

**Decision no. 8/29.03.2011**

**Approved in General Meeting dated 29.march.2011**

**REGULATION ON THE REPARTITION OF REMUNERATIONS  
COLLECTED BY U.P.F.A.R.-A.R.G.O.A.**

**1. FIELD OF APPLICATION**

This regulation of repartition regulates the distribution of remunerations collected by U.P.F.A.R.-A.R.G.O.A. with title of patrimonial rights for use of audiovisual works/ videograms by cable retransmission, public communication - environmental right, as well as the right to compensatory remuneration for private copy.

**2. EXECUTION**

These rules are applicable to all legal issues for which a provision is provided expressly or implicitly.

If none of these provisions of this regulation can be applied, it is decided by parity of reasoning, observing also the international practice.

**3. THE RIGHTSHOLDERS**

- 3.1 Remunerations shall be distributed to the patrimonial rights holders producers on the audiovisual works/ videograms used.
- 3.2 In the case of the remunerations collected within the patrimonial rights managed collectively on a voluntary basis, the repartition of the remunerations shall be made only to the producers who have granted U.P.F.A.R.-A.R.G.O.A. the collective management mandate, and for the producers for whom the mandate has been granted to UPFAR-ARGOA indirectly, through similar collective management administrations abroad. At the date of passing this regulation, U.P.F.A.R.-A.R.G.O.A. collectively manages optionally the patrimonial rights of the producers for the public communication - environmental rights.
- 3.3 In case that for an audiovisual work/ videogram the data bases of UPFAR-ARGOA don't contain any informations regarding the patrimonial rights holder the individual allocation of the remunerations will be made to the producer of the audiovisual work/ videogram mentioned in any document or public information at which UPFAR-ARGOA has acces, including through the internet.

In this case, at the time when the producer indicates a bank account for payment, will transmit to UPFAR-ARGOA a statement of own responsibility that he is the owner of the patrimonial rights of the audiovisual works/ videograms for which the repartition

allocation was made, otherwise the payment is suspended until the fulfillment of the formalities.

In a situation where the producer is member of another collective management organism, the confirmation of ownership rights for an audiovisual work/ videogram for a producer, can also be realized by that Collective Management Organism.

#### **4. PRINCIPLES OF REPARTITION**

- 4.1 U.P.F.A.R.-A.R.G.O.A. distributes the collected remunerations after this regulation, without canceling the contractual arrangements between the parties concerned.
- 4.2 The remuneration is generally distributed directly proportional to the duration of actual usage of each audiovisual work/videogram, according to the remuneration that belongs to that tv station in accordance with this regulation and with its established rules.
- 4.3 The rightsholder to whom are distributed the remunerations according to this regulation, are free to do the offsets between them, taking into account any possible different contractual arrangements.

#### **5. The remunerations distribution collected from cable retransmission**

5.1 The distribution of the remunerations is made distinctly for each category of rights collected by U.P.F.A.R.-A.R.G.O.A. according to the current methodology, the arbitral awards and the protocols signed with other Collective Management Organisms, by case.

5.2 At the distribution of the remunerations for the cable retransmission of the audiovisual works, according to article 3.2 letter b) from the UPFAR-ARGOA statute, will be taken into account the following principles:

- a) the allocation of the remunerations for each tv station shall be made in relation to its audience. The allocation of the remunerations will be made according to an audience research realized by a third society for at least 20 tv stations.
- b) the distribution of the remunerations allocated to a tv station shall be made in relation to its actual duration of usage of each audiovisual work/videogram, by case.
- c) for the establishing of the actual duration of use of the audiovisual works/ videograms on each tv station, will be taken into account the playlists provided by that tv station or, in the absence of some playlists communicated by the tv station, the monitoring processes made by UPFAR-ARGOA or by a third society.

5.3 Stages of application of the principles of repartition

- a) The allocation of the remunerations/ tv station depending on the audience.

In order to distribute the remunerations, firstly is determined, depending on the audience, the remuneration that shall be distributed on the playlist of each tv station partly, for a number for at least 20 tv stations. To this, of the total remuneration submitted to distribution at some point, each tv station is allocated a remuneration

proportional to the audience that the tv station had in the trimester in which the remuneration was collected.

b) Determining the actual duration of use

For each tv station in part for which the remuneration was allocated according to the audience, is determined the total duration of use of every audiovisual work/ videogram, as the duration of use results from the playlist transmitted by the tv station or, in its absence, by the monitoring process made by U.P.F.A.R.-A.R.G.O.A. or by a third at its demand.

In case that the remuneration submitted to distribution is accordingly for all audiovisual works used, including the ones from the repertory of other management bodies of patrimonial rights of the producers of audiovisual works/ videograms, it will be taken into consideration the duration of use of all audiovisual works/ videograms.

In the situation in which the remuneration submitted to repartition represents only the patrimonial rights of the producers of the audiovisual works/ videograms for which the patrimonial rights are collectively managed by U.P.F.A.R.-A.R.G.O.A., from the total duration of use of the audiovisual works/ videograms on that specific tv station, will be removed the duration of use of the audiovisual works/ videograms managed collectively by other Collective Management Organisms.

Depending on the total duration of use of the audiovisual works/videograms and on the allocated remuneration for the use of them according to the first criteria, is determined the value of the minute of use for the audiovisual works/videograms on that tv station for that trimester.

The determination of the duration of use and also for the adequate remuneration is made according to the playlists received from the users or to the monitoring process made by UPFAR-ARGOA for the trimester in which were collected the remunerations submitted to repartition.

c) The individual distribution of remuneration

Depending on the value of the minut and on the actual duration of use, is determined the gross remuneration which is allocated individual to each audiovisual work/videogram, respectively to the managed patrimonial rightsholders.

The individual repartition of the remunerations is usually made quarterly, in the first following month to the one in which were collected the remunerations submitted to repartition, but not later than six months after the date of collecting them.

Under Article 3.1. letter b) from the U.P.F.A.R.-A.R.G.O.A. statute, the payment of the remunerations is made within maximum six months from the date of collecting the remuneration.

Shall be considered the date of collecting the remuneration the date at which UPFAR-ARGOA actually receives the remunerations from the user, with the condition that it can

be submitted directly to the individual repartition, or it is veered from the account of the unique collector in the administration account of remunerations of UPFAR-ARGOA.

## **6. The repartition of collected remunerations with right to compensatory remuneration for private copy**

6.1 The repartition of the remunerations is made distinctly for each category of rights collected by U.P.F.A.R.-A.R.G.O.A. according to the current methodology, the arbitral awards and the protocols signed with other management collective bodies, by case.

6.2 At the repartition of the compensatory remunerations for private copy, under art. 3.2 letter a) from the UPFAR-ARGOA statute, shall be considered the following principles:

- a) The allocation of the remunerations/ each tv station is made in relation to its audience. The allocation of the remunerations will be made according to an audience research made by a third society for at least 10 tv stations.
- b) The repartition of the remunerations allocated to a tv station is made in relation to the actual duration of use of each audiovisual work/videogram, by case.
- c) For the determination of the actual duration of use of the audiovisual works/videograms for each tv station, will be taken into consideration the playlists transmitted by that tv station or, in the absence of the playlists communicated by the tv station, the monitoring process made by UPFAR-ARGOA or by a third society.

6.3 Stages of application of the repartition principles

- a) The allocation of the remunerations/ tv station according to its audience

In order to distribute the repartitions, firstly is determined, according to its audience the remuneration that will be distributed on the playlist of each tv station in part, for a total at least 20 tv stations. In this sense, from the total remuneration submitted to repartition at some point, it is allocated to each tv station a remuneration proportionally with the audience which that tv station had in the trimester in which the remuneration was collected.

- b) Determining the real duration of use

For each tv station in part for which the remuneration was allocated according to the audience, it is determined the total duration of use of all audiovisual works/ videograms, as the duration of use results from the playlist transmitted by the tv station or, in its absence, by the monitoring process made by UPFAR-ARGOA or by a third at its demand.

In case that the remunerations submitted to repartition is corresponding to all audiovisual works used, including those from the repertoires of other management bodies of the patrimonial rights holders of the producers of audiovisual works/ videograms, it will be taken into account the duration of use of all audiovisual works/ videograms.

In the situation in which the remuneration submitted to repartition represents only the

patrimonial rights of the producers of audiovisual works/ videograms, patrimonial rights which are managed collectively by UPFAR-ARGOA, from the total duration of use of the audiovisual works/videograms on that tv station will be removed the duration of use of the works/ videograms managed collectively by other management collective bodies.

Depending on the total duration of use of the audiovisual works/videograms and on the remuneration allocated for the use of them according to the first criteria, it is determined the value of the minute of use for the audiovisual works/videograms for that tv station, for that trimester.

The determination of the duration of use and also for corresponding remunerations, is made accordingly with the playlists received from the users or with the monitoring processes made for the trimester in which the remunerations submitted for repartition were collected.

c) The individual repartition of the remuneration

Depending on the value of the minute and on the actual duration of use, it is determined the brute remuneration which is allocated individually to each audiovisual work/videogram, respectively to the managed patrimonial rights holders.

The individual repartition of the remunerations is generally made quarterly, in the first month next to the one in which were collected the remunerations submitted to repartition, but no later than 6 months from the date of collection.

According to the article 3.1, b) letter from the UPFAR-ARGOA statute, the payment of the remunerations is made within a maximum of 6 months from the date of collecting the remunerations.

It is considered the date of collecting the remuneration the date at which UPFAR-ARGOA actually collects the remunerations from the user, with the condition to be submitted directly to the individual repartition, or to be transferred from the unique collector's account in the administration account of remunerations of U.P.F.A.R.-A.R.G.O.A.

## **7. The repartition of the remunerations for public communication – environmental right**

7.1 The repartition of the remunerations is made distinctly for each category of rights collected by U.P.F.A.R.-A.R.G.O.A. according to the current methodology, the arbitral awards and the protocols signed with other management collective bodies, by case.

7.2 At the repartition of the remunerations for public communication – environment, according to the article 3.2 d) letter from the UPFAR-ARGOA statute, it will be taken into account the following principles:

a) the allocation of the remunerations for each tv station is made in relation to its audience. The allocation of the remunerations will be made according to an audience research made by a third society for at least 20 tv stations.

b) the repartition of the remunerations allocated to a tv station is made in report to its actual duration of use of every audiovisual work/videogram, by case.

c) to determine the actual duration of use of the audiovisual works/videograms on every tv station, will be taken into consideration the playlists transmitted from that tv station or, in the absence of some playlists communicated by the tv station, the monitoring processes made by UPFAR-ARGOA or by a third society.

### 7.3 Stages of application of the repartition principles

a) The allocation of the remunerations/ tv station depending on the audience

In order to distribute the remunerations, firstly is determined, depending on the audience, the remuneration that will be distributed on the playlist of each tv station in part, for at least 20 tv stations. In this regard, from the total remuneration submitted to repartition at some point, to each tv station is allocated a remuneration proportional to the audience the tv station had in the trimester in which the remuneration was collected.

b) Determining the actual duration of use

For each tv station in part for which the remuneration according to the audience was allocated, shall be determined the total duration of use only for those audiovisual works/videograms that are part from the own managed repertoire based on the mandate (directly or indirectly) by UPFAR-ARGOA, as the duration of use results from the playlist transmitted by the tv station or, in its absence, from the monitoring process made by UPFAR-ARGOA or by a third at its demand.

It is expressly mentioned that the right of public communication of the producers of the audiovisual works is collectively managed on a voluntary basis and that the remunerations are collected and distributed only and only regarding the producer's repertoire who have granted to UPFAR-ARGOA a direct mandate for the collective management of the patrimonial right for public communication or indirectly through reciprocal distribution agreements.

Depending on the total duration of use of the audiovisual works/videograms from the managed repertoire based on the mandate of UPFAR-ARGOA and on the remuneration allocated for the use of them according to the first criteria, it is determined the value of the minute of use of the managed audiovisual works/videograms broadcasted on that tv station for that trimester.

Determining the duration of use and also the corresponding remunerations, will be made according to the playlists received from the users or to the monitoring process made for the trimester in which the remunerations submitted to repartition were collected.

c) The individual repartition of the remuneration

According to the value of the minute and to the actual duration of use, will be determined the gross remuneration which is allocated individually to every audiovisual work/videogram from the managed repertoire on a voluntary basis of UPFAR-ARGOA, respectively to the managed patrimonial rights holder.

The individual repartition of the remunerations is generally made quarterly, in the first month next to the one in which were collected the remunerations submitted to repartition, but no later than 6 months from the date of collecting them.

According to the article 3.1 b) letter from the U.P.F.A.R.-A.R.G.O.A. statute, the payment of the remunerations is made within a maximum of 6 months from the date of collecting the remuneration.

It is considered the date of collecting the remuneration the date at which U.P.F.A.R.-A.R.G.O.A. actually collects the remuneration from the user.

This regulation of distribution of the remunerations applies to all repartitions made by U.P.F.A.R.-A.R.G.O.A. after the date of **01.04.2011**.