



ALAI CONGRESS 2022 – ESTORIL, Portugal
CENTRO DE CONGRESSOS DO ESTORIL
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QUESTIONNAIRE

During the writing of the national report, it is requested that the relevant sources (norms, legal literature, Case-Law) be accurately cited, whenever possible, in footnotes, indicating the main abbreviations used and using consistent terminology.

When mentioned for the first time, specific national concepts and institutions that may not be known outside their legal system should be made explicit.

The answers should be concise, and the structure of the questionnaire should be preserved, as much as possible, to facilitate the work of comparative analysis and presentation by the rapporteurs at the Congress.

As questions regarding remuneration and collective management may have already been answered in previous national reports, it is kindly requested that a reference is made to the relevant report, including a link in case it remains online, provided that it is still up to date. If that is not the case, national groups are kindly requested to update the information given by previous reports.

MAIN THEME: COPYRIGHT, NEIGHBOURING AND SPECIAL RIGHTS - STATE OF AFFAIRS AND FURTHER OUTLOOK

PANEL I – PERFORMER’S RIGHTS – A COMPARATIVE OVERLOOK

- 1- What types of performers are there according to your legal framework?
- 2- Do all types of performers enjoy Neighbouring Rights protection?
- 3- Does the law distinguish between featured/non-featured performers? How?
- 4- Which rights are awarded to each type of performer?

I- Live performances:

- a) Fixation;
- b) Broadcasting;

II- Fixed performances:

- c) Reproduction;
- d) Distribution;
- e) Rental;



- f) Making Available to the public;
- g) Communication to the Public;
- h) Public performance;
- i) Broadcasting;
- j) Retransmission;
- k) Direct Injection;

III- Are moral rights attributed to performers? Which prerogatives does it comprehend?

- 5- What is the nature of those rights? – Statutory? Contractual?
- 6- Which of them are exclusive rights/remuneration rights?
- 7- Which exceptions/limitations generate remuneration rights for performers?
- 8- Which rights are transferred to music/audiovisual producers? For how long?
- 9- Are there any legal presumptions of transfer or is it voluntary/contractual?
- 10- Are there any unwaivable and inalienable remuneration rights??
- 11- What type of compensation is paid in exchange? How is it set? For how long?
- 12- How is “streaming” qualified in your Country for rights awarding purposes?
- 13- Whose authorization is it required for the “streaming” of music/audiovisual content?
- 14- What is the estimated level of copyright infringement in your Country?
- 15- What is the current level of disclosure on economic returns from digital platforms?
- 16- How is performer’s compensation determined for each business model?
- 17- Are there minimum amounts due? Any other economic benefits?
- 18- Do UGC platforms contribute to such compensation schemes? How?
- 19- Has the Beijing Treaty been implemented in your Country, at least, in part?
- 20- Which rights are collected by Collective Management Organisations (CMOs)?
- 21- Which CMOs represent performers in your Country?
- 22- Do these CMOs comply with transparency principles?
- 23- Is it possible to find out how much income is provided by each type of rights?
- 24- What is the current litigation level for performers’ rights in your Country?
- 25- Are there any relevant Court Decisions concerning performer’s rights?
- 26- Does the Principle of National Treatment apply to all foreign performers?
- 27- Are there “appropriate and proportionate remuneration” provisions?
- 28- Are CMO’s mandates always exclusive and encompassing all rights?
- 29- Are there any partial/global revocation of transfer of rights agreements provisions?
- 30- Are there any provisions on contractual remuneration adjustments?



PANEL II – PHONOGRAM PRODUCERS’ RIGHTS

- 1- Which rights are awarded to phonogram producers?
 - a) Reproduction;
 - b) Broadcasting;
 - c) Communication to the public;
 - d) Distribution;
 - e) Rental;
 - f) Making available to the public;
 - g) Cable Retransmission;
 - h) Direct Injection;
 - i) Any other rights?
- 2- What is the nature of those rights? – Statutory? Contractual?
- 3- Which of them are exclusive/remuneration rights?
- 4- Which exceptions/limitations generate remuneration rights for phonogram producers?
- 5- Are there any legal presumptions of transfer or is it voluntary/contractual?
- 6- What type of compensation is paid in exchange? How is it set? For how long?
- 7- How is producer’s compensation determined for each business model?
- 8- Are there minimum amounts due? Any other economic benefits?
- 9- Is digital piracy/streamripping still a major concern for phonogram producers?
- 10- Which rights are currently being collected via CMOs?
- 11- Which CMOs represent phonogram producers in your Country?
- 12- Do these CMOs comply with transparency principles?
- 13- Is it possible to find out how much income is provided by each type of rights?
- 14- What is the current litigation level for phonogram producers in your Country?
- 15- Are there any relevant Court Decisions concerning phonogram producer’s rights?
- 16- Are there any revocation of transfer of rights’ agreements provisions?
- 17- What is considered a “phonogram published for commercial purposes”?
- 18- Is there any type of phonograms that is published for non-commercial purposes?
- 19- Which rights are involved in audiovisual synchronization (“production music”)?
- 20- Which rights are involved in mood music/sound branding licensing?

PANEL III- BROADCASTERS AND FILM/AUDIOVISUAL PRODUCERS RIGHTS

- 1- Which rights are awarded to broadcasters in your Country?
 - a) Fixation;



- b) Reproduction;
 - c) Communication to the public (with /without admission fees);
 - d) Distribution;
 - e) Simultaneous retransmission by wire or wireless means;
 - f) Deferred retransmission by wire or wireless means;
 - g) Making available to the public by wire or wireless means;
 - h) Pre-broadcast program carrying signal protection;
 - i) Any other rights?
- 2- What is the nature of those rights? – Statutory? Contractual?
 - 3- Which of them are exclusive/remuneration rights?
 - 4- Which exceptions/limitations generate remuneration rights for broadcasters?
 - 5- Are there any legal presumptions of transfer or is it voluntary/contractual?
 - 6- What is the relevance of copyright infringement in relation to broadcasters' rights?
 - 7- Is digital piracy/streamripping still a major concern for broadcasters?
 - 8- Do UGC platforms contribute to broadcasters' rights? How?
 - 9- What is the current litigation level for broadcasters' rights in your Country?
 - 10- Are there any relevant Court Decisions concerning broadcasters' rights in your Country?
 - 11- Are broadcasters acting as One-Stop Shop in relation to retransmission operators?
 - 12- Which rights are awarded to audiovisual producers in your Country?
- a) Reproduction;
 - b) Broadcasting;
 - c) Communication to the public;
 - d) Distribution;
 - e) Rental;
 - f) Making available to the public;
 - g) Retransmission;
 - h) Direct Injection;
 - i) Any other rights?
- 13- What is the nature of those rights? – Statutory? Contractual?
 - 14- Which of them are exclusive rights? Which of them are remuneration rights?
 - 15- Which exceptions/limitations generate remuneration rights for audiovisual producers?
 - 16- Which rights are transferred to audiovisual producers? For how long?
 - 17- Are there any legal presumptions of transfer towards audiovisual producers?
 - 18- What type of compensation is paid in exchange? How is it set? For how long?
 - 19- How is audiovisual producer's compensation determined for each business model?
 - 20- Are there minimum amounts due? Any other economic benefits?
 - 21- Do UGC platforms contribute to such compensation schemes? How?



- 22- Is digital piracy/streamripping still a major concern for audiovisual producers?
- 23- What is the most recent estimation of rights' loss on account of digital piracy in your Country?
- 24- What is the current rule in terms of audiovisual exploitation windows in your Country?
- 25- Which CMOs represent audiovisual producers in your Country?
- 26- Do these CMOs comply with transparency principles?
- 27- Is it possible to find out how much income is provided by each type of rights?
- 28- What is the current litigation level for audiovisual producers' rights in your Country?
- 29- Are there any relevant Court Decisions concerning audiovisual producer's rights?
- 30- Are audiovisual producers acting as One-Stop Shop in relation to retransmission operators?

PANEL IV - DATABASE PRODUCERS' AND PUBLISHERS RIGHTS

- 1- Are Databases legally protected in your Country? How?
- 2- Is there a *Sui Generis* Database producers' right or equivalent protection in your Country?
- 3- Is it possible to evaluate its efficiency and level of enforcement?
- 4- Is there any different form of protection for Database producers or for ownership of data?
- 5- How does it work? Is it effective?
- 6- How do the courts of your Country balance the *sui generis* right with freedom of information and freedom of competition?
- 7- Is the *sui generis* right protected against circumvention of TPM designed for controlling access?
- 6- Is there a special protection against online uses of press publications in your Country?
- 7- Does it apply to scientific journals and hyperlinks? How does it work?