Bucharest, 29th of January 2006,

No. 138

**DOCUMENTS OF THE ROMANIAN COPYRIGHT OFFICE**

GOVERNMENT OF ROMANIA

ROMANIAN COPYRIGHT OFFICE

**DECISION**

**for the publication in the Official Gazette of Romania, Part I, of the Protocol regarding the communication to the public of artistic performances in the audiovisual field in cinemas and the designation of the collective management body Romanian Center for Performers’ Rights Management (CREDIDAM) as collector of the remunerations owed to holders of related rights for the communication to the public of artistic performances in the audiovisual field in cinemas**

In accordance with the provisions set forth in art. 1312 para. (2) and of art. 133 para. (1) of Law no. 8/1996 on copyright and related rights, with further amendments and supplements, as well as in art. 2 of Decision no. 219/2005 of the General Manager of the Romanian Copyright Office regarding the establishment of certain committees, published in the Official Gazette of Romania, Part I, no. 1.002 of 11th of November 2005,

based on the provisions set forth in art. 2 para. (2) and in art. 6 para. (3) of Government Decision no. 758/2003regarding the organisation and operation of the Romanian Copyright Office and of the Body of Arbitrators,

**the General Manager of the Romanian Copyright Office hereby issues this decision:**

**Art. 1** – The publication in the Official Gazette of Romania, Part I, of the Protocol regarding the public communication of artistic performances in the audiovisual field in cinemas, concluded between the collective management body the Romanian Center for Performers’ Rights Management (CREDIDAM), on the one hand, and the Autonomous Society for Movie Distribution and Commercialisation (RADEF), on the other hand, available in the annex which forms an integral part of this Decision.

**Art. 2** – The appointment of the collective management body the Romanian Center for Performers’ Rights Management (CREDIDAM), having its registered office in Bucharest Municipality, 15-17, Jules Michelet Street, 1st District, as collector of the remunerations owed to the holders of related rights for the public communication of the artistic performances from the audiovisual field in cinemas, as established in the Protocol set forth in art. 1.

**Art. 3. –** This Decision becomes effective on the date of its publication in the Official Gazette of Romania, Part I.

General Manager of the Romanian Copyright Office,

**Rodica Pârvu**

Bucharest, 18th of January 2006.

No. 11.

***ANNEX***

**PROTOCOL**

**regarding the communication to the public of artistic performances**

**in the audiovisual field in cinemas**

In accordance with the provisions set forth in art. 1312 para. (2) of Law no. 8/1996 on copyright and related rights, with further amendments and supplements, as well as of art. 2 of Decision no. 219/2005 of the General Manager of the Romanian Copyright Office regarding the establishment of certain committees, the parties hereby submit this Protocol.

CREDIDAM - Romanian Center for Performers’ Rights Management, having its registered office in Bucharest Municipality, 15-17, Jules Michelet Street, 2nd floor, apart. 11, 1st District, phone/fax 318 58 13, e-mail: office@credidam.ro, account RO23INGB0001000152938958, opened with ING Bank in Bucharest, legally represented by Mr. Ştefan Gheorghiu, as General Manager, and

“România Film” RADEF – “România Film” Autonomous Society for Movie Distribution and Commercialisation, having its registered office in Bucharest Municipality, 27, Henri Coandă Blvd., 1st District, phone 310 44 92, fax 310 44 98, e-mail: romaniafilm1@xnet.ro, account RO35RNCB5010000000910001, opened with B.C.R. – 1st District Branch, Bucharest, legally represented by Mr. Mihail Ţintea, General Manager, and by Mrs. Casandra Iordan, Finance Manager,

agreed as follows through this Protocol:

1. For the direct or indirect use of artistic performances in the audiovisual field, the users of cinematographic works are bound to pay a unique fair remuneration to the collective management body of the rights of performers.
2. The use, within cinemas, of artistic performances in the audiovisual field, previously disclosed to the public and whose related economic rights are within the terms of protection stipulated by the law, can be done only provided the fair remuneration owed in accordance with this protocol was paid to the collective management body of the rights of performers, designated by the Romanian Copyright Office as collector.
3. The users are bound to pay to the collective management body of the rights of performers a remuneration representing related economic rights for the use of artistic performances in the audiovisual field, by the application of a rate according to the table below, to the calculation base provided at point 4:

|  |  |
| --- | --- |
| Years | Cinemas |
| 2006 and subsequent | 1.2% |

1. The calculation base consists of the total monthly gross income, less the VAT and the cinema stamp, obtained by each user.
2. The remuneration will be paid quarterly, until the 26th of the first month following the quarter for which it is owed.
3. The users are bound to transmit to the collective management body of performers, until the 25th of each month, for the previous month, a report which will include the following:
4. the complete list of the artistic performances in the audiovisual field, the duration of use, the name of each videogram used daily, and the producer thereof. These lists constitute the basis for the distribution of the remuneration received by the collective management bodies of the related rights laid down in this protocol.
5. the calculation base of the transferred amounts.

The report will be submitted in electronic format and will be accompanied by a cover letter specifying the name of the legal representative, the user’s signature and stamp, such letter being used for confirming on one’s own responsibility the veracity of the information stipulated in the report.

1. Upon the written request of the collective management bodies, after payments have been made, the user is required to provide them with copies, certified under its own responsibility by its legal representative, of the documents containing the information on the basis of which the calculation basis was determined. A user who has received such a request from the collective management bodies will have a maximum of 15 calendar days to prepare the required documentation. The collective management bodies will have the right to request an external audit to examine the correctness of the calculation of the remuneration, carried out by an auditor agreed by all parties.
2. For payment delays, the users owe penalties for each day of delay in the quantum of the ones due for the debts to the state budget.
3. This protocol becomes effective on the date of its publication in the Official Gazette of Romania, Part I, and can be changed only after 3 years from such date, unless the provisions of Law no. 8/1996 on copyright and related rights, with further amendments and supplements, are changed prior to the anniversary of such deadline, in which case the collective management body or the user can ask for the start of a new negotiation procedure.

CREDIDAM, RADEF “România Film”

General Manager, General Manager,

**Ştefan Gheorghiu Mihail Ţintea**

Lawyer, Economic Manager,

**Mariana Savu Casandra Iordan**

**EDITOR: PARLIAMENT OF ROMANIA – CHAMBER OF DEPUTIES**

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