

**Council for Trade-Related Aspects
of Intellectual Property Rights**

Original: English

REVIEW OF LEGISLATION ON COPYRIGHT AND RELATED RIGHTS

Greece¹

The present document reproduces the questions put to the delegation of Greece and the responses given in the review of legislation on copyright and related rights at the Council's meeting of 22 to 25 July 1996².

REPLIES TO QUESTIONS POSED BY THE UNITED STATES

1. *Please explain whether and how Greek law provides protection for works, phonograms and performances from other WTO Members, and whether and how it does so on the basis of national treatment, as required by TRIPS Article 3 (generally, with respect to all copyrights and neighbouring rights) and Article 9.1 (incorporating Berne Article 5 (1)). In particular, please explain how national treatment is afforded with respect to the distribution of levies for private copying under relevant provisions of Greek law, including in particular Articles 18.3 and 49 of Greek copyright law.*

Greek Law 2121/1993 on Copyright and Related Rights (Official Journal A' 25/1993) came into force on 4 March 1993. Greece ratified the TRIPS Agreement by Law 2290/1995 (Official Journal A' 28/1995). Moreover, Greece ratified Berne Convention (1971) by Law 100/1975 (Official Journal A' 162/1975) and Rome Convention by Law 2054/1992 (Official Journal A' 104/1992).

Greek Law 2121/1993 is compatible with all provisions of the TRIPS Agreement and does not contain any provision authorizing any discrimination against nationals of other WTO Members. It is worth noticing that Greek Law 2121/1993 does not contain any provision permitting an unequal treatment between nationals and foreigners.

Works, phonograms and performances from other WTO Members are protected in Greece on the basis of national treatment, as required by TRIPS Article 3 and Article 9.1. According to Article 28, paragraph 1 of Greek Constitution, international conventions ratified by law are an integral part of domestic Greek Law and prevail over any contrary provision of law. Consequently the TRIPS Agreement is an integral part of domestic law, according to Article 1 of Law 2290/1995 and Article 28, paragraph 1 of the Greek Constitution. Moreover, paragraphs 1.2 and 3 of Article 67 of Greek

¹Greece's notification of laws and regulations in the area of copyright and related rights under Article 63.2 of the Agreement has been circulated in document IP/N/1/GRC/C/1.

²The minutes of the meeting have been circulated in document IP/C/M/8.

Law 2121/1993 concerning the applicable legislation cannot be applied where they run contrary to any international convention ratified by Greece.

As it concerns equitable remuneration for private copying payable under Article 18.3 of Greek Law 2121/1993 to authors, performers and producers of sound and visual or audiovisual recordings, national treatment is afforded, because equitable remuneration in that case is considered as an intellectual property right and particularly as a limitation to the reproduction right. Equitable remuneration under Article 18.3 of Greek Law 2121/1993 does not have the character of a levy or a tax.

Equitable remuneration payable under Article 49 of Greek Law 2121/1993 to performers and producers of sound or visual or audiovisual recordings is a related right and it does not concern private copying.

2. *Does Greece apply the "rule of the shorter term" to phonograms and performances from other WTO Members? If so, please explain how you justify such action under TRIPS Article 4.*

As it concerns phonograms and performances, the term of protection available by Article 52 of Greek Law 2121/1993 is a period of fifty years, computed from the end of the year in which the performance took place or the recording was made.

3. *Please explain whether and how Greece protects against both the direct and indirect reproduction of phonograms as required by TRIPS Article 14.2, including by digital transmission in the context of interactive services.*

The specific provision of Article 47.1 of Greek Law 2121/1993 protects against both the direct and indirect reproduction of phonograms, as required by TRIPS Article 14.2. There is no doubt that digitization of works is covered by copyright. According to Article 3.1a) of Greek Law 2121/1993 the author has the right to permit or prohibit the fixation and the reproduction of the work by any means, such as mechanical, photochemical or electronic. Consequently, digitization of works can be covered by the reproduction right. The reproduction right also applies to the related rights, which means to producers of phonograms.

[Follow-up question]

Does the reproduction right for phonograms under Greek law include reproductions made from broadcasts as well as the digital transmission of both temporary and permanent reproductions?

Reproduction right for phonograms under Greek law is interpreted as including reproductions made from broadcasts. As regards digital transmission, there is no case law on this issue yet.

4. *Please explain whether and how Greece provides full retroactive protection to works, phonograms and performances from other WTO Members, as required by Berne Article 18, as incorporated through Article 9.1 of TRIPS, and TRIPS Article 14.6, and give the date back to which protection extends as to each of these categories of subject matter.*

Greek Law 2121/1993 came into force on 4 March 1993 immediately after the date of publication in the Official Journal (Article 77 of Greek Law 2121/1993).

Prior to that date, the term of protection of works was the life of the author and fifty years after his death, the minimum provided for by the Berne Convention. At the present time, Article 29.1 of Greek Law 2121/1993 extends the term of protection from fifty years, to seventy years after the

death of the author, computed from the end of the year of death. For example, works of authors who died during the year 1946 are protected for seventy years pma ($1946 + 70 = 2016$).

Greek Law 2121/1993 introduces the protection of four related rights for a period of fifty years: the rights of performers, producers of sound and visual or audiovisual recordings, broadcasting organizations and publishers of printed matters. As it concerns performances and phonograms, the term of protection available by Article 52 of Greek Law 2121/1993 is a period of fifty years, computed from the end of the year in which the performance took place or the recording was made. All pre-existing performances and phonograms are protected, provided that the term of fifty years has not expired. The protection of March 1993 - date of entry into force of the Greek Law 2121/1993 - covered the period 1943-1993 and at the present time covers the period 1946-1996.

The above-mentioned protection for works, performances and phonograms is applicable to nationals as well as to WTO Members.

[Follow-up questions]

Please confirm that the terms of protection described in the second paragraph of the answer are applied retroactively to works already in existence even if they were not previously protected by Greek copyright law.

Greek law protects all works provided they have not fallen into the public domain at the date of entry into force of Greek law 2121/1993, including works that have not been expressly mentioned in the previous law, such as computer programmes. It is worth noticing that computer programmes created in the past are expressly protected by Article 68, paragraph 2 of Greek law 2121/1993.

When you refer to works that have not fallen into the public domain at the entry into force of Greek law 2121/1993, are you referring to the public domain in Greece or the public domain of any WTO Member?

In Greece a work falls into the public domain after the expiry of the term of protection provided for in Article 29.1 of Greek Law 2121/1993. According to this provision a work is protected for the whole of the author's lifetime and for seventy years after his death, computed from the end of the year of death.