

The Government of Romania

Decision no. 401/2006

From 29/03/2006

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Regarding the organization, functioning, personnel structure and necessary inputs for fulfilling the attributions of the Copyright Office of Romania

On the grounds of art.108 from the Constitution of Romania, republished, and of Art. 137 Para. (3) of Law no.8/1996 regarding copyright and neighboring rights, with the ulterior modifications and completions:

Art. 1. – (1) The Copyright Office of Romania, hereinafter named The Office, is a specialized body of the central public administration, subordinated to the Government, with legal personality, being the sole regulatory authority, registration by national registries, supervision, authorization, arbitration and technical-scientific establishment in the field of the copyright and neighboring rights.

(2) The location of The Office is based in Bucharest, Calea Victoriei, No. 91-93, sector 1.

Art. 2. – The Office is methodologically coordinated by the Minister of Culture and Religious Affairs, and the financing of current and capital expenses of The Office is fully and distinctly insured by the State budget, throughout the Ministry of Culture and Religious Affairs, the coordinating minister being the main credit ordering person.

Art. 3. – (1) In its activity, The Office has as primary objective respecting and promoting of copyright and neighboring rights, according to the law, as a part of intellectual property rights.

(2) The main duties of The Office are:

- a) to regulate the activity in this field, by decisions of the general director, according to the law;
- b) to draw up drafts of enactments in its field of activity;
- c) to keep record of all the repertoires submitted by the collective management organizations;
- d) to organize and manage, against payment, the registration, with the National Registries and other specific national records provided by law;
- e) to issue against payment holographic sticks usable according to the provisions of the law in the field of the copyright and related rights, at the value of the purchase price to which 30% administration fee is added;

- f) endorses the establishment and supervises the operation of the collective management organizations;
 - g) endorses the proposals for amending the status of the collective management organizations, as well as the establishing of collecting management organizations for several fields.
 - h) endorses, according to law, the registration with the Registry existing at the court clerk's office of the associations and foundations established in the copyright and related rights field, as well as the associations fighting against piracy;
 - i) controls the operation of the collective management organizations and establishes the measures of abiding by the law or applies sanctions, as the case may be;
 - j) ensures the secretarial work of the arbitration procedures carried out according to law;
 - k) performs technical and scientific ascertains with reference to the original character of the products bearing copyright or related rights, at the request of the criminal investigation bodies;
 - l) performs, upon request and against payment, investigations, on the expense of the interested parties;
 - m) develops informing activities on legislation in this field, on its own expense, as well as training activities, on the expense of the interested parties;
 - n) participates in the process of development and update of the National Strategy regarding the intellectual property field.
 - o) develops representation activities in relations with the similar specialized organizations, including institutions and organizations in the European Union, as well as international organizations to which the Romanian state is a party to, in the field of copyright and neighboring rights.
- 3) The Office fulfills other duties, according to the law.

Art. 4. - While performing its duties The Office collaborates, according to the law, with the public authorities and institutions competent in applying the legislation in the field of copyright and neighboring rights, with collective management organizations, with NGOs implied in fighting the specific piracy, as well as associative structures of the economic operators in the field, inside or outside the country.

Art. 5. - In order to fulfill its duties established by law, the Office has an operatively and free of charge access to the information necessary from the National Center of Cinematography, National Office of the Trade Registry, National Customs Authority, National Agency for Fiscal Administration and from the General Inspectorate of the Border Police, National Inspectorate for the Evidence of the Population and the General Direction of Passports within the Ministry of Administration and Interior, as well as from the financial-banking institutions, according to law.

Art. 6. - (1)The Office is managed by a general director, assisted by a deputy general director, appointed by decision of the prime-minister, upon the proposal of the minister of culture and religious affairs.

(2) The general director manages the entire activity of The Office, which she/he represents and involves in the relationships with other public authorities, institutions and organizations, as well as physical and legal persons inside or outside the country.

- Art. 7. - (1) The general director of The Office has the following main duties:
- a) is responsible for organizing, coordinating, and controlling the activity of The Office;
 - b) appoints and releases from position, according to the law, the personnel from his own body, with the exception of the deputy general director;
 - c) proposes the establishing of new services and bureaus or the modification of pre-existing structures, according to the law; decides the organization of temporary collectives within The Office and establishes the duties per divisions and the tasks for the subordinated personnel, according to the organization and functioning regulations;
 - d) insures execution of communications and transmittal of documents and information foreseen by the law, to the European Commission.
 - e) is a third credit ordering person, according to the law, for the funds she/he manages.
 - f) coordinates the activities through which the necessary financial resources are insured, as well as the inventory value of the entire patrimony movement.
 - g) coordinates the activity of the Public Intern Audit Division, according to the law;
 - h) organizes the own financial preventive control;
 - i) approves the balance sheet and the budgetary execution account;
 - j) verifies and insures the payment of financial obligations owed by The Office to the state budget;
 - k) approves the development and investment plan of The Office;
 - l) summons and leads The Office's Consulting College;
 - m) approves, according to the law, the internal regulations of The Office;
 - n) establishes by decision, according to the law, the information of public interest comprised in the national registries managed by The Office, after consulting the associative structures of the registered persons.
- (2) The general director fulfills any other duty, according to the competences provided by the law.
- (3) While performing his duties, the general director emits decisions.
- (4) In absence of the general director, her/his attributions are exercised by the deputy general director.
- (5) The deputy general director coordinates the activity of the subordinated divisions, and fulfills any other duties established by decision of the general director, according to the law.

- Art. 8 - (1) Within The Office, along the general director, functions the Consulting College of The Office, who has in its structure the general director, the deputy general director and the others directors within The Office.
- (2) The general director is the president of the Consulting College of The Office.
- (3) The Consulting College of The Office has the following main duties:
- a) to discuss over the strategies for fulfilling the primary objectives in the field of copyright and neighboring rights protection.
 - b) to discuss over the periodic action programs of The Office.
 - c) to analyze the draft versions of the laws proposed by The Office.
 - d) to formulate advisory points of view, upon request of the general director.

Art. 9 - (1) The general director and the deputy general director are remunerated on the same level as the functions assimilated to the public dignity positions provided by no.1 and 2 from Annex III on the Law no.154/1998 regarding the system of setting the base salary for the budgetary sector and the indemnifications for persons which hold a public dignity position, with ulterior modifications and completions.

(2) The personnel of The Office is remunerated according to legal provisions that apply to public servants and to personnel employed on the basis of a contract from the budget sector.

(3) The personnel of The Office benefits of incentives from the amounts collected for the state budget, from the operations performed against payment by The Office, at a percentage up to 15%.

Art. 10. - (1) The organizational structure of The Office is foreseen in the Annex that is an integrant part of this present decision.

(2) On the proposal of the general director of The Office, within the organizational structure there can be developed by order of the minister of culture and religious affairs, according to the law, other services and bureaus. By decision of the general director there can be organized temporary collectives for execution of programs, projects or studies.

(3) The maximum number of positions inside The Office is 92, including the general director and the deputy general director.

(4) The personnel record is approved by the general director of The Office.

(5) The duties and the way of functioning of the divisions inside The Office, as well as the operating relationships between them, are established by the regulations of organization and functioning of The Office, which are approved by order of the minister of culture and religious affairs within 45 days from the date of coming into force of the present decision.

Art. 11 – (1) The personnel structure of The Office contains public servants and personnel employed on the basis of a contract, according to the approved personnel record.

(2) The activity of The Office is insured, mainly, by specialized technical personnel, with duties in expertise execution and technical-scientific findings, surveying the movements of products carrying intellectual property rights, verifying and promoting the respect of specific legislation, developing of laws in the field, administering the national registries, developing a database, drawing up studies and statistic analysis, as well as collaborating with other collective management organizations and involved institutions, inside or outside the country.

(3) For fulfilling its duties The Office may also use outside collaborators.

(4) The personnel of The Office has access, according to the law, to documents and information necessary for fulfilling the duties of verifying the respect of the legislation regarding copyright and neighboring rights, in his duty.

Art. 12 – (1) Along with The Office operates a body of arbitrators, according to the Law nr 8/1996 regarding copyright and neighboring rights, with ulterior modifications and completions.

(2) For constituting the body or arbitrators The Office solicits to collective management organizations, associative structures of users of works, performances and holograms, public radio and television broadcasting organizations, to propose each 3 individual candidatures.

(3) Is in a conflict of interests and cannot be a part of the body of arbitrators, the arbitrator that was employed by or has worked for the benefit of one of the parts involved in the arbitrage, regardless of the form and extent of his hiring, in the year or the last 3 years prior to the date of the arbitrage solicitation.

Art. 13 – (1) The Office has the right to 2 automobiles, for the transportation of its own personnel, with an average carburant usage of 300 liters per month, and to 4 auto vehicles – mobile laboratory, with an average carburant usage of 400 liters per month.

(2) From the state budget is primarily insured, through the Ministry of Culture and Religious Affairs, the funding for purchasing the logistic that is indispensable for The Office to perform technical-scientific findings regarding the pirated products as well as for identifying the devices meant for execution of the pirated products.

(3) The Office yearly reports to the Ministry of Culture and Religious Affairs over the equipment that is necessary in order to fulfill its duties.

Art. 14 – Annex no.3 of Government Decision no. 78/2005 regarding the organization and functioning of the Ministry of Culture and Religious Affairs, published in the Official Journal of Romania, Part 1, no. 137 from the 15-th of February 2005, with ulterior completions, is modified and completed as follows:

1. At point I “Specialized organs for the central public administration and public institutions fully financed from the state budget”, after no. 2 will be no. 2¹ with the following content:

“2¹. The Romanian Copyright Office *) State Budget”

2. At point 1, the note will have the following content:

“NOTE:

The units mentioned at no. 1-3 may utilize a maximum number of 786 positions.”

Art. 15 – On the date of coming into force of the present decision, the Government Decision no. 758/2003 regarding the organization and functioning of The Romanian Copyright Office and the body of arbitrators, published in the Official Journal of Romania, Part I, no. 492 from July the 8th 2003, will be abrogated.

PRIME – MINISTER
CĂLIN POPESCU TĂRICEANU
