



TRANSPOSITION OF DIRECTIVES ON COPYRIGHT AND RELATED RIGHTS

Decree-Laws no. 46/2023 and no. 47/2023, of 19 June 2023

Decree-Laws 46/2023 and 47/2023 of 19 June 2023 transpose Directives (EU) 2019/789 and 2019/790 regulating the exercise of copyright and related rights applicable to certain online transmissions of broadcasters and retransmissions of television and radio programs and in the digital single market.

DECREE-LAW NO. 46/2023

Transposes Directive (EU) 2019/789.

Defines the regime applicable to so-called ancillary online services, complementary to broadcasting services of works and other subject-matter protected by copyright and related rights, and to services for their

retransmission by means other than cable and microwave systems.

IN CONCLUSION,

There is an extension of the "*country of origin principle*" to facilitate the licensing of rights to programmes that broadcasters offer on their online platforms.

As a result, broadcasters will only need to obtain an authorization from the rights holders of the works and other material contained in those programmes for the EU country of their main establishment.

Authorization is required from the holders of copyright and related rights, in the exercise of

their exclusive right of communication to the public, for acts of retransmission of television and radio programs;

The mandatory transfer of their exclusive right to grant or refuse authorization to a collective management entity;

The right of rightholders to adequate remuneration for the retransmission of their works and other protected subject-matter;

New modalities of commercial use of these works and services, as a result of technological developments and the offer of new services in the audiovisual market, in particular through the so-called direct injection of signal carrying television program services.

In this context, rules are created regarding the use of works and other subject-matter protected by direct injection, i.e., the act of transmission of program-carrying signals by a broadcaster to a non-broadcaster in such a way that the program-carrying signals are not accessible to the public during such transmission. In this context, where the direct injection procedure is used, the broadcaster and the signal distributor are deemed to participate in a single act of communication to the public, for which they must obtain the authorization of the rightholders separately, and the liability between the two categories of users is not joint and several.

It entered into force on June 20, 2023.

DECREE-LAW NO. 47/2023

TRANSPOSES DIRECTIVE (EU) 2019/790.

It introduces significant changes to the Code of Copyright and Related Rights (Decree-Law no. 63/85, of March 14), namely by creating a new

related right, in the legal sphere of press publishers and specifically for the digital world, regarding the use of their online publications by information society service providers.

IN CONCLUSION,

Print publishers established in a Member State of the European Union have the exclusive right to make or authorize any reproduction, communication or making available to the public in such a way as to make them accessible to any person from the place and at the time chosen by that person.

Authors of works incorporated into a press publication in the digital world are now entitled to an appropriate share of the revenues that the same press publishers receive from the use of their publications by information society service providers, and infringement of the new related right constitutes a crime of usurpation or counterfeiting, depending on the specifics of the case.

Strengthens the protection of authors and performers in the context of contracts concluded by them for the licensing or transfer for the exploitation of their works or performances, through the principle of adequate and proportionate remuneration.

Finally, with a view to strengthening information duties, a section on the use of the work and online content sharing service providers is created, including a set of information duties towards rightholders, including the obligation to provide adequate information on the functioning of their practices and on the use of content covered by any licensing agreements.

Also, within the scope of information duties, providers of content sharing services should set up and make available a fast and effective complaint and redress mechanism accessible to all users of their services.

It is also provided for the possibility of authorization for the creation of a new arbitration center or the extension of competences of an existing arbitration center for mediation and institutionalized arbitration in matters of copyright and related rights. In this way, it seeks to unify the competences provided for in the Directive, the competences for alternative dispute resolution provided for in the Code of Copyright and Related Rights

and, also, the competences hitherto attributed to the Committee of Experts, provided for in Law no. 26/2015, of April 14, in its current wording.

It entered into force on July 4, 2023.

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