

Law No 2557/1997 Official Journal A 271/1997

Article 8

Regulation of copyright and related rights matters in harmonisation with the Council Directive 93/83/EEC of 27th September 1993 on satellite broadcasting and cable retransmission, as well as with Council Directive 93/98/EEC of 29th September 1993 on the term protection and other provisions

1. Paragraph 3 of article 35 of Law 2121/1993 is replaced as follows:

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

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

Where no agreement is concluded regarding authorisation of the cable retransmission of a broadcast, either party may call upon the assistance of one or more mediators selected from the list of mediators drafted by the Copyright Organisation every two years. The Copyright Organisation may consult the collecting societies and cable operators for the drafting of the said list. Mediators may submit proposals to the parties. It shall be assumed that all parties accept a proposal if none of them expresses its opposition within a period of three (3) months from the notification of the proposal. Cable retransmission means the simultaneous. unaltered and unabridged retransmission

by a cable or microwave system for reception by the public of an initial transmission from another Member State, by wire or over the air, including that by satellite, of television or radio programmes intended for reception by the public”.

2. Paragraphs 8 and 9 are added to article 57 of Law 2121/1993 as follows:

“8. The right of the author to grant or refuse authorisation to a cable operator for a cable retransmission may be exercised only through a collecting society; for all other matters the provision of article 54, paragraph 2, hereof is applicable. Where a rightholder has not transferred the management of his cable retransmission right to a collecting society, the collecting society which manages rights of the same category with the approval of the Ministry of Culture shall be mandated to manage his cable retransmission right. Where more than one collecting society manages rights of that category, the rightholder may be free to choose which of those collecting societies shall be mandated to manage his cable retransmission right. The author referred to in this paragraph shall have the same rights and obligations as the rightholders who have mandated the collecting society and he shall be able to claim those rights within a period of three (3) years from the date of cable retransmission of the broadcast”.

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

3. The provision of passage a’ of paragraph 1, article 11 of Law 2121/1993 is replaced as follows:

“Any person who lawfully makes available to the public anonymous or pseudonymous works is deemed as the initial holder of the economic and moral right towards third parties”.

4. The provision of paragraph 2, article 11 of Law 2121/1993 is abolished. Paragraph 3 of article 11 of Law 2121/1993 obtains number 2 and is replaced as follows:

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

5. The provision of paragraph 1, article 29 of Law 2121/1993 is replaced as follows:

“Copyright shall last for the whole of the author’s life and for seventy (70) years after his death, calculated from 1st January of the year after the author’s death”.

6. Article 30 of Law 2121/1993 is replaced as follows:

“Copyright in works of joint authorship shall last for the lifetime of the last surviving author and seventy (70) years after his death, computed from 1st January of the year after the death of the last surviving author”.

7. The provisions of paragraphs 1 and 2 of article 31 are replaced as follows:

“1. In the case of anonymous or pseudonymous works, the term of copyright shall last for seventy (70) years computed from 1st January of the year after that in which the work is lawfully made available to the public. However if, during the above period, the

author discloses his identity or when the pseudonym adopted by the author leaves no doubt as to his identity, then the general rules apply.

2. Where a work is published in volumes, parts, instalments, issues or episodes and the term of protection runs from the time when the work was lawfully made available to the public, the term of protection shall run for each such item separately.

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

8. Article 44 of Law 2121/1993 is abolished.

9. A new article with number 51A is added after article 51 of Law 2121/1993 as follows:

“Article 51A Protection of previously unpublished works

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

10. a. At the end of the title of article 52 of Law 2121/1993 the following words are added “as well as the regulation of other issues”.

b. Items c’ and d’ of article 52 of Law 2121/1993 are replaced by items c’, d’, e’, f’, g’ and h’ as follows:

“c) The rights of performers provided for in articles 46 and 49 of the present law will expire fifty (50) years after the date of the performance, but cannot be less than the life of the performer. However, if a fixation of the performance is lawfully published or lawfully communicated to the public within this period, the rights shall expire fifty (50) years from the date of the first such publication or the first such communication to the public, whichever is the earlier.

d) The rights of producers of sound or visual or sound and visual recordings provided for in articles 47 and 49 of the present law shall expire fifty (50) years after the fixation is made. However, if the phonogram is lawfully published or lawfully communicated to the public during this period, the rights shall expire fifty (50) years from the date of the first such publication or the first such communication to the public, whichever is the earlier.

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

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

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

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

11. After article 68 of Law 2121/1993, a new article with number 68A is added as follows:

“Article 68A Diachronic Law

1. The terms of protection provided for in articles 29, 30, 31 and 32 of the present law shall apply to all works and subject matter which are protected by related rights in at least one Member-State on 1.7.1995 pursuant to national provisions on copyright property and related rights. Third parties who undertook the exploitation of works or subject matter which are protected by related rights that had become common possession before the entry into force of the present law may continue the said exploitation in the same ways, with the same means and to the same extent until 1.1.1999.

2. The agreements concerning the exploitation of works and other protected subject matter which were valid before 1.1.1995 are subject as of 1.1.2000 to the provisions of article 35, paragraph 3, of the present law, provided that they expire after this date. If an international co-production agreement concluded before 1.1.1995 between a co-producer from a Member-State and one or more co-producers from other Member-States or third countries expressly provides for a geographic distribution system of the exploitation rights of the co-producers for all means of communication to the public without distinction between the arrangements applicable for communication to the public by satellite and the provisions applicable to other means of communication and if the communication to the public by satellite would prejudice the exclusivity, particularly the language exclusivity, of one of the co-producers or his assignees in a specific territory, the consent of the beneficiary of the said exclusivity, whether he is the co-producer or an assignee, is required for the authorisation of communication to the public by satellite by a co-producer or his assignees”.

12. Paragraphs 3 and 4 are added to article 71 of Law 2121/1993 as follows:

“3. Articles 35 paragraphs 3 and 4, 57 paragraphs 8 and 9. 52h and 68A paragraph 2 of the present law are added in application of the Council Directive 93/83/EEC of 27th September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission.

4. Articles 11, 29 paragraph 1, 30, 31, 51A, 52 c', d', e', f' and g', as well as 68A paragraph 1 of the present law are added in application of the Council Directive 93/98/EEC of 29th October 1993 harmonising the term of protection of copyright and certain related rights”.

13. At the end of article 69 of Law 2121/1993 two new paragraphs with numbers 4 and 5 are added as follows:

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

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

14. At the end of paragraph 2 of article 69 of Law 2121/1993 and at the end of paragraph 1 of article 6 of the presidential decree 311/1994, a last item is added as follows:

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

15. After paragraph 4 of article 54 of Law 2121/1993, a new paragraph with number 5 is added as follows:

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

16. After paragraph 7 of article 54 of Law 2121/1993, paragraphs 8 and 9 are added as follows:

“8. The condition of article 54 paragraph 4 item h’ of the present law is not required when the collecting society meets the following three requirements:

a) it pursues its objectives without profit for itself;

b) it is composed of, administered and controlled solely by the creators themselves and is enabled to elect or appoint to its board of directors or supervisors, if any, certain persons who, due to their position or speciality, may provide remarkable services to the said society, provided that the participation of the latter does not interfere with the administration and control of the society by its members’ and

c) the members of the said society would be forced to assign the management and protection of their rights to collecting societies that do not meet the above two requirements (a’ and b’).

9. In the event of serious violation or repeated violations of the law or rules and, specifically, in the event of non fulfilment of the conditions of article 54 paragraph 4 on the basis of which the operation of a collecting society was authorised, the Minister of Culture may, on motion made by the Copyright Organisation, provisionally or finally revoke the authorisation of operation of the specific collecting society”.

17. At the end of article 8 of Law 2121/1993, a new item is added as follows:

“The economic right on works created by employees under any work relation of the public sector or a legal entity of public law in execution of their duties is ipso jure transferred to the employer, unless provided otherwise by contract”.

18. The international term “propriete intellectuelle” (intellectual property) is translated into Greek as “\$\$\$” (dianoitiki idioktisia) and includes both the copyright (propriete litteraire et artistique or droit d’auteur) and related rights and the industrial property (propriete industrielle), such as inventions and marks.

19. By presidential decree issued on motion of the Minister of Culture, the entire legislation on copyright and related rights may be administratively codified, the order and numbering of the provisions may change, similar provisions may be joined and, in general, any amendment necessary for the administrative codification of such legislation may be made.

20. At the end of paragraph 2 of article 34 of Law 2121/1993, a new item is added as follows:

“Authors of individual contributions are considered to be the author of the screenplay, the author of the dialogue, the composer of music, the director of photography, the stage designer, the costume designer, the sound engineer and the final prosecutor (editor)”.

21. At the end of paragraph 3 of article 56 of Law 2121/1993, a new item is added as follows:

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