# Answers to the Questionnaire from the Greek Group

## I. INITIAL OWNERSHIP [SESSION 2]

*Answers provided by **Galatea Kapellakou**, PhD, Attorney at Law, Adj. Lecturer at the University of Patras and at the University of Piraeus & **Krystallenia Kolotourou**, PhD, Attorney at Law*

**A. To whom does your country's law vest initial ownership? (Please indicate all that apply.)**

**1 — The author (human creator) of the work**

a. Does your country's law define who is an author?

b. For joint works (works on which more than one creator has collaborated), does your law define joint authorship? What is the scope of each co-author's ownership? (may joint authors exploit separately, or only under common accord)?

**a.** The initial owner of the moral right and economic right in a work is the author, namely the person who has actually created the work. The Hellenic Copyright legislation is based on the principle that only the natural person who creates the work is the author, following the paradigm of *droit d'auteur* legislations. The legal person cannot be considered as author.

However, in the case of the anonymous or pseudonymous works, Article 11 of the Hellenic Law 2121/1993 provides that "Any person who lawfully makes available to the public anonymous or pseudonymous works is deemed as the initial holder of the economic and moral right towards third parties. When the true author of the work reveals his identity, he acquires the above-mentioned rights in the condition they are in as a result of the actions of the fictitious right holder". In this case, a derogation is introduced and it is foreseen that a different person (natural or legal person) than the actual author can be considered as the initial owner of the moral and economic rights. The *ratio legis* of this provision is that otherwise the anonymous and/or pseudonymous works would have remained unprotected.

**b.** Article 7 Hellenic Law 2121/1993 foresees provisions regarding works of joint authorship, collective and composite works.

Joint authorship – Pursuant to Article 7 par.1 Law 2121/1993, "joint authorship" is understood as "any work which is the result of the direct collaboration of two or more authors". The initial

rightholders in a joint work are the co-authors of that work. Unless otherwise agreed, the rights shall be shared equally by the co-authors.

As Professor Kallinikou explains "Collaboration, within the meaning of this provision, is the joint effort of two or more natural persons for the creation of a single work, i.e., musical dramatic works such as opera, scientific works written by two or three authors, computer programs compiled by more than one person in the context of a working group. Collaborating persons do not include persons who provide the author with some ideas or have an ancillary contribution or helped in the creation of the work only by their financial contribution. A necessary condition for a work of joint authorship is the unity of effort of all collaborating authors, whose personal contribution is directed to the creation of an entity. The individual contributions of the various authors in the final entity sometimes can be distinguished in the work as a whole, e.g., music from lyrics in musical-lyrical works, and other times cannot, in which case the work cannot be separately exploited, e.g., a scientific article published in a journal under the names of two authors who jointly collaborated for the entire work without distinguishing who wrote what". [D. Kallinikou *in* Lia I. Athanassiou, Christos Chrissanthis, Dionysia Kallinikou, 'Greece', (2018), pp.1-211 in Hendrik Vanhees (ed.), IEL Intellectual Property, (Kluwer Law International BV, Netherlands) (in English)]

Collective work – Pursuant to Article 7 par. 2 Law 2121/1993, "collective work" is understood as any work created through the independent contribution of several authors acting under the intellectual direction and coordination of one natural person. The natural person is the initial rightholder of the collective work. Each author of a contribution is the initial right holder of the economic right and the moral right in his own contribution, provided that that contribution is capable of separate exploitation. Collective works differ from joint works in that, in the case of collective works there is a person responsible for the intellectual direction, initiative, and coordination of the authors while in the case of joint works, all authors work together to create a single work. [D. Kallinikou *in* Lia I. Athanassiou, Christos Chrissanthis, Dionysia Kallinikou, 'Greece', (2018), pp.1-211 in Hendrik Vanhees (ed.), IEL Intellectual Property, (Kluwer Law International BV, Netherlands) (in English)]

Composite work - Pursuant to Article 7 par. 3 Law 2121/1993, "composite work is understood as "a work which is composed of parts created separately". The authors of all the parts are the initial co-rightholders of the rights in the composite work, and each author is the exclusive initial holder of the rights of the part of the composite work that he/she has created, provided that that part is capable of separate exploitation. A composite work is made up by joining more than one work, e.g., a musical composition accompanying a poem recited by an artist.

## 2 — Employers

a. Under what conditions, e.g., formal employment agreement, in writing and signed? Creation of the work within the scope of employment?

According to Article 8 Hellenic Law 2121/1993, where a work is created by an employee in the execution of an employment contract, the initial holder of the economic and moral rights in the work shall be the author of the work. Unless provided otherwise by contract, only such economic rights as are necessary for the fulfilment of the purpose of the contract shall be transferred exclusively to the employer. This provision is inspired from the purpose transfer theory. Necessary condition is that the creation of the work takes place in execution of the employment agreement (not just in the framework of the employment) and that the creation of the work is the object of the employment agreement.

In general, an employment agreement is not invalid if it is not concluded in writing. However, exceptions are provided in certain cases, such as the employment agreement in the public sector. It is to be noted that, according to the Code of Individual Labor Law, the employer is obligated to inform employees of the essential terms of the employment agreement or type of employment relationship (Article 70 et seq.). The obligation of information is different from the employment agreement.

From the perspective of Copyright Law, since the assignment of rights is expressly foreseen in the Law —regardless of whether the relevant clause is included in the employment agreement— the written form is required only if the parties wish to agree on terms that differ from those provided by law.

With respect to the public sector or legal entity of public law, Article 8 Hellenic Law 2121/1993 provides that the economic right on works created by employees under any work relation of the public sector or a legal entity of public law in execution of their duties is *ipso jure* transferred to the employer, unless provided otherwise by contract.

Pursuant to Article 40 Hellenic Law 2121/1993, it is provided that the economic right in a computer program created by an employee in the execution of the employment contract or following instructions given by his/her employer shall be transferred *ipso jure* to the employer, unless otherwise provided by contract. This provision is in accordance with Article 2 par. 3 of the Directive 2009/24/EC on the legal protection of computer programs.

## 3 — Commissioning parties

a. All commissioned works, or limited to certain categories?

b. Under what conditions, e.g., commissioning agreement, in writing and signed by both parties?

**a & b**. Based on the above-mentioned principle that only the natural person who creates the work is the author, even in the case of commissioning parties, the natural person who creates the work is the author, while the commissioner can be a secondary rightholder, in the sense that the relevant economic right is transferred to him/her. There is no transfer *ipso jure* provided in the case of commissioning and any transfer of economic rights requires the prior written consent of the author who actually created the work.

The above apply to all commissioned works.

**4 — The person or entity who takes the initiative of the work's creation (e.g. Producers; publishers) of certain kinds of works, e.g., audiovisual works; collective works** a. scope of ownership of, e.g. all rights, or rights only as to certain exploitations; what rights do contributors to such works retain?

Audiovisual works are collective works in the sense of Article 7 par. 2 Hellenic Law 2121/1993, as mentioned above. The principal director of an audiovisual work is presumed as its author, in accordance with Article 9 Hellenic Law 2121/1993. This presumption is legal and rebuttable. The principal director has the economic right.

Article 34 par. 2 Law 2121/1993 provides that other persons are considered as authors of audiovisual contributions. These persons are the author of the screenplay, the author of the dialogue, the composer of music, the director of photography, the stage designer, the costume designer, the sound engineer, and the monteur. According to the Hellenic legislation the producer of audiovisual work is not recognized or presumed as author. The economic right is transferred to the producer by the director and the other authors of audiovisual contributions.

Specifically, Article 34 par. 2 Hellenic Law 2121/1993 provides that "The contract between the producer of an audiovisual work and the creators of individual contributions incorporated in the work shall specify the economic rights which are transferred to the producer. If the aforementioned provision is not met, the contract between the producer and the authors of individual contributions, other than the composers of music and writers of lyrics, shall be deemed to transfer to the producer those powers under the economic right which are necessary for the exploitation of the audiovisual work, pursuant to the purpose of the contract. Where the contributions to an audiovisual work are capable of separate use, the economic right in relation to other uses shall remain with their authors".

**5 — Other instances of initial ownership vested in a person or entity other than the actual human creator?** (Other than 6, below.)

Please see above the case for anonymous or pseudonymous works, under 1 (a).

Article 10 of the Hellenic Law 2121/1993 provides that "1. The person whose name appears on a copy of a work in the manner usually employed to indicate authorship, shall be presumed to be the author of that work. The same shall apply when the name that appears is a pseudonym, provided that the pseudonym leaves no doubt as to the person's identity.

2. In the case of collective works, computer programs or audiovisual works, the natural or legal person whose name or title appears on a copy of the work in the manner usually employed to indicate the right holder shall be presumed to be the right holder of the copyright in the particular work.

3. Paragraph 1 of this article shall apply mutatis mutandis to the holders of rights related to copyright with regard to their protected subject matter, as well as to database makers for their *sui generis* right. (article 5, item b', of Directive 2004/48).

4. The presumption referred to in paragraphs (1) and (2), above, may be rebutted by evidence to the contrary".

**6 — If your country's law recognizes copyright in AI-generated works, who is vested with original ownership?** (e.g., the person providing the prompts to request an output? The creator of the LLM model and/or training data? someone else?)

[b. For presumptions of transfers, see II (transfers of ownership, below)]

The Hellenic Copyright Law does not recognise copyright in AI-generated works.

**B. Private international law consequences**

**1 — To what country's law do your country's courts (or legislature) look to determine initial ownership**: Country of origin? Country with the greatest connections to the work and the author(s)? Country(ies) for which protection is claimed?

Article 67 of the Hellenic Law 2121/1993 regarding Applicable Law provides as follows:

1. Copyright in a published work shall be governed by the legislation of the State in which the work is first made lawfully accessible to the public. Copyright in an unpublished work shall be governed by the legislation of the State in which the author is a national.

2. Related rights shall be governed by the legislation of the State in which the performance is realized, or in which the sound or visual or sound and visual recording is produced, or in which the radio or television broadcast is transmitted or in which the printed publication is effected.

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3. In all cases, the determination of the subject, object, content, duration and limitations of the right shall be governed by the legislation applicable pursuant to paragraphs (1) and (2), above, with the exception of any exploitation license arrangement. The protection of a right shall be subject to the legislation of the State in which the protection is sought.

4. Paragraphs (1), (2) and (3), above, shall apply except where they run contrary to any international convention ratified by Greece. In the case of States not conjoint with Greece through the ratification of an international convention, paragraphs (1), (2) and (3), above, shall be applicable as regards the protection of copyright or of any particular object of copyright or of any particular related right, provided that the legislation of the relevant state offers adequate copyright protection to works first made accessible to the public in Greece and to related rights stemming from acts effected in Greece.

According to the above-mentioned paragraph, the applicable law is determined based on the provisions foreseen in international conventions ratified by Greece. If there is no relevant international convention regulating the applicable law (as is the case with the determination of the subject of the right), then the aforementioned paragraphs 1–3 apply. Even in this case, it is required that the law deemed applicable is that of a country that offers copyright protection equivalent to the protection granted by Greece to works made available to the public for the first time in Greece.

Given, as mentioned above, that the Berne Convention does not include a specific provision to determine the author, the national legislator remains free to determine which law governs the question of who (natural or legal person) qualifies as the original author or co-authors of the work. Therefore, in accordance with the provisions of Article 67, paragraphs 1 and 3, the author of the work shall be determined based on the law of the country of first publication of the work (or the nationality of the author if the work is unpublished).

For instance, in the case of an architectural work that was first published in France, the First Instance Court of Athens in order to determine who is the author of the work, held that French law is applicable. (decision 276/2001) [D. Sarafianos *in* L. Kotsiris-E. Stamatoudi, Law on Copyright (Athens-Thessaloniki 2009 (in Greek)].

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## II. TRANSFERS OF OWNERSHIP [SESSION 3]

*Answers provided by **Anna Despotidou**, Assist. Professor Aristotle University of Thessaloniki*

### A. Inalienability

#### 1 — Moral rights

**a. Can these be granted to the grantee of economic rights? To a society for the collective management of authors' rights?**

According to Greek Copyright Law (L. 2121/1993), as amended by Law 4996/2022 , the moral right is one of the two components of copyright, as a unity/"total", and safeguards the personal bond between the author and his/her work. The special characteristics of the moral "component" of copyright are to be found equally in each one of the five (5) specific moral "powers", that derive from the former and are provided for (indicatively) in Article 4. In this context, the terms "rights" and "powers" should be perceived as being legally synonymous and will be used interchangeably, whereas the Greek legislator has chosen to make this differentiation for reasons of "elegance", i.e. in order to avoid useless repetition and/or confusion.

Furthermore, Greek Copyright Law declares moral rights as being non-transferable inter vivos. More precisely, according to Art. 12 par. 1 (a)"the moral right shall not be transferable between living persons". After the death of the author, however, this right, as well as the powers/rights that derive form it (i.e. the right of publication, the right of paternity, the right of integrity e.tc.), as already mentioned, shall pass to his/her heirs, who shall exercise it/them in compliance with the author's wishes, provided that such wishes have been explicitly expressed [par 1 (b)]. If no relevant wishes have been actually expressed, then the heirs should exercise the moral right/-s of the deceased author pursuant to his/her implied wishes, taking into account his/her overall personality as well as his/her preferences regarding the use and exploitation of his/her work(s), his/her intellectual and personal interests e.tc.

Therefore, moral rights, with no exception, cannot be granted to the grantee of the economic rights, nor to a society to which the author has (probably) entrusted the management and protection of his/her economic rights. Moreover, as explicitly stipulated (Article 4 par. 3 L. 2121/1993), the moral right is (legally) independent of the economic right, in the sense that it remains in the possession of the author even after the transfer of his/her economic right (in whole or in part).

**b. May the author contractually waive moral rights?**

Due to their non-transferability, moral rights cannot be contractually waived, in whole or in part. Clauses to the contrary would be null and void. However, the exercise of moral rights can be restricted, for the purpose of the exploitation of the work, within the limits of the relevant contract. For example, in the context of a publishing contract the author's moral right of integrity is usually restricted (or "partially waived") so that the purposes of the certain exploitation, i.e. reproduction and distribution, be fulfilled. In other words, the author is "obliged" to accept (i.e. to consents to) certain (minor) modifications or alterations in relation to his/her work, that are deemed to be necessary for its (successful) exploitation, whereas the "core" of the moral right always remains with the author. The legal basis of these contractual restrictions is to be found in Article 16 of L 2121/1993, according to which "The consent of the author for actions or omissions which otherwise would constitute an infringement of his/her moral right, shall be deemed as a way of exercising this right and shall be binding for him/her". Consent, in this particular case, is a quasi-legal act on the part of the author, which has to be declared in writing and is binding for him/her, in the sense that it cannot be withdrawn. In addition, the consent under discussion does not aim at a particular legal result, since its legal consequences are defined by the law and, as already mentioned, lead to "legalising" (i.e.: repealing or erasing) the otherwise illegal character of an act or an omission of a third party.

## 2 — Economic rights

### a. May economic rights be assigned (as opposed to licensed)? May an author contractually waive economic rights?

According to Greek Copyright Law, economic rights or "powers" derive from the economic component of copyright (i.e. from the economic right, as a whole) and are provided for in Article 3 of L. 2121/1993 in an indicative way. Due to their purely "economic"/property nature they are perceived and regulated as being "transferable" between living persons/inter vivos or mortis causa (Article 12 par. 1). Pursuant to the leading opinion, this means that the economic right of the author can be transferred/assigned in whole or in part through contracts, in the sense that the author is alienated from the transferred right or rights and the new proprietor of the respective right or rights becomes the sole owner of it/them. Moreover, economic rights may be licensed, but it is worth mentioning that Greek Copyright Law makes a further distinction between exploitation contracts, on the one hand, and exploitation licenses, on the other (Article 13 par. 1 & 2). Both of them aim to the exploitation of the work, without implicating the transfer of any economic right/-s, and can be concluded on an exclusive or non-exclusive basis, but: the counterparty (of the author) in an exploitation contract undertakes the obligation to exercise the economic right/-s entrusted to him/her by the author, whereas the licensee is only authorised/ permitted to exercise them.

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In theory, due their nature as "property" and "freely" transferable rights, economic rights may be contractually waived. As it will also be mentioned below, all contracts concerning the transfer or/and the exercise of one or more economic rights, including the so-called exploitation contracts and exploitation licenses, must be concluded in writing (Article 14).

Finally, copyright as a whole (i.e. as a "unity" comprised by the economic and the moral right) cannot be transferred during the life of the author. It can, however, after the author's death.

**b. Limitations on transfers of particular economic rights, e.g., new forms of exploitation unknown at the time of the conclusion of the contract.**

Greek Copyright Law (L. 2121/1993, as of today) contains a number of limitations in regards to transfers of economic rights, that restrict the contractual freedom of the author, in order to protect him/her towards his/her -presumably more powerful- counterparty. Most notably, according to Article 13 par. 5 (a), the copyright contract or license may in no case include all of the author's future works. By this provision, the legislator aims to protect the author in advance from excessive commitments and similar occurrences that may have the negative result of restricting or discontinuing his/her creative activity and freedom in the future. In addition, according to the subsequent provision (Article 13 par. 5 (b)), the copyright contract or license shall never be deemed to refer to forms or methods of exploitation which were unknown at the time of its conclusion. This regulation prevents excluding the author from unknown uses of his/her works, that may occur in the future and whose economic significance he/she cannot predict and/or evaluate at the time of the conclusion of the relevant contract (or license), due the rapid progress of technology (especially digital) that has a crucial impact on the exploitation of copyright – protected works. Furthermore, another limitation is provided for in Article 13 par. 6, according to which the rights of the person, who undertakes the obligation to exploit the work or who is given the permission to do so (i.e. on the basis of a "license") may not be transferred between living persons without the author's prior consent. In other words, the copyright holder, who has been assigned with one or more economic rights by the author, may not reassign these rights to a third person without the author's authorisation, which needs to be in writing. This means that, even after the assignment or transfer of his/her rights the author is entitled to "follow" the exploitation of his/her work.

However, the most significant "limitation" or, more precisely, *rule of interpretation*, that applies to contracts regarding the transfer (or the licensing) of the economic rights of the author, is the so-called *principle of the purpose of the contract* (or, of the transfer), that is to be found in Article 15 par. 4 of L. 2121/1993. According to it, in case the extent and the means of exploitation to which the transfer refers to or for which the contract or the license of exploitation has been agreed, haven't been determined, it shall be deemed that they refer to the extent and the means that are necessary for the achievement of the purpose of the

contract (or the license). In other words, *in case of doubt*, it shall be considered that so much of the economic right has been transferred (or licensed) *as it is required for the purpose of the respective contract to be realised.* The rest of the right "remains" with the author. This fundamental rule, which is nowadays included in -almost- all modern Copyright legislations, is contemplated by two more specific interpretive rules, regarding *the duration* and *the geographical application* of the contract. In this context, Article 15 par. 2 provides that, if the duration of the transfer or of the exploitation contract or license hasn't been determined in the contract or cannot be established by conventional mores, *then it shall be deemed to be limited to five (5) years*. On the other hand, according to par. 3 of the same provision, if the geographical application of the above agreement(s) is unspecified, it shall be deemed that it/they applies/-y only *to the country in which they have been concluded.*

**B. Transfers by operation of law**

**1 — Presumptions of transfer:**

As a general rule, transfers of (economic) rights to third persons (natural or legal) are executed via/through contracts, the content of which must be stipulated precisely, so that there is no doubt as to the type, the extent and/or number of rights that have been transferred. However, in some specific cases, Greek Copyright Law provides for presumptions of transfer. More specifically:

a. to what categories of works do these presumptions apply?

As to the categories of works to which these presumptions apply, we could mention the following:

*(i) Presumptions of transfer regarding works made for hire/by employees* (Article 8 L. 2121/1993)

a) According to Art. 8 par., when a work is created by an employee in the execution of an employment contract (or, in performance of a labor contract) the initial holder of both the economic and the moral right is the author of the work (i.e. the employee). If no adverse agreement exists, the economic rights, *which are necessary for the fulfilment/achievement of the purpose of the contract* are, by law, transferred to the employer.

This statutory regulation constitutes *a solution for the balance between the interests of employers and employees* and concerns exclusively economic/property rights, which, unless otherwise agreed, are transferred to the employer automatically (*only*) to extent determined "by the purpose of the contract". Therefore, the respective transfer, which takes place ipso jure, is restricted *through the application of the theory of the purpose of the contract* and is reserved as long as the employment contract exists.

b) A *variation of the above regulation*, but with a broader content, is included in the provision of par. 2 of the same Article. This applies to works created by employees under any work relationship in the public sector or in a legal entity of public law *in execution of their duties* ("service works") and stipulates that, unless otherwise provided by contract, the economic right on them (as a whole) is transferred by law to the employer. Here, the interpretive rule of the purpose of the transfer of the contract does not apply, whereas the cases in which a contract on the contrary might exist are actually rare.

c) Towards the same direction, Article 40 of L. 2121/1993 concerns *the creation of computer programs by employees*. According to this clause, *the property/economic right on a computer program*, created by an employee during the performance of a labor contract or under the employer's instructions, is *by law transferred to the employer, unless otherwise provided by contract*. As in the case of employees in the public sector, it should be noted that here, *as well, the entire economic right is transferred to the employer* and not only the necessary for the fulfillment of the purpose of the contract rights/powers.

(ii) Similar presumptions apply to audiovisual works and, more specifically, to audiovisual production contracts. More precisely, according to Article 34 par. 2, the contract between the producer of an audiovisual work and the creators of individual contributions incorporated in the work, shall determine the economic rights which are transferred to the producer. If, however, *the aforementioned condition is not met*, the contract between the producer and the authors of individual contributions, other than the music composers and the writers of the lyrics, *shall be deemed to transfer to the producer those economic rights/powers that are necessary for the exploitation* of the audiovisual work, pursuant to the purpose of the contract. As it becomes apparent, this particular rule should be perceived as *a special legislative application of the general rule of the principle of the purpose of the contract* (Article 15 par. 4). In this case, the reason for introducing the above-mentioned presumption is *to simplify the exploitation of the film*, since, obtaining separate licenses from each individual author, involved in its production, would be not only burdensome but also time consuming.

**b. are they rebuttable? What must be shown to prove that the presumption applies (or has been rebutted)?**

As has already been stated above (under a), all the presumptions of transfer (of economic rights) provided for in Greek Copyright Law are *rebuttable*. I each case the presumption applies, unless the parties have agreed otherwise. Therefore, In order to prove that the presumption has been rebutted, the person, who is favored by the fact that this does not apply, needs to prove the existence of a valid written contract, that regulates the transfer of economic rights. More specifically:

As long as *works made for hire are concerned*, it must be shown that the actual employment contract contains a "copyright term", within which the allocation/ "transfer" of economic rights in reference to works thar are to be created by the author in the execution of this contract, is regulated in a clear and definite way. The same holds true for computer programs, that are governed by Article 40, as well as other categories of works, that fall under the general rules of Article 8.

In the case of an audiovisual production contract, the presumption does not apply if the term regarding the transfer of economic rights from the individual creators to the producer of the respective film is clearly stated.

It goes without saying that the economic rights, which are nor specifically transferred (to the author's counterparty) or covered by the presumption, remain with the respective authors; and so do the moral rights, which are not transferable inter vivos. The contracts (and/or terms) that are to be used to refute the presumption must be in writing (Article 14 L. 2121/1993).

**c. Scope of the transfer: all rights? Rights only as to certain forms of exploitation?**

As stated above, the scope of the transfer *varies from case to case*. So, in the case of works that have been created in the execution of an employment contract by *authors who work in the private sector* (Article 8 par. 1) the presumption refers only to certain forms of exploitation, i.e. it covers certain economic rights, and more particularly the ones that are necessary for the fulfilment of the purpose of the particular contract. The same holds true for the presumption of Article 34 par. 4, in relation to the economic rights that are deemed to have been transferred to the producer.

On the contrary, as far as works created by employees under any work relationship in the public sector are concerned, the scope of the presumption is the broadest possible, covering all economic rights or, more precisely, the economic right of the author/employee as a whole/in total (Article 8 par. 2). The rule that applies to computer programs created in the course of an employment contract is *equally strict,* referring to the economic right as a total (Article 40).

**d. Conditions for application of the presumption (e.g. a written audiovisual work production contract; provision for fair remuneration for the rights transferred)?**

If not rebutted, as mentioned above (under b), and more specifically, if the parties of the respective contract *have not already decided on the transfer of the economic rights* of the author, the presumption applies. No special conditions for such an application are provided for in the relevant provisions. However, as far as works created in the context of employment contracts are concerned (computer programs or others), it has been stated that the employee *is not entitled to an extra remuneration* for the transfer of his/her rights, since the regular wage covers the use and exploitation of his/her work by his/her employer. On the contrary, audiovisual

production contracts are governed by the *general remuneration rule*, provided for in Article 32. In this direction, par. 3 of Article 34 (as amended) provides that the authors of individual contributions *reserve the right to separate remuneration for any way of exploitation of the audiovisual work*, in which their own works have been incorporated. In addition, the producer of the audiovisual work is obliged to provide information to the individual authors, in accordance with (the new) Article 15A. Short advertising films are excluded from the rule contained herein*, but not form the one of par. 2*, where the aforementioned presumption is stipulated.

In any case, in order for the presumptions under consideration to apply, the contracts, within which the transfers of economic rights are taking place, must be valid, not only pursuant to the general private law rules, but also pursuant to Art. 14 of L. 2121/1993, that declares them null and void, unless they are concluded in writing. In addition, no rights exist and no presumption applies, unless the "work" is original (i.e *the author's own intellectual creation*) and thus protected by Copyright Law.

**2 — Other transfers by operation of law?**

In this context, we could possibly refer to 2 more cases:

**a.** According to article 7, that regulates the allocation of rights *in the context of works created by more authors*, the term "collective work" shall designate any work created through the independent contribution of several authors acting under the intellectual direction and coordination of one natural person (par. 2). That natural person *shall be the initial right holder of the economic right and the moral right in the collective work* (as a whole). The authors of the contributions shall be the initial right holders of the economic right and the moral right in their own contributions, provided that are susceptible to separate exploitation. In the same context, the term "*work of joint authorship*" shall refer to any work that is the result of the direct collaboration of two or more authors (co-authors). These co-authors *shall be the initial right holders* of the economic as well as the moral right on the above work. Unless otherwise agreed, the rights shall be deemed to belong equally to the co-authors (par. 1).

Finally, the term "composite" work shall designate a work that is composed of different parts, created separately. The authors of all the above "parts" shall be the initial right holders of the rights on the composite work (as a whole), whereas each particular author shall be the holder of the rights on the part of the composite work that he/she has created, provided that this particular part is susceptible to separate exploitation (par. 3).

**b.** According to Art. 11, that regulates the allocation of rights in reference to *anonymous or pseudonymous works*, any person that lawfully makes available to the public such works is considered (by legal fiction) to be the initial holder of the economic as well as the moral right, I

respect to third parties and not in respect to the author. When the true author reveals his/her identity, he/she (by law) acquires the above-mentioned rights *in the condition they are found in* as the result of the actions taken (e.g. the contracts concluded or the restrictions imposed on them e.tc.) by the fictitious right holder (par. 1).

It should be noted, though, that -according to par. 2 of the same provision- the moral right is deemed to belong to the fictitious right holder *only to the extent* that is justified by his/her actual capacity.

All of the above provisions have been enacted *for the purpose of legal safety and clarity*, in order to facilitate the exploitation of the respective types of works and to serve broader cultural needs.

## C. Transfers by contractual agreement

Transfers of rights by contractual agreements is the rule in Greek Copyright Law, whereas the principle of the freedom of contract prevails, with the exception of some particular rules, in the form of *jus cogens*, that aim to protect the interests of the author.

### 1 — Prerequisites imposed by copyright law to the validity of the transfer, e.g., writing, signed, witnessed, recordation of transfer of title?

The only prerequisite imposed by Greek Copyright Law, as to the validity of the transfer, is the written form, provided for in Article 14. In addition to what has already been said above, this significant provision, that serves the interests of the authors, provides them (*and only them*) with *the right to invoke the nullity of any transfer of economic rights*, in case it has not been concluded in writing (i.e., due to the absence of a document). However, if the respective author decides not to do so, the transfer is regarded legally effective and binds both parties, whereas the exercise of the above right must not be abusive (Article 218 of the Greek Civil Code). It goes without saying, that the written contract regarding the transfer of the economic rights of the author should be signed by both parties, either by a handwritten or a qualified electronic signature, that has the equivalent legal effect.

### 2 — Do these formal requirements include an obligation to specify what rights are transferred and the scope of the transfer?

Not really. As has already been implied, the parties are mainly free to determine the content of the contracts they conclude in reference to the transfer of their economic rights. The latter can be transferred to the same or different persons, partially or in a whole, as long as the transfer

refers to individual and separate forms of exploitation. In addition, in case of doubt, the relevant contract should be interpreted in the light of the principle of the purpose of the contract, that favours the author. However, neither the exact rights that are transferred nor the scope of the transfer should be specified in the (written) contract. What has been omitted, on purpose or not, can be "added" by the means of interpretation. Intentional and/or non-intentional gaps may be filled up, within the limits imposed by the general principles of Greek Copyright and Civil Law, with an emphasis on Contract Law, as well as the Constitution. In this context, the rules contained in Articles 12-17, 32 -32A of L. 2121/1993 are of a special importance.

### 3 — Does your country's law permit the transfer of all economic rights by means of a general contractual clause?

As mentioned above, copyright on a certain work as a total as well as moral rights are non-transferable as long as the author is alive. On the other hand, Greek Copyright Law stipulates that the *economic right of the author is feely transferable inter vivos and mortis causa* (Article 12 par. 1), while, according to Article 15 par. 1, the economic right as well as the (economic) rights/"powers" that emanate from it *can be allocated/ divided*, in the meaning that: a) they *can be transferred/assigned to different parties in whole or in part*, e.g. to one party the right of digital reproduction and to another the right of reproduction in print as well as the right of distribution e.tc., and b) their transfer *can be restricted from different aspects*, such as the scope, purpose and duration of the transfer, the geographical application, the extent or/and means of exploitation e.tc. As it becomes apparent, *none of the above relevant provisions explicitly permits* the transfer of all economic rights (*in toto*) by means of a general contractual clause, nor is there a provision where such a transfer is explicitly prohibited. On the contrary, the concept of transferability of economic rights is clearly stated, due to their "very" nature as means of economic exploitation of protected works. So, *in theory*, the transfer of all economic rights by a general contractual clause is permitted, but according to the prevailing view[1] "*it is rather an extreme hypothesis of purely theoretical value*".

More precisely, taking into account that the whole (Greek) copyright contract law is based on the assumption that the author is the weakest party of the contract (in comparison to producers, publishers, broadcasting organizations e.tc.) *and aims to strengthening his/her position*, by -mainly- safeguarding his/her fundamental legal relationship to the "work", we come to the conclusion that the validity of transfers, as the ones under question, should be decided *ad hoc*, considering the special circumstances of each particular case, e.g. the duration and the geographical application of the transfer, the remuneration of the author, the clarity of the relevant clause, the purpose of such a "totalitarian" transfer (which would be extremely difficult

[1] *Kotsiris*, *L.*, Greek Copyright Law, IuS Publication House (Thessaloniki), 2012, p. 145i..f. – 146.

to declare) e.tc. In other words, the transfer of all economic rights via a single contractual clause should be evaluated/examined *in the light of* (not only) the principles governing Greek Copyright Contract Law (but) *as well as of* Articles 178-179 of the Greek Civil Code, which prohibit *unfair contracts* that restrict excessively (=unduly) the party's autonomy and freedom of contract, expression, creativity e.tc. It goes without saying that a transfer of all economic rights (*in toto*), for life (=perpetually), under a trivial remuneration of the author that equals to an "unfair" buy-out, would not easily "pass the (above) test" and should be deemed as not being permissible by the Greek Legal order.

**4 — Does your country's law permit the assignment of all rights in future works?**

As has already been mentioned above (under 2.b), according to Article 13 par. 5 (a) of L. 2121/1993, contracts or licenses, whose subject of economic exploitation is the total of the author's future works, *are specifically prohibited*. This means that contracts or licences, the subject of which is either "specific" future works or works that will be produced within a "specified" period of time, should be permitted. However the question, whether this should also apply in cases, where *an assignment of all (economic) rights in (some) future works* (that are sufficently specified), is taking place, remains open. Greek Copyright Law does not explicitly permit or prohibit such an assignment, but -according to what has already been discussed above- this could be allowed, under certain conditions, taking into account the circumstances of each particular case. More specifically, as long as the relevant assignment refers to *specific future works*, *an appropriate* (*and -preferably- proportionate*) *remuneration* (for the author) has been decided and the overall agreement does not excessively restrict the author's (creative and/or economic) freedom (see, as above: Articles 178-179 of the Greek Civil Code), this assignment should be deemed as being permissible.

In other words, economic rights on future works [*not to all of them*, as restricted by Article 13 par. 5 (a)] can be transferred according to the general provisions of civil law *as pre-assignment of rights on an expected immaterial commodity*, that is adequately specified; whereas -in this case- the legality of the particular contract will depend on the scope of the limitation of the author's freedom (Articles 178-179 of the Greek Civil Code).

**D. Private international law**

**1 — Which law does your country apply to determine the alienability of moral or economic rights and other conditions (e.g. the country of the work's origin? The country with the greatest connections to the work and the author(s)? The country(ies) for which protection is claimed?)**

According to Article 67 par. 1 (in combination with par. 3) of L. 2121/1993 (as it concerns the text of Article 67, see above I B), in order to determine the alienability of moral or economic rights and the relevant conditions, that *basically refer to the right's content*, Greece would likely apply the law of the country in which the work was for the first time made accessible to the public (*country of first publication*). However, as par. 4 of the above provision defines, par. 1 and 3 shall apply *except where they run contrary to any international convention ratified by Greece*. In this context, it is should be noted that article 6 bis (2) of the Berne Convention provides that the moral right (in particular the right of attribution and the right of integrity) shall be exercised by the persons or institutions determined by the law of the country where protection is claimed. Therefore, in relation to this matter, Greece will apply the law of the country where protection is claimed, whereas for the rest (such as the alienability of moral or economic rights e.tc.) the law of the country of first publication shall be applied.

**Answers to the Questionnaire from the Greek Group**

## III. CORRECTIVE MEASURES, SUBSEQUENT TO TRANSFERS OF RIGHTS, ACCORDED TO AUTHORS OR PERFORMERS IN VIEW OF THEIR STATUS AS WEAKER PARTIES [SESSION 4]

*Answers provided by **Sylvia Stavridou**, Assoc. Prof. Democritus University of Thrace*

### 1.a. and 1.b.
### Remuneration Guarantees for Authors and Performers under Greek Copyright Law

Greek Copyright Law (2121/1993), as amended by Law 4996/2022[2] includes a general requirement for authors to receive appropriate and proportionate remuneration when they license or transfer their exclusive rights for the exploitation of their works or performances.
This principle was introduced explicitly in Article 21 of Law 4996/2022, amending the preexisting Article 32 of Copyright Law. Article 32 in its previous version provided for a proportional remuneration, determined obligatorily as a percentage, agreed freely between the parties.

Authors are entitled to receive appropriate and proportionate remuneration for all exploitations of their works or protected subject matters. This applies to any form of exploitation, ensuring that remuneration is not limited to a single use or market. This remuneration can take the form of a percentage of revenues (proportional) or, exceptionally under certain conditions, a flat fee, but the law favors proportional remuneration tied to the actual or potential economic value of the exploitation. The law aims to ensure that remuneration reflects the extent and value of the exploitation, particularly in cases where a lump-sum payment would not be fair or proportionate to the actual use and revenues generated.
This general requirement aims to prevent unfair "buy-out" contracts where authors or performers receive a one-time lump sum that does not reflect the ongoing or full value of the exploitation of their works, especially in digital and online contexts.
The basis for the calculation of the percentage is all, without exception, the gross income or expenses, or the combined gross income and expenses, realized by the activity of the counterparty and derived from the exploitation of the work. Exceptionally, the remuneration may be calculated at a certain amount, the amount of which must be appropriate and proportionate, in the following cases: a) the basis for calculating the percentage of the remuneration is practically impossible to be determined or there is a lack of the means for the monitoring the implementation of the percentage, b) the costs required for the calculation and monitoring are disproportionate to the remuneration to be received, c) the nature or conditions of the exploitation make the application of the percentage impossible, in particular when the author's contribution is not an essential element of the whole of the intellectual creation or when the use of the work has a secondary character in relation to the object of exploitation. The waiver or the contractual limitation of the author's rights provided for in this Article, is void. Invalidity may be only invoked by the author.

[2] Law 4996/2022 transposes EU Directives 2019/789, 2019/790, and 2006/115/EC into Greek law.

**Answers to the Questionnaire from the Greek Group**

The same rights are granted to performers. According to Article 46 paragraph 6 of Copyright Law 2121/93, articles 15A, 15B, 32, 32A, 39 and 39A shall apply mutatis mutandis also to the licenses and exploitation contacts concluded by performers or performing artists (paragraph 6 was added with Article 27 paragraph 2 of the Law 4996/2022).

According to paragraph 2 of article 32, the mandatory agreement of the remuneration on a certain percentage shall apply to all cases, unless there is a more specified provision, and it shall not apply to works created by employees within the context of the execution of an employment contract, to computer programs and to any type of advertisement

Apart from the general rule on "appropriate and proportionate remuneration" for the transfer and exploitation of rights, specific rules regulating the proportional remuneration due to authors are provided in certain cases:

**a) Arrangements concerning the contract of printed publication and translator's rights (article 33 of Copyright Law 2121/93):**

The remuneration that the publisher of a printed publication owes to the author for the reproduction and the distribution of the work or of its copies, is agreed to a certain percentage on the retail selling price of all copies sold. When the printed publication contract concerns a literary work such as a short story, novella, novel, poem, essay, critical essay, theatrical work, travel work, biography, which is published in its original language in book form, excluding pocket books, the remuneration that the publisher owes to the author after the sale of one thousand (1,000) copies cannot be less than 10% of the retail price of all copies sold.

Exceptionally, the author's remuneration may be agreed to a certain amount in the following cases: a) collective works, b) encyclopedias, dictionaries, anthologies of third – party works, c) school books and handbooks, d) scrapbooks, diaries, agendas, practical guides, printed games and educational materials such as maps, atlases, e) prefaces, commentaries, introductions, presentations, f) illustrations and photographic material of printed publications, g) non-literary illustrated children's books, h) luxury editions of a limited number of publications, i) magazines, newspapers. (paragraphs 1 and 2, Article 33).

**b) Audiovisual Production Contracts (article 34 of Copyright Law 2121/93):**

The author reserves the right to separate remuneration for any way of exploitation of the audiovisual work. This remuneration shall be determined in accordance with Article 32.[3] Short advertising films are excluded from the regulation of this paragraph (paragraph 3 of Article 34).

[3] The producer of the audiovisual work is obliged to provide information to the author in accordance with Article 15A.

**c) Radio and television broadcasting and rebroadcasting (article 35 of Copyright Law 2121/93):**

In the case of a repetition of broadcasting by radio or television no further consent of the author is required beyond the initial one, but the broadcaster is obliged to pay additional remuneration to the author which is determined for the first repetition to a percentage of at least fifty per cent (50%) of the amount which was initially agreed and for any subsequent to a percentage of twenty per cent (20%). This provision is applied in the absence of any agreement to the contrary (article 35 paragraph 1).

**d) Theatrical Performance (article 36 of Copyright Law 2121/93):**

According to article 36 paragraph 1 and 2, the rights of playwrights are determined as a percentage of gross receipts (after deduction of the public entertainment tax). The fee is based on the gross receipts for the whole of the program of a performance of original works or translations or adaptations of ancient or more recent classical works. The minimum fee is 22% for performances in state theatre and 10 % for performances in private theatres. For translations of modern works of the contemporary international repertory, the minimum fee is 5 %.

**e) Musical Accompaniment of Films (article 37 of Copyright Law 2121/93):**

The minimum fee payable to the composers of musical and song accompaniment of films, shown to the public in cinema halls or other halls, shall be 1 % of gross receipts (after deduction of the public entertainment tax).

f) **publication of photographs (article 38 of Copyright Law 2121/93):**

Contracts dealing with the publication of a photograph in a newspaper, periodical or other mass media shall refer only to the publication of the photograph in the particular newspaper, periodical or mass media specified in the transfer or exploitation contract or license and to the archiving of the photograph. Every subsequent act of publication shall be subject to payment of a fee equal to half the current fee. This provision is applied in the absence of any agreement to the contrary (article 38 paragraph 1).

**1.c. Contract Reformation Mechanisms in Greek Copyright Law**

Under Article 32A of Copyright Law 2121/93 (added with Law 4996/2022, which transposed EU Directive 2019/790 into Greek law), authors have the right to claim additional appropriate and fair remuneration if the initially agreed remuneration proves to be disproportionately low compared to all the subsequent revenues generated from the exploitation of their works. For the determination of the remuneration, the special circumstances of each case at issue, the author's

contribution, as well as the particularities and the remuneration practices of different fields of content, shall be taken into account.
This mechanism effectively allows for contract reformation or adjustment based on fairness and proportionality of remuneration. The same right is granted to performers according to Article 46 paragraph 6 of Copyright Law 2121/93.
Any waiver or contractual limitation of the rights of the author to claim additional remuneration is void, whereas invalidity may only be invoked by the author himself.
According to article 45 paragraph 3[4] the reformation mechanism does not apply to authors of computer programs. This reformation mechanism does not apply to agreements concluded by collective management organizations, independent management entities and other entities according to Article 2 of the Law 4481/2017[5].

### 1.d. Residual Remuneration Rights in Greek Copyright Law

Greek Copyright Law provides for statutory rights granted by law that remain with authors and performers even after they have transferred or licensed their exclusive rights to producers or other exploiters. These rights are designed to ensure that creators receive fair remuneration for certain uses of their works or performances, especially in cases where contractual agreements might not provide adequate compensation.
Such rights are unwaivable and inalienable, meaning authors and performers cannot contractually give them up or transfer them away. They are typically subject to collective management, ensuring effective enforcement and distribution. Collective management organizations typically administer these rights, collecting remuneration from users/licensees and distributing it to rightsholders.
According to Article 5, the resale right (Droit de Suite), is defined as an inalienable right inter vivos, which cannot be waived, even in advance. Only the management and protection of the resale right may be entrusted to a collective management organization operating for this category of works.
According to article 5A, for public lending the remuneration due, is mandatorily payable to collective management organisations of the rightholders.

[4] "3. Articles 15A, 15B and 32A shall not apply to authors of computer programs within the meaning of par. 3 of article 2 [as added by article 26 of Law 4996/2022 (article 23 par. 2 of Directive (EU) 2019/790)]."
[5] **"**Collective management of copyright and related rights, multi-territorial licensing in musical works for online use in the internal market and other issues falling within the scope of the Ministry of Culture and Sports", Official Government Gazette A΄ 100/20.07.2017.

**Answers to the Questionnaire from the Greek Group**

As for performers, article 46 paragraph 3 provides that, the performer shall always retain the right to remuneration for each of his pecuniary (related) rights, regardless of the form of exploitation of his performance. In particular, the performer shall retain an unwaivable right to equitable remuneration for rental, if he has authorized a producer of sound or visual, or audiovisual recordings, to rent out recordings carrying fixations of his performance.

## 2. Does greek law require that the grantee exploit the work?

Greek copyright law does impose an implicit expectation that the grantee (licensee or transferee) of exploitation rights should actually exploit the work, but it does not explicitly impose a strict legal obligation to exploit within a fixed timeframe. **Article 15 paragraph 2 provides that** if the duration of the transfer or of the exploitation contract or license is unspecified, its duration shall be deemed to be limited to five years, provided conventional mores do not indicate otherwise.
According to article 15 paragraph 5, in all cases involving the transfer of the economic right or the granting of an exclusive exploitation license, the person who acquires the right or the license shall ensure that within a reasonable period of time, the work is accessible to the public via an appropriate form of exploitation. This implies an obligation on the grantee to exploit the work within a reasonable timeframe.

### 2.a. Does greek law impose an obligation of ongoing exploitation? For each mode of exploitation granted?

Greek copyright law does not explicitly impose a strict, continuous obligation of ongoing exploitation for each mode of exploitation granted, but it does establish important related principles and safeguards:
When economic rights are transferred or an exclusive exploitation license is granted, the contract must ensure that the work will be made accessible to the public through an appropriate form of exploitation within a *reasonable period of time*. This implies an expectation that the grantee will actively exploit the work rather than indefinitely withholding it from the market.
The law does not explicitly require continuous or ongoing exploitation for each specific mode of exploitation granted (e.g., reproduction, public communication, distribution). Instead, the focus is on ensuring that exploitation occurs within a reasonable timeframe and according to the terms agreed.
Exploitation must respect the moral rights of the author, which are perpetual and inalienable. This indirectly influences how exploitation can be conducted but does not impose a duty to continuously exploit.
Nevertheless, in civil law, the general principle of good faith defines the formation, interpretation and performance of the contract in general.

**Answers to the Questionnaire from the Greek Group**

**2.b. In greek copyright law what remedies are there if the grantee does not exploit the work?**

In Greek copyright law 2121/93, according to **Article 15B authors and performers have a right of revocation. Article 15 B was** added to Copyright Law 2121/93 with Article 25 of the Law 4996/2022 harmonizing Article 22 of the Directive (EU) 2019/790.
**In cases w**here they had licensed or transferred their economic rights over a work or other protected subject – matter of protection on an exclusive basis for the purpose of exploitation, they have the right a) to revoke either in whole or in part the license or the transfer of rights, or b) to terminate the exclusive character of the contract, where the exploitation of this work or other subject – matter of protection is not taking place. The right of revocation or of termination of the exclusive character of the contract may only be exercised after a reasonable time following the conclusion of the exclusive licence or the transfer of the rights. The author (or performer) shall notify his counterparty and set an appropriate deadline by which the exploitation of the rights referred in the exclusive license or the transfer shall take place. If the work includes the contribution of more than one authors, the exercise of the revocation right from an individual author is excluded, in cases where his contribution is not important, taking into account the total work. The right of revocation is not applicable to film and audiovisual works in general. The right of revocation **does** not apply if the lack of exploitation is mostly due to circumstances that the author or performer can reasonably be expected to remedy. Any contractual provision derogating from the revocation mechanism is valid, only if it is based on an agreement resulting from collective bargaining.

Contracts may include clauses that require the grantee to exploit the work within a certain timeframe or under specific conditions. Failure to comply may trigger contractual penalties or termination rights in favor of the author. If the grantee's failure to exploit the work involves unauthorized use or breaches contractual terms, the author can initiate civil proceedings seeking injunctions, and compensation for damages caused by infringement or non-compliance.

3. **Does greek copyright law impose a transparency obligation on grantees? If yes, what form does such an obligation take (accounting for exploitations, informing authors if the grantee has sub-licensed the work, etc)**

**3.a. Nature and Form of the Transparency Obligation**

In Greek copyright law 2121/93, according to **Article 15A grantees (licensees or transferees) have a transparency obligation. Article 15 A was** added to Copyright Law 2121/93 with Article 22 of the Law 4996/2022 harmonizing the Directive (EU) 2019/790. **Following the transparency obligation** the grantees should provide to the author on a regular basis, and anyway at least once a year, up to date, relevant and sufficient information, taking into account the specificities of each sector, in relation to the exploitation and promotion of its work, and the

revenues generated. This includes details about the types of exploitation, revenues generated, and remuneration paid or due. This transparency facilitates the assessment of whether the agreed remuneration is fair or requires adjustment, in particular as regards the modes of exploitation, all revenues generated and the remuneration due. The information must cover all relevant exploitations and the financial results thereof. It includes accounting for revenues, deductions, and the basis on which remuneration is calculated.

The same obligations bear sub-licensees and other successors to provide additional information, if the first contractual counterpart of the author does not hold or does not provide all the information that would be necessary for the transparency scope. Where that additional information is requested, the first contractual counterpart of the author shall provide information on the identity of those sub-licensees. The author may address any request to the sub – licensees directly or indirectly through his contractual counterpart. The obligation shall be proportionate and effective in ensuring a high level of transparency in every sector. In duly justified cases where the administrative burden resulting from the transparency obligation would become disproportionate in the light of the revenues generated by the exploitation of the work, it is limited to the types and level of information that can reasonably be expected in similar cases.

Any agreement that restricts the transparency obligation is void, whereas invalidity can only be invoked by the author.

The transparency obligation does not apply when the contribution of the author is not significant having regard to the overall work or performance, unless the author demonstrates that he requires the information for the exercise of his right to receive appropriate and proportionate remuneration and requests the information for that purpose.

Additionally, the transparency obligation does not apply in case of informing rightholders in relation to the management of their rights by collective management organizations and independent management entities. In this case Article 25 of the Law 4481/2017 regulating collective management of Copyright is applicable.

**In cases** of works subject to agreements resulting from collective bargaining, the transparency rules of the relevant collective agreement shall be applicable provided that they meet the criteria of Article 15A paragraphs 1-4.

According to article 39A **of Copyright Law 2121/93**, disputes arising from transparency obligations can be resolved through alternative dispute resolution mechanisms[6]. Representative organisations of authors may initiate such procedures following a specific request of one or more

[6] The alternative dispute resolution mechanism is outlined in Article 35 paragraph 9 of Copyright Law.

authors. Any contractual provision excluding recourse to mediation is void, whereas invalidity may only be invoked by the author himself.

**3.b. In greek copyright law what remedies are available if the grantee does not give effect to transparency requirements?**

The author or performer may initiate civil proceedings seeking injunctions to compel the grantee to provide the required information and accounting. Courts can order the grantee to comply with transparency obligations and may award damages for losses caused by non-compliance.
Greek Copyright law encourages the use of mediation and other ADR mechanisms to resolve disputes related to transparency and remuneration. The law invalidates contractual clauses that exclude mediation if invoked by the author, facilitating dispute resolution without lengthy litigation.
Greek copyright law does not explicitly list detailed sanctions or penalties specifically for failure to provide transparency reports by grantees (licensees or transferees).

**4. Does your law give authors or performers the right unilaterally (without judicial intervention) to terminate their grants under following circumstances:**
**i. After the lapse of a particular number of years?**

Under Article 15(2) of Copyright Law 2121/1993, if the contract transferring or licensing economic rights does not specify its duration, it is deemed as limited to a maximum duration of five years. After that period the rights automatically revert to the author or performer without the need for unilateral termination or judicial intervention.

**ii. In response to the grantee's failure to fulfil certain obligations, under what conditions?**

In Greek copyright law 2121/93, according to **Article 15B authors and performers have a right of revocation (see above 2.b.). A**uthors or performers have the right to revoke, in whole or in part, an exclusive license or transfer if the grantee fails to exploit the work as agreed or within a reasonable time. This revocation right excludes cinematographic and audiovisual works.

**iii. Termination as an Exercise of the Moral Right of "Repentance" (Right of Rescission)**

Greek copyright law explicitly provides authors of literary or scientific works with a moral right of repentance. This moral right allows the author to unilaterally rescind a contract transferring economic rights or granting exploitation licenses, if the author considers such action necessary to protect their personality due to changes in beliefs or circumstances ("repentance"). In any case

the rescission takes effect after payment of material damages to the contracting party for pecuniary loss caused by the rescission.

## IV - STREAMING, TRANSFER OR RIGHTS, AND THE MANAGEMENT OF LARGE CATALOGUES [SESSION 5]

*Answers provided by **Evangelia Vagena**, lawyer, Ph.D, Adj. Lecturer at Athens University of Economics and Business*

### 1 — Applicable statutory right

**a. What specific statutory right applies to licensing the streaming of works and performances?**

It would be useful to start by clarifying what is meant by streaming, whether as a general concept or as defined by each responding country. In general, streaming refers to the real-time transmission of audio or video content over the internet without the need to fully download the file beforehand. This can take the form of on-demand streaming (accessed when requested by a user) or live streaming (such as webcasts). On-demand streaming is usually considered an act of making content available, whereas live streaming is often regarded as communication to the public. Greek national law does not specifically mention streaming as a distinct concept—since it is primarily a technological method—but it regulates the relevant rights in accordance with EU law.

**i. Is it the right of communication to the public modelled after Article 8 of the WCT for authors, and the right of making available modelled after Articles 10 and 14 of the WPPT for performers and phonogram producers?**

**ii. Another right or a combination of rights?**

In Greek copyright law, the specific statutory right that applies to licensing the streaming of works and performances is primarily the right of communication to the public for authors, modelled after Article 8 of the WIPO Copyright Treaty (WCT), and the right of making available to the public for performers and phonogram producers, modelled after Articles 10 and 14 of the WIPO Performances and Phonograms Treaty (WPPT). This framework is reflected in Greek Law 2121/1993, as amended, which incorporates these international treaty standards.

**Answers to the Questionnaire from the Greek Group**

This right includes making works available to the public in such a way that members of the public may access them from a place and at a time individually chosen by them, which directly covers streaming activities.

More specifically:

Ar. 3 par. 1 (h) of law 2121/1993, as in force, specifically provides that the "*The economic rights shall confer upon the authors notably the right to authorize or prohibit: […] "h) the communication to the public of their works, by wire or wireless means or by any other means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them. These rights shall not be exhausted by any act of communication to the public as set out in this provision"*

Ar. 46 par. 2 of law 2121/1993, as in force, specifically provides that the *"Performers or performing artists have the right to authorise or prohibit: […] f) the communication to the public of their live performance, which takes place by any means, except from broadcasting, g) the making available to the public, by wire or wireless means, in such a way that anyone may have access to the recording to a recording medium of their performance, from a place and at a time individually chosen by them."*

Ar. 47 par. 2 of law 2121/1993, as in force, specifically provides that

*"***2.** *Producers of audiovisual works (producers of sound or sound and image recording media) have the right to authorize or prohibit: […] f) the broadcasting or rebroadcasting by any means, including the satellite transmission or the retransmission of the above – mentioned recording media in accordance with paragraphs 4 and 5 of Article 35, as well as their communication to the public ".*

Article 48 of law 2121/1993, as in force, specifically provides that "***1.****Broadcasting organisations have the right to authorise or prohibit: […]b) the communication to the public of their broadcasts, […]d) the direct or indirect, temporary or permanent reproduction by any means and form, either in whole or in part, in respect of the material integration of their broadcasts which are transmitted by wire or wireless means, including the cable or satellite transmission [..]".*

**b. For authors, does this right cover both musical and audiovisual works? For performers, does this right cover both performances fixed in phonograms and audiovisual fixations?**

Yes, it does. Greek law distinguishes authors' rights and performers' related rights but grants both groups a communication to the public right that applies to the relevant works or performances

they created or fixed. This right includes streaming and making available online, covering both musical and audio visual categories for authors and both phonogram and audio visual fixations for performers.

**2 – Transfer of rights**

**a. Are there any regulations in your country's law that limit the scope of a transfer or license to the forms of use already known at the time of the transfer or license?**

Greek copyright law does include regulations that limit the scope of a transfer or license of rights to the forms of use known at the time of the contract. Specifically:

- Limitation to Known Forms of Use:

Greek law follows the principle that a transfer or license of copyright economic rights is limited to the forms of exploitation explicitly agreed upon in the contract. Contracts cannot validly extend to cover future or unknown forms of use that were not contemplated at the time of the agreement. This means that if a new form of use arises after the contract is concluded, the right to exploit the work in that new way is not automatically included in the original license or transfer unless expressly provided[39].

- Written Agreement and Scope:

Transfers or licenses must be in writing and clearly define the scope, purpose, duration, and means of exploitation. Absent clear terms, the scope is interpreted narrowly, protecting the author from unintended or overly broad assignments of rights

**b. If there are such regulations, when the statutory right referred to in section 1 was introduced into your law, was it considered a new form of use to which the limitation in subsection 2a. above applies?**

The right of communication to the public was introduced in Greek law with the enactment of Law 2121/1993, aligning national law with international treaties such as the WIPO Copyright Treaty (WCT).

This right was indeed considered a new form of exploitation at the time of its introduction, reflecting technological advances like digital networks and internet transmission that were not previously covered under traditional rights such as public performance or broadcasting.

Consequently, licenses or transfers concluded before the introduction of the communication to the public right do not automatically cover this new right unless explicitly extended or renegotiated. The limitation to known forms of use applies here, meaning that the introduction of the communication to the public right created a new category of use that required separate licensing.

**c. Are there any cases in your country's law when the statutory right referred to in section 1 is presumed to have been transferred to the producer of a phonogram or audiovisual fixation?**

In Greek copyright law, there is no automatic or statutory presumption that the right of communication to the public is transferred to the producer of a phonogram or audiovisual fixation merely by virtue of producing or fixing the performance or work. The right of communication to the public generally remains with the author or performer unless explicitly transferred or licensed. Such transfer requires a clear, written contractual agreement. Producers hold related rights over fixations but do not automatically acquire authors' communication rights without explicit transfer.

3 — Remuneration

a. Are authors/performers entitled to remuneration for licensing the streaming of their works/performances?

Yes, they are. Greek copyright law recognizes and enforces the right of authors and performers to receive remuneration for licensing the streaming of their works and performances, with collective management organizations playing a central role in administering these rights.

**b. Do authors and/or performers retain a residual right to remuneration for streaming even after licensing or transferring the statutory right referred to in section 1?**

Although Greece has implemented the CDSM Directive and emphasizes "adequate and proportionate" remuneration for authors (Law 2121/1993 as amended), explicit statutory residual remuneration rights specifically for streaming are not yet fully codified or litigated as in some other EU countries.

**Answers to the Questionnaire from the Greek Group**

**4 — Collective management**

**a. In your country's law, is collective management prescribed or available for managing the right referred to in section 1? If so, what form of collective management is prescribed (e.g. mandatory or extended)?**

In Greek copyright law, collective management of the right of communication to the public and the making available right is available but the scope and form depend on the specific right and category of rights holders.
Just to note, the management of the equitable remuneration right of performers and producers for acts of communication to the public and for broadcasting is subject to mandatory collective management (a.49 of law 2121/1993).

**b. If authors and/or performers retain a residual right to remuneration (ss 3 b.), is collective management prescribed for managing this residual right to remuneration? If so, what form of collective management is prescribed (e.g. mandatory or extended)?**

For all licences of performers, it is specifically provided that It is possible to entrust the management and protection of those rights to collective management organisations as defined in Article 12 of the Law 4481/2017 (ar. 46 par. 5 of law 2121/1993). For authors the same applies by default.

**5 — Transparency and the management of large catalogues**

**a. Does your law (or, in the absence of statutory regulations, industry-wide collective agreements) guarantee that authors and performers regularly receive information on the exploitation of their works and performances from those to whom they have licensed or transferred their rights? If yes, what is the**

**b. guaranteed periodicity and content of such information?**

Article 15A of Law 2121/1993 (as amended) imposes a transparency obligation on licensees and transferees of rights to provide authors and performers with relevant information about the exploitation and promotion of their works or performances, as well as the revenues and remuneration derived therefrom, as follows: "*The natural or legal person to whom the author had licenses or transferred his rights or the lawful successors of this person are obliged to provide to the author on a regular basis, and anyway at least once a year, up to date, relevant and sufficient information, taking into account the specificities of each sector, in relation to the*

*exploitation and promotion of its work, in particular as regards the modes of exploitation, all revenues generated and the remuneration due."*
There are also statutory transparency obligations in the collective management legislation (law 4481/2017) according to which collective management organizations (CMOs) in Greece also implement transparency practices as part of their licensing and remuneration distribution processes. CMOs provide regular statements and detailed reports to their members about the use of their works and the royalties collected.

**b. Are you aware of any case law where the complex chains of copyright titles, typical of large streaming catalogues, have made the management of works or performances non-transparent or otherwise challenging, such as, for example, the case of Eight Mile Style, LLC v. Spotify U.S. Inc. (https://casetext.com/case/eight-mile-style-llc-v-spotify-us-inc-1)?**

Greek copyright law has not yet produced case law directly analogous to Eight Mile Style v. Spotify.