

(This is not an official translation of the law)

Decree-Law No. 100/2017

August 23rd

The regime that regulates organizations for the collective management of copyright and related rights needs to comply with Directive no .°2014/26/UE, related to the collective right of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market.

Indeed, in the context of the transposition of said directive, it is necessary to provide for a set of rules that describe the conditions for the granting, by collective management organizations, of multi-territorial licenses of online rights to musical works, in order to ensure a minimum quality of the services provided by said organizations, as well as enabling a reduction in the number of licenses that a user needs to explore a repertoire on a multi-territorial basis.

Also taking into account the objectives of the directive, it is intended to continue to ensure that conflicts arising from relations between collective management organizations and users - or organizations representing users - relating to the setting of general tariffs, can be submitted to a procedure prompt, impartial and effective alternative dispute resolution. Thus, in addition to maintaining the necessary appeal mechanism to the commission of experts after the lack of agreement in the negotiation between the parties, the possibility of resorting to institutionalized voluntary arbitration is expressly enshrined, in an arbitration center technically competent in intellectual property law.

It is also necessary to establish more precise norms that make it possible to clarify the duties of all those who, directly or indirectly, are involved in this activity, namely regarding the information duties of collective management organizations towards right holders, members, other organizations of collective management with whom they sign representation agreements and interested third parties, as well as on the rights of rights holders, the use of revenue from rights, the distribution of amounts and the relationship with users.

For the creation of this law, the following organizations were consulted: Audiogest - Association for the Management and Distribution of Rights, GEDIPE - Association for the Collective Management of Copyright and Cinematographic and Audiovisual Producers, VISAPRESS - Management of Media Contents, CRL, the Portuguese Society of Authors , CRL, GDA - Cooperative for the Management of the Rights of Artists, Interpreters or Performers, CRL and the Confederation of Portuguese Tourism.

Therefore:

Under the terms of paragraph a) of paragraph 1 of article 198 of the Constitution, the Government decrees the following:

CHAPTER I

Object

Article 1

Object

This decree-law proceeds to:

- a) The 1st amendment to Law No. 26/2015, of April 14, which regulates organizations for the collective management of copyright and related rights, including with regard to establishment in national territory and the free provision of services of organizations previously established in another Member State of the European Union or the European Economic Area, transposing into the internal legal order Directive No. collective right of copyright and related rights and the multi-territorial licensing of rights in musical works for online use in the internal market;
- b) The 13th amendment to Decree-Law no. 63/85, of March 14, amended by Laws no. 45/85, of September 17, and 114/91, of September 3, by Decrees -Laws No. 332/97 and 334/97, of November 27th, and Laws No. 50/2004, of August 24th, 24/2006, of June 30th, 16/2008, of April 1st, 65/2012, of December 20th, 82/2013, of December 6th, 32/2015, of April 24th, 49/2015, of June 5th, and 36/2017, of June 2nd, which approves the Code of Copyright and Related Rights;
- c) The 4th Amendment to Law No. 62/98, of September 1st, amended by Laws No. 50/2004, of August 24th, and 49/2015, of June 5th, which regulates the provisions in article 82 of the Code of Copyright and Related Rights.

CHAPTER II

Amendments to Law No. 26/2015, of April 14

Article 2

Amendment to Law No. 26/2015, of April 14

Articles 1st, 2nd, 3rd, 9th, 11th, 14th, 18th, 19th, 20th, 21st, 22nd, 23rd, 27th, 28th, 29th, 30th, 31st, 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 41st, °, 43rd, 44th, 45th, 46th, 47th, 49th, 53rd, 54th, 58th and 59th of Law n.º 26/2015, of April 14, are replaced by the following:

«Article 1.

Purpose and scope

1 - (Previous body of the article.)

2 - This law also establishes the requirements for the granting, by collective management organizations, of multi-territorial licenses relating to the copyright of musical works for online use.

3 - Items a), b), e) to h) and n) of paragraph 2, paragraphs 4, 5 and 7 of article 28, paragraph 1 of article 36 and article 49 of this law, as well as the legislation on the

protection of personal data, apply to all independent management organizations established in national territory.

Article 2

[...]

[...]

The) [...]

b) 'Management fee' means the amount charged, deducted or offset by a collective management organization from rights income or any income arising from the investment of rights income to cover the costs of its copyright management services or related rights;

c) 'Online rights over musical works' means any copyright or related rights over musical works, provided for in articles 68.º, 178.º, 184.º of the Code of Copyright and Related Rights, necessary for the provision of an online service;

d) 'Collective management organization' means any organization authorized by law, by transmission, license or any other contractual arrangement to manage copyright or related rights on behalf of more than one rightholder, for the collective benefit of those rightholders as its sole or primary purpose, and which is owned or controlled by its members and/or is not-for-profit;

e) 'Independent management organization' means any organization authorized by law, by transmission, license or any other contractual arrangement to manage copyright or related rights on behalf of more than one rightholder, for the collective benefit of those rightholders as sole or main purpose, and which is not controlled, directly or indirectly, in whole or in part, by the right holders and/or has profit purposes;

f) [Previous letter c).]

g) 'Statutes', the statutes, regulations, rules or acts of constitution of a collective management organization;

h) [Previous subparagraph d).]

i) 'Multi-territorial license' means a license covering the territory of more than one Member State of the European Union;

j) 'Member' means a rightholder or an organization that represents rightholders and acts in the interest of its members, including other collective management bodies and rightholder associations that satisfy the membership requirements of the rightholder collective management, and are accepted by it;

k) [Previous subparagraph e).]

l) [Previous paragraph f).]

m) [Previous letter g).]

n) 'Rightholder' means any person, or organization other than a collective management organization, who is the owner of a copyright or related right or who, pursuant to an agreement for the exploitation of rights, or by law, be entitled to a share of royalty revenues;

o) [Previous item i).]

Article 3

[...]

1 - [...]

The) [...]

b) Activities of a social and cultural nature that collectively benefit the holders of rights represented by them, as well as the defence, promotion, study and dissemination of copyright and related rights and the respective collective management.

two - [...]

Article 9

[...]

Collective management organizations exercise the rights entrusted to their management and may require third parties to comply with them, including before the administration and in court, also having legitimacy to constitute civil parties and assistants and intervene in administrative and judicial, civil and civil proceedings. criminal cases in which violations of copyright and related rights of the category of holders of rights represented by it are at stake, provided that the statutes so provide and the respective holder does not object.

Article 11

[...]

1 - [...]

two - [...]

3 - [...]

4 - [...]

5 - [...]

6 - [...]

7-the administrative procedures relating to the assessment of registration requests are subject to the payment of fees, through the Public Administration Payment Platform.

Article 14

[...]

1 - Legally constituted and registered collective management organizations may associate with each other, whether or not constituting a new legal person, in any form provided for by law, including in the form of a complementary grouping of companies or consortium, to jointly pursue some of its purposes, jointly representing the respective rights holders.

two - [...]

3 - [...]

4 - [...]

5 - [...]

6 - [...]

Article 18

[...]

1 - The bodies of collective management organizations are:

- a) A general meeting;
- b) A board of directors or board of directors;
- c) A supervisory board.

2 - The statutes of collective management organizations may also provide for the existence of an executive body, individual or collective, subordinate to the board of directors or management and designated by it, to carry out remunerated functions of day-to-day management and representation of the collective management organization .

3 - The executive body provided for in the previous number has the powers provided for in the statutes of the collective management organization, and those expressly delegated to it by the board of directors or management.

4 - (Revoked.)

Article 19.

[...]

1 - The members of the governing bodies are necessarily members of the collective management organization, with the exception of the statutory auditor and the members of the executive body referred to in paragraph 2 of the previous article.

2 - Members of governing bodies are not allowed to hold more than one position simultaneously in the governing bodies of the same organization, under penalty of administrative liability for the member who accumulates functions and the collective management organization that allows it, with the exception of members of the executive body referred to in paragraph 2 of the previous article, who may exercise cumulative functions on the board of directors or management.

3 - When there are different categories of members of the collective management organization, the composition of the governing bodies must reflect the plurality of categories and holders represented in a fair, balanced and, if necessary, alternating manner.

Article 20

[...]

1 - [...]

two - [...]

3 - [...]

The) [...]

b) The interests or rights of a spouse, de facto partner, relative or affinity up to the second degree of the straight line, or the third degree of the collateral line;

w) [...]

4 - [...]

Article 21

[...]

1 - The general meeting includes all members of the collective management organization, and must be called at least once in each calendar year.

two - [...]

The) [...]

b) Appointment or dismissal of members of governing bodies, assessment of their general performance, as well as any matters relating to their remuneration and other pecuniary and non-pecuniary benefits, granting of pensions and pension rights, rights to other concessions and compensation for termination of employment duties, except when the

resolution concerns the executive body provided for in paragraph 2 of article 18, in which case these matters are decided by the board of directors or management;

w) [...]

d) Definition of general policy criteria for the use of funds allocated to the social and cultural function and other non-distributable amounts;

e) Definition of the general criteria of the financial investment policy to be temporarily applied to rights revenue until effective distribution and any income resulting from the investment of rights revenue, which must ensure the interest of members of the collective management organization, liquidity and the security of rights revenues;

f) [...]

g) Approval of the management report, annual report on transparency and other accountability documents;

H) [...]

i) Approval of mergers and subsidiaries, as well as acquisitions of other organizations or of shares or rights in other organizations, including associations of collective management organizations provided for in article 14;

j) [...]

k) Risk management policy.

3 - The general assembly may, by means of a resolution or a provision provided for in the articles of association, delegate the powers referred to in subparagraphs h) to k) of the previous number to the supervisory board.

4 - Members of a collective management body may nominate any other person or organization as their proxy to participate and vote at the general meeting on their behalf, limited to a maximum number of five represented for the same general meeting and provided that this designation does not imply a conflict of interest, in particular when the constituent member and the proxy belong to different categories of rightholders in the collective management body.

5-Each power of attorney is valid for a single general meeting, and the proxy enjoys, in the general meeting, the same rights as the member, and must vote in accordance with the respective instructions.

Article 22

Obligations of the members of the governing bodies

1 - Members of the management, management and supervisory bodies of collective management organizations are bound to manage the organization's destinations in a

diligent, reputable and prudent manner, and must ensure the existence of correct administrative and accounting procedures and internal control mechanisms suitable.

2 - The members of the management, management and supervisory bodies also ensure that there are procedures in place to avoid conflicts of interest, guaranteeing, in the event of identification of real or potential conflicts, the existence of measures that allow managing, monitoring and disclosing these conflicts in order to avoid prejudice to the interests of rightholders.

3 - For the purposes set out in the previous number, the members of the administrative, management and supervisory bodies must submit, at the general meeting before taking up their duties, and thereafter, once a year, a declaration containing the following information:

The) [...]

B) [...]

w) [...]

d) [...]

4 - The provisions of this article apply to all persons who, by virtue of an employment contract, mandate, representation or provision of services, carry out business management and take decisions on behalf of the collective management organization, with or without powers of representation.

Article 23

[...]

1 - Unless otherwise provided by law or the articles of association, the decisions of the bodies of collective management organizations are taken by a majority of the votes cast by the members present, with the respective chairman having the casting vote.

two - [...]

3 - [...]

Article 27.

[...]

1 - [...]

a) Act in the interests of the holders of rights they represent by not imposing obligations on them that are not objectively necessary for the protection of their rights and interests or for the effective management of their rights;

b) Accept the management of copyright and related rights that may be requested, in accordance with their object and scope of management, depending on the rights, categories of holders and uses included in the terms of the respective statutes and mandates, based on objective, transparent and non-discriminatory criteria;

c) [Previous subparagraph b).]

d) Draw up and publicize the list of holders they represent;

e) [Previous subparagraph d).]

f) [Previous letter e).]

g) [Previous paragraph f).]

h) [Previous letter g).]

2 - Without prejudice to the provisions of paragraph b) of the previous number, if a collective management organization refuses to accept a request for membership, it must substantiate the reasons for the decision in writing with the holder of rights.

3 - The provisions of subparagraph h) of paragraph 1 apply when the interested third parties are organizations representing a significant number of users in the respective sector, in which case the negotiation must establish the general licensing conditions, including the respective general tariffs, with associations whose members explore or use protected works, benefits or rights or are obliged, under the terms of the law, to pay an equitable remuneration or compensation.

4 - (Previous No. 3.)

5 - (Previous No. 4.)

6 - (Previous No. 5.)

7 - (Previous No. 6.)

Article 28

[...]

1 - Collective management organizations must inform interested third parties about the conditions and prices for using any work, provision or product of their representatives.

two - [...]

The) [...]

B) [...]

w) [...]

d) [...]

It is) [...]

f) [...]

g) [...]

H) [...]

i) [...]

j) [...]

k) [...]

l) [...]

m) [...]

n) Standard licensing agreements or general licensing terms and conditions;

o) List of representation agreements and collective management organizations with which these agreements were concluded;

p) General policy for the use of amounts allocated to the social and cultural function and other non-distributable amounts.

3 - [...]

4 - [...]

a) Any personal data that they have authorized the collective management organization to use, including data on their identification and location;

b) Revenues from rights collected on its behalf or, in the case of collective licensing or remuneration rights that do not allow the individualization of revenues from rights in the act of collection, the amount due to it after distribution, including pending revenues ;

c) The amounts owed to it by category of managed rights and type of use, paid and payable by the collective management organization;

d) Deductions from management commissions made in the period in question, as well as deductions made for any other purposes, other than those related to management commissions, including the amounts deducted for the social and cultural function provided for in article 29;

e) Complaint handling and dispute resolution procedures available;

f) The period during which the use occurred for which the amounts were attributed and paid to the holder of the rights, unless justified reasons associated with the communication of information by users prevent the collective management organization from providing this information in a timely manner.

5 - Collective management organizations must provide the information referred to in the previous number, preferably at the time of distribution of rights, or annually, to each holder of rights who receive revenue from rights or to whom they made payments in the period to which the information refers.

6 - Collective management organizations that allocate revenue from rights and have as their members organizations responsible for distributing revenue from rights to holders must provide them with the information provided for in paragraph 4 that they have, whenever the latter do not have that information. information.

7 - Without prejudice to the provisions of article 48-B, collective management organizations shall, in response to duly substantiated requests, make available to rightholders, other collective management organizations with which they have representation agreements or to users , at least one of the following information, by electronic means and without undue delay:

a) The works or other services they represent, the rights they manage, directly or under representation agreements and the territories covered;

b) The types of works or other services they manage, the rights they represent and the territories covered, in cases where these works or other services cannot be determined due to the scope of activities of the collective management organization.

Article 29.

[...]

1 - Collective management organizations incorporated in Portugal must allocate a percentage of not less than 5% of the set of revenues from rights collected, to:

a) Social activities and assistance to its associates or cooperators;

b) Training actions in matters of copyright and related rights or in other areas necessary within the scope of the performance of the duties of its members;

c) Promotion of works, services and products;

d) Actions to encourage cultural and artistic creation, with priority given to investment in new talent;

e) Actions for the prevention, identification and cessation of harmful infringements of copyright and related rights, excluding the financing of licensing activities by the collective management organization in question;

f) Investigation, dissemination and promotion of copyright and related rights;

g) Internationalization of the market for works and services of national origin and international cooperation with a view to developing the collective management of rights at supra-national level.

2 - Collective management organizations must guarantee the rights holders they represent the application of fair, objective and non-discriminatory criteria in the use of funds allocated to the social and cultural function, and the adequacy of this use to their needs and interests.

3 - Holders of rights who are not members or represented by the collective management organization may access the actions provided for in paragraph 1, in accordance with criteria of equity, non-discrimination and transparency, under the terms and conditions approved by the general meeting, which must be advertised on the respective website.

4 - (Revoked.)

5 - [...]

6 - [...]

7 - The terms and conditions for the use of funds allocated to the social and cultural function provided for in this article are approved by decree of the member of the Government responsible for the area of culture.

Article 30

Management fee and other deductions

1 - Collective management organizations shall inform rightholders about management fees and other deductions that apply to rights revenue and any income resulting from the investment of rights revenue, before obtaining the rightholders consent to manage the respective rights.

2 - Management fees and other deductions must not exceed justified and documented costs and investments borne by the collective management organization in the management of copyright and related rights.

3 - Management fees and other deductions must be reasonable in relation to the services provided by the collective management organization to rightholders and established on the basis of objective criteria.

4 - The requirements applicable to the use and transparency of the use of amounts deducted or offset, with regard to management fees, are applicable to any other deductions made to cover the costs of managing copyright and related rights.

5 - The operating costs of the collective management organization must not exceed, annually, 20% of the set of revenues from rights collected by it, unless there is a significant decrease in revenue from rights, supervening and not attributable to the collective management organization in the budget year of the current year, in which case the costs may exceed that limit, provided that the decision is duly substantiated by the

board of directors or management, and subject to the binding opinion of the supervisory board.

6 - The board of directors or board of directors may, exceptionally, make an investment proposal that implies setting a management commission higher than that referred to in the previous number, provided that it is duly substantiated, subject to a binding opinion by the supervisory board and approved, at the budget, by two-thirds of the votes cast at the general meeting.

Article 31.

[...]

1 - [...]

The) [...]

b) Revoke, in whole or in part, the mandate granted in favor of the collective management organization in relation to categories of rights, territories or works and other services that make up the respective repertoire;

w) [...]

two - [...]

3 - [...]

4 - If there are rights acquired by third parties who have contracted with the collective management organization for a period longer than that referred to in the previous number, the revocation of the mandate only takes effect in relation to these from the end of the financial year in which it is communicated by the holder. of rights to the collective management organization.

5 - If there are revenues from rights for management acts performed before the revocation of the mandate takes effect, the holder fully retains the right to receive them, maintaining the rights provided for in paragraphs 4, 5 and 7 of article 28, Article 29(2), Article 30, Article 33, Article 34, Article 37-A and Article 48-E.

6 - The granting of powers of representation to the collective management organization, under the terms of the previous numbers, does not affect the exercise of the respective rights or faculties by the holder, provided that he gives prior written notice to the collective management organization of his intention to directly exercise rights or powers relating to uses that do not pursue commercial purposes.

7 - The presence and participation of rights holders in shows or public performances of their works or services does not imply that those events are authorized or licensed, expressly and in writing, with the collective management organization that represents them, in cases where a license is required.

8 - The rules provided for in paragraph f) of paragraph 1 of article 27, paragraph 7 of article 28, article 37-A and paragraph 3 of article 48- F apply equally to rightholders who are not members of the collective management organization, but who by law, transmission, license or any other contractual provision, have a direct legal relationship with it.

Article 33

Distribution of amounts

1 - [...]

two - [...]

3 - [...]

4 - The distribution and payment of amounts to rightholders must be carried out within a maximum period of nine months from the end of the financial year in which the revenue from rights was collected, unless there are objective reasons, namely related to the communication of information by users , the identification of rightholders or the cross-referencing of information on works and other supplies with rightholders, prevent the collective management body or its members from meeting the said deadline.

5 - If the amounts owed to rightholders cannot be distributed within the time limit set in the previous number because the rightholders cannot be identified or located and the derogation of the time limit is not applicable, these amounts are entered and identified separately in the accounts of the collective management organization.

Article 34.

[...]

1 - [...]

2 - The period referred to in the previous number begins at the end of the financial year in which the revenue from rights was collected.

3 - [...]

4 - For the purposes of the preceding paragraph, collective management organizations must check their records as well as other available records and provide, within three months after the end of the period set for the distribution of amounts to rightholders, members and to the collective management organizations with whom they sign representation agreements, a list of works and other services whose owners have not been identified or located, including, whenever available, the title of the work or other services, the name of the rights holder, the name of the publisher or producer and any pertinent information that could help identify the rights holder.

5 - If the measures referred to in the preceding paragraphs are ineffective, the collective management organizations shall post the information referred to in the preceding paragraph on their website, up to one year after the expiry of the three-month period.

6 - Once the prescription has expired, the amounts revert to the social and cultural function provided for in article 29.

Article 35

[...]

1 - [...]

two - [...]

3 - Collective management organizations may not make any other deductions from revenue from rights or from any investment income from those revenue from rights, in addition to the deductions relating to management commissions and social and cultural functions, applicable to most of their members, unless the other collective management organization that is a party to the agency agreement expressly authorizes such deductions.

4 – Collective management organizations shall provide at least the following information to collective management organizations on whose behalf they manage rights under a representation agreement:

(a) the allocated rights revenue, the amounts paid by the collective management organization by category of managed rights and by type of use for the rights it manages under the representation agreement, and any pending allocated rights revenue, whatever the respective period;

b) Deductions made in relation to management fees;

c) Deductions made for any purposes other than those related to management fees;

d) Information on any licenses granted or refused in relation to works and other services covered by the representation agreement;

e) The resolutions adopted by the general meeting, in so far as they are relevant to the management of the rights covered by the representation agreement.

5-the collective management organizations must provide the information referred to in the previous number through electronic means, updating it at least once a year, and indicating the period to which the information refers.

6 - Collective management organizations must distribute and pay the amounts due to other collective management organizations within a maximum period of nine months from the end of the financial year in which the revenue from rights was collected, unless there are objective reasons that prevent the collective management organizations or their members to meet the said deadline, relating in particular to the communication of information by

users, the identification of rights, rightholders or the crossing of information between works and other services with the rightholders.

7 - The collective management organization that receives the amounts referred to in the previous number, or the respective members, as organizations that represent holders of rights, must distribute and pay the amounts due within a maximum period of six months from their receipt, unless if there are objective reasons that prevent the collective management organizations or their members from meeting the said deadline, related in particular to the communication of information by users, the identification of rights, rights holders or the crossing of information between works and other works benefits with rightholders.

Article 36.

[...]

1 - [...]

two - [...]

3 - When granting licenses for online services, collective management organizations should not be obliged to use as a reference for other services the conditions for granting licenses agreed with the user, when he provides a new type of online service that is available to the public for less than three years.

4 - (Previous No. 3.)

5 - Users must provide information regarding the use made free of charge whenever it is necessary for the purpose of distributing rights revenue.

6 - The information provided for in the previous number must be provided in good time, under conditions that allow it to be processed, namely with regard to the identification of the work, the holders and the use made and must include, whenever present, the unique identifiers attached to the fixtures of the works.

7 - The provisions of paragraphs 5 and 6 do not apply to users who carry out exclusively the public execution of works and services incorporated in phonograms and videograms, by any means, including audio or audiovisual broadcasting.

8 - (Previous No. 7.)

9 - Non-compliance with the obligations of information, granting of access and installation of monitoring and detection mechanisms provided for in paragraphs 5 to 8 gives the respective collective management organization the right to unilaterally revoke the authorization granted, without prejudice to the possibility of application of other contractual sanctions or contained in the respective general licensing conditions.

Article 37.º

[...]

1 - [...]

2 - The licensing procedures referred to in the previous number must allow users, through electronic or face-to-face joint licensing desks, to request and obtain, in a single procedure, licenses or authorizations for the public performance of protected works, performances, phonograms and videograms , with licenses or authorizations issued on behalf of the respective rights holders.

3 - [...]

4 - [...]

5 - [...]

6 - [...]

Article 38.

[...]

1 - [...]

2 - The tariffs and general tariffs referred to in the previous number must also be deposited and published on the IGAC website, binding the collective management organizations and users or organizations representing users only from the date of the respective publication.

3 - Tariffs must reflect the economic value of using the specific rights in question and must translate the result of negotiation under real market conditions.

4 - The general tariffs must take into account, namely, the economic value of using the repertoire for the different categories of beneficiaries of the respective authorizations or licenses, correspond to the fair remuneration of the holders of rights for the use of their works, artistic performances, phonograms, videograms or broadcasts and, whenever possible, take into account the actual volume of their use and dissemination.

5 - Collective management organizations must also establish special tariffs and tariffs with specially reduced amounts, applicable to legal persons that pursue non-profit and non-commercial purposes, when the respective activities or events take place in a place with free and free access.

Article 39.

[...]

1 - [...]

2 - It is up to the collective management organizations and the organizations representing users to conclude, in writing, the agreements that result from the setting of general tariffs by negotiation, which are deposited with the IGAC, under the terms of article 41.

3 - [...]

4 - The agreements must accurately regulate the terms and conditions of the uses of the repertoire to which they relate.

5 - (Revoked.)

6 - Collective management organizations are obliged to negotiate and conclude agreements when the organizations representing users who request them demonstrate that they effectively represent a significant number of companies, entrepreneurs or professionals who, in the exercise of their activity, are typically or habitually users , in the following cases:

The) [...]

B) [...]

w) [...]

7 - [...]

8 - [...]

Article 41.

[...]

1 - The agreement for setting general tariffs concluded under the terms of the previous article must be deposited by either party with the IGAC, which will publish it on its website on the Internet, with the application of paragraph 2 of article 38.

two - [...]

3 - [...]

4 - [...]

5 - [...]

6 - (Revoked.)

7 - [...]

8 - [...]

9 - [...]

Article 43

[...]

1 - (Revoked.)

2 - In case of lack of agreement in the negotiation, after 60 days from the date of receipt of the proposal, the parties must, on the initiative of any of them, resort to a commission of experts.

3 - The collective management organizations may unilaterally set the tariffs and general tariffs corresponding to the authorizations and licenses for the use of the rights of their representatives:

a) If the organization representing users refuses the negotiation, under the terms of paragraph 9 of article 40, and there is no collective agreement or previous decision of the commission of experts in force;

b) If the parties involved in the negotiation do not resort to the commission of experts under the terms of the previous number, 30 days after the lack of agreement in the negotiation.

Article 44

[...]

1 - [...]

two - [...]

3 - [...]

4 - [...]

5 - [...]

6 - [...]

7 - The decisions of the committee of experts are taken taking into account the provisions of paragraphs 3 to 5 of article 38.

8 - The commission of experts sets, under the terms of the ordinance referred to in paragraph 4, the pecuniary amount to be paid to its members, which is borne, in equal amounts, by the parties.

9 - [...]

10 - [...]

11 - [...]

12 - The conflicts referred to in paragraph 1 may also be submitted to voluntary arbitration centers technically competent in intellectual property law.

Article 45

Collective procedure for setting a general tariff

1 - Collective management organizations and organizations representing users may resort to the collective procedure for setting a tariff provided for in subparagraph a) of paragraph 5 of the previous article, provided that they prove their effective representativeness.

2 - The collective procedure can only take place following a negotiation process carried out under the terms of article 40, and only when the parties have not reached an agreement after the expiry of the period provided for in paragraph 2 of article 43. th

3 - [...]

4 - (Revoked.)

5 - From the date of deposit, the tariffs bind the collective management organizations involved in the collective procedure and the users who fulfill the objective assumptions of their application, replacing the respective general tariffs that may exist.

6 - (Revoked.)

Article 46

Individual procedure for setting a tariff

1 - Collective management organizations and users may resort to the individual procedure for setting a tariff provided for in subparagraph b) of paragraph 5 of article 44 when, cumulatively:

a) An agreement deposited under the terms of article 41, which has as its object the definition of a tariff applicable to the uses in question, is not in force, nor is a collective negotiation pending with a view to such an agreement;

b) It has not been deposited with the IGAC, less than two years ago, a decision of a committee of experts whose object is the definition of a tariff applicable to the uses in question;

c) There is no pending collective procedure under the terms of the previous article which has as its object the definition of a tariff applicable to the uses in question;

d) (Revoked.)

2 - The individual nature of the procedure does not prevent joinder or coalition of parties, in general terms.

Article 47.°

[...]

1 - Pending the collective or individual procedures referred to in the previous numbers, the following remain provisionally in force:

a) The general tariffs determined by agreement with the organizations representing users, deposited with the IGAC;

b) Tariffs resulting from agreements previously signed between the parties in the individual procedure provided for in article 46;

w) [...]

d) Tariffs determined following decisions previously handed down in the collective procedure provided for in article 45.

two - [...]

3 - [...]

4 - [...]

5 - [...]

6 - [...]

Article 49.º

Scope of inspection

1 - The supervision of the provisions of this law is the responsibility of the IGAC.

2-Without prejudice to civil and criminal liability, collective management organizations incur administrative liability for infractions committed in the exercise of their functions, in violation of the provisions of this law.

3 - In the exercise of its supervisory function, the IGAC may request the intervention of the Inspectorate-General for Finance and the Tax and Customs Authority, whenever there is a need to investigate matters related to evidence of infractions of a financial nature or specific matters whose supervision and intervention powers are incumbent upon the said organizations.

4 - The IGAC is the competent organization to receive and evaluate questions submitted by members, right holders, users, collective management organizations and other interested parties, whenever they consider that there are any activities or circumstances that violate any of the provisions of this law.

Article 53

[...]

1 - It constitutes an administrative offense punishable with a fine between (euro) 250 and (euro) 2 500, in the case of natural persons, and from (euro) 500 to (euro) 15 000, in the case of legal persons, the violation of the provisions of paragraphs paragraphs 2 and 3 of article 19, paragraphs 1, 3 and 4 of article 20, paragraphs 1 to 7 of article 28, paragraph 5 of article 29, in paragraph 2 of article 32, in paragraph 1 of article 35, in paragraphs 1, 2, 4 and 5 of article 36, in paragraph 1 of article 37, in paragraphs 1 and 2 of article 37-A, in paragraph 1 of article 38, in paragraph 3 of article 47, in paragraphs 1 and 2 of article 48-A , paragraphs 1 and 2 of article 48-B, paragraph 1 of article 48-C, paragraphs 2, 5 and 6 of article 48-D and paragraphs 3 and 4 of article 48-F.

2 - It constitutes an administrative offense punishable with a fine between (euro) 600 and (euro) 3 000, in the case of natural persons, and from (euro) 1 200 to (euro) 30 000, in the case of legal persons, the violation of the provisions of paragraph 2 of article 7, paragraph 2 of article 8, paragraph 1 of article 11, paragraph 2 of article 14, paragraph 3 of article 22, paragraphs 1 and 3 of article 26, paragraphs 1 to 3 of article 26-A, paragraphs 1 and 2 of article 27, paragraphs 1 to 3 of article 29, in paragraphs 1, 2 and 5 of article 30, in paragraphs 4 and 5 of article 33, in paragraphs 3 to 6 of article 34, in paragraphs 2, 4, 5 and 6 of article 35, paragraphs 2, 4 and 6 of article 39, paragraph 1 of article 41 and paragraphs 1 to 3 of Article 48-E.

3 - Individuals who act on behalf of or on behalf of collective management organizations also incur an offence, with the minimum and maximum limits of fines provided for in the previous numbers being reduced to one third.

4 - Negligence and an attempt are punishable, with the minimum and maximum amounts of fines being reduced by half, in the case of negligence, and the penalty especially reduced, in the case of an attempt.

5 - (Revoked.)

6 - (Revoked.)

Article 54.º

[...]

1 - Depending on the seriousness of the infraction and the fault of the agent, the following accessory sanctions may be applied to collective management organizations, simultaneously with the fine and under the terms provided for in the general regime of administrative offences:

a) Loss of objects belonging to the agent;

b) [Previous subparagraph a).]

c) [Previous subparagraph b).]

d) Closure of establishment.

2 - The accessory sanctions referred to in paragraphs b) to d) of the previous number have a maximum duration of two years, counting from the final conviction.

Article 58.º

[...]

1 - All requests, communications and notifications, or, in general, any declarations between interested parties and the competent authorities in the procedures provided for in this law must be made by electronic means through the electronic one-stop-shop for the services referred to in article 6 92/2010 of 26 July, accessible through the Citizen's Portal.

two - [...]

3 - [...]

4 - [...]

5 - [...]

6 - Whenever a document or information that must support one of the requests, communications, notifications or declarations referred to in paragraph 1 is already in the possession of any national administrative organization, its delivery may be replaced by express indication of the its identification and location, and IGAC is responsible for obtaining it unofficially through the Public Administration Interoperability Platform.

7 - [...]

Article 59.º

[...]

The competent authorities, under the terms of this law, provide and request information from the competent authorities of other Member States, namely through IMI and based on duly substantiated requests, on relevant issues associated with the collective management activity carried out by established organizations or for qualified under the terms of this law, under the terms of Chapter VI of Decree-Law No. 92/2010, of 26 July."

Article 3

Amendment to Law No. 26/2015, of April 14

Articles 21-A, 26-A, 32-A, 37-A, 48-A to 48 are added to Law No. 26/2015, of April 14.º-H and 53.º-A, with the following wording:

«Article 21.º-A

Fiscalization Council

1 - The supervisory board must include, in addition to members who comply with the provisions of article 19, a statutory auditor.

2 - The supervisory board must meet regularly, and it is incumbent upon:

a) Continuously monitor the activities and performance of the duties of the organization's management or management bodies;

b) Carrying out the decisions of the general meeting, in particular monitoring compliance with the matters listed in paragraphs c) to e) of paragraph 2 of the previous article;

c) Exercise the powers delegated to it by the general meeting, under the terms of paragraph 3 of the previous article;

d) Preparing an opinion on the documents referred to in paragraph 1 of article 26, to be presented to the general meeting;

e) Submit a report to the general assembly on the exercise of its powers, at least once a year.

Article 26-A

annual report on transparency

1 - Without prejudice to the legal obligations relating to accountability that may apply according to the type of organization in question, the annual report on transparency referred to in paragraph 1 of the previous article must contain the information contained in the annex I to this law, of which it forms an integral part.

2-the annual report on transparency must be published on the website of collective management organizations, until April of the year following the respective exercise, remaining available for a minimum period of five years.

3 - Pursuant to subparagraph d) of paragraph 2 of article 21-A, the statutory auditor must issue an opinion on the annual report on transparency at the time of the legal certification of accounts, and the respective audit report must be published in full with the annual transparency report.

Article 32-A

use of recipes

1 - Collective management organizations must keep separately in their accounts:

(a) rights income and any income arising from the investment of rights income;

b) Any proprietary assets they hold and income from those assets, management fees or other activities.

2 - Collective management organizations may only use revenue from rights or any income resulting from their investment for distribution to rightholders, with the exception of the amounts required:

- a) Assignment to the social and cultural function under the terms of article 29;
- b) The constitution of reserves for cases of claim for payment, namely under the terms of paragraphs 3 to 5 of the following article;
- c) Use in accordance with a decision adopted pursuant to points c) to e) and h) to k) of paragraph 2 of article 21.

3 - If a collective management organization invests revenue from rights or any income resulting from their investment, it must do so in the interest of the holders whose rights it represents, in accordance with the general investment policy and the risk management policy referred to in paragraphs e) and k) of paragraph 2 of article 21, in accordance with the following requirements:

- a) If there is any potential conflict of interest, the collective management organization shall ensure that the investment is made in the exclusive interest of those rightholders;
- b) Assets must be invested in such a way as to guarantee the security, quality, liquidity and return of the portfolio as a whole;
- c) Assets must be sufficiently diversified to avoid excessive dependence on any one asset and the accumulation of significant risks in the portfolio as a whole.

Article 37-A

Complaint Procedures

1 - Collective management organizations shall provide their members and the collective management organizations on whose behalf they manage rights under a representation agreement with effective and timely procedures for complaints, particularly with regard to authorization to manage rights , revocation or withdrawal of rights, membership conditions, collection of amounts due to holders, deductions and distributions.

2 - Collective management organizations must respond in writing to complaints from members or collective management organizations on behalf of which they manage rights under representation agreements, and must indicate in writing the reasons, if they refuse any claim.

Article 48-A

Treatment of multi-territorial licenses

1 - Collective management organizations granting multi-territorial licenses for online rights in musical works must have sufficient capacity to process electronically, in an efficient and transparent manner, the data necessary for the administration of these

licences, including for the purposes of identifying repertoires and tracking their use, billing users, collecting rights revenue and distributing amounts owed to rights holders.

2 - For the purposes set out in the previous number, collective management organizations must satisfy, at least, the following conditions:

- a) Be able to accurately identify the musical works, in whole or in part, that they are authorized to perform;
- b) Be able to accurately identify, in whole or in part, in relation to each of the relevant territories, the rights and the respective holders, with regard to each musical work or part thereof that they are authorized to represent;
- c) Use unique identifiers to identify rightholders and musical works, taking into account, as far as possible, optional industry standards and practices developed at international or European Union level;
- d) Use appropriate means in order to identify and resolve in due time and effectively inconsistencies in data held by other collective management organizations that grant multi-territorial licenses of online rights to musical works.

Article 48-B

Transparency of information contained in multi-territorial repertoires

1 - Collective management organizations that grant multi-territorial licenses for online rights to musical works shall communicate to online service providers, the holders whose rights they represent and other collective management organizations, via electronic means and in response to a request duly justified, up-to-date information allowing identification of the online music repertoire they represent.

2 - For the purposes set out in the previous number, the following information is included:

- a) The musical works they represent;
- b) The rights they represent, in whole or in part;
- c) The territories covered.

3 - Collective management organizations may take reasonable measures to protect the accuracy and integrity of data, control their reuse and protect commercially sensitive information.

Article 48-C

Accuracy of information contained in multi-territorial repertoires

1 - Collective management organizations granting multi-territorial licenses of online rights in musical works shall have procedures in place to allow rightholders, other collective management organizations and online service providers to request a correction

of the data referred to in the list of conditions, under the terms of paragraph 2 of article 48-A or of the information communicated under the terms of article 48-B, whenever these holders, collective management organizations and providers of online services, based on reasonable evidence, believe that the data or information is inaccurate with regard to your online rights in musical works.

2 - In case of acceptance of the complaints, the collective management organizations must ensure that the data or information is corrected without undue delay.

3 - Collective management organizations shall provide rights holders whose musical works are included in their music repertoires and rights holders who, pursuant to paragraph 3 of article 9, have entrusted them with the management of their rights online about musical works, the means to provide them, in electronic form, with information about their musical works, their rights in them and the territories covered by the authorisation.

4 - For the purposes set out in the previous number, collective management organizations and rightholders must take into account, as much as possible, voluntary sectoral standards or data exchange practices, developed at international or European Union level, allowing holders to specify the musical work and online rights, in whole or in part, as well as the territories covered by the authorisation.

5 - If a collective management organization mandates, under the terms of articles 48-F and 48-G, another collective management organization to grant multi-territorial licenses for online rights to musical works, the mandated collective management organization shall also apply the provisions of paragraphs 3 and 4 in relation to rightholders whose musical works form part of the repertoire of the commanding collective management organization, unless otherwise decided by the collective management organizations.

Article 48-D

Information and billing

1 - Collective management organizations shall monitor the use of online rights on the musical works they represent, in whole or in part, by online service providers to whom they have granted multi-territorial licenses relating to these rights.

2 - Collective management organizations must make available to online service providers the possibility of informing them, via electronic means, about the effective use of online rights to musical works, and they must communicate the actual use of these works.

3 - Collective management organizations must adopt information methods in line with voluntary sectoral standards or practices developed at international or European Union level for the electronic exchange of such data.

4-if the collective management organizations allow the communication of information in a format standardized in the industry for the electronic exchange of data, they may refuse the information communicated by the online service providers in other formats, namely in exclusive formats.

5 - Collective management organizations must bill online service providers via electronic means and must allow the use of a format in line with voluntary sectoral standards or practices developed at international or European Union level.

6 - The invoice must identify the works and rights subject to the licence, in whole or in part, based on the data referred to in paragraph 2 of article 48-A, and the corresponding effective uses, insofar as such possible, based on the information provided by online service providers and the format used to provide such information.

7 - If the collective management organization uses a sectoral standard, the online service provider cannot refuse to accept the invoice due to its format.

8 - Collective management organizations must bill online service providers accurately and in the shortest possible time, after the effective use of the online rights on the indicated musical work, unless billing is not possible for attributable reasons online service providers.

9 - Collective management organizations shall have adequate procedures in place to allow online service providers to challenge the accuracy of the invoice, in particular if online service providers receive invoices from one or more collective management organizations for the same online rights about the same musical work.

Article 48-E

Strict and timely payment to rightholders

1 - Without prejudice to the provisions of paragraphs 3 and 4, collective management organizations that grant multi-territorial licenses for online rights to musical works must distribute the amounts due to the holders of rights resulting from these licences, rigorously and in the most as soon as possible, after informing the effective use of the works, except if distribution is not possible for reasons attributable to online service providers.

2 - Without prejudice to the provisions of paragraphs 3 and 4, collective management organizations shall provide rightholders with at least the following information, together with each payment they make:

a) Period and territorial space in which the uses occurred for which amounts are due to the holders of rights;

(b) amounts collected, deductions made and amounts distributed by collective management organizations for each online right of all musical works that rightholders have authorised, in whole or in part, the collective management organizations to represent;

c) Amounts collected on behalf of rightholders, deductions made and amounts distributed by collective management organizations for each online service provider.

3 - If a collective management organization mandates another collective management organization to grant multi-territorial licenses relating to online rights to musical works, under the terms of articles 48-F and 48-G, the collective management organization The

authorized representative must accurately and without delay distribute the amounts referred to in paragraph 1 and provide the information referred to in paragraph 2 to the commanding collective management organization.

4 - The commanding collective management organization is responsible for the subsequent distribution of these amounts and the provision of this information to the holders of rights, unless otherwise agreed by the collective management organizations.

Article 48-F

Agreements between collective management organizations on granting multi-territorial licenses

1 - Any representation agreement between collective management bodies whereby a collective management body mandates another collective management body to grant multi-territorial licenses of online rights to musical works from its own music repertoire is non-exclusive in nature.

2 - Mandatory collective management organizations must manage rights online in non-discriminatory terms, in order to ensure adequate remuneration of rights holders.

3-the principal collective management organization must inform its members of the main terms of the agreement, namely the respective period of validity and the costs of services provided by the mandatory collective management organization.

4 - The mandated collective management organization shall inform the principal collective management organization of the main terms under which the latter's online rights must be licensed, including the nature of the exploitation, all provisions relating to or affecting the license fee, the license validity period, accounting periods and territories covered.

Article 48-G

Obligation to represent another collective management organization regarding multi-territorial licenses

1 - Whenever a collective management organization that neither grants nor proposes to grant multi-territorial licenses for online rights to musical works in its own repertoire requests another collective management organization to conclude a representation agreement in relation to those rights, the collective management organization requested collective management organization must accept that request if it already grants or proposes to grant multi-territorial licenses for the same category of online rights to musical works from the repertoire of another or other collective management organizations.

2-the requested collective management organization must respond to the requesting collective management organization in writing and without undue delay.

3 - Without prejudice to the provisions of paragraphs 5 to 7, the requested collective management organization must manage the represented repertoire of the requesting

collective management organization under the same conditions that apply to the management of its own repertoire.

4 - The requested collective management organization must include the represented repertoire of the requesting collective management organization in all offers addressed to online service providers.

5-the management commission for the service provided by the collective management organization required from the requesting organization should not exceed the costs that it incurred.

6 - The requesting collective management organization must provide the requested collective management organization with information relating to its own music repertoire, necessary for the granting of multi-territorial licenses for online rights to musical works.

7 - If the information is insufficient or provided in a way that does not allow the requested collective management organization to satisfy the requirements of this chapter, it has the right to charge the costs it has reasonably incurred to satisfy those requirements or to exclude the works in relation which the information is insufficient or cannot be used.

Article 48-H

Derogation for online music rights required for use in radio and television programs

The requirements of this chapter do not apply to collective management organizations which grant, in accordance with European competition rules, a general multi-territorial license of online rights in musical works, which is ancillary to the license for the initial broadcast of the radio program or television, to transmit or make available to the public radio or television programs from the same operator, simultaneously with or after the first broadcast, as well as any online material, namely previews, produced by or for broadcasting organisations.

Article 53-A

Applicable sanction

1 - The amount of the fine is determined according to the seriousness of the offence, the fault of the agent, his economic situation and the benefits obtained from the commission of the act.

2 - When determining the applicable sanction, the agent's previous and subsequent conduct and the prevention requirements are also taken into account.

3 - Coercion, falsification, false declarations, simulation or other fraudulent means used by the agent, as well as the existence of acts of concealment or dissimulation tending to hinder the discovery of the infraction, are also acceptable.»

Article 4

Addendum to Law No. 26/2015, of April 14

26/2015, of 14 April, is added an annex relating to the annual report on transparency referred to in article 26-A, which constitutes annex I to this decree-law, of which it forms an integral part .

Article 5

systematic changes

The following systematic changes are introduced to Law No. 26/2015, of April 14:

- a) A chapter IV is added, with the heading “Granting of multi-territorial licenses by organizations for the collective management of online rights to musical works”, which includes articles 48.º-A to 48.º-H, the following chapters being renumbered;
- b) The current Chapter IV is renamed “Supervision and applicable sanctions”;
- c) Section I of the current Chapter IV is renamed “Supervision”.

CHAPTER III

Other legislative changes

Article 6

Amendment to the Code of Copyright and Related Rights

Articles 184.º, 204.º, 208.º and 210.º-I of the Code of Copyright and Related Rights, approved by Decree -Law no . Nos. 45/85, of September 17th, and 114/91, of September 3rd, by Decree-Laws Nos. 332/97 and 334/97, of November 27th, and Laws No. 50/ 2004, August 24, 2006, June 30, June 16, 2008, April 1, December 65, 2012, December 20, December 82, 2013, December 6, December 32, 2015, December 24 April, 49/2015, of June 5th, and 36/2017, of June 2nd, are now worded as follows:

«Article 184.º

[...]

1 - The producer of the phonogram or videogram has the exclusive right to make or authorize, by himself or by his representatives:

- a) The reproduction, direct or indirect, temporary or permanent, by any means and in any form, in whole or in part, of the phonogram or videogram;
- b) The distribution to the public of copies of phonograms or videograms, the cinematographic exhibition of videograms as well as the respective import or export;
- c) Making available to the public, by wire or wireless, the phonograms or videograms so that they are accessible to any person from the place and time chosen by him;
- d) Any use of the phonogram or videogram in a different work;

e) Communication to the public of phonograms and videograms, including dissemination by any means and direct or indirect public performance, in a public place, within the meaning of article 149(3).

2 - (Revoked.)

3 - When a commercially edited phonogram or videogram, or a reproduction thereof, is used in any form of public communication, the user must pay, in return for the authorization provided for in subparagraph e) of paragraph 1, an equitable remuneration and single, to be divided between the producer and the artists, performers or performers in equal parts, unless otherwise agreed.

4 - [...]

Article 204.º

[...]

To the administrative offenses provided for in this Code, the provisions of the general regime for administrative offenses are subsidiary applicable, in everything that is not specifically regulated.

Article 208.º

[...]

The product of the fines reverts to:

- a) 60% for the State;
- b) 30% for the IGAC;
- c) 10% for the organization that raises the notice.

Article 210-I

Loss of instruments and goods

1 - [...]

two - [...]

3 - [...]

4 - [...]

5 - Instruments used in the manufacture of goods in which copyright or related rights are violated must also be subject to the rules relating to the destination of goods provided for in this article."

Article 7

Amendment to Law No. 62/98, of September 1st

The equitable compensation table contained in the annex to Law No. 62/98, of September 1st, amended by Laws No. 50/2004, of August 24th, and 49/2015, of June 5th, is amended the wording contained in Annex II to this decree-law, of which it forms an integral part.

CHAPTER IV

Transitional and final provisions

Article 8

transitional norm

1 - The joint licensing desks provided for in article 37 of Law no. 26/2015, of April 4, as amended by this decree-law, must be effectively implemented within a maximum period of 90 days after entry into force of this decree-law, after which the administrative offense provided for in paragraph 1 of article 53 of Law no.

2 - Collective management organizations shall inform holders of rights that have granted them authorizations of their rights under the terms of article 31 of Law no. 26/2015, of April 4, as amended by the this decree-law, until October 10, 2017.

3 - If a collective management organization does not grant or proposes to grant multi-territorial licenses for online rights to musical works or does not allow another collective management organization to represent those rights, for that purpose, until October 10, 2017, the rightholders who have authorized such organizations to represent their online rights in musical works may withdraw their online rights in musical works from them for the purpose of granting multi-territorial licenses for all territories, without having to withdraw their online rights on musical works for the granting of licenses in a single territory.

4 - For the purposes of the preceding paragraph, rightholders may grant multi-territorial licenses of online rights to musical works directly, through any other party they authorize or through any collective management organization that complies with the provisions of chapter IV. of Law n.º 26/2015, of April 4, with the wording given by this decree-law.

5 - The General Inspectorate of Cultural Activities shall present to the European Commission, by 10 October 2017, a report on the status and development of the granting of multi-territorial licenses in Portugal, which shall include, in particular, information on the availability of licenses multi-territorial projects in Portugal, compliance by collective management organizations with the provisions of national law adopted under the terms of chapter IV of Law no. _multi-territorial licensing of online rights in musical works by users, consumers, rightholders and other interested parties.

Article 9

revocatory norm

Are revoked:

a) paragraph 4 of article 18, paragraph 2 of article 26, paragraph 4 of article 29, paragraph 5 of article 39, paragraph 6 of article 41, paragraph 1 of article 43, paragraphs 4 and 6 of article 45, paragraph d) of paragraph 1 of article 46, article 50. °, paragraphs 5 and 6 of article 53, and article 57 of Law n° 26/2015, of 4 April;

b) Article 184(2) of the Code of Copyright and Related Rights, approved by Decree-Law No. 63/85, of March 14, amended by Laws No. 45/85, of 17 September, and 114/91, of 3 September, by Decree-Laws 332/97 and 334/97, of 27 November, and by Laws 50/2004, of 24 August, 24/2006, of June 30, 2008/16, of April 1, 65/2012, of December 20, 82/2013, of December 6, 2015/32, of April 24, 2015/49, of June 5th, and 36/2017, June 2nd

Article 10

republishation

It is republished, in annex III to this decree-law, of which it forms an integral part, Law no. 26/2015, of April 14, with its current wording.

Article 11

Implementation

This decree-law enters into force on the day following its publication.

Seen and approved by the Council of Ministers on May 18, 2017. - António Luís Santos da Costa - Mário José Gomes de Freitas Centeno - Luís Filipe Carrilho de Castro Mendes.

Enacted on July 28, 2017.

Publish this.

The President of the Republic, Marcelo Rebelo de Sousa.

Countersigned on July 31, 2017.

By the Prime Minister, Augusto Ernesto Santos Silva, Minister of Foreign Affairs.

ANNEX I

(as referred to in Article 4)

"ATTACHMENT

(referred to in Article 26-A)

annual report on transparency

1 - Information to be provided in the annual report on transparency referred to in paragraph 3 of article 26-A:

- a) Financial statements that include a balance sheet or a statement of assets and liabilities, an income and expense account for the year and a statement of cash flows;
- b) Report on the activities of the year;
- c) Information on refusals to grant a license, under the terms of article 27(1)(e);
- d) Description of the legal and governance structure of the collective management organization;
- e) Information on organizations owned or controlled, directly or indirectly, in whole or in part, by the collective management organization;
- f) Information on the total amount of remuneration paid to the persons referred to in article 22, in the previous year and on other benefits granted to these persons;
- g) The financial information referred to in the following number;
- h) Special report on the use of amounts deducted for the purposes of social, cultural and educational services, containing the information referred to in paragraph 3 of this annex.

2 - Financial information to be provided in the annual report on transparency:

- a) Financial information on rights revenue by category of rights managed and by type of use (e.g. broadcast, online use and public performance), in particular information on income from investment of rights revenue and usage such earnings (distributed to rightholders or distributed to other collective management organizations, or otherwise used);
- b) Financial information on the cost of managing rights and other services provided by the collective management organization to rightholders, with a comprehensive description of at least the following elements:
 - i) All operational and financial costs, with a breakdown by category of rights managed and, if the costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate these indirect costs;
 - ii) Operating and financial costs, broken down by category of rights managed and, where the costs are indirect and cannot be allocated to one or more categories of rights, an explanation of the method used to allocate these indirect costs, only as regards rights management, including management fees deducted or offset against rights income or any income resulting from the investment of rights income, pursuant to paragraph 2 of article 33 and paragraphs 1 to 4 of article 30;

iii) Operational and financial costs in respect of services other than rights management, but including social, cultural and educational services;

iv) Resources used to cover costs;

v) Deductions made from rights revenue, with a breakdown by category of rights managed and by type of use and the purpose of the deduction, such as costs related to the management of rights or social, cultural or educational services;

vi) Percentages that the cost of managing rights and other services provided by the collective management organization to rightholders represent, compared to revenues from rights in the year in question, by category of rights managed and, if the costs are indirect and cannot be allocated to one or more categories of rights, an explanation of the method used to allocate these indirect costs.

c) Financial information on amounts owed to rightholders, with a comprehensive description of at least the following elements:

i) Total amount allocated to right holders, with a breakdown by category of managed rights and type of use;

ii) Total amount paid to rightholders, with a breakdown by category of managed rights and type of use;

iii) Frequency of payments, with a breakdown by rights management category and by type of use;

iv) Total amount charged but not yet allocated to right holders, with a breakdown by category of managed rights and type of use and indication of the financial year in which these amounts were charged;

v) Total amount allocated but not yet distributed to rightholders, with a breakdown by category of managed rights and type of use and indication of the financial year in which these amounts were charged;

vi) Reasons for the delay in distribution and payments, if the collective management organization has not made them within the period established in paragraphs 4 and 5 of article 33;

vii) Total non-distributable amounts, accompanied by an explanation of their use.

d) Information on relationships with other collective management organizations, with a description of at least the following elements:

i) Amounts received from other collective management organizations and amounts paid to other collective management organizations, with a breakdown by category of rights, by type of use and by organization;

ii) Management commissions and other deductions from revenue from rights owed to other collective management organizations, with a breakdown by category of rights, by type of use and by organization;

iii) Management fees and other deductions from amounts paid by other collective management organizations, with a breakdown by category of rights and by organization;

iv) Amounts distributed directly to holders of rights from other collective management organizations, broken down by category of rights and by organization;

3 - Information on the social and cultural function, namely:

a) Use of the amounts deducted for the purposes of social, cultural and educational services during the financial year, with a breakdown by type of purpose and, for each type of purpose, with a breakdown by category of rights managed and by type of use;

b) Explanation of the use of the amounts, with a breakdown by type of purpose, including the costs of managing the amounts deducted to finance social, cultural and educational services and the respective amounts used for social, cultural and educational services.»

ANNEX II

(as referred to in Article 7)

"ATTACHMENT

(referred to in paragraph 4 of article 3)

Equitable Compensation Table

1 - [...]

two - [...]

2.1 - [...]

2.2 - [...]

2.3 - [...]

The) [...]

B) [...]

w) [...]

d) [...]

It is) [...]

f) [...]

g) [...]

H) [...]

i) [...]

j) [...]

k) [...]

l) [...]

m) Memories and hard disks integrated in devices with content copy functions provided for by law - (euro) 0.016 for each GB of capacity or fraction, with a limit of (euro) 15;

n) External disks called 'multimedia' or others that have one or more outputs or data inputs - (euro) 0.016 for each GB of storage capacity or fraction, with a limit of (euro) 15;

O) [...]

P) [...]

q) Internal or external hard disks that depend on a computer or other equipment or devices to perform the reproduction function and that allow the storage of any works, installments or other protected content - (euro) 0.004 for each GB of capacity or fraction , with a limit of (euro) 7.5;

r) [...]

s) Memories and hard disks integrated into mobile phones that allow the storage of any works, installments or other protected content - (euro) 0.12 for each GB of storage capacity or fraction thereof, with a limit of (euro) 15;

t) Memories or hard disks integrated into multimedia tablet devices that have touch screens and allow the storage of any works, performances or other protected content - (euro) 0.12 for each GB of storage capacity or fraction, with a limit of (euro) 15".

3 - [...]»

ANNEX III

(as referred to in Article 10)

Republication of Law No. 26/2015, of April 14

CHAPTER I

General provisions

Article 1

Purpose and scope

1 - This law regulates organizations for the collective management of copyright and related rights, including with regard to establishment in national territory and the free provision of services by organizations previously established in another member state of the European Union or the European Economic Area.

2 - This law also establishes the requirements for the granting, by collective management organizations, of multi-territorial licenses relating to the copyright of musical works for online use.

3 - Items a), b), e) to h) and n) of paragraph 2, paragraphs 4, 5 and 7 of article 28, paragraph 1 of article 36 and article 49 of this law, as well as the legislation on the protection of personal data, apply to all independent management organizations established in national territory.

Article 2

Definitions

For the purposes of this law, it is understood by:

(a) 'representation agreement' means an agreement whereby one collective management organization mandates another to represent it in relation to the management of rights to the former's repertoire;

(b) 'management fee' means the amount charged, deducted or offset by a collective management organization from rights income or any income arising from the investment of rights income to cover the costs of its copyright management services or related rights;

c) "Online rights over musical works", any copyright or related rights over musical works, provided for in articles 68, 178, 184 of the Code of Copyright and Related Rights, necessary for the provision of an online service;

d) «Collective management organization» means any organization authorized by law, by transmission, license or any other contractual provision to manage copyright or related rights on behalf of more than one rightholder, for the collective benefit of those rightholders as its sole or primary purpose, and which is owned or controlled by its members and/or is not-for-profit;

e) «Independent management organization» means any organization authorized by law, by transmission, license or any other contractual provision to manage copyright or related rights on behalf of more than one rightholder, for the collective benefit of those rightholders as sole or main purpose, and which is not controlled, directly or indirectly, in whole or in part, by the right holders and/or has profit purposes;

f) «Organizations representing users», legally constituted associations, federations or confederations, whose object is the representation of companies, entrepreneurs or professionals;

g) «Statutes», the statutes, regulations, rules or acts of constitution of a collective management organization;

h) «General licences», licenses or authorizations granted by collective management organizations for the generic, non-discriminatory and unspecified use of the repertoire delivered to their management for public communication, including public performance, dissemination and retransmission by any means, as well as the licensing of works extracted from newspapers or other periodical publications for their reproduction, in whole or in part, distribution, availability or archive;

i) «Multi-territorial licence», a license that covers the territory of more than one Member State of the European Union;

j) «Member» means a rightholder or an organization that represents rightholders and that acts in the interest of its members, including other collective management organizations and associations of rightholders that satisfy the requirements for membership of the collective management, and are accepted by it;

(k) 'rights revenue' means amounts collected by a collective management organization on behalf of holders of exclusive rights, rights to remuneration or compensation rights;

l) «Repertoire», intellectual works and artistic performances, phonograms, videograms and protected broadcasts that are subject to rights managed by a collective management organization;

m) «General tariffs», the tariffs practiced by collective management organizations in return for issuing a general license;

n) «Rightholder» means any person or organization other than a collective management organization who owns a copyright or related right or who, pursuant to an agreement for the exploitation of rights, or by law, be entitled to a share of royalty revenues;

o) «User», a person who performs acts subject to authorisation, remuneration or compensation from rightholders.

Article 3

Purpose of management organizations

1 - The purpose of collective management organizations is to:

a) The management of property rights entrusted to them;

b) Activities of a social and cultural nature that collectively benefit the holders of rights represented by them, as well as the defense, promotion, study and dissemination of copyright and related rights and the respective collective management.

2 - Collective management organizations, when their statutes so provide, may exercise and defend the moral rights of their representatives as long as they request it.

Article 4

Autonomy of collective management organizations

Collective management organizations freely choose the object of their activity and autonomously pursue their action, in compliance with the statutes and the law.

CHAPTER II

Collective management organizations

SECTION I

Constitution and exercise of activity

Article 5

Constitution

1 - The creation of collective management organizations is the free initiative of the holders of copyright and related rights.

2 - Collective management organizations are mandatorily constituted as private associations or cooperatives with legal personality and non-profit purposes, with a minimum of 10 members or cooperators.

Article 6

Statutes

1 - Collective management organizations are governed by the respective statutes drawn up in accordance with the applicable legal provisions.

2 - The statutes of collective management organizations must contain:

- a) The name, which cannot be confused with the name of existing organizations;
- b) The headquarters and territorial scope;
- c) The object;
- d) The classes of holders of rights included in the scope of collective management;
- e) The conditions for acquiring and losing the status of associate or cooperator;
- f) The rights of associates or cooperators and the voting system;

- g) The duties of associates or cooperators and their disciplinary regime;
- h) The name, composition and competence of the governing bodies;
- i) The form of designation of the members of the governing bodies;
- j) Assets and economic and financial resources;
- k) The principles and rules of the system for sharing and distributing rights revenues;
- l) The limitation period for the holders' right to claim the payment of amounts effectively collected;
- m) The system for controlling economic and financial management;
- n) The conditions for extinguishing and the destination of the heritage.

Article 7

secondary establishment

1 - Organizations for the collective management of copyright and related rights legally established in another member state of the European Union or the European Economic Area under the general terms of law may be established in national territory, even if they do not comply with the requirement referred to in n. paragraph 2 of article 5

2 - The organizations referred to in the previous number must be qualified in the Member State of origin to carry out the activity referred to in paragraph a) of paragraph 1 of article 3, subject to a prior verification process at the General Inspectorate. of Cultural Activities (IGAC) of the existence of mandates of the holders of rights for the exercise of collective management.

3 - Unless otherwise specified, the requirements for access to the activity and its exercise in national territory apply to the organizations referred to in paragraph 1.

Article 8

Free provision of services

1 - The collective management organizations legally established and qualified to exercise the collective management of rights in another member state of the European Union or the European Economic Area may provide occasional or temporary services in national territory for the collective management of copyright and related rights, for which they are mandated on a free provision basis.

2 - The collective management organizations referred to in the previous number must communicate to the IGAC, before their first provision of services in national territory, that they are legally established in the Member State of origin.

3 - The IGAC may use the Internal Market Information System (IMI) to verify the veracity of the information provided.

4 - Organizations providing services for the collective management of copyright and related rights on a free provision basis, under the terms of this article, are subject to the provisions of article 13, paragraph 1 of article 49. and in article 53

Article 9

Legitimacy

Collective management organizations exercise the rights entrusted to their management and may require third parties to comply with them, including before the administration and in court, also having legitimacy to constitute civil parties and assistants and intervene in administrative and judicial, civil and civil proceedings. criminal cases in which violations of copyright and related rights of the category of holders of rights represented by it are at stake, provided that the statutes so provide and the respective holder does not object.

Article 10

Principles

1 - The activity of collective management organizations respects the following management principles and criteria:

- a) Transparency;
- b) Democratic organization and management;
- c) Participation of associates or cooperators;
- d) Justice in the allocation and distribution of income collected in the exercise of collective management;
- e) Non-discrimination, fairness, reasonableness and proportionality in setting commissions and fees;
- f) Efficient and economical management of available resources;
- g) Moderation of administrative costs;
- h) Non-discrimination between national and foreign holders;
- i) Control of financial management, through the adoption of adequate procedures in the internal life of the institutions;
- j) Pertinent, accurate, current and accessible information to third parties interested in signing contracts;

- k) Reciprocity in the establishment of relations with similar organizations based abroad;
- l) Grounds for the acts performed;
- m) Speed in the payment of amounts due to the legitimate holders of rights;
- n) Publicity of relevant acts of institutional life.

2 - The requirements referred to in the subparagraphs of the previous number, with the exception of subparagraph c), also apply to collective management organizations with a secondary establishment in national territory.

Article 11

Authorization and registration

1 - Without prejudice to the provisions of paragraph 4, the exercise of collective management of copyright and related rights by organizations incorporated in Portugal or with a secondary establishment in national territory is subject to authorization, with a request for registration with the IGAC

2 - Authorization for the exercise of collective management of copyright and related rights by organizations incorporated in Portugal is requested from the IGAC, and the registration request must be accompanied by the following elements:

a) Statutes of the organization, which must contain the identification of the activity for which it is intended to qualify or for which it is qualified, the classes of holders of rights included in the scope of collective management, the conditions for the acquisition and loss of the quality of members, their rights and duties, and the principles and rules for sharing and distributing income;

b) Identification of the mandates of the holders of rights conferred for the exercise of the collective management of rights.

3 - Authorization for the exercise of collective management of copyright and related rights by collective management organizations with a secondary establishment in the national territory is also required from the IGAC, and the application for registration must be accompanied by proof of the existence of a mandate or another enabling legal title for the type of exercise you intend to carry out in national territory.

4 - If the organizations referred to in the previous number have proven before the competent authority of the Member State of origin the existence of a mandate or other legal title enabling the exercise in that territory of the collective management of copyright and related rights, registration is carried out after mere prior communication to the IGAC, which is responsible for verifying the veracity of the statement made.

5 - The decision on requests for registration submitted under the terms of paragraphs 2 and 3 is issued within a period of 30 working days, with tacit approval taking place in the absence of a decision within this period.

6 - IGAC is responsible for verifying, through IMI, the veracity of the statements made, and may, in the event of falsehood, reject the registration request or cancel the registration made under the terms of paragraph 4.

7-the administrative procedures relating to the assessment of registration requests are subject to the payment of fees, through the Public Administration Payment Platform.

Article 12

Rejection and revocation

1 - The application for registration is outright rejected if it is not accompanied by proof of payment of the fee due, without prejudice to the possibility of renewal.

2-the application for registration is still rejected when the statutes of the collective management organization do not comply with the provisions of this law.

3-the refusal of authorization must be substantiated and notified, within 10 working days, to the organization that has applied for its registration as a collective management organization.

4 - The rejection of the application for registration may be appealed, under the legally permitted terms.

5 - The authorization granted may be revoked when the conditions justifying the rejection under the terms of paragraph 2 occur superveniently.

Article 13

Invalidity of the acts of irregular management organizations

Collective management acts carried out by a collective management organization that does not observe the requirements for access or exercise of the activity are null and void.

Article 14

Association of Collective Management Organizations

1 - Legally constituted and registered collective management organizations may associate with each other, whether or not constituting a new legal person, in any form provided for by law, including in the form of a complementary grouping of companies or consortium, to jointly pursue some of its purposes, jointly representing the respective rights holders.

2 - The legal person constituted under the terms of the previous number must register with the IGAC and is subject to the organization and functioning rules provided for in this law, with the necessary adaptations.

3-the corporate bodies of the legal person referred to in paragraph 1 may be part, in addition to the collective management organizations that constitute it, any natural or legal person, regardless of whether or not it has the status of holder of rights.

4 – The collective management organizations that are members or holders of the capital of the legal person constituted under the terms of paragraph 1 are responsible for its acts, under the same terms in which the principal is liable for the acts performed by the commission agent.

5-the plan of activities and budget of the legal person constituted under the terms of paragraph 1 must be previously submitted to the general meetings of the collective management organizations that constitute it.

6 - Whenever the activity of the legal person constituted under the terms of paragraph 1 consists of licensing and collection of remuneration from the revenue from rights, the collective management organizations that constitute it are responsible for distributing the amounts received, they are also responsible for complying with of the provisions of article 29.

Article 15

Public utility

Organizations incorporated in Portugal under the provisions of this law and registered under the terms of article 11 acquire, by mere effect of registration, the nature of legal persons of public utility, with exemption from the obligations provided for in Decree-Law no .460/77, of November 7th, amended by Law n.º 40/2007, of August 24th, and by Decree-Law n.º 391/2007, of December 13th.

Article 16

competition law

Collective management organizations are bound by competition law.

Article 17.

Subsidiary right

The legislation on associations, cooperatives and commercial companies is subsidiary applicable to collective management organizations, depending on their legal nature.

SECTION II

Organization and operation of collective management organizations incorporated in Portugal

Article 18

Bodies of the collective management organization

1 - The bodies of collective management organizations are:

a) A general meeting;

b) A board of directors or board of directors;

c) A supervisory board.

2 - The statutes of collective management organizations may also provide for the existence of an executive body, individual or collective, subordinate to the board of directors or management and designated by it, to carry out remunerated functions of day-to-day management and representation of the collective management organization .

3 - The executive body provided for in the previous number has the powers provided for in the statutes of the collective management organization, and those expressly delegated to it by the board of directors or management.

4 - (Revoked.)

Article 19.

Composition of the bodies of the collective management organization

1 - The members of the governing bodies are necessarily members of the collective management organization, with the exception of the statutory auditor and the members of the executive body referred to in paragraph 2 of the previous article.

2 - Members of governing bodies are not allowed to hold more than one position simultaneously in the governing bodies of the same organization, under penalty of administrative liability for the member who accumulates functions and the collective management organization that allows it, with the exception of members of the executive body referred to in paragraph 2 of the previous article, who may exercise cumulative functions on the board of directors or management.

3 - When there are different categories of members of the collective management organization, the composition of the governing bodies must reflect the plurality of categories and holders represented in a fair, balanced and, if necessary, alternating manner.

Article 20

Regime of incompatibilities and impediments

1 - Without prejudice to the provisions of paragraph 2 of the previous article, the performance of positions in the administrative or management bodies is incompatible with the holding of shares greater than or equal to 5% in the share capital and with the exercise of managerial functions or administrator in organizations whose activity, within the scope of copyright and related rights, is subject to licensing, authorization or payment of fees to the respective collective management organization.

2 - Except in the previous number the cases in which the activity subject to licensing, authorization or payment of a remuneration has an accessory or punctual nature and has no relevant economic expression.

3 - Members of the governing bodies of collective management organizations are prevented from participating in any deliberative process that may jeopardize, benefit or, in any way, affect:

- a) The interests or rights they hold;
- b) The interests or rights of a spouse, de facto partner, relative or affinity up to the second degree of the straight line, or the third degree of the collateral line;
- c) The interests or rights of any organization in which he directly or indirectly performs any professional functions or integrates the respective governing bodies, including those that are in a group relationship with the first.

4 - In the event provided for in the previous number, the holder of the office must immediately invoke the impediment, and, in the case of a collegiate body, the votes held by him will not be counted for the purposes of calculating the deliberative quorum.

Article 21.

General meeting

1 - The general meeting includes all members of the collective management organization, and must be called at least once in each calendar year.

2 - The following matters are of the exclusive competence of the general meeting:

- a) Statutes and definition of the general conditions of membership, refusal of membership and exclusion, voluntary or mandatory, of members, as well as any amendment to the statutes and general conditions of membership;

- b) Appointment or dismissal of members of governing bodies, assessment of their general performance, as well as any matters relating to their remuneration and other pecuniary and non-pecuniary benefits, granting of pensions and pension rights, rights to other concessions and compensation for termination of employment duties, except when the resolution concerns the executive body provided for in paragraph 2 of article 18, in which case these matters are decided by the board of directors or management;

- c) Definition of general criteria for the deduction and distribution of amounts due to right holders;

- d) Definition of general policy criteria for the use of funds allocated to the social and cultural function and other non-distributable amounts;

- e) Definition of the general criteria of the financial investment policy to be temporarily applied to rights revenue until effective distribution and any income resulting from the investment of rights revenue, which must ensure the interest of members of the collective management organization, liquidity and the security of rights revenues;

- f) Approval of the activities plan and budget, including the respective management committee;

g) Approval of the management report, annual report on transparency and other accountability documents;

h) Approval of purchases, sales or mortgages of real estate;

i) Approval of mergers and subsidiaries, as well as acquisitions of other organizations or of shares or rights in other organizations, including associations of collective management organizations provided for in article 14;

j) Approval of proposals for borrowing, granting and providing collateral or loan guarantees;

k) Risk management policy.

3 - The general assembly may, by means of a resolution or a provision provided for in the articles of association, delegate the powers referred to in subparagraphs h) to k) of the previous number to the supervisory board.

4 - Members of a collective management body may nominate any other person or organization as their proxy to participate and vote at the general meeting on their behalf, limited to a maximum number of five represented for the same general meeting and provided that this designation does not imply a conflict of interest, in particular when the constituent member and the proxy belong to different categories of rightholders in the collective management body.

5-Each power of attorney is valid for a single general meeting, and the proxy enjoys, in the general meeting, the same rights as the member, and must vote in accordance with the respective instructions.

Article 21-A

Fiscalization Council

1 - The supervisory board must include, in addition to members who comply with the provisions of article 19, a statutory auditor.

2 - The supervisory board must meet regularly, and it is incumbent upon:

a) Continuously monitor the activities and performance of the duties of the organization's management or management bodies;

b) Carrying out the decisions of the general meeting, in particular monitoring compliance with the matters listed in paragraphs c) to e) of paragraph 2 of the previous article;

c) Exercise the powers delegated to it by the general meeting, under the terms of paragraph 3 of the previous article;

d) Preparing an opinion on the documents referred to in paragraph 1 of article 26, to be presented to the general meeting;

e) Submit a report to the general assembly on the exercise of its powers, at least once a year.

Article 22

Obligations of the members of the governing bodies

1 - Members of the management, management and supervisory bodies of collective management organizations are bound to manage the organization's destinations in a diligent, reputable and prudent manner, and must ensure the existence of correct administrative and accounting procedures and internal control mechanisms suitable.

2 - The members of the management, management and supervisory bodies also ensure that there are procedures in place to avoid conflicts of interest, guaranteeing, in the event of identification of real or potential conflicts, the existence of measures that allow managing, monitoring and disclosing these conflicts in order to avoid prejudice to the interests of rightholders.

3 - For the purposes set out in the previous number, the members of the administrative, management and supervisory bodies must submit, at the general meeting before taking up their duties, and thereafter, once a year, a declaration containing the following information:

(a) any interests held in the collective management organization;

b) Any remuneration received from the collective management organization, including pension schemes, benefits in kind and other types of benefits;

c) Any amounts received from the collective management organization, as holder of rights;

d) Possible conflicts, real or potential, between your personal interests and those of the collective management organization, or between any obligations towards the organization and any duty towards any other natural or legal person.

4 - The provisions of this article apply to all persons who, by virtue of an employment contract, mandate, representation or provision of services, carry out business management and take decisions on behalf of the collective management organization, with or without powers of representation.

Article 23

Entities organization

1 - Unless otherwise provided by law or the articles of association, the decisions of the bodies of collective management organizations are taken by a majority of the votes cast by the members present, with the respective chairman having the casting vote.

2 - Deliberations concerning the election of the governing bodies of collective management organizations or matters of personal concern to their members are taken by secret ballot.

3 - Minutes of meetings of any body of collective management organizations are always drawn up.

Article 24.

Mandates

1 - The members of the administrative or management bodies of collective management organizations are elected for a period of four years, if a shorter period is not foreseen in the statutes, renewable only twice and for the same period.

2 - The members of the other governing bodies of collective management organizations are elected for a period of four years, if a shorter period is not provided for in the statutes.

3 - The statutes may limit the number of consecutive terms for the other governing bodies of collective management organizations.

4 - The continuity of the term of office of the executive body, provided for in paragraph 2 of article 18, when the term of office of the management body that appointed it ends, depends on the decision of the new management body, and until this decision, the executive body is limited to carrying out day-to-day management acts.

Article 25

Responsibility of the holders of the governing bodies

1 - The members of the governing bodies are civilly and criminally responsible for the practice of unlawful acts committed in the exercise of their mandate.

2 - The provisions of the preceding paragraph are applicable to collective management organizations with a secondary establishment in national territory.

Article 26

Financial system

1 - Collective management organizations are required to draw up and approve, annually, the management report and accounts for the financial year, the activity plan, the budget and the annual report on transparency.

2 - (Revoked.)

3-the documents referred to in paragraph 1 must be disclosed to the associates or cooperators and be available to them for easy consultation at the registered office of the collective management organization.

Article 26-A

Annual report on transparency

1 - Without prejudice to the legal obligations relating to accountability that may apply according to the type of organization in question, the annual report on transparency referred to in paragraph 1 of the previous article must contain the information contained in the annex I to this law, of which it forms an integral part.

2-the annual report on transparency must be published on the website of collective management organizations, until April of the year following the respective exercise, remaining available for a minimum period of five years.

3 - Pursuant to subparagraph d) of paragraph 2 of article 21-A, the statutory auditor must issue an opinion on the annual report on transparency at the time of the legal certification of accounts, and the respective audit report must be published in full with the annual transparency report.

CHAPTER III

Relations with rights holders and users

SECTION I

Rights and duties

Article 27.

General duties of collective management organizations

1 - Collective management organizations are obliged to:

a) Act in the interests of the holders of rights they represent by not imposing obligations on them that are not objectively necessary for the protection of their rights and interests or for the effective management of their rights;

b) Accept the management of copyright and related rights that may be requested, in accordance with their object and scope of management, depending on the rights, categories of holders and uses included in the terms of the respective statutes and mandates, based on objective, transparent and non-discriminatory criteria;

c) Exercise the management of rights in compliance with the mandate granted, safeguarding the public interests involved;

d) Draw up and publicize the list of holders they represent;

e) Provide pertinent information to persons interested in the use of intellectual property who so require about those represented and the conditions and criteria governing the fixed tariffs;

f) Ensuring the existence of communication mechanisms with its members by electronic means, namely so that they can exercise their respective rights;

g) Contract with the interested parties non-exclusive authorizations of the rights whose management has been entrusted to them, in non-discriminatory, equitable and reasonable terms and upon payment of the established remuneration or fee;

h) Negotiating the appropriate pecuniary compensation corresponding to the authorizations requested by interested third parties, as well as the remuneration due for uses not subject to authorization or licensing.

2 - Without prejudice to the provisions of paragraph b) of the previous number, if a collective management organization refuses to accept a request for membership, it must substantiate the reasons for the decision in writing with the holder of rights.

3 - The provisions of subparagraph h) of paragraph 1 apply when the interested third parties are organizations representing a significant number of users in the respective sector, in which case the negotiation must establish the general licensing conditions, including the respective general tariffs, with associations whose members explore or use protected works, benefits or rights or are obliged, under the terms of the law, to pay an equitable remuneration or compensation.

4 - Collective management organizations cannot refuse negotiation with the organizations referred to in the previous number when the uses are included in the object and scope of their management.

5 - The provisions of the previous number do not apply to user associations that are not representative of the respective sector, namely because they have a small number of members compared to the total universe of users in the sector in question.

6 - In order to assess the representativeness of user representative organizations, the object, territorial scope and number of representatives must be taken into account in relation to other user representative organizations carrying out identical activities.

7-in cases where there is a right to remuneration, collective management organizations may agree with organizations representing users the tariffs that best suit the characteristics, needs and nature of their activity.

Article 28

Duty of information

1 - Collective management organizations must inform interested third parties about the conditions and prices for using any work, provision or product of their representatives.

2 - Collective management organizations publish the following information on their website:

a) Statutes or equivalent legal instrument;

- b) Conditions of accession and terms of revocation of rights management mandates;
- c) List of holders of governing bodies;
- d) Criteria and pricing methods applicable by collective management organizations to users of protected works, or, where appropriate, an indication of the respective agreements or decisions of the commission of experts that determine the tariff to be applied;
- e) Tariffs practiced with mention of all relevant and necessary elements for their application;
- f) Rules on the distribution of amounts due to rightholders;
- g) Rules on management fees;
- h) Rules on deductions from entitlement revenues for the purposes of social, cultural and educational services and other purposes approved by the general assembly;
- i) Complaint handling and dispute resolution procedures available;
- j) Management report and annual accounts;
- k) Amounts collected and distributed, by category of managed rights and amount of deductions made, for the purposes of management commission, social and cultural funds and other purposes approved by the general meeting;
- l) Identification of the total number of beneficiaries, with information on the total income obtained;
- m) Identification of funds allocated under article 29;
- n) Standard licensing agreements or general licensing terms and conditions;
- o) List of representation agreements and collective management organizations with which these agreements were concluded;
- p) General policy for the use of amounts allocated to the social and cultural function and other non-distributable amounts.

3 – Collective management organizations must annually update the information referred to in the previous number.

4 - In the relationship with the holders of rights, the collective management organizations ensure the existence of procedures that allow each holder of the rights they represent, access, by electronic means, to the following information:

- a) Any personal data that they have authorized the collective management organization to use, including data on their identification and location;

b) Revenues from rights collected on its behalf or, in the case of collective licensing or remuneration rights that do not allow the individualization of revenues from rights in the act of collection, the amount due to it after distribution, including pending revenues;

c) The amounts owed to it by category of managed rights and type of use, paid and payable by the collective management organization;

d) Deductions from management commissions made in the period in question, as well as deductions made for any other purposes, other than those related to management commissions, including the amounts deducted for the social and cultural function provided for in article 29;

e) Complaint handling and dispute resolution procedures available;

f) The period during which the use occurred for which the amounts were attributed and paid to the holder of the rights, unless justified reasons associated with the communication of information by users prevent the collective management organization from providing this information in a timely manner.

5 - Collective management organizations must provide the information referred to in the previous number, preferably at the time of distribution of rights, or annually, to each holder of rights who receive revenue from rights or to whom they made payments in the period to which the information refers.

6 - Collective management organizations that allocate revenue from rights and have as their members organizations responsible for distributing revenue from rights to holders must provide them with the information provided for in paragraph 4 that they have, whenever the latter do not have that information. information.

7 - Without prejudice to the provisions of article 48-B, collective management organizations shall, in response to duly substantiated requests, make available to rightholders, other collective management organizations with which they have representation agreements or to users , at least one of the following information, by electronic means and without undue delay:

a) The works or other services they represent, the rights they manage, directly or under representation agreements and the territories covered;

b) The types of works or other services they manage, the rights they represent and the territories covered, in cases where these works or other services cannot be determined due to the scope of activities of the collective management organization.

Article 29

Social and cultural function

1 - Collective management organizations incorporated in Portugal must allocate a percentage of not less than 5% of the set of revenues from rights collected, to:

a) Social activities and assistance to its associates or cooperators;

b) Training actions in matters of copyright and related rights or in other areas necessary within the scope of the performance of the duties of its members;

c) Promotion of works, services and products;

d) Actions to encourage cultural and artistic creation, with priority given to investment in new talent;

e) Actions for the prevention, identification and cessation of harmful infringements of copyright and related rights, excluding the financing of licensing activities by the collective management organization in question;

f) Investigation, dissemination and promotion of copyright and related rights;

g) Internationalization of the market for works and services of national origin and international cooperation with a view to developing the collective management of rights at supra-national level.

2 - Collective management organizations must guarantee the rights holders they represent the application of fair, objective and non-discriminatory criteria in the use of funds allocated to the social and cultural function, and the adequacy of this use to their needs and interests.

3 - Holders of rights who are not members or represented by the collective management organization may access the actions provided for in paragraph 1, in accordance with criteria of equity, non-discrimination and transparency, under the terms and conditions approved by the general meeting, which must be advertised on the respective website.

4 - (Revoked.)

5 - Annually, collective management organizations make public information on the activities carried out, taking into account the purposes set out in paragraph 1.

6-the provisions of paragraph 1 do not apply in the first four years of existence of collective management organizations, counted from the date of their registration.

7 - The terms and conditions for the use of funds allocated to the social and cultural function provided for in this article are approved by decree of the member of the Government responsible for the area of culture.

Article 30

Management fee and other deductions

1 - Collective management organizations shall inform rightholders about management fees and other deductions that apply to rights revenue and any income resulting from the investment of rights revenue, before obtaining the rightholders consent to manage the respective rights.

2 - Management fees and other deductions must not exceed justified and documented costs and investments borne by the collective management organization in the management of copyright and related rights.

3 - Management fees and other deductions must be reasonable in relation to the services provided by the collective management organization to rightholders and established on the basis of objective criteria.

4 - The requirements applicable to the use and transparency of the use of amounts deducted or offset, with regard to management fees, are applicable to any other deductions made to cover the costs of managing copyright and related rights.

5 - The operating costs of the collective management organization must not exceed, annually, 20% of the set of revenues from rights collected by it, unless there is a significant decrease in revenue from rights, supervening and not attributable to the collective management organization in the budget year of the current year, in which case the costs may exceed that limit, provided that the decision is duly substantiated by the board of directors or management, and subject to the binding opinion of the supervisory board.

6 - The board of directors or board of directors may, exceptionally, make an investment proposal that implies setting a management commission higher than that referred to in the previous number, provided that it is duly substantiated, subject to a binding opinion by the supervisory board and approved, at the budget, by two-thirds of the votes cast at the general meeting.

Article 31.

Holders' rights

1 - The holders of rights represented by collective management organizations have the right to:

a) Mandate a collective management organization of their choice to manage the rights, categories of rights or types of protected work and services they deem necessary, not being obliged to mandate for the management of all modalities of exploitation of the works and services protected or for the entire repertoire;

b) Revoke, in whole or in part, the mandate granted in favor of the collective management organization in relation to categories of rights, territories or works and other services that make up the respective repertoire;

c) Be informed of all the rights that assist them, the statutes and criteria applied, before giving their consent to the management of any right or category of rights or repertoire.

2 - The holder of rights cannot grant management for the same type of use of the works, artistic performances, phonograms, videograms or broadcasts in question, for the same period and territory, to more than one collective management organization.

3 - The revocation of the mandate referred to in paragraph b) of paragraph 1 is made in writing, subject to a prior notice of 90 days.

4 - If there are rights acquired by third parties who have contracted with the collective management organization for a period longer than that referred to in the previous number, the revocation of the mandate only takes effect in relation to these from the end of the financial year in which it is communicated by the holder of rights to the collective management organization.

5 - If there are revenues from rights for management acts performed before the revocation of the mandate takes effect, the holder fully retains the right to receive them, maintaining the rights provided for in paragraphs 4, 5 and 7 of article 28, Article 29(2), Article 30, Article 33, Article 34, Article 37-A and Article 48-E.

6 - The granting of powers of representation to the collective management organization, under the terms of the previous numbers, does not affect the exercise of the respective rights or faculties by the holder, provided that he gives prior written notice to the collective management organization of his intention to directly exercise rights or powers relating to uses that do not pursue commercial purposes.

7 - The presence and participation of rights holders in shows or public performances of their works or services does not imply that those events are authorized or licensed, expressly and in writing, with the collective management organization that represents them, in cases where a license is required.

8 - The rules provided for in paragraph f) of paragraph 1 of article 27, paragraph 7 of article 28, article 37-A and paragraph 3 of article 48- F apply equally to rightholders who are not members of the collective management organization, but who by law, transmission, license or any other contractual provision, have a direct legal relationship with it.

Article 32

Management and representation contract

1 - The management of rights may be assigned by their holders in favor of a collective management organization by signing a management and representation contract, with a duration not exceeding five years, automatically renewable, for equal periods, in the absence of opposition.

2 - The management and representation contract must expressly establish the conditions of opposition to its renewal, with the obligation to manage all types of exploitation of protected works and services being prohibited.

3 - In the case of cooperators, associates or beneficiaries of the collective management organization, the representation of the holders of rights may result from the simple registration as a beneficiary of the services, as established in the statutes and regulations of the collective management organization, which must respect the conditions and limits referred to in the previous number.

4-in the exercise of their representation activity, the collective management organizations have the rights, benefits or powers legally attributed to their represented.

Article 32-A

Use of recipes

1 - Collective management organizations must keep separately in their accounts:

- (a) rights income and any income arising from the investment of rights income;
- b) Any proprietary assets they hold and income from those assets, management fees or other activities.

2 - Collective management organizations may only use revenue from rights or any income resulting from their investment for distribution to rightholders, with the exception of the amounts required:

- a) Assignment to the social and cultural function under the terms of article 29;
- b) The constitution of reserves for cases of claim for payment, namely under the terms of paragraphs 3 to 5 of the following article;
- c) Use in accordance with a decision adopted pursuant to points c) to e) and h) to k) of paragraph 2 of article 21.

3 - If a collective management organization invests revenue from rights or any income resulting from their investment, it must do so in the interest of the holders whose rights it represents, in accordance with the general investment policy and the risk management policy referred to in paragraphs e) and k) of paragraph 2 of article 21, in accordance with the following requirements:

- a) If there is any potential conflict of interest, the collective management organization shall ensure that the investment is made in the exclusive interest of those rightholders;
- b) Assets must be invested in such a way as to guarantee the security, quality, liquidity and return of the portfolio as a whole;
- c) Assets must be sufficiently diversified to avoid excessive dependence on any one asset and the accumulation of significant risks in the portfolio as a whole.

Article 33

Distribution of amounts

1 - The collective management organizations regularly, quickly, diligently and rigorously distribute to the holders of rights the revenues they obtain from the management of their rights.

2 - The distribution of revenue obtained from the management of rights is carried out in accordance with the statutes and with the distribution policy approved by the general meeting.

3 - The statutes and revenue distribution policy must be based on objective criteria, appropriate to the types of rights managed and which exclude arbitrariness, and must ensure that rights holders participate in the distribution that is proportional to the use of the respective works. .

4 - The distribution and payment of amounts to rightholders must be carried out within a maximum period of nine months from the end of the financial year in which the revenue from rights was collected, unless there are objective reasons, namely related to the communication of information by users , the identification of rightholders or the cross-referencing of information on works and other supplies with rightholders, prevent the collective management body or its members from meeting the said deadline.

5 - If the amounts owed to rightholders cannot be distributed within the time limit set in the previous number because the rightholders cannot be identified or located and the derogation of the time limit is not applicable, these amounts are entered and identified separately in the accounts of the collective management organization.

Article 34.

Prescription

1 - The obligation to pay the holders of rights the revenue obtained from the management of rights prescribes within a period of three years.

2 - The period referred to in the previous number begins at the end of the financial year in which the revenue from rights was collected.

3-Collective management organizations may only invoke the prescription if they demonstrate that they have taken all the necessary measures to identify, locate and communicate to the holders of rights the amounts that are due to them.

4 - For the purposes of the preceding paragraph, collective management organizations must check their records as well as other available records and provide, within three months after the end of the period set for the distribution of amounts to rightholders, members and to the collective management organizations with whom they sign representation agreements, a list of works and other services whose owners have not been identified or located, including, whenever available, the title of the work or other services, the name of the rights holder, the name of the publisher or producer and any pertinent information that could help identify the rights holder.

5 - If the measures referred to in the preceding paragraphs are ineffective, the collective management organizations shall post the information referred to in the preceding paragraph on their website, up to one year after the expiry of the three-month period.

6 - Once the prescription has expired, the amounts revert to the social and cultural function provided for in article 29.

Article 35

Management of rights under representation agreements

1 - Collective management organizations may not, with regard to applicable tariffs, management fees, conditions for collecting revenue from rights and distributing amounts due, discriminate between their members and holders of rights whose management ensure under a representation agreement.

2 - Collective management organizations must regularly, quickly, diligently and rigorously distribute and pay amounts owed to other organizations.

3 - Collective management organizations may not make any other deductions from revenue from rights or from any investment income from those revenue from rights, in addition to the deductions relating to management commissions and social and cultural functions, applicable to most of their members, unless the other collective management organization that is a party to the agency agreement expressly authorizes such deductions.

4 – Collective management organizations shall provide at least the following information to collective management organizations on whose behalf they manage rights under a representation agreement:

(a) the allocated rights revenue, the amounts paid by the collective management organization by category of managed rights and by type of use for the rights it manages under the representation agreement, and any pending allocated rights revenue, whatever the respective period;

b) Deductions made in relation to management fees;

c) Deductions made for any purposes other than those related to management fees;

d) Information on any licenses granted or refused in relation to works and other services covered by the representation agreement;

e) The resolutions adopted by the general meeting, in so far as they are relevant to the management of the rights covered by the representation agreement.

5-the collective management organizations must provide the information referred to in the previous number through electronic means, updating it at least once a year, and indicating the period to which the information refers.

6 - Collective management organizations must distribute and pay the amounts due to other collective management organizations within a maximum period of nine months from the end of the financial year in which the revenue from rights was collected, unless there are objective reasons that prevent the collective management organizations or their members to meet the said deadline, relating in particular to the communication of information by users, the identification of rights, rightholders or the crossing of information between works and other services with the rightholders.

7 - The collective management organization that receives the amounts referred to in the previous number, or the respective members, as organizations that represent holders of rights, must distribute and pay the amounts due within a maximum period of six months from their receipt, unless if there are objective reasons that prevent the collective management organizations or their members from meeting the said deadline, related in particular to the communication of information by users, the identification of rights, rights holders or the crossing of information between works and other works benefits with rightholders.

Article 36.

Relations with users

1 - Negotiations between users and collective management organizations must comply with the principles of good faith and transparency, including the provision of all necessary information to allow the effective collection of the corresponding revenues.

2 - The general licensing conditions must reflect objective and non-discriminatory criteria, namely with regard to applicable tariffs.

3 - When granting licenses for online services, collective management organizations should not be obliged to use as a reference for other services the conditions for granting licenses agreed with the user, when he provides a new type of online service that is available to the public for less than three years.

4-the collective management organizations ensure the existence of mechanisms that allow communication with users through electronic means.

5 - Users must provide information regarding the use made free of charge whenever it is necessary for the purpose of distributing rights revenue.

6 - The information provided for in the previous number must be provided in good time, under conditions that allow it to be processed, namely with regard to the identification of the work, the holders and the use made and must include, whenever present, the unique identifiers attached to the fixtures of the works.

7 - The provisions of paragraphs 5 and 6 do not apply to users who carry out exclusively the public execution of works and services incorporated in phonograms and videograms, by any means, including audio or audiovisual broadcasting.

8 - The users referred to in the previous number must accept the installation, at the expense of the collective management organizations, in the spaces where they carry out public execution, of monitoring mechanisms and automatic detection of the works and services used by them, or, alternatively and to for the same purposes, allow access by persons accredited by the collective management organizations that granted the respective license to the places where the respective repertoire is used or from which it is used, by any means, safeguarding the right to privacy and intimacy of the respective customers.

9 - Non-compliance with the obligations of information, granting of access and installation of monitoring and detection mechanisms provided for in paragraphs 5 to 8

gives the respective collective management organization the right to unilaterally revoke the authorization granted, without prejudice to the possibility of application of other contractual sanctions or contained in the respective general licensing conditions.

Article 37.º

Joint licensing counters

1 - The collective management organizations representing the various categories of rightholders, together with the organizations representing users that may be interested, make available to users licensing procedures for acts of public performance of protected works, performances, phonograms and videograms, designated " joint licensing desks'.

2 - The licensing procedures referred to in the previous number must allow users, through electronic or face-to-face joint licensing desks, to request and obtain, in a single procedure, licenses or authorizations for the public performance of protected works, performances, phonograms and videograms , with licenses or authorizations issued on behalf of the respective rights holders.

3 - Joint licensing desks must safeguard:

a) The effective application of the general tariffs in force of the various collective management organizations and the distribution of the amounts charged according to such tariffs;

b) The autonomous setting of the respective tariffs, through the mechanisms provided for in this law;

c) The distribution of the respective operating costs according to the value of the remuneration attributed to each of the collective management organizations;

d) The efficient and transparent management of the licensing service;

e) The effective control of the issuance of licenses by the various collective management organizations, under conditions of equality and parity;

f) Speed and ease of access to licensing by interested users;

g) The autonomy of its organization and operation in relation to collective management organizations.

4 - In the absence of an agreement between the collective management organizations, or between them and the organizations representing users, for the implementation of the joint licensing desk, the IGAC must listen to the organizations involved and exercise mediation with a view to seeking their entry into operation.

5 - In the absence of an agreement, the IGAC proposes, together with the member of the Government responsible for the area of culture, adequate measures for the effective implementation of the licensing mechanisms.

6 - The provisions of this article do not affect the possibility of collective management organizations to simultaneously promote and issue autonomous licenses and separately exercise the rights handed over to their management, in relation to all users who have not requested and obtained the license. or authorization through the joint licensing desks, under the terms of the previous numbers.

Article 37-A

Complaint Procedures

1 - Collective management organizations shall provide their members and the collective management organizations on whose behalf they manage rights under a representation agreement with effective and timely procedures for complaints, particularly with regard to authorization to manage rights, revocation or withdrawal of rights, membership conditions, collection of amounts due to holders, deductions and distributions.

2 - Collective management organizations must respond in writing to complaints from members or collective management organizations on behalf of which they manage rights under representation agreements, and must indicate in writing the reasons, if they refuse any claim.

SECTION II

tariff setting

Article 38.

Rates and general tariffs

1 - The collective management organizations publish the licensing tariffs for exclusive rights and the exercise of remuneration or equitable compensation rights on their websites, as well as the general tariffs that are consideration for the general licenses they grant.

2 - The tariffs and general tariffs referred to in the previous number must also be deposited and published on the IGAC website, binding the collective management organizations and users or organizations representing users only from the date of the respective publication.

3 - Tariffs must reflect the economic value of using the specific rights in question and must translate the result of negotiation under real market conditions.

4 - The general tariffs must take into account, namely, the economic value of using the repertoire for the different categories of beneficiaries of the respective authorizations or licenses, correspond to the fair remuneration of the holders of rights for the use of their works, artistic performances, phonograms, videograms or broadcasts and, whenever possible, take into account the actual volume of their use and dissemination.

5 - Collective management organizations must also establish special tariffs and tariffs with specially reduced amounts, applicable to legal persons that pursue non-profit and

non-commercial purposes, when the respective activities or events take place in a place with free and free access.

Article 39.

Setting of general tariffs by negotiation

1 - The general tariffs are set by negotiation between the collective management organizations and the organizations representing users.

2 - It is up to the collective management organizations and the organizations representing users to conclude, in writing, the agreements that result from the setting of general tariffs by negotiation, which are deposited with the IGAC, under the terms of article 41.

3 - The provisions of the previous number do not affect the possibility of collective management organizations to set the respective tariffs, in compliance with this law and setting out the criteria and methods of their formation.

4 - The agreements must accurately regulate the terms and conditions of the uses of the repertoire to which they respect.

5 - (Revoked.)

6 - Collective management organizations are obliged to negotiate and conclude agreements when the organizations representing users who request them demonstrate that they effectively represent a significant number of companies, entrepreneurs or professionals who, in the exercise of their activity, are typically or habitually users , in the following cases:

a) When a deposited agreement that has as its object the definition of a tariff or several tariffs applicable to the use or uses in question is not in force;

b) While the agreement referred to in the previous paragraph is in force, if the organizations representing users participating in the negotiation prove to represent more users than the organizations representing signatory users;

c) Two years after deposit with the IGAC of the last decision of the committee of experts whose purpose is to determine a tariff applicable to the same type of uses.

7 - For the purposes of paragraph b) of the previous number, whenever doubts arise as to the effective representativeness of the organizations representing users, the IGAC must, at the request of any of the parties interested in the negotiation, notify the organizations that are part of the agreement and the organizations that intend to start a new negotiation, to present, within five working days, proof of the number of associates or represented.

8 - Once the proof referred to in the previous number has been received, the IGAC informs the organizations representing the users concerned of the effective number of members or represented by each of them.

Article 40

Formalism of negotiation of general tariffs

1 - Either party may initiate negotiations by submitting a written proposal containing, at least, the uses covered, the licensing term, the term of the agreement and the applicable tariffs, including the value, conditions and requirements of its application and the criteria and methods for forming the proposed value.

2 - The proposal referred to in the previous number must be sent to the counterparty by registered mail or with proof of delivery, and the IGAC must be notified of this on the same date.

3 - If the proposal has been presented by organizations representing users and these have not complied with the provisions of the previous number, the collective management organization that is the recipient of the proposal must send it to the IGAC, within a maximum period of three working days from the date of your reception.

4-Proposals may be formulated, depending on the case, by one or more collective management organizations or by one or more organizations representing users, but cannot be addressed to more than one organization.

5 - The provisions of the previous number do not affect the possibility of any organization representing users responding to the proposal jointly with other organizations representing the same category of users.

6 - The recipient of the proposal has a period of 30 days, counting from its receipt, to accept it or present a counter-proposal.

7 - Silence is considered acceptance of the proposal and the counter-proposal.

8 - If the proposal is made by an organization representing users, the recipient collective management organization may, within 10 days of receiving the proposal and informing the IGAC of this fact:

a) Refuse to negotiate, demonstrating that the requirements which, under the terms of paragraph 6 of the previous article, impose the duty to negotiate are not met;

b) Indicate another organization representing a greater number of potential users in the respective sector, and must, within the same period, initiate negotiations with the organization indicated, under the terms of paragraphs 1 and 2.

9 - If the proposal is made by a collective management organization, the organization representing the recipient users may, within 10 days of its receipt, refuse negotiation, declaring that it does not intend to enter into agreements with the management organization in question , informing the IGAC of this fact.

10 - Once the negotiation has started and until its end, any organization representing users that demonstrates to represent the largest number of potential users in the respective sector must be admitted to participate in it, provided that it sends to the collective management organization in question a proposal formulated in the terms of paragraph 1 or

communicate, in the same way, its adherence to the proposal or counter-proposal formulated by the organization that is being negotiated.

Article 41

Deposit of general tariff setting agreements

1 - The agreement for setting general tariffs concluded under the terms of the previous article must be deposited by either party with the IGAC, which will publish it on its website on the Internet, with the application of paragraph 2 of article 38.

2 - When several organizations representing users have participated in the negotiations, the agreement is only subject to deposit if it is signed by organizations representing a greater number of users in the respective sector.

3 - Once the agreement is deposited, the tariffs contained therein, its application rules and other conditions bind the signatory collective management organizations, integrating in their general tariffs, as well as the users who fulfil the objective assumptions of its application, whether or not non-members or associates of organizations representing signatory users.

4 - The binding of collective management organizations and users is maintained for the period of validity of the agreement, or for a shorter period, if the act of deposit, at the request of both parties, temporarily limits its validity.

5 - The deposit expires automatically on the date on which the agreement ceases to produce effects due to its expiry, denouncement, resolution, revocation, annulment or declaration of nullity.

6 - (Revoked.)

7 - Within a period of 30 days from the date of deposit of the agreement, the organization representing the largest number of potential users in the respective sector, taking into account the respective object, the territorial scope and the number of people represented by the organizations in question, may prevent the production of the effects provided for in paragraph 3.

8 - For the purposes of the preceding paragraph, the organization representing users must initiate negotiations with the collective management organizations in question, by sending the proposal referred to in paragraph 1 of article 40, giving knowledge of this fact to the IGAC.

9 - In the cases referred to in paragraphs 2, 7 and 8, the provisions of paragraphs 7 and 8 of article 39 apply, with the necessary adaptations.

Article 42

Pending negotiations for setting general tariffs

1 - Pending negotiations for the establishment of general tariffs, users are not exempt from obtaining the licenses or authorizations legally required for the use of the repertoire they intend to carry out, and collective management organizations cannot refuse the issuance of provisional licenses, valid until to a period of 15 days from the end of the negotiations, if a shorter period is not requested by the user.

2 - In relation to the tariffs practiced by the collective management organizations that participate in the negotiations, the following applies pending these:

a) The general tariffs determined by agreement with the organizations representing users, the tariffs agreed individually with users and only in relation to them, the tariffs that have been the object of a previous deposit or the tariffs determined following a decision by the commission of experts, even if said agreements, acts of deposit or decisions have ceased to be in force due to their denouncement or expiry;

b) The collection of general tariffs that have been unilaterally fixed by collective management organizations is suspended.

3 - For the purposes of the provisions of the previous numbers, negotiation is considered to be pending between the date of receipt of the proposal and the end of the 60-day period on that date.

4 - In the cases referred to in subparagraph b) of paragraph 2, the obligation to issue a provisional license only exists when the user declares, in writing, that he considers himself a debtor of the amounts that result alternatively:

a) Application of tariffs to be determined by agreement for provisionally authorized or licensed uses;

b) In the absence of an agreement, and if there is no pending procedure for setting rates by the commission of experts, the rates set by the collective management organizations with effect from the start date of the negotiation.

Article 43

Negotiation refusal and lack of agreement in negotiation

1 - (Revoked.)

2 - In case of lack of agreement in the negotiation, after 60 days from the date of receipt of the proposal, the parties must, on the initiative of any of them, resort to a commission of experts.

3 - The collective management organizations may unilaterally set the tariffs and general tariffs corresponding to the authorizations and licenses for the use of the rights of their representatives:

a) If the organization representing users refuses the negotiation, under the terms of paragraph 9 of article 40, and there is no collective agreement or previous decision of the commission of experts in force;

b) If the parties involved in the negotiation do not resort to the commission of experts under the terms of the previous number, 30 days after the lack of agreement in the negotiation.

Article 44

commission of experts

1 - Conflicts resulting from relations between collective management organizations and users or organizations representing users arising from the setting of general tariffs are resolved by a committee of experts.

2 - The committee of experts is made up of three experts, each party being responsible for appointing its own expert and the experts so designated must choose the other expert, who will act as chairman of the committee of experts.

3 - If one of the parties does not appoint the expert appointed by it or the experts appointed by the parties do not agree on the choice of the chairman expert, the provisions of paragraph 2 of article 42 shall apply as long as the lack of appointment or choice remains.

4 - The operation of the commission of experts is subject to regulatory framework, to be approved by decree of the members of the Government responsible for the areas of culture and economy.

5 - The purpose of the decisions of the commission of experts is to:

a) The setting, through a collective procedure, of a general tariff, applicable to a certain activity or objectively defined category of users;

b) The setting, through an individual procedure, of a tariff applicable to a specific user or a specific and determined group of users, due to uses of the repertoire, which must be covered by a general tariff.

6 - The decision must be issued within a maximum period of six months from the date on which the committee of experts was constituted.

7 - The decisions of the committee of experts are taken taking into account the provisions of paragraphs 3 to 5 of article 38.

8 - The commission of experts sets, under the terms of the ordinance referred to in paragraph 4, the pecuniary amount to be paid to its members, which is borne, in equal amounts, by the parties.

9 - The decisions of the committee of experts form part of the general tariffs of the collective management organization, being subject to deposit under the terms of article 41.

10 - An appeal with a purely devolutionary effect may be lodged with the Court of Appeal against the decisions of the commission of experts.

11 - Without prejudice to the provisions of paragraph 4, the provisions of the voluntary arbitration law shall apply to everything that is not regulated in this law.

12 - The conflicts referred to in paragraph 1 may also be submitted to voluntary arbitration centers technically competent in intellectual property law.

Article 45

Collective procedure for setting a general tariff

1 - Collective management organizations and organizations representing users may resort to the collective procedure for setting a tariff provided for in subparagraph a) of paragraph 5 of the previous article, provided that they prove their effective representativeness.

2 - The collective procedure can only take place following a negotiation process carried out under the terms of article 40, and only when the parties have not reached an agreement after the expiry of the period provided for in paragraph 2 of article 43. th

3 - In the collective procedure, recourse to the committee of experts depends on the fulfilment of the circumstances referred to in subparagraphs of paragraph 6 of article 39 and the non-verification of the circumstances provided for in paragraph 8 of article 40.

4 - (Revoked.)

5 - From the date of deposit, the tariffs bind the collective management organizations involved in the collective procedure and the users who fulfil the objective assumptions of their application, replacing the respective general tariffs that may exist.

6 - (Revoked.)

Article 46

Individual procedure for setting a tariff

1 - Collective management organizations and users may resort to the individual procedure for setting a tariff provided for in subparagraph b) of paragraph 5 of article 44 when, cumulatively:

a) An agreement deposited under the terms of article 41, which has as its object the definition of a tariff applicable to the uses in question, is not in force, nor is a collective negotiation pending with a view to such an agreement;

b) It has not been deposited with the IGAC, less than two years ago, a decision of a committee of experts whose object is the definition of a tariff applicable to the uses in question;

c) There is no pending collective procedure under the terms of the previous article which has as its object the definition of a tariff applicable to the uses in question;

d) (Revoked.)

2 - The individual nature of the procedure does not prevent joinder or coalition of parties, in general terms.

Article 47.º

Effects of pending tariff setting procedures

1 - Pending the collective or individual procedures referred to in the previous numbers, the following remain provisionally in force:

a) The general tariffs determined by agreement with the organizations representing users, deposited with IGAC;

b) Tariffs resulting from agreements previously signed between the parties in the individual procedure provided for in article 46;

c) Tariffs that have been the subject of a previous deposit with IGAC;

d) Tariffs determined following decisions previously handed down in the collective procedure provided for in article 45.

2 - The provisions of the preceding paragraph are applicable even if said agreements, acts of deposit or decisions have ceased to be in force due to their denunciation or expiry.

3 - Outside of the cases provided for in paragraph 1, when the tariffs in question have been unilaterally fixed by collective management organizations, the provisions of subparagraph b) of paragraph 2 and paragraph 2 shall apply, with the necessary adaptations. 4 of article 42, and provisional licenses must be issued within a period of 15 days counting from the end of the period referred to in paragraph 6 of article 44, if a shorter period is not requested by the user.

4 - Once the fee to be applied is determined by the commission of experts in relation to the use or type of use in question, the amounts missing or in excess due to the application of a provisional fee or the suspension of collection under the terms of the previous numbers must be, depending on cases, paid or returned, provided:

a) The beginning of the negotiation, in the case of a collective procedure;

b) The beginning of the use in question, in the case of an individual procedure.

5 - Resorting to any of the procedures for setting a tariff set out in the previous articles does not exempt users from obtaining the necessary authorization or license for the respective use of works, performances, phonograms, videograms or broadcasts, nor prejudices the recourse to judicial courts by rightholders or collective management organizations representing them to react against the illicit use of protected repertoire.

6 - The provisions of the preceding paragraph are applicable whenever the remuneration or compensation to be determined is not in return for free use or a compulsory license expressly provided for by law.

Article 48

Special regimes

1 - Without prejudice to the duties of setting, disclosing, reasonableness and transparency of tariffs, the following uses are not covered by the regime foreseen for the establishment of general tariffs:

a) Of works, performances, phonograms, videograms and radio broadcasts that involve acts of exploitation other than those referred to in paragraph d) of article 2;

b) Literary, dramatic, dramatic-musical, choreographic or pantomime works;

c) Singular and specific to one or more works, performances, phonograms, videograms and broadcasts;

d) Works, performances, phonograms, videograms and broadcasts for whose authorization the respective management organization is not mandated, does not effectively exercise the respective management or for which the individual authorization of its owner is required;

e) Corresponding to the private copy subject to the payment of compensation to the holders of rights.

2 - The regime foreseen for the establishment of general tariffs applies, with the necessary adaptations, to tariffs relating to rights of remuneration or equitable compensation.

CHAPTER IV

Granting of multi-territorial licenses by organizations for the collective management of online rights to musical works

Article 48-A

Treatment of multi-territorial licenses

1 - Collective management organizations granting multi-territorial licenses for online rights in musical works must have sufficient capacity to process electronically, in an efficient and transparent manner, the data necessary for the administration of these licences, including for the purposes of identifying repertoires and tracking their use, billing users, collecting rights revenue and distributing amounts owed to rights holders.

2 - For the purposes set out in the previous number, collective management organizations must satisfy, at least, the following conditions:

a) Be able to accurately identify the musical works, in whole or in part, that they are authorized to perform;

b) Be able to accurately identify, in whole or in part, in relation to each of the relevant territories, the rights and the respective holders, with regard to each musical work or part thereof that they are authorized to represent;

c) Use unique identifiers to identify rightsholders and musical works, taking into account, as far as possible, optional sectoral standards and practices developed at international or European Union level;

d) Use appropriate means in order to identify and resolve in due time and effectively inconsistencies in data held by other collective management organizations that grant multi-territorial licenses of online rights to musical works.

Article 48-B

Transparency of information contained in multi-territorial repertoires

1 - Collective management organizations that grant multi-territorial licenses for online rights to musical works shall communicate to online service providers, the holders whose rights they represent and other collective management organizations, via electronic means and in response to a request duly justified, up-to-date information allowing identification of the online music repertoire they represent.

2 - For the purposes set out in the previous number, the following information is included:

a) The musical works they represent;

b) The rights they represent, in whole or in part;

c) The territories covered.

3 - Collective management organizations may take reasonable measures to protect the accuracy and integrity of data, control their reuse and protect commercially sensitive information.

Article 48-C

Accuracy of information contained in multi-territorial repertoires

1 - Collective management organizations granting multi-territorial licenses of online rights in musical works shall have procedures in place to allow rightholders, other collective management organizations and online service providers to request a correction of the data referred to in the list of conditions, under the terms of paragraph 2 of article 48-A or of the information communicated under the terms of article 48-B, whenever these holders, collective management organizations and providers of online services, based on reasonable evidence, believe that the data or information is inaccurate with regard to your online rights in musical works.

2 - In case of acceptance of the complaints, the collective management organizations must ensure that the data or information is corrected without undue delay.

3 - Collective management organizations shall provide rights holders whose musical works are included in their music repertoires and rights holders who, pursuant to paragraph 3 of article 9, have entrusted them with the management of their rights online about musical works, the means to provide them, in electronic form, with information about their musical works, their rights in them and the territories covered by the authorisation.

4 - For the purposes set out in the previous number, collective management organizations and rightholders must take into account, as much as possible, voluntary sectoral standards or data exchange practices, developed at international or European Union level, allowing holders to specify the musical work and online rights, in whole or in part, as well as the territories covered by the authorisation.

5 - If a collective management organization mandates, under the terms of articles 48-F and 48-G, another collective management organization to grant multi-territorial licenses for online rights to musical works, the mandated collective management organization shall also apply the provisions of paragraphs 3 and 4 in relation to rightholders whose musical works form part of the repertoire of the commanding collective management organization, unless otherwise decided by the collective management organizations.

Article 48-D

Information and billing

1 - Collective management organizations shall monitor the use of online rights on the musical works they represent, in whole or in part, by online service providers to whom they have granted multi-territorial licenses relating to these rights.

2 - Collective management organizations must make available to online service providers the possibility of informing them, via electronic means, about the effective use of online rights to musical works, and they must communicate the actual use of these works.

3 - Collective management organizations must adopt information methods in line with voluntary sectoral standards or practices developed at international or European Union level for the electronic exchange of such data.

4-if the collective management organizations allow the communication of information in a format standardized in the industry for the electronic exchange of data, they may refuse the information communicated by the online service providers in other formats, namely in exclusive formats.

5 - Collective management organizations must bill online service providers via electronic means and must allow the use of a format in line with voluntary sectoral standards or practices developed at international or European Union level.

6 - The invoice must identify the works and rights subject to the licence, in whole or in part, based on the data referred to in paragraph 2 of article 48-A, and the corresponding effective uses, insofar as such possible, based on the information provided by online service providers and the format used to provide such information.

7 - If the collective management organization uses a sectoral standard, the online service provider cannot refuse to accept the invoice due to its format.

8 - Collective management organizations must bill online service providers accurately and in the shortest possible time, after the effective use of the online rights on the indicated musical work, unless billing is not possible for attributable reasons online service providers.

9 - Collective management organizations shall have adequate procedures in place to allow online service providers to challenge the accuracy of the invoice, in particular if online service providers receive invoices from one or more collective management organizations for the same online rights about the same musical work.

Article 48-E

Strict and timely payment to rightholders

1 - Without prejudice to the provisions of paragraphs 3 and 4, collective management organizations that grant multi-territorial licenses for online rights to musical works must distribute the amounts due to the holders of rights resulting from these licences, rigorously and in the most as soon as possible, after informing the effective use of the works, except if distribution is not possible for reasons attributable to online service providers.

2 - Without prejudice to the provisions of paragraphs 3 and 4, collective management organizations shall provide rightholders with at least the following information, together with each payment they make:

a) Period and territorial space in which the uses occurred for which amounts are due to the holders of rights;

(b) amounts collected, deductions made and amounts distributed by collective management organizations for each online right of all musical works that rightholders have authorised, in whole or in part, the collective management organizations to represent;

c) Amounts collected on behalf of rightholders, deductions made and amounts distributed by collective management organizations for each online service provider.

3 - If a collective management organization mandates another collective management organization to grant multi-territorial licenses relating to online rights to musical works, under the terms of articles 48-F and 48-G, the collective management organization The authorized representative must accurately and without delay distribute the amounts referred to in paragraph 1 and provide the information referred to in paragraph 2 to the commanding collective management organization.

4 - The commanding collective management organization is responsible for the subsequent distribution of these amounts and the provision of this information to the holders of rights, unless otherwise agreed by the collective management organizations.

Article 48-F

Agreements between collective management organizations on granting multi-territorial licenses

1 - Any representation agreement between collective management bodies whereby a collective management body mandates another collective management body to grant multi-territorial licenses of online rights to musical works from its own music repertoire is non-exclusive in nature.

2 - Mandatory collective management organizations must manage rights online in non-discriminatory terms, in order to ensure adequate remuneration of rights holders.

3-the principal collective management organization must inform its members of the main terms of the agreement, namely the respective period of validity and the costs of services provided by the mandatory collective management organization.

4 - The mandated collective management organization shall inform the principal collective management organization of the main terms under which the latter's online rights must be licensed, including the nature of the exploitation, all provisions relating to or affecting the license fee, the license validity period, accounting periods and territories covered.

Article 48-G

Obligation to represent another collective management organization regarding multi-territorial licenses

1 - Whenever a collective management organization that neither grants nor proposes to grant multi-territorial licenses for online rights to musical works in its own repertoire requests another collective management organization to conclude a representation agreement in relation to those rights, the collective management organization requested collective management organization must accept that request if it already grants or proposes to grant multi-territorial licenses for the same category of online rights to musical works from the repertoire of another or other collective management organizations.

2-the requested collective management organization must respond to the requesting collective management organization in writing and without undue delay.

3 - Without prejudice to the provisions of paragraphs 5 to 7, the requested collective management organization must manage the represented repertoire of the requesting collective management organization under the same conditions that apply to the management of its own repertoire.

4 - The requested collective management organization must include the represented repertoire of the requesting collective management organization in all offers addressed to online service providers.

5-the management commission for the service provided by the collective management organization required from the requesting organization should not exceed the costs that it incurred.

6 - The requesting collective management organization must provide the requested collective management organization with information relating to its own music repertoire, necessary for the granting of multi-territorial licenses for online rights to musical works.

7 - If the information is insufficient or provided in a way that does not allow the requested collective management organization to satisfy the requirements of this chapter, it has the right to charge the costs it has reasonably incurred to satisfy those requirements or to exclude the works in relation which the information is insufficient or cannot be used.

Article 48-H

Derogation for online music rights required for use in radio and television programs

The requirements of this chapter do not apply to collective management organizations which grant, in accordance with European competition rules, a general multi-territorial license of online rights in musical works, which is ancillary to the license for the initial broadcast of the radio program or television, to transmit or make available to the public radio or television programs from the same operator, simultaneously with or after the first broadcast, as well as any online material, namely previews, produced by or for broadcasting organisations.

CHAPTER V

Inspection and applicable sanctions

SECTION I

Oversight

Article 49.º

Scope of inspection

1 - The supervision of the provisions of this law is the responsibility of the IGAC.

2-Without prejudice to civil and criminal liability, collective management organizations incur administrative liability for infractions committed in the exercise of their functions, in violation of the provisions of this law.

3 - In the exercise of its supervisory function, the IGAC may request the intervention of the Inspectorate-General for Finance and the Tax and Customs Authority, whenever there is a need to investigate matters related to evidence of infractions of a financial nature or specific matters whose supervision and intervention powers are incumbent upon the said organizations.

4 - The IGAC is the competent organization to receive and evaluate questions submitted by members, right holders, users, collective management organizations and other interested parties, whenever they consider that there are any activities or circumstances that violate any of the provisions of this law.

Article 50

Scope of guardianship

(Revoked.)

Article 51.

Dismissal of management bodies

1 - The practice by the management bodies of collective management organizations constituted in Portugal of management acts that are seriously harmful to the interests of the organization, of the associates or cooperators and of third parties constitutes grounds for the presentation of a judicial request for the dismissal of the governing bodies.

2 - In the case provided for in the previous number, it is up to the associates or cooperators or the IGAC to inform the competent authorities of all available elements necessary for the filing of the respective lawsuit, which follows the terms of the Code of Civil Procedure.

3 - The judge decides the final, having to appoint a provisional management commission, for a maximum period of one year, in charge of ensuring the day-to-day management of the organization and calling the general meeting to elect the new governing bodies.

Article 52

Extinction of collective management organizations

1 - The IGAC must request the competent authorities to extinguish the collective management organizations constituted in Portugal:

- a) Who violate the law, very seriously or repeatedly;
- b) Whose activity does not coincide with the object provided for in the statutes;
- c) That repeatedly use illicit means to pursue their purpose;
- d) That unduly withhold remuneration due to holders of rights.

2-the provisions of the preceding paragraph are applicable to other organizations that effectively exercise collective management, regardless of their legal nature, authorization, registration or communication.

3 - Without prejudice to any civil, criminal and administrative liability of such organizations and persons who act on their behalf or on behalf of them, the lack of authorization, registration or communication by organizations that effectively exercise collective management also constitutes a cause for extinction.

SECTION II

sanctions

Article 53

infractions

1 - It constitutes an administrative offense punishable by a fine between (euro) 250 and (euro) 2 500 in the case of natural persons and from (euro) 500 to (euro) 15 000 in the case of legal persons, the violation of the provisions of paragraphs 2 and 3 of article 19, in paragraphs 1, 3 and 4 of article 20, in paragraphs 1 to 7 of article 28, in paragraph 5 of article 29, in n. paragraph 2 of article 32, paragraph 1 of article 35, paragraphs 1, 2, 4 and 5 of article 36, paragraph 1 of article 37, paragraphs paragraphs 1 and 2 of article 37-A, paragraph 1 of article 38, paragraph 3 of article 47, paragraphs 1 and 2 of article 48-A, paragraphs paragraphs 1 and 2 of article 48-B, paragraph 1 of article 48-C, paragraphs 2, 5 and 6 of article 48-D and paragraphs 3 and 4 of article 48-F.

2 - It constitutes an administrative offense punishable by a fine between (euro) 600 and (euro) 3 000 in the case of natural persons and from (euro) 1 200 to (euro) 30 000 in the case of legal persons, the violation of the provisions of paragraph no. Article 7(2), Article 8(2), Article 11(1), Article 14(2), Article 22(3) , paragraphs 1 and 3 of article 26, paragraphs 1 to 3 of article 26-A, paragraphs 1 and 2 of article 27, paragraphs 1 to 3 of article 29, paragraphs 1, 2 and 5 of article 30, paragraphs 4 and 5 of article 33, paragraphs 3 to 6 of article 34, paragraphs 2, 4, 5 and 6 of article 35, paragraphs 2, 4 and 6 of article 39, paragraph 1 of article 41 and paragraphs 1 to 3 of article 48. °-E.

3 - Individuals who act on behalf of or on behalf of collective management organizations also incur an offence, with the minimum and maximum limits of fines provided for in the previous numbers being reduced to one third.

4 - Negligence and an attempt are punishable, with the minimum and maximum amounts of fines being reduced by half, in the case of negligence, and the penalty especially reduced, in the case of an attempt.

5 - (Revoked.)

6 - (Revoked.)

Article 53-A

Applicable sanction

1 - The determination of the measure of the fine is made according to the seriousness of the administrative offence, the agent's guilt, his economic situation and the benefits obtained from the practice of the fact.

2 - When determining the applicable sanction, the agent's previous and subsequent conduct and the prevention requirements are also taken into account.

3 - Coercion, falsification, false declarations, simulation or other fraudulent means used by the agent, as well as the existence of acts of concealment or dissimulation tending to hinder the discovery of the infraction, are also acceptable.

Article 54.º

accessory sanctions

1 - Depending on the seriousness of the infraction and the fault of the agent, the following accessory sanctions may be applied to collective management organizations, simultaneously with the fine and under the terms provided for in the general regime of administrative offences:

- a) Loss of objects belonging to the agent;
- b) Prohibition of carrying out the activity;
- c) Cancellation or suspension of registration;
- d) Closure of establishment.

2 - The accessory sanctions referred to in paragraphs b) to d) of the previous number have a maximum duration of two years, counting from the final conviction.

Article 55

Instruction of processes and application of fines and accessory sanctions

IGAC is responsible for instructing administrative offense proceedings, with the decision on the application of the fine and accessory sanctions being up to the general inspector of cultural activities.

Article 56.º

Proceeds from fines

The product of the fines reverts to:

- a) 40% for the IGAC;
- b) 60% for the State.

CHAPTER VI

Complementary, transitional and final provisions

Article 57.º

annual report on transparency

(Revoked.)

Article 58.º

Dematerialization of procedures

1 - All requests, communications and notifications, or, in general, any declarations between interested parties and the competent authorities in the procedures provided for in this law must be made by electronic means through the electronic one-stop-shop for the services referred to in article 6 92/2010 of 26 July, accessible through the Citizen's Portal.

2 - The provisions of the previous number do not apply to administrative offense procedures and to collective or individual procedures for setting tariffs.

3 - When, for reasons of unavailability of electronic platforms, it is not possible to comply with the provisions of paragraph 1, the transmission of the information in question is carried out by email to an address created specifically for this purpose by the IGAC, published on the respective website on the Internet and on the existing computer platform for processing the procedure.

4 - Whenever the use of electronic mail is not technically possible, the transmission of information may be carried out by delivery to the IGAC, by any dematerialized electronic means, or by any other legally admissible means.

5 - The provisions of paragraph 1 of article 7 of Decree-Law no. 92/2010 of 26 July are also applicable to the procedures referred to in this article.

6 - Whenever a document or information that must support one of the requests, communications, notifications or declarations referred to in paragraph 1 is already in the possession of any national administrative organization, its delivery may be replaced by express indication of the its identification and location, and IGAC is responsible for obtaining it unofficially through the Public Administration Interoperability Platform.

7 - The one-stop shop provided for in this article complies with the provisions of Law No. 36/2011 of 21 June.

Article 59.º

administrative cooperation

The competent authorities, under the terms of this law, provide and request information from the competent authorities of other Member States, namely through IMI and based on duly substantiated requests, on relevant issues associated with the collective management activity carried out by established organizations or for qualified under the terms of this law, under the terms of Chapter VI of Decree-Law No. 92/2010 of 26 July.

Article 60

Transitional Provisions

1 - In situations where the competent administrative authority in terms of the matter of a Member State or the European Economic Area does not yet participate in the administrative cooperation mechanism, through IMI, it is incumbent upon IGAC to verify the veracity of the information provided with the respective administrative authority competent.

2 - Collective management organizations incorporated in Portugal must:

a) Proceed with the adaptation of its statutes within six months after the entry into force of this law;

b) Ensuring the implementation and entry into operation of the procedures necessary to comply with the provisions of paragraphs 2 to 4 of article 37, within a period of one year from the date of entry into force of this law.

3 - The joint licensing desks provided for in article 37 must be effectively implemented within a maximum period of one year after the entry into force of this law.

4 - At the end of the period provided for in the previous number without the joint licensing desks having been effectively implemented, the IGAC adopts, within 30 days, the measures provided for in paragraph 4 of article 37.

5 - Until the entry into force of the diploma provided for in paragraph 4 of article 44, the provisions of the voluntary arbitration law shall apply in proceedings before the commission of experts, with the following specificities:

a) Submission to the committee of experts is done by notifying the counterparty of the appointment of an expert, together with the proposal of the party appointing him;

b) Within 20 days of receiving the notification of appointment and proposal, the counterparty appoints its expert and attaches its proposal;

c) The proposals together with the appointment of experts may be different from those previously submitted.

6 - Collective management organizations that, on the date of entry into force of this law, apply general tariffs that have been set by agreement concluded with organizations representing a significant number of users may proceed with the respective deposit with the IGAC under the terms of article 41st

7 - Collective management organizations which, on the date of publication of this law, apply general tariffs, deposited at the IGAC under legal terms, and which have not been established by agreement or whose agreement has not been entered into with organizations representing a significant number of users, must, within a maximum period of 30 days from the entry into force of this law, initiate negotiations under the terms of articles 38 and following.

8 - Without prejudice to the previous number, the organizations representing the users may initiate negotiations, under the terms of articles 38 and following.

9 - During the negotiations referred to in paragraphs 7 and 8 and, in the absence of agreement, during the course of the procedure before the commission of experts, the general tariffs referred to in paragraph 7 will remain in force.

Article 61.

Regulation

The Government regulates this law within 30 days from the date of its entry into force.

Article 62.

revocatory norm

Law n.º 83/2001, of 3 August, is revoked .

Article 63

Implementation

This law enters into force 30 days after the date of its publication.

ATTACHMENT

(referred to in Article 26-A)

annual report on transparency

1 - Information to be provided in the annual report on transparency referred to in paragraph 3 of article 26-A:

- a) Financial statements that include a balance sheet or a statement of assets and liabilities, an income and expense account for the year and a statement of cash flows;
- b) Report on the activities of the year;
- c) Information on refusals to grant a license, under the terms of article 27(1)(e);
- d) Description of the legal and governance structure of the collective management organization;
- e) Information on organizations owned or controlled, directly or indirectly, in whole or in part, by the collective management organization;
- f) Information on the total amount of remuneration paid to the persons referred to in article 22, in the previous year and on other benefits granted to these persons;
- g) The financial information referred to in the following number;

h) Special report on the use of amounts deducted for the purposes of social, cultural and educational services, containing the information referred to in paragraph 3 of this annex.

2 - Financial information to be provided in the annual report on transparency:

a) Financial information on rights revenue by category of rights managed and by type of use (e.g. broadcast, online use and public performance), in particular information on income from investment of rights revenue and usage such earnings (distributed to rightholders or distributed to other collective management organizations, or otherwise used);

b) Financial information on the cost of managing rights and other services provided by the collective management organization to rightholders, with a comprehensive description of at least the following elements:

i) All operational and financial costs, with a breakdown by category of rights managed and, if the costs are indirect and cannot be attributed to one or more categories of rights, an explanation of the method used to allocate these indirect costs;

ii) Operating and financial costs, broken down by category of rights managed and, where the costs are indirect and cannot be allocated to one or more categories of rights, an explanation of the method used to allocate these indirect costs, only as regards rights management, including management fees deducted or offset against rights income or any income resulting from the investment of rights income, pursuant to paragraph 2 of article 33 and paragraphs 1 to 4 of article 30;

iii) Operational and financial costs in respect of services other than rights management, but including social, cultural and educational services;

iv) Resources used to cover costs;

v) Deductions made from rights revenue, with a breakdown by category of rights managed and by type of use and the purpose of the deduction, such as costs related to the management of rights or social, cultural or educational services;

vi) Percentages that the cost of managing rights and other services provided by the collective management organization to rightholders represent, compared to revenues from rights in the year in question, by category of rights managed and, if the costs are indirect and cannot be allocated to one or more categories of rights, an explanation of the method used to allocate these indirect costs.

c) Financial information on amounts owed to rightholders, with a comprehensive description of at least the following elements:

i) Total amount allocated to right holders, with a breakdown by category of managed rights and type of use;

ii) Total amount paid to rightholders, with a breakdown by category of managed rights and type of use;

iii) Frequency of payments, with a breakdown by rights management category and by type of use;

iv) Total amount charged but not yet allocated to right holders, with a breakdown by category of managed rights and type of use and indication of the financial year in which these amounts were charged;

v) Total amount allocated but not yet distributed to rightholders, with a breakdown by category of managed rights and type of use and indication of the financial year in which these amounts were charged;

vi) Reasons for the delay in distribution and payments, if the collective management organization has not made them within the period established in paragraphs 4 and 5 of article 33;

vii) Total non-distributable amounts, accompanied by an explanation of their use.

d) Information on relationships with other collective management organizations, with a description of at least the following elements:

i) Amounts received from other collective management organizations and amounts paid to other collective management organizations, with a breakdown by category of rights, by type of use and by organization;

ii) Management commissions and other deductions from revenue from rights owed to other collective management organizations, with a breakdown by category of rights, by type of use and by organization;

iii) Management fees and other deductions from amounts paid by other collective management organizations, with a breakdown by category of rights and by organization;

iv) Amounts distributed directly to holders of rights from other collective management organizations, broken down by category of rights and by organization;

3 - Information on the social and cultural function, namely:

a) Use of the amounts deducted for the purposes of social, cultural and educational services during the financial year, with a breakdown by type of purpose and, for each type of purpose, with a breakdown by category of rights managed and by type of use;

b) Explanation of the use of the amounts, with a breakdown by type of purpose, including the costs of managing the amounts deducted to finance social, cultural and educational services and the respective amounts used for social, cultural and educational services.