

EBU

OPERATING EUROVISION AND EURORADIO

EU COPYRIGHT REFORM

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DSM COPYRIGHT DIRECTIVE

*The transposition of the European
Copyright reform into national laws*

*Overview of the contract law
provisions (Articles 18 to 23)*



ADOPTION

Directive (EU) 2019/790 of 17 April 2019

Publication on 17 May 2019

Entry into force on 6 June 2019



IMPLEMENTATION

June 2019 – June 2021

Deadline to transpose the Directive into
Member States' national law expires on
7 June 2021



REVIEW

Review and report after 7 June 2026

Impact assessment of Article 17 by
7 June 2024

ARTICLES 18 TO 23

- › NEW RULES TO ENSURE 'FAIR' REMUNERATION TO AUTHORS AND PERFORMERS FOR THE EXPLOITATION OF THEIR WORKS

ARTICLE 18


- › Principle of '*appropriate and proportionate*' remuneration
- › Flexibility in the national implementation allowing Member States to use different mechanisms to transpose this principle



1. **'FAIR' REMUNERATION IS A NOTION ALREADY PART OF THE CJEU CASE LAW**
2. **CONTRACTUAL FREEDOM REMAINS INTACT**
3. **LUMP-SUM PAYMENT ARE ACCEPTABLE (BUT SHOULD NOT BE THE RULE)**


ARTICLE 19

- › Transparency obligation
- › Assessment of the economic value of the exploitation of a work
- › Obligation to provide relevant and comprehensive information on the exploitation of authors' works and performances covering all sources of revenues

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- 1. CLARIFICATION NEEDED ON THE TYPE OF REVENUES COVERED AND THE METHOD OF CALCULATION**
 - 2. HIGH NUMBER OF CONTRACTS: NECESSITY TO FIND SECTOR-SPECIFIC SOLUTIONS**
 - 3. PROPORTIONALITY**
 - 4. EXCLUSION OF CONTRACTS WITH AUTHORS/PERFORMERS REPRESENTED BY COLLECTING SOCIETIES OR WHEN CONTRIBUTION IS INSIGNIFICANT**

ARTICLE 20

- › Contract adjustment mechanism
- › Claim for additional remuneration, if the initially agreed payment is disproportionately low

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- 1. APPLICABLE TO LONG-TERM CONTRACTS ONLY**
 - 2. COMPARISON BETWEEN ORIGINAL REMUNERATION AND ANY UNANTICIPATED (SUBSEQUENT) REVENUES**
 - 3. 'FAIR' REMUNERATION**
 - 4. EXCLUSION OF CONTRACTS WITH AUTHORS/PERFORMERS REPRESENTED BY COLLECTING SOCIETIES OR WHEN CONTRIBUTION IS INSIGNIFICANT**

ARTICLE 21

- › Voluntary alternative dispute resolution procedure
- › Claim for additional remuneration, if the initially agreed payment is disproportionately low
- › Cover disputes related to:
 - Transparency obligation (Article 19)
 - Contract adjustment mechanism (Article 20)



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- 4. EXCLUSION OF CONTRACTS WITH AUTHORS/PERFORMERS REPRESENTED BY COLLECTING SOCIETIES OR WHEN CONTRIBUTION IS INSIGNIFICANT**

ARTICLE 22

- › Right of revocation
- › Exclusive contract
- › Lack of exploitation of the rights licensed
- › Reasonable period of time to invoke this right



- 1. SECTOR SPECIFIC APPROACH:
LONG DURATION TO STRUCTURE,
FINANCE AND PRODUCE
AUDIOVISUAL PROJECTS**
- 2. TAKE INTO ACCOUNT THE
IMPORTANCE OF EACH
INDIVIDUAL CONTRIBUTION OF
THE Rightholders concerned**

ARTICLE 23

- › Common provisions
- › Mandatory nature of Articles 19, 20 and 21



- 1. PARTIES CANNOT OVERRIDE THESE ARTICLES BY CONTRACT**
- 2. CHOICE OF APPLICABLE LAW MUST NOT PREJUDICE THE APPLICATION OF THESE ARTICLES**

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