to the bodies of the Ministry of Interior.

(3) (new – SG 99/05, in force from 10.01.2006; amend. - SG 25/11, in force from 25.03.2011) Destruction of the subject matter of the violation referred to in **Art. 97, para 1, items 8 and 9** shall be also its deletion from the electronic carrier on which it has been reproduced.

§ 2. In the sense of this Act:

1. "making a work available to the public" means the bringing of the publication with the consent of its author to the attention of unlimited number of persons for the first time regardless of the form or manner in which this may be done;

2. (amend. - SG 25/11, in force from 25.03.2011) "publishing a work" means bringing of a work to the attention of unlimited number of persons by reproduction and distribution of its copies, including in the form of phonograms or recordings of films or other audio-visual works, in sufficient quantities depending on the nature of the work;

3. (amend. - SG 28/00, in force from 05.05.2000; amend. - SG 77/02, in force from 01.01.2003) "reproduction of a work" means the direct or indirect multiplication in one or more copies of the work or part of it by any means and in any form, permanent or temporary, including its saving in digital form on electronic carrier;

4. (amend. - SG 77/02, in force from 01.01.2003; amend. - SG 99/05, in force from 10.01.2006) "distribution of a work" means the sale, exchange, donation, rental, as well as storage in commercial quantities and also the proposal for sale or rental of originals and copies of the work;

5. (amend. - SG 28/00, in force from 05.05.2000; amend. - SG 99/05, in force from 10.01.2006) "wireless broadcasting of a work" is its broadcasting by radio or television via a ground way, as well as introducing, under the control and responsibility of the broadcasting organization, the programme-carrying signals intended for reception either directly and individually by the public or through the mediation of an organisation different from the broadcasting one, into an uninterrupted chain of communication leading to the satellite and down towards the earth;

5a. (new – SG 21/14) "making available to the public" is sending of a performance to the audience through any means except wireless broadcasting, in a way allowing the audience to listen to and/or to watch it;

6. (amend. - SG 28/00, in force from 05.05.2000; suppl. - SG 77/02, in force from 01.01.2003; amend. - SG 99/05, in force from 10.01.2006; amend. - SG 25/11, in force from 25.03.2011) "users of a work" means the natural and legal persons such as publishers, theatres, organisers of concerts, radio or television organisations, undertakings, carrying out public electronic communication services over electronic communication networks for transmission of Bulgarian or foreign radio and television programmes, public catering and entertainment establishments, film producers, Internet content providers, manufacturers of video recordings and others that bring the work to the attention of readers, viewers and listeners directly or through distributors;

7. (amend. - SG 25/11, in force from 25.03.2011) "audio recording" means fixing on a durable material carrier of a sequence of sounds in a manner to make them available for listening, reproduction, wireless broadcasting, by cable or other technical means;

8. "phonogram" shall be the product of audio recording;

9. (amend. - SG 25/11, in force from 25.03.2011, amend. - SG 28/18, in force from 29.03.2018) "architectural works" means projects of buildings and facilities, spatial plans and schemes, approved under the effective legislation, buildings and other facilities and their elements, durable objects of the synthesis of architecture with the rest of the arts, as well as durable interior decorations registered by the respective collective management organisation.

9a. (new - SG 25/11, in force from 25.03.2011) "adaptation of an architectural project" means its adjustment or use for creation of a new project and introduction of any type of changes;

9b. (new - SG 25/11, in force from 25.03.2011) "adaptation of an architectural work" means its outbuilding, superstructure, reconstruction or change of purpose;

10. (new - SG 10/98; amend. - SG 28/00, in force from 05.05.2000) "decrypting device" means every device, set, mechanism or decrypting card, constructed or specially adjusted to allow individual or in combination between them, access to encrypted signal in its form before the encryption.

11. (new - SG 28/00, in force from 05.05.2000) "encrypted signal" is every radio and television signal, transmitted, broadcasted, retransmitted and rebroadcasted through any technical devices whatsoever, which characteristics have been deliberately changed with the purpose of restricting the access to it only for a certain auditorium;

12. (new – SG 28/00, in force from 05.05.2000; revoked – SG 99/05, in force from 10.01.2006)

13. (new – SG 77/02, in force from 01.01.2003) "database" means a collection of independent works, data or other materials, arranged systematically or methodically and individually accessible in electronic or other way; the computer programme, used for the creation or the functioning of databases, the recordings of separate audio–visual, literary or musical work, as well as the collection of phonograms with musical performance;

performances on a compact disc shall not be database in the sense of this Act;

14. (new – SG 77/02, in force from 01.01.2003) "technological measures of protection" means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other subject-matter, which are not authorised by the owner of any any right protected by law where the use of a subject-matter is controlled by the owner of the right through encryption, scrambling or other transformation of the work or other subject-matter or a copy control mechanism.

15. (new – SG 99/05, in force from 10.01.2006) "rental of subject matter of protection" means making available for use, for a limited period of time and for direct or indirect economic or commercial advantage.

16. (new – SG 99/05, in force from 10.01.2006) "lending of subject matter of protection" means making available for use, for a limited period of time and not for direct or indirect economic or commercial advantage, when it is made through establishments which are accessible to the public; Shall not be considered as lending in the sense of this Act:

a) making available of works or other subject matter of rights under this Act, if they do not leave the premises of the lending establishment or between separate publicly accessible establishments;

b) (amend. - SG 25/11, in force from 25.03.2011) making available of phonograms or film copies for the purposes of their lawful use;

c) making available of fine art and photograph works for public exhibition;

17. (new – SG 99/05, in force from 10.01.2006) "professional protection associations of the owners of rights" are non-governmental organizations which members include entirely or mostly owners of copyright or related rights and which, according to their statutes, are authorized by their members to protect their rights against infringement, as well as the legal persons, representing international organization of such nature in the country;

18. (new - SG 25/11, in force from 25.03.2011) "adaptation of work" means its modification for the purpose of creation of a new derivative work, including its adaptation to another genre or introduction of any changes to it;

19. (new - SG 25/11, in force from 25.03.2011) "third countries" means countries, which are not Member States of the European Union, or not contracting parties to the Agreement on the European Economic Area;

20. (new - SG 25/11, in force from 25.03.2011) "information carriers" means independent carriers primarily intended to store subject-matter of author's right or related rights and consequently enabling, with the aid of appropriate technical means, such subject-matter to be aurally or visually perceived.

21. (new - SG 47/19) "Automated means of control" shall mean any devices and / or computer programs, standardized or certified by an independent organization established within the European Union, that automatically detect the use of objects protected by law in the presence or absence of a control body and in the presence or absence of the inspected person.

§ 3. (amend. - SG 28/00, in force from 05.05.2000; amend. - SG 99/05, in force from 10.01.2006; amend. - SG 25/11, in force from 25.03.2011) The definitions in § 2 shall also apply to the subject matter under **Art. 72** and **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 determined by the author and shall be announced in a suitable manner when the work is made available to the public for the first time, and shall not be subject to subsequent change. Each copy shall carry consecutive number.

(2) (revoked – SG 99/05, in force from 10.01.2006)

§ 5. (1) (suppl. - SG 25/11, in force from 25.03.2011) The amount of compensation due to the owners of copyright and related rights for the use of works, performances, phonograms, film or other audio-visual

cordings and radio and television programmes shall be negotiated in a contract between the owners of the rights and the users.

(2) (suppl. - SG 25/11, in force from 25.03.2011, amend. - SG 28/18, in force from 29.03.2018) Where use is negotiated through a collective management organisation or an independent management entity, the amount of compensation shall be determined in a contract between that organisation or the entity and the users or their representative organizations.

§ 5a. (new – SG 77/02, in force from 01.01.2003; revoked – SG 74/05, in force from 14.10.2005)

§ 5b. (new – SG 99/05) (\*) The provisions of this Act referring to the Member States of the European Union shall be applied also to the other states from the European Economic Area.

§ 5c. (new – SG 99/05, in force from 10.01.2006) (1) (suppl. - SG 73/06, in force from 06.10.2006) The Ministry of Culture together with the Ministry of Interior, the Ministry of Justice, the Customs Agency, the Patent Department and other departments determined by the Council of Ministers shall establish and maintain National System for Exchange of Information in the Field of Copyright and Related Rights and the Industrial Property which shall ensure the implementation of interaction and exchange of data related to the protection of rights in works, subject matter under **Art. 72** and subject matter of industrial property.

(2) The administration, control and use of the system referred to in para 1 shall be implemented by order determined by the Council of Ministers.

(3) The resources for introduction, exploitation and development of the system shall be provided by the budgets of the departments referred to in para 1.

§ 5d. (new – SG 21/14) This act shall introduce the provisions of Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC on the terms of protection of copyright and certain related rights.

§ 5e. (new – SG 14/15) This act shall introduce the requirements of Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 in certain permitted uses of orphan works (OJ, L 299/5 of 27 October 2012).

### **Transitional and concluding provisions**

§ 6. (1) (amend. - SG 28/00, in force from 05.05.2006) This Act shall also apply to works, performances, phonograms, radio and television programmes made or performed prior to the entry into force of this Act unless the respective protection periods have expired.

(2) Copyrights acquired prior to the entry into force of this Act shall remain in force.

§ 7. The authors of literary texts which have been used without their consent in musical works pursuant to Art. 7 "b" of the Copyright Law of 1951, may not prohibit the further use of the musical work together with the text if it has already been made available to the public together with it.

§ 8. (1) The activity of the Copyright Agency shall be terminated.

(2) (amend. - SG 28/00, in force from 05.05.2000) The property of the Copyright Agency shall be transferred to the Ministry of Culture.

(3) The Council of Ministers shall determine the terms and procedures for distribution of the property of the Agency among the organisations under Art. 40 of this Act.

§ 9. This Act shall hereby revoke:

1. The Copyright Law (prom. - Izvestia 92/51; corr. - Izvestia 10/52; amend. and suppl. - Izvestia 5/56; amend. - SG 35/72 and 30/90).

2. Art. 270 through 278 of the Obligations and Contracts Act (prom. - SG 275/50; corr. - SG 02/51; amend. - SG 69/51, 92/52; SG 85/63, 27/73, 16/77, 28/88, 30/90 and 12/93).

§ 10. This Act shall enter into force from August 1, 1993.

§ 11. The implementation of this Act shall be assigned to the Council of Ministers.

### **Transitional and concluding provisions**

## **TO THE ACT ON AMENDMENT AND SUPPLEMENTATION OF THE COPYRIGHT AND RELATED RIGHTS ACT (SG 28/00)**

(PROM. - SG 28/00, IN FORCE FROM 05.05.2000; AMEND. - SG107/00; SUPPL. - SG 99/05, IN FORCE FROM 10.01.2006)

§ 51. (1) This Act shall also apply to the works and subject matter under **Art. 72**, created or realized before its enactment if the terms of protection stipulated by it have not expired.

(2) The owners of rights may not lay claims on occasion of uses carried out at a time when the term of protection of these rights had expired in the context of the law active at that time.

(3) (new - SG 107/00) Owners of copyright in films and other audio-visual works created before the enactment of the COPYRIGHT AND RELATED RIGHTS ACT shall be the persons under **Art. 62, para 2**.

(4) (new - SG 107/00) The persons, owners of copyright in films, pursuant to Art. 16, para 1 of the revoked Copyright Law of 1951, shall exercise only the rights under **Chapter Ten "a"**.

(5) (new - SG 107/00; suppl. - SG 99/05, in force from 10.01.2006) The producer's rights referred to in **Chapter Ten "a"** of the persons under para 4 in the films produced by State Enterprise (Chief Directorate, State Association, Creative Economic Association) "Bulgarian Cinematography", "Film Studios "Boyanina", Studio for Cartoons "Sofia" and Studio for Scientific Popular Films "Vreme" shall be transferred to the National Film Centre.

(6) (new - SG 107/00) The persons, owners of rights of producers in films according to para 4 and 5, may use these films without a contract with the respective owners of copyright by July 1, 2001, owing them compensation for every use, in amount determined and payable by agreement, through the respective organisation for collective administration of copyrights.

§ 52. Revoked shall be § 4 of the Concluding Provisions of the Act on Amendment and Supplementation of the COPYRIGHT AND RELATED RIGHTS ACT (SG, No 10 of 1998).

§ 53. Everywhere in the Act the words "the Ministry responsible for the culture" shall be replaced by "the Ministry of Culture".

§ 54. (1) This Act shall enter into force one month after its promulgation in the State Gazette, with exception of § 8 which shall enter into force from 01.01. 2001.

(2) The Council of Ministers shall adopt the Ordinance referred to in §8 within six months from the enactment of the Act and shall apply from 1 January 2001.

### **Transitional and concluding provisions**

**TO THE PRIVATE BAILIFFS ACT (SG 77/02)**

(PROM. - SG 43/05)

§ 23. **This Act** shall enter into force from 1 September 2005.

**Transitional and concluding provisions**

**TO THE ACT ON THE ADMINISTRATIVE REGULATION OF THE PRODUCTION AND TRADE WITH OPTIC DISCS, MATRIXES AND OTHER CARRIERS CONTAINING SUBJECTS OF COPYRIGHT AND THE RELATED TO IT RIGHTS**

(PROM. - SG 74/05)

§ 8. **This Act** shall enter into force one month from its promulgation in the State Gazette, except **Section III of Chapter Two** and **Section II of Chapter Three**, which shall enter into force from the 1st of January 2006.

**Transitional and concluding provisions**

**TO THE ACT ON AMENDMENT AND SUPPLEMENTATION OF THE COPYRIGHT AND RELATED RIGHTS ACT**

(PROM. - SG 99/05, IN FORCE FROM 10.01.2006)

§ 56. Everywhere in the Act the words "Ministry of Culture and Tourism" shall be replaced by "Ministry of Culture".

§ 57. (1) The provisions of § 1 about **Art. 6** and of § 21 about **Art. 72b** shall be applied also to the works and subject matter referred to in **Art. 72**, created or realized before this Act enters into force.

(2) The provisions of § 4 about **Art. 20** and of § 5 about **Art. 20a** shall be applied for sales taken place after entering into force of this Act.

§ 58. (1) Sale or other transaction implemented on the territory of a Member State of the European Union outside the Republic of Bulgaria before § 3, item 1 enters into force shall terminate the right of distribution referred to in **Art. 18a, para 1**.

(2) Claims based on the provisions of § 37, about **Art. 94a**, and of § 38, about **Art. 95**, may be submitted if the verbal contests at the first instance have not finished before this Act enters into force.

(3) The provisions about the evidence and the conditions for their admission under **Art. 95c** and **95d** shall be applied also to facts which have taken place before entering into force of this Act.

§ 59. The administrative and the administrative punitive proceedings initiated before entering into force of this Act shall be finished according to the previous order.

.....

§ 62. This Act shall enter into force on month after its promulgation in the State Gazette except:

1. § 12 which shall enter into force 6 months the promulgation of the Act in the State Gazette;

2. § 3, item 1, § 34, § 46, § 47 – regarding **Art. 99a, para 2**, § 48 – 52 and § 54, item 4 which shall enter into force from the date of entering into force of the Treaty of Accession of the Republic of Bulgaria to

the European Union.

**Transitional and concluding provisions  
TO THE TAX-INSURANCE PROCEDURE CODE**

(PROM. – SG 105/05, IN FORCE FROM 01.01.2006)

§ 88. **This Code** shall enter into force from the 1 January 2006, except **Art. 179, Para 3, Art. 183, Para 9**, § 10, item 1, letter "e" and item 4, letter "c", § 11, item 1, letter "b" and § 14, item 12 of the transitional and concluding provisions which shall enter into force from the day of promulgation of the code in the State Gazette.

**Transitional and concluding provisions  
TO THE ADMINISTRATIVE PROCEDURE CODE**

(PROM. – SG 30/06, IN FORCE FROM 12.07.2006)

§ 142. **This Code** shall enter into force three months after its promulgation in State Gazette, with the exception of:

1. division three, § 2, item 1 and § 2, item 2 – with regards to the repeal of chapter third, section II "Appeal by court order", § 9, item 1 and 2, § 15 and § 44, item 1 and 2, § 51, item 1, § 53, item 1, § 61, item 1, § 66, item 3, § 76, items 1 – 3, § 78, § 79, § 83, item 1, § 84, item 1 and 2, § 89, items 1 - 4 § 101, item 1, § 102, item 1, § 107, § 117, items 1 and 2, § 125, § 128, items 1 and 2, § 132, item 2 and § 136, item 1, as well as § 34, § 35, item 2, § 43, item 2, § 62, item 1, § 66, items 2 and 4, § 97, item 2 and § 125, item 1 – with regard to the replacement of the word "the regional" with the "administrative" and the replacement of the word "the Sofia City Court" with "the Administrative court - Sofia", which shall enter into force from the 1st of May 2007;

2. paragraph 120, which shall enter into force from the 1st of January 2007;

3. paragraph 3, which shall enter into force from the day of the promulgation of the code in State Gazette.

**Transitional and concluding provisions  
TO THE ACT ON AMENDMENT AND SUPPLEMENTATION OF THE TRADEMARKS AND THE GEOGRAPHIC NAMES ACT**

(PROM. - SG 73/06, IN FORCE FROM 06.10.2006)

§ 28. This Act shall enter into force one month after its promulgation in the State Gazette except § 7, § 12, § 21 and § 26 which shall enter into force from the date of the accession of the Republic of Bulgaria to the European Union, and § 17 which shall enter into force from 13 July 2006.

**Transitional and concluding provisions  
TO THE CIVIL PROCEDURE CODE**

(PROM. – SG 59/07, IN FORCE FROM 01.03.2008)

§ 61. **This code** shall enter into force from 1 March 2008, except for:

1. Part Seven “Special rules related to proceedings on civil cases subject to application of Community legislation”

2. paragraph 2, par. 4;

3. paragraph 3 related to revoking of Chapter Thirty Two “a” “Special rules for recognition and admission of fulfillment of decisions of foreign courts and of other foreign bodies” with Art. 307a – 307e and Part Seven “Proceedings for returning a child or exercising the right of personal relations” with Art. 502 – 507;

4. paragraph 4, par. 2;

5. paragraph 24;

6. paragraph 60,

which shall enter into force three days after the promulgation of the Code in the State Gazette.

### **Transitional and concluding provisions**

## **TO THE ACT ON AMENDMENT AND SUPPLEMENTING OF THE TAX-INSURANCE PROCEDURE CODE**

(PROM. – SG 12/09, IN FORCE FROM 01.05.2009; SUPPL. - SG 32/09)

§ 68. (suppl. - SG 32/09) This Act shall enter into force from 1 May 2009 except § 65, 66 and 67, which shall enter into force from the date of promulgation of the Act in the State Gazette and § 2 - 10, § 12, Items 1 and 2 - regarding Para 10 and 11, Item 8, Letter "a", Items 9 and 12 and § 53 - 64, which shall enter into force from 1 January 2010.

### **Transitional and concluding provisions**

## **TO THE ACT ON AMENDMENT AND SUPPLEMENTATION OF THE COPYRIGHT AND RELATED RIGHTS ACT**

(PROM. - SG 25/11, IN FORCE FROM 25.03.2011)

§ 42. (1) Organisations for collective administration of author's rights or rights related thereto, which before entry into force of this Act have been registered with the Ministry of Culture as set out in **Art. 40** and within the period following 1 January 2005 have collected, allocated and paid remunerations to rightholders, shall submit an application for new registration as set out in **Art. 40b, Para 2** within three months from entry into force of this Act. With the application shall be enclosed the documents referred to in **Art. 40b, Para 2, Items 2 - 11** and in **Art. 40e, Para 1, Items 1, 3, 4 and 5**.

(2) The organisations referred to in Para 1 shall continue their activity until the issue of a certificate for registration or refusal of registration. Organisations registered as set out in **Art. 40** for collection of compensatory remunerations as set out in **Art. 26**, shall submit an application for registration together with the documents referred to in Para 1, second sentence, within the time limit referred to in Para 1 without discontinuing their activity.

(3) Organisations for collective administration of author's rights or rights related thereto, which before entry into force of this Act have been registered with the Ministry of Culture as set out in **Art. 40** and do not meet the requirements of Para 1, first sentence, shall discontinue their activity of collective administration of author's and related rights from the date of entry into force of this Act. In such cases **Art. 40c, Para 4** shall apply respectively.

§ 43. Organisations for collective administration of rights registered as set out in § 42 shall submit for approval by the Minister of Culture a proposal for the amounts of the remunerations collected by them un

der **Art. 40f** within two months from receiving the certificate for registration.

§ 44. Within one month from entry into force of this Act the Minister of Culture shall establish the register referred to in **Art. 40d**.

§ 45. The remunerations agreed upon between the organisations for collective administration of rights and users before approval of the amounts of the remunerations as set out in **Art. 40f** may not be disputed only on the grounds of not being based on remuneration amounts approved under the procedure set in this Act.

.....

§ 48. This Act shall enter into force from the day of its promulgation in the State Gazette.

### **Transitional provisions**

## **TO THE ACT AMENDING AND SUPPLEMENTING THE COPYRIGHT AND RELATED RIGHTS ACT**

(PROM. - SG 21/14)

§ 19. (1) The provision of **Art. 27, par. 3** shall apply to music works with lyrics and to musical dramatic pieces in which as of 1 November 2013 the music or the lyrics or both are used under the protection in one European Union Member State, and also to such created after this date whereby the rights acquired by third persons before 1 November 2013 concerning the use of these works shall be protected.

(2) The provisions of **Art. 77, 77a, 82** and **89** shall apply also to the recorded performances and to the audio-records, regarding which the rights of artists-performers and of producers are effective as of 1 November 2013 and also to the performances and audio-records made thereafter.

§ 20. The provisions of **Art. 40b** shall apply also regarding all pending registration and re-registration proceedings, as the case may be.

§ 21. (1) Contracts, providing transfer of the right of use of a performance, according to the provision of **Art. 76**, concluded before 1 November 2013 shall remain effective also after the time when, according to the previous **Art. 82**, the rights of the artist-performer cease being legally protected, unless the contract contains explicit clear instructions to the contrary.

(2) Contracts for transfer or reassignment of rights, under which a performer is entitled to periodic payments, concluded before 1 November 2013 may be amended by parties mutual consent after the fiftieth year of the legitimate publication of the audio-record, or if it has not been published – after the fiftieth year of its legitimate making available to the public.

§ 22. The organizations entered into the register under **Art. 40d** prior to entering of this act into force shall provide within three months after its entering into force updated information referred to in **Art. 40a, par. 2, item 4a** and in **Art. 40e, par. 1, items 2 and 3**.

§ 23. Organizations for collective copyright or related rights management continuing their activity on the grounds of § 42, par. 2 of the Transitional and Concluding Provisions of the Act amending and supplementing the Copyright and related rights Act (SG 25/11) without a registration certificate or beyond the scope of the obtained registration shall suspend this activity of theirs as from the date of entering of this act into force.

**Transitional and concluding provisions**  
**TO THE ACT AMENDING AND SUPPLEMENTING THE COPYRIGHT AND RELATED RIGHTS ACT**

§ 4. The provision of **Chapter Seven, Section VIII** shall apply to all orphan works and sound records within the meaning of **Art. 71b, par. 2** enjoying legal protection as of 29 October or thereafter. The rights related to these objects acquired after this date shall remain.

**Additional provisions**  
**TO THE ACT AMENDING AND SUPPLEMENTING THE COPYRIGHT AND RELATED RIGHTS ACT**

(PROM. - 28/18, IN FORCE FROM 29.03.2018)

§ 22. This Act introduces the requirements of Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on the collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market (OJ, L 84/72 of 20 March 2014).

**Transitional and concluding provisions**  
**TO THE ACT AMENDING AND SUPPLEMENTING THE COPYRIGHT AND RELATED RIGHTS ACT**

(PROM. - 28/18, IN FORCE FROM 29.03.2018)

§ 23. Where a collective management organization has not provided multi-territorial licensing of rights in musical works for online use, does not offer such licences, nor has mandated another collective management organization to do so on its behalf until 10 April 2017, the rightholders who have authorized that organization to manage their rights may withdraw them from that organization without having to withdraw them from the territory of the Republic of Bulgaria, so as to have the opportunity to authorize multi-territorial licensing of their works - either directly or through third parties, including through other collective management organization meeting the requirements of **Chapter Eleven "i"**. Article **94u, Para. 2** and **Art. 94w<sup>2</sup>** shall apply accordingly.

§ 24. (1) Any collective management organization registered with the Ministry of Culture until the entry into force of this Act shall retain the registration for the same category of rights, types of rights, works or other subject-matter of protection, for which it has been registered.

(2) Within three months from the entry into force of this Act, the collective management organization under Para. 1 shall inform its members about the rights under **Art. 94a1, Para. 1, 3, 4 and 5**.

(3) The collective management organization under Para. 1 shall bring its Statutes into line with the requirements of this Act within 8 months of its entry into force.

(4) Remunerations for ceding of the rights managed by the collective management organizations, determined before the enactment of this Act, shall remain in force. Where the size of the remunerations is determined without discussion with a representative user organization, the latter may, within the meaning of **Art. 94p, Para. 2**, request amendment and supplement of the remuneration at any time, whereby **Art. 94p, Para. 3-8** are to apply accordingly.

(5) Any collective management organization under Para. 1, who wishes to obtain a registration for collective rights management for multi-territorial licensing of rights in musical works for online use under **Chapter 11 "i"**, shall submit an application to the Minister of Culture under **Art. 94b<sup>1</sup>**.

(6) Within three months from the entry into force of this Act, the Minister of Culture, or a Deputy

Minister empowered by him, shall bring the register under the revoked **Art. 40d** in accordance with **Art. 94 d**.

§ 25. (1) Commercial companies may file an application for registration within six months of the entry into force of this Act, if they have been authorized to manage copyright or related rights simultaneously on behalf of more than one holder of such rights, in their mutual benefit, as their sole or principal activity, and is not owned or controlled, directly or indirectly, wholly or in part, by the holders of such rights.

(2) The company under Para. 1 may perform a collective rights management activity until the issuance of a certificate of registration as an independent management entity, or until the entry into force of an order for refusal of registration.

§ 26. Administrative proceedings, which have been initiated and not completed before the entry into force of this Act, shall be completed under the new procedure.

§ 27. Within 6 months of the entry into force of this Act, the Minister of Culture shall submit to the European Commission a report on the status and development of multi-territorial ceding of rights on the territory of the Republic of Bulgaria. The report shall contain information on the availability of multi-territorial licences, on compliance with **Chapter eleven "i"** by collective management organizations, as well as an assessment of the development of multi-territorial licencing of online use of musical works by users, rightholders and other interested persons.

§ 28. The Minister of Culture shall provide the European Commission with a list of the registered collective management organizations, and shall notify it of the changes therein, within three months of their occurrence.

.....

§ 31. This Act shall enter into force on the day of its promulgation in the State Gazette, except for § 18 and 30, which shall enter into force 9 months after its promulgation.

### **Additional provisions**

## **TO THE ACT AMENDING AND SUPPLEMENTING THE COPYRIGHT AND RELATED RIGHTS ACT**

(PROM. - SG 94/18)

§ 9. This Act introduces 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 242/6 of September 20, 2017).

### **Concluding provisions**

## **TO THE ACT AMENDING AND SUPPLEMENTING THE COPYRIGHT AND RELATED RIGHTS ACT**

(PROM. - SG 94/18)

§ 10. Any legal entity such as a community cultural center, on a non-for-profit basis for carrying out socially useful activity for the benefit of persons with disabilities under **Art. 26a, Para. 3**, a state or municipal cultural organization operating as a library, or a special school for the education and support of students

with perceptual impairments - impaired hearing or impaired vision, based in the Republic of Bulgaria, which until the entry into force of this Act has carried out the activities as per **Art. 26b, Para. 1 and 4**, within three months from the Act's entry into force, shall submit to the Minister of Culture the notification under **Art. 26c, Para. 1**.

§ 11. Until September 11<sup>th</sup>, 2020, the Minister of Culture shall provide the European Commission with information on the availability of accessible format copies of written works and subject matter related to hereto:

1. other than those under **Art. 26a, Para. 2**, for persons with disabilities under **Art. 26a, Para. 3**;
2. for persons with disabilities other than those under **Art. 26a, Para. 3**.

### **Transitional and concluding provisions**

## **TO THE ACT AMENDING AND SUPPLEMENTING THE COPYRIGHT AND RELATED RIGHTS ACT**

(PROM. - SG 47/19)

§ 14. Any administrative proceedings under Division Two "a", initiated before the Minister of Culture and not completed by the entry into force of this Act, shall be completed under the new order.

### **Annex N1 to Art. 71d, par. 2**

(new – SG 14/15, previous Attachment to **Art. 71d, Para. 2** - SG 28/18, in force from 29.03.2018)

List of minimum sources

1. for published books:
  - a) legally established depositing of works, library catalogues and lists of forms of names, maintained by libraries and other institutions;
  - b) associations of publishers and of authors;
  - c) existing data bases and registers, WATCH (Writers, Artists and Their Copyright Holders), ISBN (International Standard Book Number) and data bases of printed books;
  - d) data bases of the respective collective rights management organizations, in particular of right of reproduction management organizations;
  - e) sources uniting a bigger number of data bases and registers, including VIAF (Virtual International Authority Files) and ARROW (Accessible Registers of Rights Information and Orphan Works);
2. for newspapers, magazines, specialized publications and periodicals:
  - a) ISSN (International Standard Serial Number) for periodicals;
  - b) indexes and catalogues from library funds and collections;
  - c) legally established depositing of works;
  - d) associations of publishers, of authors and of journalists;
  - e) data bases of the respective collective rights management organizations, in particular of right of reproduction management organizations;
3. for visual works, including works in the field of fine arts, photography, illustrations, design, architecture, for drafts thereof and other similar works, inserted in books, specialized publications, newspapers and magazines, or other works:
  - a) the sources under items 1 and 2;
  - b) data bases of the respective collective rights management organizations, in particular of visual works, including of right of reproduction management organizations;
  - c) data bases of photography agencies, where applicable;

4. for audio-visual works and sound records:
  - a) legally established depositing of works;
  - b) producers associations;
  - c) data bases of institutions for storage of film or sound record heritage and national libraries;
  - d) data bases of the respective standards and identifiers, such as ISAN (International Standard Audiovisual Number) for audio-visual materials, ISWC (International Standard Music Work Code) for music works and ISRC (International Standard Recording Code) for audio records;
  - e) data bases of respective collective rights management organizations, in particular of authors, performers, producers of audio records and of audio-visual works;
  - f) names of persons having contributed for the production of the work and other information, provided on the packaging of works;
  - g) data bases of other respective associations, representing specific categories of holders of rights.

## **Annex 2 to Art. 94s1, Para. 2**

(New - SG 28/18, in force from 29.03.2018)

### **I. Information in annual reports**

1. Annual financial statements, including balance sheet, asset and liability statements, profit and loss account in the past calendar year and cash flow statement.
2. Activity report during the past calendar year.
3. Information on the refusals to conclude contracts with users, made under the procedure of **Art. 94o, Para. 1.**
4. Description of the legal-organizational form and the structure of the collective management organization.
5. Information about any legal entities directly or indirectly owned or controlled, in whole or in part, by the collective management organization.
6. Information on the total amount paid as remunerations to the Executive Director and the members of the Management Board during the preceding year, as well as any other benefits granted to them.
7. The financial information referred to in Section II.
8. A separate report on the use of amounts deducted for social, cultural and educational services, containing the information specified in Section III.

### **II. Financial information in the annual report**

1. Financial information on revenue from collective rights management by category of managed rights and type of use, including information on the proceeds from investing part of that revenue and its proceeds, and the manner in which such proceeds are spent, whether or not they have been distributed among the rightholders, other collective management organizations, or have been otherwise used.
2. Financial information on the cost of collective rights management and for other services rendered to rightholders, accompanied by an explanation on:
  - a) all current and financial costs broken down by category of managed rights, and where the costs are indirect and can not be attributed to one or more categories of rights - an explanation of the method by which their distribution is made;
  - b) current and financial costs broken down by categories of managed rights and where the costs are indirect and can not be attributed to one or more categories of rights - an explanation of the methodology used to distribute them, only with regards to rights management, including management fees deducted from or compensated by revenue from collective rights management, or any proceeds arising from the investing of revenue from collective management of rights in accordance with **Art. 94k, Para. 2** and **Art. 94k<sup>1</sup>, Para. 1-4;**
  - c) current and financial costs in respect of services other than collective management services, but including social, cultural and educational services;
  - d) resources used to cover the costs;

e) deductions from revenue from collective rights management broken down by categories of rights managed and by type of use, as well as the purpose of the deductions, such as own-maintenance costs or social, cultural or educational services;

f) the percentage of costs associated with the collective rights management and other services provided by the collective management organization to rightholders against revenue from the collective rights management for the relevant financial year, by category of rights managed, and in cases where costs are indirect and can not be attributed to one or more categories of rights - an explanation of the methodology used to distribute these indirect costs.

3. Financial information on amounts due to rightholders, explaining:

a) the total amount attributed to rightholders, broken down by category of managed rights and type of use;

b) the total amount paid to the rightholders, broken down by categories of rights of management and type of use;

c) the frequency of payments broken down by category of managed rights and type of use;

d) the total amount collected but not attributed to the rightholders, broken down by category of managed rights and type of use, indicating the calendar year, during which those sums were collected;

e) the total amount attributed to the rightholders but not distributed among them, broken down by category of managed rights and type of use, indicating the calendar year, in which those sums were collected;

f) the reasons why the terms under **Art. 94I** for the distribution and payment of the collected sums have not been respected;

g) the total size of the amounts which cannot be distributed, together with an explanation of the use of these amounts.

4. Information on links with other collective management organizations with explanation on:

a) amounts received by other collective management organizations, and amounts paid to other collective management organizations broken down by category of managed rights, by type of use and by organizations;

b) own-maintenance deductions and other deductions from the management of rights revenues owed to other collective management organizations broken down by category of managed rights, by type of use and by organizations;

c) own-maintenance deductions and other deductions from the amounts paid by other organizations, broken down by category of managed rights and by organizations;

d) amounts allocated directly to holders of rights originating from other organizations, broken down by category of managed rights and by organizations.

III. Information in the Special Report

1. Amounts deducted for social, cultural and educational services during the financial year, broken down by type of objective and for each type of objective broken down by category of rights managed and by type of use.

2. An explanation of the use of these amounts broken down by type of objective, including the cost of managing amounts deducted to finance social, cultural and educational services, and the amounts used for social, cultural and educational purposes.