AEPO ARTIS
ASSOCIATION OF EUROPEAN PERFORMERS ORGANISATIONS

The Chamber of Deputies
Mr Sorin Grindeanu
President
Palatul Parlamentului, Strada Izvor, nr. 2-4, sector 5
Bucuresti
Romania

CC.
Mr Iulian Bulai
Chairperson (Committee for Culture, Arts, Mass Information Means of the Chamber of Deputies)

Mr Mihai-Alexandru Badea
Chairperson (Committee for Legal Matters, Discipline, and Immunities)

Proposed amendment to article 169(3) of the Romanian Copyright Law no.8/1996 (PL 412/2021)

Brussels, 17 November 2021

Dear Mr Sorin Grindeanu,

AEPO-ARTIS is a non-profit making organisation that represents 37 European performers' collective management organisations from 27 different countries, including the Romanian organisation CREDIDAM. The number of performers, from the audio and audiovisual sector, represented by our 37 member organisations can be estimated at between **650,000 and 700,000**.

We have learned that there is a discussion within your Parliament to amend Article 169(3) of the Romanian Copyright Law. The effect of this amendment would be to deprive performers of the opportunity to determine what should be done with non-distributable income and instead transfer this money to a special cultural fund for general cultural purposes. We urge you **not to proceed with such an amendment**.

If this amendment became law, it would be very damaging to Romanian performers and an unfair restriction on their right to decide for themselves how the money they have worked so hard to earn is distributed. In these days when performers have suffered so greatly as a result of the Covid-19 pandemic, this is particularly important.

As you know, Romania has implemented Directive 2014/26/EU on collective management of copyright and related rights (the "CRM directive"). This directive ensures a number of things:

It places **strict obligations** on collective management organisations ("CMOs"). These obligations are there to ensure that there is **proper governance and transparency** concerning the amounts that CMOs collect and distribute on behalf of performers.

It **grants rights** to performers. They have the right to participate and vote at the CMO's general assembly. This gives them the ability to have a say in how the CMO is run, and to decide its policy on how money collected is distributed, subject to the principles of good governance and transparency. In particular, it gives them a say in how non-distributable amounts should be administered.

Article 13(6) of the directive **grants Member States** the opportunity to "limit or determine the permitted uses of non-distributable amounts, inter alia, by ensuring that such amounts are used in a separate and independent way in order to fund social, cultural and educational activities for the benefit of rightholders." This means that a Member State can instruct a CMO to use part of its non-distributables for these general purposes. Also, when distributing non-distributables for the benefit of the rightholders as a community, the general principles of the directive - that the management should be in the hands of the rightholders - must be respected. Article 13(6) does **not allow a Member State to intervene**, take such amounts from performers and their CMOs, and decide how they should be used.

If a Member State did so, it would be contrary to the entire ethos of the directive. If a Member State determines how these non-distributable amounts are used, it deprives performers of their right to have a say in the way the amounts are used and would be an undemocratic approach.

It is logical that CMOs (and the performers that elect the CMO's general assembly) are better placed to decide what the **urgent priorities** are for performers. A Member State, that is not present in the day-to-day life of a performer, cannot possibly have the same understanding of what a performer needs.

We understand there is a proposal that "only" 30% of non-distributable amounts would be used in this way. This is also entirely unacceptable for the same reasons as explained above.

We hope that you will take these comments into consideration and **place your trust in Romanian performers and believe that Romanian performers can make the right decisions**, without outside interference.

Separately we wish to raise concerns regarding a further proposed amendment of which we have been advised, namely to reduce the time that a CMO would have to comply with an order of the Romanian Copyright Office from three months to one month (amendment to article 184(1)).

Such a measure would in fact have **negative consequences for performers** and Romanian cultural life in general. It would in many cases be impossible for a CMO to comply with an order in such a short time which would lead to imperfect solutions being sought, rather than taking a reasonable amount of time to find the right solution.

Finally, we understand that it is proposed to give performers the right to conduct an audit **at the cost of the CMO.** In practice, this would also have negative consequences for Romanian performers as a whole. The cost of conducting the audit can be very high and would have to be deducted from the overall distributions made to all performers. Imposing such costs on a CMO, would be unreasonable, particularly bearing in mind that the they fully comply with the transparency and governance provisions of the CRM directive.

We thank you for your kind attention and are open to discuss this with you in person if you would be open to this.

Yours sincerely,

Ioan KAES
General-Secretary

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