



Law of 19 June 2022 transposing Copyright Directive into Belgian law: Collective Agreements



- Possibility already existed for scope & manner of the transfer of rights under a contract of employment/order and the presumption of transfer of rights

 - Now extended to (new art XI.167.5):
 - Appropriate & proportionate remuneration
 - Transparency obligation
 - Contract adjustment mechanism
 - Right of revocation
 - Alternative dispute resolution procedure
- > Taking into account a fair balance of rights and interests
- > Make binding by Royal Decree



Collective Agreements (Art.XI 167/5) : references

Memorandum

- *'... collective agreements can be concluded for all kinds of situations, in order to meet the legal obligations, taking into account for example the specificities of each sector, to give a more concrete form between the parties.'*
- *'Collective agreements are **binding on the individuals who are members or mandate givers of an organization which has signed the collective agreement** and according to its statutes, acts for itself, its members and/or mandate givers. Persons who subsequently become members of the organization will necessarily accede to the collective agreement.'*
- *'... introduce a mechanism **whereby the King can make collective agreements binding on right holders and users of the same category as those who have concluded the relevant agreements in question.**'*



Collective Agreements (Art.XI 167/5) : references

Memorandum

- *'... the **minister and/or or the administration** can encourage the negotiation of collective agreements by, for example, convening the concerned parties and mediating in the negotiations between the parties.'*
- *'... are **not collective labor agreements** that must meet certain formal and procedural requirements to be valid and be declared universally binding.'*



Other references

Memorandum

- ‘... sectoral collective agreements will be able to **determine what compensation is appropriate and proportionate**, and when a lump sum fee can constitute proportionate and appropriate remuneration.’
- ‘Collective agreements can thus take into account the **specific characteristics of each sector.**’
- ‘... sectoral collective agreements provided for in Articles may further **define the concept of "income"** in the context of the transparency obligation.’
- ‘The sectoral collective agreements ..., may **determine the periodicity** of the transparency obligation, as well as what may be considered in the sector as a **reasonable period of time** after the occurrence of the exploitation.’
- ‘The collective agreements can determine when a **contribution is not significant.**’
- ‘If no deadline has been agreed upon, it will be determined by **the fair professional practices** ... which are included in the collective agreements...’
- ...



Other references

Law

- ‘... the author always retains the **right to request the information** referred to in the first paragraph by registered mail with acknowledgment of receipt or by way arranged by collective agreement’
- ‘The collective agreements ... may stipulate whether the author or his representative must address **the third party** directly or if he must address the person to whom the rights were transferred or the licensee.’
- ‘.... , the author may take back all or part of his transferred or exclusively licensed rights or terminate the exclusivity of the license, if, **within a reasonable time or within the time limit set forth in the collective agreement**’
- ‘... not applicable: ... if a collective agreement **governs the right of revocation.**’
- ‘Any contractual **provision that differs** from what is provided in this article is enforceable only if it arises from a collective agreement...’
- ...



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Thank you!