

REGULATION ON THE REGISTRATION OF THE INTELLECTUAL AND ARTISTIC WORKS

PART ONE

Objective, Extent, Basis and Definitions

Objective

ARTICLE 1 – (1) The aim of this Regulation is to determine the procedures and basis about the registration of the works and production with a view not to violate the mentioned rights of the economic and moral right holders taking no account of the purpose to establish any rights on the productions which include intellectual and artistic works, to facilitate proving in the determination of the ownership of the rights and to pursue the utilization authorities regarding the economic rights.

Extent

ARTICLE 2- (1) This Regulation includes the registration of the productions which contain intellectual and artistic works.

Basis

ARTICLE 3 – (1) This Regulation is arranged within the framework of article 13 of the Intellectual and Artistic Works Law No. 5846 and dated 5/12/1951 and articles 7 and 15 of the Evaluation, Classification and Supporting of the Motion Pictures Law No. 5224 and dated 14/7/2004.

Definitions

ARTICLE 4 – (1) The definitions in this Regulation refer to the following:

- a) Related Right Holder: Neighboring right holders and film producers who performs the first fixing of the films on condition that the spiritual and financial rights of the author are not harmed,
- b) Ministry: The Ministry of Culture and Tourism,
- c) Work: All sorts of intellectual and artistic productions which are considered as the works of science, literature, music, fine arts or cinema which have the speciality of its owner.
- ç) the Author of the work: The people who create the work, who process and assign the work according to the second paragraph of the Article 18 of the Intellectual and Artistic Works Law No. 5846 and the inheritors arranged in the first and second paragraphs of the Article 19 of the Law,
- d) Phonogram: Physical environment where the sounds in a performance or other sounds or sound performances fixed. The sound fixations of audiovisual works like cinematographic works are excluded,
- e) Directorate General: General Directorate of Copyright
- f) ISRC and ISWC codes: International standard record code which provides the determination of the musical works and is given by the International Federation of the Phonographic Industry (IFPI) and International Confederation of Societies of Authors and Composers (CISAC),
- g) Law: Intellectual and Artistic Works Law No. 5846,
- ğ) Registration: The process which is carried out by the Ministry in accordance with the procedure arranged with this Regulation and with the purpose of not violating the financial and spiritual rights on the work and of pursuing the utilization authorities regarding the economic rights, and which provides facility in proving the determination of the ownerships of rights,
- h) Registration certificate: The certificate concerning the registration which will be delivered to the applicant,
- ı) Economic Right Holder: The natural and legal persons having the authority to exercise their rights on the work to process, copy, publication, representation and transmission to public through devices which are used for transferring sound and image,
- i) Collecting Society: Societies which are subject to the supervision of the Ministry in terms of administrative and financial aspects and which have the purpose of providing the collection of payments and distribution of them to right holders, the administration and pursuit of rights and protecting the common interests of its members that result from the intellectual and artistic works,
- j) Special sign: The sign which defines the date of publicity and the name or title of the author during the representation of the works and productions to the public,

k) Cinematographic work: Like all sorts of films which are of understandable, scientific or technical nature or which fix the daily events; or cinema films, series of silent or sound moving images which are related to each other and which can be displayed through electronic and mechanic devices without taking account of the material they are fixed on,

l) Motion picture: Films which are created by the language and methods special to the art of cinema and which are of documentary, fiction, animation and etc. style, which have or don't have any subject, which are long and short films and which consist of silent and sound moving images related to each other that can be displayed with electronic and mechanic devices without taking account of the material they are fixed,

m) Producer: Phonogram producers who fix the performance and other sounds for the first time and the film producers who make the first fixation of films,

n) **(Amended by: OG-6/7/2021-31533)** Certificate of Producer: The certificate that film and phonogram producers must obtain pursuant to Article 5 of the Regulation published in the Official Gazette dated 18/4/2005 and numbered 25790 on the Principles and Procedures Regarding the Certification of Businesses which Record, Reproduce and Sell or Distribute Materials Where Intellectual and Artistic Works are Fixed.

PART TWO

Principles of Registration

Obligatory Registration

ARTICLE 5 – (Amended by: OG-28/10/2008-27038) (1) The film producers who make the first fixation of films in cinematographic and musical works and the phonogram producers who carry out the first fixation of the sounds, fulfill the registration of their productions which contain cinema and musical works having the purpose of avoiding their rights to be violated, providing facility in proving the determination of the ownership of rights and pursuing the utilization authorities regarding the economic rights. In addition, computer games such as film productions featuring cinematographic works, as they contain a series of related moving images with sound within the framework of a be fictionalized mise-en-scene or scenario, are registered by the right holders in order to determine the rights owned and facilitating proof of rightholdership.

(2) In groups of works subject to obligatory registration, right holders make the registration of their productions by submitting the documents/materials listed below to the Ministry together with the application file that has been examined by the relevant field collecting societies:

- a) **(Amended by: OG-6/7/2021-31533)** Statement for Producer's Certificate number
- b) The affirmative covenant in Annex-1 of this Regulation concerning that in cases which indicates the ownership of rights and unless otherwise stated, any penal and legal liabilities are taken,
- c) Contract or license agreement regarding the transfer of economic rights,
- ç) The document indicating the result of the evaluation and classification which were carried out in accordance with the provisions of the Regulation on the Principles regarding the Evaluation and Classification of the Motion Pictures that entered into force by being published in the Official Gazette No. 25731 and dated 18/2/2005 for the productions containing cinematographic works,
- d) Film manuscript, dialogue text and original musical notes, if any, for the productions containing cinema works; musical notes and lyrics, if any, for the productions containing musical works,
- e) Poster, if any, for the productions containing cinema works, booklet of the material by which the work is fixed and one samples for each from other advertiser materials, if any, for the productions containing musical works,
- f) One copy of the registered production which is recorded on a digital media (such as DVD, VCD, Audio CD),
- g) Bank receipt indicating that the registration fee is paid.

(3) The applications relating to the productions produced abroad are made together with the documents stated in the subparagraphs (c), (f) and (g) of the second paragraph and bill of entry, certified invoice and customs cashier's receipt. If the people, the first fixation of whose works was performed, do not fulfill the registration of their works in Turkey, the registration procedures of the

importer are fulfilled at the list in the import document and in compliance with the period and numbers stated in the affirmative covenant in the Annex-2 of this Regulation.

(4) Applications requesting registration of computer games;

a) In the field of literary and scientific works, by a collecting society established by Law No. 5846 for the purpose of pursuit and management of copyrights on computer programs, a reference letter arranged in a way to ensure that the signs and phrases are used on the carrier materials which was carried out in accordance with the evaluation and classification principles of the Regulation on the Principles regarding the Evaluation and Classification of the Motion Pictures.

b) It is obligatory to submit a letter of undertaking showing that it does not contain elements contrary to the principles regulated in Article 11 of the Regulation on the Principles regarding the Evaluation and Classification of the Motion Pictures that are public order, general morality, protection of the mental and physical health of minors and young people, compliance with human dignity and other provisions stipulated in the Constitution, conformity of commercial circulation with signs and phrases, and that undertakes all kinds of legal and criminal liability in case of proof to the contrary, together with a statement summarizing all the information pertaining to the game.

(5) The registration is fulfilled upon the complete presentation of the above mentioned documents. At the end of this procedure the certificate of registration is delivered to the applicant. The name of the work, its language, origin, production year, producer's name, producer code, authors, other neighboring right holders, the initials of the group of work and its registration number, registration date, the date and number of other registrations if any, and other information which can be necessary are stated in this document.

(6) Furthermore, in motion pictures the date and number of the evaluation and classification decision, in joint productions information about each joint producer, and in productions containing musical works the names of the works and authors which are included in these productions, and ISRC or ISWC code are stated in the certificate of registration.

(7) Three pieces of the certificate of registration which is arranged in three pieces more than the numbers of the applicants are maintained in the Ministry.

Producer Document, producer code

ARTICLE 6 – (Revoked by: OG-6/7/2021-31533)¹

Optional Registration

ARTICLE 7- (1) The authors of groups of the works other than the ones subjected to the obligatory registration according to the Article 5 of this Regulation can register their works by presenting the below mentioned documents together with the application form, the affirmative covenant in Annex -3 of this Regulation indicating ownership of right on the work or production and indicating that all sorts of legal and penal liabilities are assumed unless otherwise stated, and the bank receipt indicating that the registration fee is paid.

a) The information stated below is presented in computer programs in “text” format to be consisted of “unicode” characters:

1) When the computer programs which do not have trade secrets are concerned, a reproduced copy together with its special sign, if any, in a way that it could be seen without requiring any devices, which bears the determining characteristics of the computer program whether it is publicized or not (the first twenty five and the last twenty five pages of the source code; the complete source code if less than fifty pages),

2) When the computer programs containing trade secrets are concerned, the source code the first and last twenty five pages of which are blocked or the first and last ten pages without being blocked, or the first and last twenty five pages of the target code and any ten or more successive pages of the target code or the complete source code by blocking the trade secrets for the programs shorter than fifty pages,

3) When the rearranged computer programs are concerned, if the amendments are included in the first and last twenty five pages, one of the options arranged in the subparagraph (2), if not; twenty pages of the source code which are not blocked and which include the amendments or fifty pages of the source code which include amendments by some parts being blocked.

¹ This amendment comes into effect on 1/1/2022.

b) The information listed below is given in the “XML” format which is recorded on the digital media:

1) When single file databases (data records relating to a single subject) are concerned, the first and the last twenty five pages; in the case these pages are not delivered, the first and the last twenty five data records,

2) When the multiple file databases (separate and different data record groups) are concerned, fifty data records from each file or from all files based on which database is less; if these are not delivered, fifty pages or all data record,

3) When the rearranged databases (single or multiple file) are concerned, fifty pages or the records indicating the amendments, or if less than fifty pages all the rearranged parts, all parts and crypt explanation for the encrypted databases.

c) In other groups of works, two copies of the registered work which are recorded on digital media (such as DVD, VCD, Audio CD, CD-Rom) are delivered and for the works of fine arts detailed advertiser presentations which are recorded on digital media (such as DVD, VCD, Audio CD, CD-Rom) are delivered.

(2) The registration of the works the applications of which are made by presenting all the documents listed above is fulfilled. At the end of this procedure the certificate of registration is delivered to the applicant.

(3) The name of the work, its language, production and first publicity date, authors of the work, other neighboring right holders, the registration number including the initials of the groups of work, registration date, the date and number of other registrations if any, and other information which can be necessary are stated in this document. Three pieces of the certificate of registration which is arranged in three pieces more than the numbers of the applicants are maintained by the Ministry.

Recording the utilization authorities concerning the financial rights and the transfer authorities

ARTICLE 8- (1) The utilization and transfer authorities concerning the financial rights on the works and productions can be optionally recorded by the Ministry. For this, the application is made with the below mentioned documents attached to the application form.

a) The affirmative covenant in the Annex-4 of this Regulation regarding that any legal and penal liabilities are assumed unless otherwise stated indicating that the utilization and transfer authorities concerning the financial rights are held.

b) A descriptive document such as the identity card of one of the parties if he/she is a natural person or register entry if he/she is a legal person,

c) The list of authorized signatures of the signatories on the document,

d) One sample of the work which is the subject matter of the arrangement or in the computer programs the program summary which is recorded on digital media (such as DVD, VCD, Audio CD, CD Rom),

e) Bank receipt indicating that the registration fee is paid.

(2) When a registered work or a production is concerned, the presentation of a sample regarding this work or production is not obligatory.

(3) Information about the type and content of the document which contains the utilization authorities regarding the financial rights, the date of signature and information about the parties can be found in the application form as well as information indicating whether any registration has been made and the date and content of the registration, if any.

(4) Provided that the required documents are presented accurately, one sample of the documents containing the utilization authorities regarding the financial rights is sealed and recorded as its true copy. A document regarding the procedures which includes information about the parties and registration number is arranged and delivered to the applicant. One piece of this document which is arranged in one more piece than the number of the applicants is kept by the Ministry.

Special signs and codes

ARTICLE 9- (1) During the presentation to public, it is obligatory to have © letter together with a sign indicating the date of publicity or presentation to the mercantile operations and the name or title of the right holder on the carrier materials which contain registered works or productions for the productions containing sound record in accordance with the Law Approving Our Accession to the Rome Convention for the Protection of Performers, Phonogram Producers and Broadcasting

Organizations dated 7/7/1995 and numbered 4116 (p) and for other copies of the works and productions in accordance with the Universal Copyright Convention (UCC).

(2) Besides these signs; it is obligatory to use the International Standard Recording Code (ISRC) given by the International Federation of the Phonographic Industry (IFPI) or the International Standard Musical Work Code (ISWC) given by the International Confederation of Societies of Authors and Composers (CISAC) in the productions containing musical works. All tasks and procedures related to the delivery of the mentioned code are conducted by the organization or union determined by IFPI and CISAC in the country.

Acceptance and maintenance of the works

ARTICLE 10 – (1) The sample of the concerned work apart from the productions containing cinematographic and musical works are accepted as the true copy and through giving a registration number are maintained by a commission consisting of at least three people in a closed and sealed form. The samples belonging to other groups of works are maintained in the same way if demanded. When the seals of the works need to be opened because of an investigation carried out by any disagreement or by the Ministry, the process is performed by the same commission by keeping an official report. After the circumstances of closed maintenance are provided the process is determined by the official report.

Registration fees

ARTICLE 11- (Amended by: OG-08/09/2006-26283) (1) The registration fee is the amount calculated by multiplying the civil servant monthly coefficient and the indicator figures; 1000, for the works specified in the third paragraph of Article 5 of this Regulation, 1250, for phonograms containing three or less works and works subject to optional registration and also 5000, for the phonograms containing more than three works and productions containing cinema works.

PART THREE

Miscellaneous and Final Provisions

In case of losses

ARTICLE 12- (1) In case the documents given under the provisions of this Regulation are lost, the owners of the document apply the Directorate General by way of a petition. The notice of loss in a daily newspaper is attached to the petition. Upon the application, the concerned documents are rearranged and delivered to the owners of the documents by explaining the reason of delivery.

Annulment of the unlawful registration

ARTICLE 13- (Amended by: OG-28/10/2008-27038) (1) Registration certificates issued on the basis of transactions carried out in accordance with the provisions of this Regulation are annulled; in the case that false information was given is determined by the administrative units or the courts, false documents are used is proven, an annulment decision made by the judicial authorities and detected to be duplicate.

Arrangement Authorization

ARTICLE 14- (1) The Ministry is authorized to make all sorts of sub-arrangements in order to provide the implementation of this Regulation.

Former Registration Documents and former Work Operation Documents

PROVISIONAL ARTICLE 1 – (1) The Registration Documents and the Work Operation Documents delivered properly to the right holders before the enforcement of this Regulation maintain their validity.

Former Producer Documents

PROVISIONAL ARTICLE 2 – (1) The certificates of producer which are delivered before the publication of this Regulation are renewed within a year from the publication date of this Regulation.

Validity period of former Producer Documents

PROVISIONAL ARTICLE 3² – (Add by:OG-6/7/2021-31533) (1) Interim and permanent “Producer Documents” received before the effective date of this article are valid for the period specified on them. During this period, the producer code is accepted as the Producer Certificate number.

² This amendment comes into effect on 1/1/2022.

The Regulation repealed

ARTICLE 15 – (1) The Regulation on the Procedures and Basis of Registration published in the Official Gazette dated 14/11/2002 and numbered 24936 are repealed.

Execution

ARTICLE 16 – (1) This Regulation comes into force on the date of its publication.

Implementation

ARTICLE 17- (1) Ministry of Culture and Tourism implements the provisions of this Regulation.

Annex-1

AFFIRMATIVE COVENANT

I pledge that I am the right holder within the framework of the provisions of the Regulation in terms of the work of which registration I apply for in accordance with the Article 5 of the Regulation on the Registration of the Intellectual and Artistic Works and that I assume the legal and penal liabilities unless otherwise stated.

SIGNATURE

Annex-2

**AFFIRMATIVE COVENANT
(Amended by: OG - 08/09/2006-26283)**

I pledge that I am the right holder within the framework of the third paragraph of Article 5 of the Regulation on the Registration of the Intellectual and Artistic Works in terms of the work of which registration I apply for and I import in accordance with the mentioned provisions and that I assume the legal and penal liabilities unless otherwise stated.

SIGNATURE

Annex-3

**AFFIRMATIVE COVENANT
(Amended by: OG - 08/09/2006-26283)**

I pledge that I am the right holder for a period of ... within the framework of the third paragraph of Article 7 of the Regulation on the Registration of the Intellectual and Artistic Works in terms of the works stated in the attached list the registration of which I apply for in accordance with the mentioned provisions and that I assume the legal and penal liabilities unless otherwise stated.

SIGNATURE

AFFIRMATIVE COVENANT

I pledge that I am the right holder within the framework of the provisions of Article 8 of the Regulation on the Registration of the Intellectual and Artistic Works in terms of the work the registry of which I apply for in accordance with the mentioned provisions and that I assume the legal and penal liabilities unless otherwise stated.

SIGNATURE