

LAW ON THE AMENDMENTS OF THE LAW ON COPYRIGHT AND RELATED RIGHTS

Article 1

In the Law on Copyright and Related Rights (“Official Gazette of the RS” No. 104/09 and 99/11), in the article 39, paragraph 6, at the end of item 3) full stop is replaced with the semi column, and items 4 and 5 are added, which state:

“ 4) technical devices and empty carriers of sound, picture and text which the potential taxpayer, obliged to pay remuneration, buys in another state or customs territory, if they are directly delivered to another state or customs territory, or if the potential taxpayer, obliged to pay remuneration after the conducted appropriate customs procedure, dispatches them from the territory of the Republic of Serbia;

5) computers, technical equipment, components and computer memories, except if some of those devices are not expressly mentioned in the list from paragraph 12 of this article.”

After paragraph 6, new paragraph 7 is added, which states:

“Taxpayer obliged to pay special remuneration that has paid special remuneration for the devices and items from the list from paragraph 12 of this article, which were later dispatched from the territory of the Republic of Serbia, has the right for the return of the paid special remuneration.”

So far articles 7-10 become articles 8-11.

So far article 22 becomes article 12, which is changed and states:

“ List of technical devices and objects for which there is an obligation of payment of special remuneration according to conditions from paragraph 1-10 of this article is determined by the Government (henceforward: device and object from the list of the Government)”.

After article 12, article 13 is added, which states:

In the case of the doubt if for some device or object from the Government list, which has more functions, special remuneration is paid, the existence of the obligation of payment of special remuneration is established on the basis of the essential purpose of the device or object.”

Article 2

In article 127, paragraph 4, at the end of the text, a sentence is added as follows:

“The contractors have the obligation to inform in writing about the beginning of the negotiations the ministry competent for the tasks of science and the Intellectual Property Office”.

Article 5 is changed and it states:

“ If the organizations do not conclude a contract from the paragraph 3 of this article in the period of three months from the date of starting the negotiations from paragraph 4 of this article, the joint collection will be performed by the oldest organization.”

After paragraph 9, a new paragraph is added, which states:

“ Single equitable remuneration for the communication to the public of a phonogram and performances recorded on it is paid together with the copyright remuneration for the public communication of musical works in a manner envisaged by article 156, paragraphs 5 and 6 of this Law.”

Article 3

In the article 156, after paragraph 4, paragraphs 5 and 6 are added, which state:

“Remuneration for the communication of musical works to the public, as the independent remuneration of authors of musical works and joint single equitable remuneration of performers and producers of phonograms for public communication of performances and phonograms, from the reason of public interest, are collected using the mechanism of one postal money order forwarded to the users, in a manner determined by the agreement reached by the organizations.

After the deduction of the certain agreed expenses of payment by means of the postal money order from paragraph 5 of this article, the organization which realizes rights of the authors of musical works, on account of the independent remuneration for the public communication of musical works is paid the due amount of 50% of totally collected funds. The single equitable amount of remuneration for performers and producers of phonograms for public communication of performances and phonograms is delivered to the organizations in compliance with the article 127, paragraph 7 of this Law.”

Article 4

In article 164, after paragraph 2, paragraphs 3, 4, 5 and 6 are added which state:

“Council for the control of payment and distribution of remuneration for communication to the public (henceforward: Council) is the common body of the organizations from article 156, paragraph 5 of this Law, which they establish in agreement.

The Council performs control over the implementation of the agreement from article 156, paragraph 5 of this Law, concluded between the organizations, as well as control of

payment and distribution of collected remuneration and gives directions with regard to the payment and division of remuneration between the organizations.

The Council has three members, one from each organization.

The Council has an obligation to pass regulations on its work.”

Article 5

In article 171, paragraph 1, words “and craftsmanship” are deleted.

Article 6

After article 171, the titles of the articles 171a and 171b are added, which state:

“ 2.5.1a Determining of remuneration in tariff for the communication to the public of musical works, performances and phonograms

Article 171a

The highest amount of the remuneration at the monthly level in the tariff for public communication of musical works, performances and phonograms can not be larger than 1/12 of the minimum income in the Republic of Serbia without taxes and contributions for the users having commercial business premises up to 50 square meters, or it can not be larger than 1/10 of the minimum income in the Republic of Serbia without taxes and contributions for the users having commercial business premises of more than 50 to 100 square meters, or it can not be larger than 1/8 of the minimum income in the Republic of Serbia without taxes and contributions for the users having commercial business premises of 100-150 square meters, it can not be larger than 1/6 of the minimum wages in the Republic of Serbia without taxes and contributions for the users having commercial business premises of 150-200 square meters, and for the users with business premises of 200-300 square meters it can not be larger than 1/3 of the minimum wages in the Republic of Serbia, while the basis for the establishment of remuneration at the monthly level in the current calendar year is the amount of the minimal wages, without taxes and contributions in the month of December of the previous calendar year. For every additional 100 square meters, over 300 square meters, the remuneration is enlarged for the maximum of 1/10 of the minimum wages in the Republic of Serbia without taxes and contributions.

While determining the space in square meters of the commercial business premises, from paragraph 1 of this article, the space is exclusively taken into consideration when used by the user for the reception of clients, consumers and for taking orders for services, and the auxiliary rooms for the work of the personnel, the storage space and the sanitary rooms are not taken into consideration.

Remuneration for the public performance of musical works, performances and phonograms in the craftsmanship shops is not being paid.

Craftsmanship shops in the meaning of paragraph 3 of this article are taken to be independent craftsmanship shops, as well as shops or business premises where the entrepreneur who pays taxes for income from the independent activities for the flat rate income from productive activity, and in the framework of productive activity sells his own products, or gives services to natural persons, performing that activity.

Users from paragraph 1 of this article are characterized by the representative association of users for the territory of the Republic of Serbia on the basis of importance which the communication to the public of musical works, performances and phonograms has for the performing of business activities of users in the certain branch of economy or sector, particularly bearing in mind the geographical position of the seat of the user, financial turnover which the user realizes on the annual level, as well as the fact that remuneration is not paid for the communication to the public of musical works, performances and phonograms in the craftsmanship shops.

2.5 1 b Determination of Special Remuneration in Tariff for the Realization of Right to Special Remuneration

Article 171b

The amount of special remuneration which is paid per every sold or imported device and object from the list of the Government can not be higher than 1% of its value, except when it concerns the sale or import of empty compact discs, empty digital video discs, empty digital video discs of high definition, empty blue ray discs, empty mini discs, empty audio cassettes and empty video cassettes, where the amount of special remuneration can not be higher than 3% of its value.

As the value of devices and objects from the list of the Government which are produced in the Republic of Serbia, their resale price is taken without the value added taxes at the first sale, and when the devices and objects from the list of the Government are imported in the Republic of Serbia, their purchase price is taken as their value, calculated into dinars at the rate of exchange on the day when the customs duty is being collected, increased for the amount of the customs taxes.”

Article 7

In the article 176, the words “Commission for Copyright and Related Rights (henceforward: Commission) are replaced by words “ Intellectual Property Office (henceforward: Office)” and the word “opinion” replaces the word “agreement”.

Article 8

In article 177, paragraphs 6 and 7 and in the article 178 the word “Commission” in certain declination is replaced by the word “Office” in the appropriate declination, and the word “opinion” in certain declination is replaced by the word “agreement” in the appropriate declination.

Article 9

Chapter V. “Commission for Copyright and Related Rights” and articles 192-201 are deleted.

Article 10

After the article 201 the following chapters are added: “V. a Procedure for giving agreement to the tariff” and “V. b Electronic recording of broadcasting and rebroadcasting” and articles 201a – 201d which state:

“V. a Procedure for giving agreement to the tariff

Article 201a

Agreement to the proposal of the tariff suggested by the organizations is given by the Intellectual Property Office.

Article 201b

If the proposal of the tariff was determined in agreement by two or more organizations, the proposal for the agreement from article 201a of this Law is initiated by those organizations jointly.

If the proposal of the tariff is determined by the oldest organization, that organization files a proposal for an agreement.

Article 201c

With the request for agreement from article 201a of this Law, the following must be filed:

- 1) proposal on the amount of the tariff;
- 2) data on the negotiations (description of the course of the negotiations, the results of the negotiations, the reasoning if the agreement has not been reached, written declarations of all of the negotiators).

Article 201d

The procedure for giving agreement to the tariff is duly subject to the stipulations of the law regulating the general administrative procedure, unless otherwise provided by this Law.

V. b Electronic recording of broadcasting and rebroadcasting

Article 201d

Broadcasters of radio and television program have an obligation to keep electronic record of the broadcasting and rebroadcasting of copyright protected works.

Supervision over the keeping of the electronic records is done by the Republic Broadcasting Agency, as the entrusted job.

The manner of keeping the electronic register from the paragraph 1 of this article is prescribed by the Government.

Article 11

On the day of the entry into force of this Law, the Commission for the Copyright and Related Rights stops activities and all its rights, obligations, subject matter, equipment, means of operation and archive for the performance of competences established by this Law, are taken over by the Intellectual Property Office.

The representative association of users for the territory of the Republic of Serbia has an obligation to categorize users from article 6 of this Law (new article 171a), in the term of 30 days from the date of entry into force of this Law.

The Intellectual Property Office has an obligation, in the course of 60 days from the entry into force of this Law to pass the Tariff for the realization of the right to compensation for the communication to the public of musical works, performances and phonograms and the Tariff for the realization of right to special remuneration in compliance with the provisions of this Law.

Article 12

Organizations which realize the right of authors of musical works to remuneration for the public communication of musical works and organizations which realize rights of performers and producers of phonograms for remuneration for the communication to the public of performances and phonograms have an obligation to reach the agreement from article 3 of this Law (amended article 156) in the term of six months from the date of entry into force of this Law.

If the organizations from paragraph 1 of this article do not reach the agreement in the term envisaged, the single equitable remuneration is charged by the oldest organization. The single equitable remuneration for the communication to the public of musical works, performances and phonograms will begin to be calculated and charged, in the meaning of article 3 of this Law (article 156, paragraphs 5 and 6), from January 1st, 2014.

Until January 1st, 2014, the organizations from paragraph 1 of this article shall charge remuneration for communication to the public according to the Tariff passed by the Intellectual Property Office, and according to the following proportions: 50% to the organization realizing the rights of the authors for public communication of musical works, 25% to the organization of the producers of phonograms and 25% to the organization of interpreters.

Electronic recording of broadcasting and rebroadcasting will start from January 1st, 2014.

Article 13

This Law shall enter into force on the eight day from the date of publication in the “Official Gazette of the Republic of Serbia” and is implemented since January 1st, 2013.