REPORT - GREECE

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A. Questions in relation to scope and enforcement of exclusive rights under existing law

According to article 3 paragraph 1 of greek Copyright Law (N.2121/93) the economic rights confer upon the authors notably the right to authorize or prohibit communication to the public of their works, by wire or wireless means or by any other means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them. These rights shall not be exhausted by any act of communication to the public as set out in this provision

This widely outlined “communication to the public” right is technologically neutral. The communication to the public takes place by wire or wireless means, including all digital means, covering thus acts and uses in the internet environment.

Up to now Greek courts have dealt with a small number of cases referring to acts and uses of works in the internet environment:

a) The acts of fixation and reproduction of works in digital form to the central memory of the server and its communication to the public through Internet are distinctive forms of exploitation and require specific permission (So First Instance Court of Athens, case 1639/2001 for uploading digital reproductions of books. First Instance Court of Athens, case 4860/2005 for uploading and downloading of music files. First Instance Court of Athens, case 8084/2009 for streaming of videoclips).

b) The uploading and making available through Internet radio program consist a distinct act of exploitation, namely communication to the public, and is not covered by the existing radio broadcasting license provided by the

competent collecting society (First Instance Court of Athens, case 3431/2002, First Instance Court of Athens, case 7865/2002).

c) As for offering of hyperlinks for works, the First Instance Court of Athens, in case 4042/2010, held that a radio broadcaster already licensed by a collecting society to broadcast his radio program is infringing copyright by offering to his website a hyperlink (interactive banner) which enables the transmission of his radio program via Internet.

d) In penal case 965/2010 (penal court of Kilkis) the court held that no infringement of copyright exists in the activity of an administrator of a website offering a search engine and a list of deep links, leading to websites containing audiovisual works, taken also into account that many of these websites contain public and user-generated content. The court in this case did not take into account the fact that the intermediate facilitated knowingly technical support and access of users to websites containing illegally uploaded audiovisual works.

License agreements are possible and practiced between collecting societies and platform operators for various forms of on-line digital exploitation of music, e.g. streaming, podcasting, against a percentage fee based on income.

An infringement caused by content providers is an infringement of the exclusive right to communicate to the public (article 3 par. 1 of Greek Copyright Law N.2121/93), faces the civil and penal sanctions and legal remedies provided. (articles 64 – 66 of greek Copyright Law N.2121/93).

In case of intermediaries providing solely access to Internet, without any legal or factual control over the content distributed and the acts of users, the greek law provides that in case of infringement or threat of infringement of copyright or related rights, the author or rightholder may claim the recognition of this right, the discontinuation of the infringement and its omission in the future

against intermediaries whose services are used by a third party to infringe rights. The adequate and proportional measure for the discontinuation of the infringement and its omission in the future has been ruled by courts to be the temporalily disconnection and technical blockage of access to websites and IP addresses containing illegal content. (so First Instance Court Case 4658/2012)

Instead the seizure or precautionary seizure of the technical equipment used by the intermediary has not been accepted by courts, considered to be a measure particularly onerous, opposing the principle of proportionality (First Instance Court of Athens, case 9333/2002).

In a recent judgment of 22/12/2014 the First Instance Court of Athens (case No. 13478) dealt with peer-to-peer communications using the BitTorrent protocol. In this case a group of collecting societies representing various rightholders applied against Internet Service Providers (ISP), following article 63A of Greek Copyright Law N.2121/93, and requiring the disclosure of personal data of users corresponding to the detected infringing IP address (right of information).

Article 63 A implementing the regulation in Article 8 of Directive 2004/48, provides:

"1. On application by a party which has presented reasonably available evidence sufficient to support its claims of infringement or threat of infringement of the rights under this law and has, in substantiating those claims, specified evidence which lies in the control of the opposing party, the court may order, on application by a party, that such evidence be presented by the opposing party. ……. ".

The court on the basis of data protection and preserving of telecommunication privacy held that a removal of confidentiality is possible only under very restricted conditions dealing with national security. Finally the court rejected the application for disclosure of personal data, as considering it an

unacceptable intervention to private sphere therefore opposing the principle of proportionality.

Rightholders may apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right It is the same for the *sui generis* right of data base maker.

Apart from primarily rightholders also the exclusive licensee are also empowered to sue against acts of infringement. According to Article 13 par. 3 of Greek Copyright Law N. 2121/93, in the absence of an agreement to the contrary, the other contracting party shall be entitled in his own name to seek legal protection against illegal infringements by third parties of the rights he exercises.

The same right have the collecting society competent to administer and/or protect the rights in works and rightholders entitled therefore. According to Article 55 par. 2 of Greek Copyright Law N. 2121/93, a collecting society shall in all circumstances be entitled to initiate judicial or extrajudicial action in its own name and to exercise in full legitimacy all the rights transferred to it, or for which it holds power of attorney.

Ouestionnaire for the ALAI Congress 2015 in Bonn

Remuneration for the use of the Works

Exclusivity v. Other Approaches

GREECE - 2015

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law provides that in case of infringement or threat of infringement of copyright or related rights, the author or rightholder may claim the recognition of this right, the discontinuation of the infringement and its omission in the future against intermediaries whose services are used by a third party to infringe rights. The adequate and proportional measure for the discontinuation of the infringement and its omission in the future has been ruled by courts to be temporarily disconnection and technological blockage of access to websites and IP addresses containing illegal content (so First Instance Court Case 4658/2012).

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The same right has the collecting society competent to administer and/or protect the rights in works and rightholders entitled therefore. According to Article 55 par. 2 of Greek Copyright Law N. 2121/93, a collecting society shall in all circumstances be entitled to initiate judicial or extrajudicial action in its own name and to exercise in full legitimacy all the rights transferred to it, or for which it holds power of attorney.

B. Questions regarding mechanisms to ensure adequate remuneration for creators and performers in their relationship with licenses

If authors and performers exercise their exclusive rights by licensing them to exploitation businesses, such as publishers, the question arises how they best may ensure an adequate remuneration form such licenses.

1. Does your law provide for legal rules, including by case law, on mechanisms for authors and performers to ensure an adequate remuneration in relation to exploitation businesses in the following cases:

- ***As a general rule for all kind of contracts***

In order to ensure the author's/creator's economic interests and -more precisely- his/her *right to participate continually and adequately* in the profits that derive from the exploitation of his/her work(s) by the so-called "exploitation businesses", such as publishers, phonogram producers etc., Greek Copyright Law (L. 2121/1993) has adopted the principle of author's "fee by percentage" (art. 32 § 1 s. 1). According to this rule, the fee payable to the author by his/her counter contracting party for the legal transactions concerning the transfer of the economic right or the powers emanating from it or the assignment of exploitation licenses, *must be agreed at a specific percentage*, the height of which is *freely determined* by the contracting parties. The basis for the calculation of the fee due is the total of gross revenues and expenses, made from the activity of the counter contracting party and deriving from the work's exploitation (§ 1 s. 2).

According to most Greek legal theorists, the essential weakness of the above rule lies in the fact that it gives the contacting parties the complete freedom to determine the percentage fee by themselves, without any legislative limitations. Taking into account the inequality as to the economic and/or bargaining power that usually exists between the contracting parties (exploitation businesses v. authors), the existing rule *does not exclude the possibility of squeezing the author's economic interests to the point of nullification*. According to the same opinion, as an inherent limit in the determination of the percentage fee one might consider *the standard of the "reasonable percentage fee"* established by: (i) the provisions of L. 2121/1993 that provide for a minimum percentage fee in special types of contracts (i.e. art. 33, 36, 37 etc. – see answer to question B.2, below), (ii) the general provision of "nullity of agreements to the extent they determine percentage fees which are lower or contain clauses which are less favorable for the authors in comparison to the ones provided for in Art. 32-38 of the same chapter" (art. 39 L. 2121/1993) and (iii) the general rules of art. 178-179 of the Greek Civil Code (nullity of contracts that are against the good morals; see *L. Kotsiris*, Greek Copyright Law, IuS Editions, Thessaloniki 2012, pp. 156-157). The same opinion *can be traced* in some judicial decisions (see, for example, case No. 8138/2000 of the Athens' Court of Appeals, DEE 2001, pp. 60et seq.).

It should be noted that the *general rule* contained in art. 32 s. 1 L. 2121/1993 applies in all cases, *unless*: **a)** the law contains a specific provision, that stipulates otherwise [as, for example, in certain types of exploitation contracts, such as the contract of printed edition (art. 33), where the percentage of the

income from exploitation/edition to be received by the authors/writers is determined by the law (see the answer to question B.2, below) or in cases where practical inabilities or the nature and/or the conditions of the exploitation make the implementation of a percentage fee calculation impossible (art. 32 § 1 s. 3] and **b)** the agreement does not refer to works created by employees in execution of an employment contract, to computer programs or to any form of advertisement. It should be noted that in these last cases, the remuneration of the author *could be determined at a specific amount* (by the contracting parties).

No similar rule exists for performers, whereas, according to the leading opinion, *some of the provisions* contained in Art. 13 et seq. of the L. 2121/1993, that constitute the so-called "general contractual copyright law", should apply in the case of performers *by analogy*.

- ***As regards 'best-seller' situations (i.e. when parties did not presume that the work would become a best seller)***

Greek Copyright Law *does not contain a specific rule* as regards "best sellers situations" (i.e. similar to § 32a UrhG or Art. L.131-5 CPI). However, similar situations could be regarded in the light of the general provision of art. 388 of the Greek Civil Code (*unforeseen change of circumstances*), according to which, if the circumstances, upon which the contracting parties had initially based the conclusion of their contract, changed afterwards, due to reasons, which were unexpected and couldn't be foreseen, *the Court may*, on its free judgment and after the petition of the contracting party, whose performance, in comparison to that of his counter party, has -in the meantime- become disproportionate, *order its adjustment* to a "reasonable standard". In other words, the author/creator, who, in the context of an exploitation contract, had agreed on the amount ("level") of his remuneration at a time, when the "success" of his work could not be foreseen (*best seller situation*), can submit an application to the competent Court demanding from It to adjust his/her remuneration to the new circumstances *in order to make it reasonable (or equitable)*. According to the leading opinion, the above provision could be of use, only when the remuneration of the author/creator has been determined at a specific/fixed amount (*G. Koumantos*, op. cit., p. 317). However, in cases where a (very) low percentage fee has been initially agreed, the author, whose bargaining power has changed afterwards because his work, although the parties did not presume so, became a 'best seller', could demand by the Court the adjustment of the level of the agreed percentage *in order to become reasonable,* i.e. ensure the author's adequate participation in the income from

the exploitation of his/her work. In this context, “reasonable” (or “equitable”) is the percentage fee which is formulated according to the *principles of equality and proportionality* in order to stand as the fair exchange to the powers of exploitation granted by the author to his/her counter party regarding the specific work.

Likewise, art. 388 of the Greek Civil Code ***could be used by performers*** willing to adjust their remuneration to make it “reasonable” (or “equitable”) in case their performance became -unexpectedly- successful after they agreed on the contractual terms for its exploitation.

- ***In case of oppressive contracts*;**

Greek Copyright Law *does not contain a specific rule* in order to ensure an adequate remuneration to authors and performers in the case of oppressive contracts. However, if an exploitation contract is oppressive, then the author or the performer, that has been “dragged” into it, can request from the Court *to render the contract null and void* according to the general provisions of art. 178-179 of the Greek CC (nullity of contracts against good morals). It should be noted that “oppressive contracts” are specifically mentioned in art. 179 CC as being against the good morals.

- ***In other cases; and if so, under what conditions?***

In the case of some *special types of exploitation contracts*, such as the contracts of printed edition (art. 33), contracts of broadcasting by radio and television (art. 35), contracts of theatrical performance (art. 36), contracts of musical accompaniment of films (art. 37), as well as in the case of re-publication of photographs by newspapers, magazines or other mass media (art. 38 § 1 s. 2), with which the photographer has concluded an exploitation contract, L. 2121/1993 provides for a number of specific rules *focusing mostly on the percentage and the mode of remuneration*. A similar rule is contained in art. 46 § 3 s. 2 in relation to the performer’s *right to equitable remuneration* for the rental of the material carriers of his/her recorded performances, whereas *a new rule*, concerning the performer’s right to receive an *annual, supplementary remuneration* from the phonogram producer, who had undertaken the exploitation of the phonogram carrying his/her recorded performances, for every year following the expiry of the fiftieth (50^{th}) year since the specific phonogram was lawfully published or communicated to the public (depending on which one took place first), was put in force on the 3rd of December 2013, implementing

the so-called “Duration Directive” (2011/77/EU – EE L. 265/1-11.10.2011) into the Greek legal order. More details about these provisions will be given below, in the context of the answer to question 2.

Moreover, as regards *contracts of audiovisual production* (art. 34), Greek Copyright Law provides for a number of rules to ensure that the authors (meaning the director, who is presumably the author of the “audiovisual work” as a whole, as well as the authors of the individual contributions) receive an adequate remuneration. According to these, the author(s) should be compensated separately for every mode of the audiovisual’s work exploitation and *receive a percentage fee*, at a level which is determined freely by the contracting parties. The basis for its calculation is the gross revenues or expenses or the combined gross revenues and expenses that accrue from the exploitation of the audiovisual work (art. 34 § 3 s. 1-3). When visual or audiovisual recordings carrying a fixation of an audiovisual work become the object of a rental agreement, the author(s) always retain the right to receive equitable remuneration. The provision also applies in the case of a rental agreement in relation to sound recordings (art. 34 § 4 s. 1 and 2). In order to protect the authors’ interests, the law imposes on the producer the obligation *to provide them annually and in writing with any information* concerning the exploitation of their audiovisual work and *to demonstrate all the relevant documents* (§ 3 s. 4). The rules on compensation presented above, do not apply in the case of short-length advertising films (§ 3 s. 5).

2. If your law provides for rules as addressed under B.1 above, does the law determine the percentage of the income from exploitation to be received by authors and performers, or does it otherwise specify the amount of remuneration?

Greek Copyright Law (L. 2121/1993) determines the percentage of the income from exploitation to be received by authors in the following cases:

a) Contract of printed edition (“publishing contract”): According to art. 33 § 1, the fee payable to the author/writer is determined by the parties as a *percentage that is calculated on the retail selling price of all copies sold*. After the sale of the first one thousand (1000) copies of a certain work/book, this percentage cannot be less than 10%. The fee payable by the publisher to the translator for the printed edition of his/her translation is also calculated by percentage on the above mentioned basis, but its level is not determined by the relevant provision (art. 33 § 6). As an exception, the fee payable to the author

can be agreed by the parties *at a specific/fixed amount* in the cases of collective books, encyclopedias, albums, commentaries, magazines, newspapers and other works that are restrictively mentioned in art. 33 § 2. Moreover, in cases of joint authorship the remuneration due must be divided between/amongst the authors according to the extent of their contribution, provided that no other form of payment has been decided or derives from an author's relation to the work.

b) Contract of broadcasting by radio and television: According to art. 35 § 1, if the economic right of broadcasting the work by radio or television has been legally transferred to a broadcasting organization and if there is no agreement to the contrary, further author's consent is not required for re-broadcasting. However, he/she *deserves the right to receive a minimum remuneration for every re-broadcast*, of at least 50% of the amount originally agreed on for the first repetition and 20% for every subsequent one.

c) Contract of theatrical performance: Art. 36 concerns solely fees payable for theatrical performances. More precisely, § 1 of this provision states that the rights of playwrights are determined as a *percentage fee*, calculated on gross receipts after public entertainment tax has been deducted. The *minimum level* of these percentages is provided for in § 2, according to which, as regards State theatres, it is established at 22% and, as regards private theatres, at 10%, in total for the entire programme of a performance of original works or translations or adaptations of "classics", either recent or of ancient times (s. 1). As far as translations of modern works of the international contemporary repertory are concerned, the minimum fee is established at 5% (s. 2). If works of more than one playwrights are included in the programme, the fee is allocated between/ amongst them depending on the duration of each one's work.

d) Contract of musical accompaniment of films: According to Art. 37, the *minimum fee payable to authors/composers* for the performance of their musical accompaniments of films, with or without lyrics, in cinemas or other similar halls, is established at 1% on the gross receipts after the deduction of the public entertainment tax.

e) Regulations concerning photographers' rights: Art 38 § 1 refers to the rights of the photographers, who, in the context of an exploitation contract, have granted to a newspaper or periodical or other mass media organization the right to publish some of their photographs and, therefore, they deserve an adequate remuneration. More precisely, according to s. 2 of the same provision, for every publication of the photograph, succeeding the first one (re-publication), the fee

payable to the author/photographer *is reduced to half of the current fee*, i.e. of the fee that is usually paid in relative transactions at the time of the second, third etc. publication.

f) Licenses by performers: According to art. 46 § 3, performers are always entitled to compensation for every form of exploitation of their performances, which is usually realized through the execution of the acts listed in § 2 of the same provision (i.e. fixation of their performance, reproduction, distribution to the public etc). More precisely, the performer retains an unwaivable right to equitable remuneration for rental, in cases he has authorized a producer of sound or image or audiovisual material carriers to rent material carriers of his recorded performance.

g) Remuneration of performers for the period after the expiry of the -once in force- **fifty (50) years term of protection** of their rights: Following the recently introduced extension of the performers' related rights duration to 70 years (in compliance to Directive 2011/77/EU) art. 52 s. d (bb - dd) of L. 2121/1993 stipulates that, as long as a performer is contractually entitled to a non-recurring remuneration in relation to his/her recorded performances, he/she has *the right to receive an annual, supplementary remuneration* from the phonogram producer, to whom he/she entrusted their exploitation, for every year succeeding the fiftieth (50^{th}) year after either the lawful publication or the communication to the public of the phonogram, whichever took place earlier. The payment of the remuneration due must be executed within 6 (six) months after the expiry of each fiscal year, whereas the relevant right may not be waived by the performer (s. bb).

More specifically, the performer's total (annual) remuneration will be *equal to 20% of the gross revenues that the phonogram producer derived from the exploitation* of the phonogram carrying his/her performances (i.e. from its reproduction, distribution and communication to the public) during the fiscal year preceding the one for which the payment took place and, in any case, after the fiftieth (50^{th}) year since the lawful publication or communication to the public of the relevant phonogram, whichever happened first (s. cc). It should be noted that the supplementary remuneration right mentioned above is managed by the collecting societies that represent the performers.

3. Please indicate also whether these mechanisms that are addressed under B.1. and 2. above are efficient in practice.

In general, *they are*. However, as has already been mentioned above (see answer to question B.1), in cases, where Greek Copyright Law (L. 2121/1993) allows the contracting parties to determine the level of the percentage fee on their own, without any legislative limitations (i.e. art. 32, 34 etc.), there is always the danger that the economic interests of the authors might be squeezed to the point of nullification. Because usually, in the so-called "exploitation contracts", the inequality between the contracting parties is apparent. In this context, the role of courts becomes really important, since they will be called to apply some of the general principles of our law in order to adjust the contractual terms *to make them fair and equitable* (see infra).

C. Questions in relation to statutory remuneration rights

The questions below concern the question of the scope of remuneration rights and their enforcement (which usually takes place through collective management organizations (CMOs)) towards users.

1. In which cases do statutory remuneration rights exist in your country, e.g., public lending rights, resale rights, remuneration rights for private copying, or others (often, they are provided in the context with limitations of rights)?

Statutory remuneration rights exist in the following cases:

a) Reproduction for private use: Article 18 of Greek Copyright Law does apply to analogue and digital reproduction recognizing to the authors and to certain holders or related rights (performers, phonogram producers and producers of audiovisual works) the right to equitable remuneration, if for the free reproduction for private use of the work use is made of technical media, such as recording equipment for sound or image or sound and image, magnetic tapes or other devices for the reproduction of sound or image or sound and image including digital reproduction devices.

b) Resale right: According to article 5 of Greek Law on Copyright implementing the Directive 2001/84 the resale right is provided for the benefit of the author of an original work of art. The author has the right to receive a royalty based on the sale price obtained for any resale of the work subsequent to the first transfer of the work by the author.

c) Right to single and equitable remuneration for performers and producers of phonograms: Article 49 of Greek Copyright Law provides the right to single and equitable remuneration to performers and producers of phonograms when sound recordings are used for radio and television broadcast by any means or for communication to the public.

2. Is there the possibility of obtaining compulsory licenses, and if so, under what conditions and for what categories of works?

Compulsory licenses are not provided by legislation.

3. **i**. For which statutory remuneration rights does your law provide for obligatory collective management?

Obligatory collective management is provided for the case of reproduction for private use and for the right of single equitable remuneration on the benefit of performers and phonogram producers when sound recordings are used for radio and television broadcast.

ii. For which statutory remuneration rights does your law not provide for obligatory collective management, but in practice, the right is managed by a CMO?

For resale right.

iii. Who has to pay the remuneration regarding each of these statutory remuneration rights – the user, a third person (e.g., a copy shop or a manufacturer of a copying equipment and devices) or a tax payer (through money allocated from the public budget)?

As it concerns the reproduction for private use, equitable remuneration is paid by importers and producers of the technical media used for reproduction/ copying purposes. As it concerns the right of single equitable remuneration on the benefit of performers and phonogram producers, the remuneration is paid by users.

iv. How is the tariff / the remuneration for each of these remuneration rights fixed (in particular, by contract, by law, by a Commission, etc.)?

As it concerns the reproduction for private use, remuneration is fixed by the law. Regarding the right of single and equitable remuneration on the benefit of performers and phonogram producers, tariffs are fixed by collective management organizations being also responsible for negotiating and agreeing the remuneration levels with the users.

v. Is there supervision of CMOs regarding tariffs, and if so, what are the criteria for supervision?

Regarding tariffs there is no supervision by the Ministry of Culture or the Copyright Office.

vi. What problems exist when right holders assert the statutory remuneration right in relation to users or others who are obliged to pay the remuneration (e.g., a claim is rejected and results in long legal proceedings; those who are obliged to pay in the meantime go bankrupt, etc.)?

As it concerns the right of single and equitable remuneration on the benefit of performers and phonogram producers, where there is a dispute between the users and the collective management organization, the level of the equitable remuneration and the terms of payment are determined by the single-member court of first instance pursuant to the cautionary measures procedure. The final judgment concerning the remuneration is rendered by the competent court.

As it concerns the reproduction for private use, collective management organizations are entitled to request to any debtor to declare by statutory statement the real total value of the technical devices. If the debtor does not comply with the obligation to submit the statutory statement, the single member district court by the procedure of injunction measures may order the immediate submission of the statutory statement. In case of non-compliance, a pecuniary fine is imposed in favor of the applicant collective management organization. Every collective management organization is also entitled to request the investigation of the accuracy of the contents of any statutory statement by certified accountant.

vii. If problems to assert the remuneration exist, does your law provide for any solutions to these problems (e.g., an obligation to deposit a certain amount in a neutral account)?

Please see the answer to question 3 vi.

D. Mechanisms to ensure adequate remuneration for creators and performers

The questions below address the issue of existing mechanisms, in particular within CMOs, to ensure that authors and performers, also in relation to exploitation businesses such as publishers and phonogram producers, receive an adequate remuneration.

1. In respect of the statutory remuneration rights under your law, does the law determine the percentage of the collected remuneration to be received by particular groups of right owners (e.g. the allocation between authors and producers, among different kinds of authors, performers and producers, et al.)?

a) Statutory remuneration in case of reproduction for private use: Regarding the percentage of the collected remuneration to be received by particular groups of right owners, art. 18 § 3 s. 6 of L. 2121/1993 makes the following distinctions:

(i) The remuneration collected for the import or the production of photocopy machines, photocopy paper, storage media (disquettes) of less than 100 Mbytes and scanners (4%) is allocated in equal shares (50% - 50%) between the authors and the publishers of printed material, and (ii) the remuneration collected for the import or production of recording devices and sound or image or sound and image devices, devices and parts not incorporated in the main computer unit (6%) as well as digital reproduction devices, with the exception of storage media (disquettes) of less than 100 Mbytes, is allocated as follows: 55% to the authors, 25% to the performers and 20% to the producers of recorded magnetic tapes or other recorded devices for sound or image or sound and image.

In case the same category of right holders (i.e. phonogram producers) is represented by more CMOs and they are unable to reach an agreement as to the allocation of the percentage of the remuneration collected amongst them, until the 1st of April of every year, the dispute is resolved by the Hellenic Copyright Organization (OPI). The relevant decision is based on the principles

of good faith and moral conventions as well as on the practices followed in European and international level. The CMOs that disagree with the above decision may ask the Court to order a different distribution.

b) Resale right: According to art. 5 § 5 of L. 2121/1993 the remuneration collected for the resale of an original work of art is paid exclusively to the authors and, after their death, to their heirs or other *mortis causa* successors.

c) Right to single and equitable remuneration for performers and producers of phonograms: As to art. 49 § 3 of L. 2121/1993 the remuneration collected by the competent CMOs (by the radio and television broadcasting organizations) is distributed between the performers and the producers of phonograms in equal parts, half (50%) and half (50%). Further allocation to the various members of each category of right owners is effected pursuant to agreements amongst them contained in the by-laws of each CMO.

2. If so, what percentages are fixed by the law? Are these percentages different for different statutory remuneration rights?

Please see answer to question D.1 above.

3. If there are no such legal determinations, how are the percentages or the otherwise fixed distribution keys for the different rights of remuneration determined in practice (in particular, by which decision-making procedures and by whom are these distribution keys determined inside CMOs)? Which percentages are in practice applied?

In cases there are no legal determinations, the percentages or/and the otherwise fixed distribution keys for the different rights of remuneration are determined by the CMOs. More precisely, the allocation is executed according to the CMOs' "allocation regulation", which, as a part of the Organization's by-laws, needs to be officially approved by the Ministry of Culture. Likewise, any future modification of the above regulation requires approval by the competent authority, whereas the right-holders/members of a CMO have to be informed annually about the rules, according to which their shares are calculated, the collecting and distribution methods this Organization applies etc., in order to be able to express their opinions. As a general rule, distribution of revenues to the authors and other right-holders *takes place at least annually* and is

proportional to the use of their work, to the extent possible (art. 57 L. 2121/ 1993).

4. If owners of derived rights (such as publishers who derived the rights from their authors) transfer these derived statutory remuneration rights to a CMO, how and on the basis of which agreement is the remuneration distributed between them in this case?

Please see answer to question D.3 above.

5. Which mechanisms of supervision exist in your country to control the distribution keys applied by CMOs, if any?

As mentioned above, the distribution keys applied by the CMOs may be either determined by the law or by the CMOs' by-laws. In any case, according to art. 54 §§ 5-6, the CMO's compliance with the provisions of L. 2121/1993 or its own by-laws is controlled by the Ministry of Culture. For this purpose, the CMO is obliged to submit its annual accounts and any other necessary data, required to facilitate this control, to the competent department of the above Ministry. If a CMO is found to have violated the law or its by-laws, including the rules regarding remuneration distribution among its members, then, by advance notification, the Minister of Culture may impose an administrative penalty of 1.500 to 30.000 Euros. If serious or consecutive violation of the law or the by-laws is verified, the Minister of Culture may, at the Hellenic Copyright Organization's suggestion, proceed with temporary or definite removal of the CMO's authorization to operate (art. 54 § 9).