CREDIDAM®

*The Romanian Center for Performers' Rights Management*
***Personal Data Controller no. 8338***

*Together for 26 years...*
*1996-2022*

# DISTRIBUTION MANUAL

## CREDIDAM

## The Romanian Center for Perfomers' Rights Management Association

## 2022

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*The Romanian Center for Performers Rights' Management Association will be referred to as* ***CREDIDAM.***

## I. Declaring the Repertoire to CREDIDAM

### 1. General Aspects

The protected repertoire will be constituted by the right holder within maximum 30 days as of the performance date, under the penalty of disregard.

The repertoire declaration must be accompanied by contracts attesting the participation in the fixation for each declared artistic performance, as well as by audio/video evidence/links on the Internet, which can be checked for the purpose of being included in the scope of CREDIDAM's activity.

If CREDIDAM members fail to declare their repertoire according to the above, CREDIDAM will be exonerated from any liability towards them, including the non-distribution of due remuneration.

CREDIDAM repertoire is updated on the basis of online or on paper repertoire declarations made and signed in person by the Romanian and foreign performers, on their own responsibility, in accordance with the information received from the users, certified by them under personal signature.

Artistic performances determining the payment of remuneration are:

- artistic direction, not including movie direction, audiovisual works direction, TV shows and video direction;
- directing concerts and musical performances of any kind;
- roles/parts in theatre, opera, pantomime, puppet, dance, variety, circus or entertainment performances or shows, as well as any other way of performing a literary or artistic work;
- main/primary, secondary and serie/episodic roles/parts in the audiovisual/artistic performances from the audiovisual field, except for those not representing a performance of a literary or artistic work;
- literary and/or musical recitals;

- performance of vocal or instrumental scores in musical shows or broadcasts, regardless of their genre, as well as in any other artistic events;
- performance of literary or artistic works, or of choreographic moments, regardless of their genre;
- circus or puppet acts;
- phonograms (music) used in commercials/advertisements/promos and in any other way of use.

## 2. Methods for Declaring the Repertoire

The performers can declare their repertoire to CREDIDAM **in the offline system**, by filling in the repertoire declaration forms available at the association's headquarters or, available on the CREDIDAM webside for download, in the *Rightholders* section.

After filling in the correct form, depending on the fixed artistic performance (the *repertoire declaration guidelines* is available at www.credidam.ro, in the same section), it must be signed and sent to CREDIDAM (in person, by mail/postal services or by e-mail).

The performers may declare their repertoire **in the online system**, through the dedicated virtual space created and made available to them by CREDIDAM (an online private box/account, accesible by username and password).

The procedure for declaring the repertoire in each member's online account can be found, with detailed information, in the dedicated section of the private account.

The general format of the repertoire declaration forms (either offline, or online) is established through ORDA's Decision (ORDA Decision no. 52/2014). The CREDIDAM forms follow wxactly this format (they include all the information requested by ORDA's Decisionin the *Annex no. 5*).

## II. Use of the Repertoire / Distribution Basis / PLAYLISTS

The lists (*playlists*) containing the information on the artistic performances used/broadcasted sent by the users constitute the distribution basis for the remuneration collected by CREDIDAM.

The users (or their intermediaries) are required to communicate the playlists to CREDIDAM in electronic format (.txt, .word, .xls), on CD/DVD or by e-mail.

The playlists received by CREDIDAM are centralized and converted into .xls format.

In order to be entered into the distribution system, they should contain at least the mandatory information (the performer, title, duration in minutes and seconds).

The playlist pattern (the table), the frequency of communication of playlists to CREDIDAM and the communication deadline are provided in the methodologies, on collection sources, which methodologies are published in the Official Gazette of Romania.

The methodologies for each collection source are available on the CREDIDAM website, in the *Users* section.

CREDIDAM may call on specialized companies to monitor radio or TV stations (from Romania and abroad).

## III. Distribution Activity

### 1. General Aspects

CREDIDAM distributes the remuneration to the holders of related rights in accordance with the management mandate received from the right holders, based on the information received from the users (playlists), and depending on the repertoire permanently updated by the right holders *(see the above details).*

The amounts collected by CREDIDAM shall be proportionally distributed and paid to each of the members according to the use of their repertoire, by withholding a financial contribution (a management fee) from the amounts due to them, consisting of percentage deductions on the amounts distributed individually.

The management fee owed by CREDIDAM members and by the right holders who have a direct connection with CREDIDAM is withheld at the time of distribution, it is applied for every managed right and cummulated with the management fee withheld by the collective management organisation, as sole collector, and may not exceed the maximum percentage provided by law.

The amounts distributed to the right holders are subject to taxation in accordance with the relevant legal provisions in the field.

The distribution of the amounts collected by CREDIDAM are usually carried out on semiannual basis, by the 15$^{th}$ of June, and by the 15$^{th}$ of December, respectively, but no later than 9 months after the end of the financial year during which the remuneration was collected, unless such deadlines cannot be met by CREDIDAM for objective reasons which relate in particular to users' reports, to the identification of rights, of the right holders or to the establishment of the correlations between the information

received from the users (playlists), on the one hand, and the repertoire managed by CREDIDAM for the right holders, on the other hand.

In the case of representation contracts, the amounts collected by CREDIDAM are usually distributed on semiannual basis, by the 15th of June, and by the 15th of December, respectively, but no later than 9 months after the end of the financial year during which the remuneration was collected, unless such deadlines cannot be met by CREDIDAM for objective reasons which relate in particular to users' reports, to the identification of rights, of the right holders or to the establishment of the correlations between the information received from the users (playlists), on the one hand, and the repertoire managed by CREDIDAM for the right holders, on the other hand.

As a rule, the amounts collected from the foreign partner collective management organisations are expeditiously distributed, wihin the shortest possible time, depending on the information received from the foreign partner.

CREDIDAM does not retain a management fee for the transfer of the amounts received from similar partner organisations.

## 2. Calculation formula, for each source of collection

### 2.1. The compensatory remuneration for the private copy

CREDIDAM collects the compensatory remuneration for the private copy sums from the designated sole collector, in accordance with the Law.

20% of the sums collected for private copying, shall be constituted for the payment of right-holders (non-members), made within maximum 3 years from the date of application/adherence.

The compensatory remuneration for the private copy due to right-holders, performers, shall be allocated to them in relation to the national **market research** that will be carried out annually by a specialized institution.

The market research determines the proportions (percentages) in which artists' performances are copied in Romania by categories of performance (acting, dance, music, stunt and director, except for film directors, audiovisual works, TV shows and videos), by categories of gender (classical music, light music and folk music) and by categories of origin of artistic performances (Romanian and foreign).

**The value of each phonogram / videogram / artistic performance in the audiovisual field is given by its broadcasting duration, by the amount collected during the distribution period, weighted by the percentages established by the**

**market research, in relation to the total of the information received from the users (playlists) as reported by Radio and TV stations**. The distribution of the amounts to the right-holders, performers, shall be made taking into account the criteria provided for in article 2.3.1. a)-b).

## 2.2. Fair remuneration for public lending, Internet and reproduction

For the **public lending**, the amounts are distributed according to the information provided by the institution which allows the public access to the performances of performers. According to this information, the amounts are distributed to performers whose artistic services appear on the respective lists in relation to the criteria set out in article 2.3.1. a)-b) of this Manual.

For the **Internet**, the amounts are distributed according to the information provided by the user who allows the public access to the performances of performers. According to this information, the amounts are distributed to performers whose artistic services appear on the respective lists in relation to the criteria set out in article 2.3.1. a)-b) of this Manual.

For **reproduction**, the remuneration collected under the special mandate is divided as follows:
a) the 80% percentage will be shared as follows: 50% for the main role/part (if more actors are shown in the cast or in the director's book for the same role/part, the resulting money will be divided equally among the participants), 30% for side role, 10% for episodic role, and 10% for the actor whose image is on DVD/VHS cover and so on, or to the artists participating in the promotion.
b) the 20% percentage for the film music will be shared according to the role played by the respective performers.
If one of the above categories does not exist, the corresponding remuneration shall be proportionally redistributed in the following order: main, secondary, episodic roles, etc.

## 2.3. Fair remuneration for the broadcasting of phonograms / videograms / artistic performances in the audiovisual field and the public communication

2.3.1. Broadcasting

a) The amounts collected by CREDIDAM from each broadcaster are distributed according to the actual usage resulting from the information received from each user (playlists). The value of each phonogram / videogram / audiovisual performance is given by the broadcasting time and by the amount collected for the broadcasting period (the amount received is divided by the total number of seconds of broadcasting, and the result is the value per second, multiplied by the number of seconds for each piece/performance, resulting in the value per piece/performance). The amount calculated for a phonogram / videogram / artistic performance in the audiovisual field is

distributed to all the performers participating in that recording, according to the repertoire statement or to the sheet of attendance.
b) The criteria for determining the score of each participant in a phonogram / videogram / artistic performance in the audiovisual field are:

- **The role/part or function** within the fixation, according to the artist's statement;
- For mandatory collective management sources, **the number of performers participating in the fixation**, as evidenced by their repertoire statements, or in the absence of such information, the number frequently used for that type of artistic performance shall be used;
- The number of participating performers, CREDIDAM members, **who declared their repertoire** according to the Statute.

c) The amounts received from the users who/which broadcast or re-transmit by cable works dubbed by performers will be distributed to the members of CREDIDAM in proportion to the actual use of the repertoire, observing the scoring system (article 2.3.1.a)-b) of this Manual), on the basis of sworn statements under private signature given by the performers.
d) The remuneration collected from a broadcaster from which the information required for distribution can no longer be obtained within the statutory time limit will be distributed only to the performers who have declared the artistic performances broadcasted by the user concerned.

### 2.3.2 The public communication

The remuneration collected from the public communication of phonograms / videograms / artistic performances in the audiovisual field for environmental / for-profit purposes shall be distributed by determining the **value of each phonogram / videogram / artistic performance in the audiovisual field**, given by its broadcasting duration, by the amount received during the period subject to distribution, relative to the total of information received from the users (playlists) reported by the Radio and TV stations. The distribution of the amounts to the right-holders, performers, shall be made taking into account the criteria set out in 2.3.1. a)-b) of this Manual.

The remuneration collected from the public communication of artistic performances in the audiovisual field in **cinemas** shall be distributed according to the information provided by the user and to the amounts received. According to this information, the amounts are distributed to the performers whose artistic performances appear on the respective lists in relation to the criteria set out in article 3.1.1 and article 3.1.2 of this Regulation.

### 2.4. Cable retransmission

The amounts are distributed according to the list of stations retransmitted by the cable providers, according to the distribution system provided for by article 2.3.1. of this

Manual. The list of retransmitted stations is communicated by the cable provider or may be requested by CREDIDAM from the CNA (the National Audiovisual Council).

The remuneration collected from a broadcaster from which the information necessary for distribution can no longer be obtained within the time limit laid down by the law, which is found in the list of stations retransmitted by the cable providers shall be distributed only to the performers who have declared the artistic performances broadcasted by the relevant user.

The rights susceptible to being collectively managed for which the express mandate of the members is required, according to the law, shall be distributed exclusively to the performers who have mandated CREDIDAM to collect the remunerations, in proportion to the direct collections for the use of each performer's performance.

CREDIDAM system of points (for each role/function) is available on www.credidam.ro webpage, at *General Information* section.

## 2.5. Retransmission

2.5.1. The amounts are distributed according to the list of stations retransmitted by the cable providers, according to the distribution system provided for by article 3.1. of this Regulation. The list of retransmitted stations is communicated by the retransmission services providers or may be requested by CREDIDAM from the CNA (the National Audiovisual Council).
2.5.2. The remuneration collected from a broadcaster from which the information necessary for distribution can no longer be obtained within the time limit laid down by the law, which is found in the list of stations retransmitted by the retransmission services providers shall be distributed only to the performers who have declared the artistic performances broadcasted by the relevant user.

## 2.6. Additional annual remuneration

2.6.1. The sums collected by CREDIDAM from each phonogram producer are kept in a distinct analytical account and distributed based on the information communicated by the phonogram producer.
2.6.2. The remunerations collected from the phonogram producers are equally distributed between the performers participating in the initial fixation of the phonograms, as they were indicated by the phonogram producers.

## IV THE UNDISTRIBUTED OR UNCLAIMED AMOUNTS

- The unpaid amounts are the amounts for which, within 3 years from the date of collection, CREDIDAM did not receive from the users the information necessary for their distribution.
- The unclaimed amounts are the amounts distributed of which right-holders have not claimed them for 3 years from the date of the notification, or amounts due to deceased CREDIDAM members whose legal heirs did not claim them for 3 years from the date of their distribution and are registered and kept in distinct analytical accounts.

No later than 90 days after the expiry of the period referred above, the unclaimed amounts shall be distributed both to the members of the management organisation and, in the case of compulsory or extended collectively managed rights, to the members of the beneficiary organisations, in proportion to the remuneration distributed in the year in which they were generated.
By way of exception, between 4th April 2022 – 4th April 2025, the unclaimed amounts follow the regime established in accordance with the applicable legal provisions.

The undistributed amounts shall be used as follows:
a) with the open vote of the majority of the members attending the general assembly, the undistributed amounts shall be included in the amounts intended for the distribution of the rights collected under the rules for the distribution of the private copy.
b) with the open vote of the majority of the members attending the general assembly exercised under the conditions provided for by these Articles of Association, it may be decided to use for shared purposes the undistributed amounts:
- by granting temporary assistance to the members of the association who are in temporary incapacity for work, according to a medical certificate and verified by the Board of Directors,
- by initiating, supporting and developing social, cultural, information and documentation projects or programs about the members of the association or the users of their performances.
- with the open vote of the majority of the members attending the general assembly, it may be decided to support through joint programs and projects with the authorities, according to the rules of the public-private partnership.

## V. Post-distribution Consultation by the CREDIDAM members of the Playlists Communicated by the Users

After each distribution, every member may request to consult the playlists covered by the said distribution, exclusively with regard to their own repertoire, within a maximum 90-day (3 months) period of time.

The consultation of the playlists communicated by the users is carried out only at the CREDIDAM headquarters, by means of the dedicated application, from February to April for the December distribution, from August to October for the June distribution, of the current year, and the information shall not be released either on paper, or by electronic means.

The artistic performances for which right holders' identification and certification of participation in their registration under a personal signature, respectively, is required, shall be checked at CREDIDAM headquarters, and the document signed will be submitted to the front office (secretariat) in order to be registered.

For the artistic performances which require Producer's confirmation regarding the commercial name reported on the playlists by the users, the right holder / representative will note the said names, take the required steps and submit to CREDIDAM the document issued by the Producer (signed and sealed, as appropriate).

For the performers who do not wish to use the previously described facility, in accordance with the provisions of art. 159 paragraph (5) of Law no. 8/1996, as republished, CREDIDAM will make available, within 3 months of the distribution date, to the members the collective management organisations and to the general public all the information regarding the unidentified artistic performances by posting it on its own website (www.credidam.ro).