

ΕΥΑ ΜΟΥΣΤΑΚΑ, Δικηγόρος ΟΠΙ

Υπ. Διδάκτωρ Νομικής ΕΚΠΑ

.....

EVA MOUSTAKA, Counsellor – At – Law

PhD Candidate, Law School of Athens

HCO-WIPO Online Event on Alternative Dispute Resolution (ADR) Mechanisms for Copyright and Content-Related Disputes

MEDIATION IN THE GREEK COPYRIGHT LAW

GREEK COPYRIGHT LAW & ADR



LAW 2121/1993



LAW 4481/2017



**IMPLEMENTATION OF THE
DIRECTIVES 2019/789 &
2019/790**



The mechanism of alternative forms of disputes resolution (widely known as 'ADR') consists of the **appropriate method both at national, EU and international level for the prompt and effective handling of disputes that arise in general, including also those related copyright and related – rights law.**

These procedures consist of an **alternative form to court litigation which is often cost and time effective.**




The **HCO** may provide, according to the law, mediation services in accordance with the Law 4640/2019 in the field of copyright, related rights and collective management (Art. 69 par. 1 of the Law 2121/1993).

This possibility had not been yet activated.

Nevertheless, the HCO may provide mediation services informally in specific cases which fall within the scope of its competence upon agreement of all the parties involved in order to facilitate an amicable resolution of the dispute.



Reference is often made in the relevant legal framework to other terms, such as that of **'intercession', which is not the judicial mediation (214B of the Civil Code) nor intermediation according to the Law 4640/2019; instead, the mediation provided by the HCO consists of a sui generis competence of a special nature.**



SPECIAL CASES ACCORDING TO THE LAW 2121/1993

<https://www.opi.gr/en/library/law-2121-1993>




ΟΡΓΑΝΙΣΜΟΣ
ΠΝΕΥΜΑΤΙΚΗΣ
ΙΔΙΟΚΤΗΣΙΑΣ

HELLENIC
COPYRIGHT
ORGANIZATION
MINISTRY OF CULTURE & SPORTS

Article 34A Law. 2121/1993: Law 2121/1993: “Negotiations mechanism concerning access and availability of audiovisual works on video – on – demand platforms”



→
When the parties are facing difficulties in relation to the provision of authorization (conclusion of contracts or licensing agreements) for the purpose of making audiovisual works available on video-on-demand platforms, they may, if they wish, request the assistance of the HCO or the assistance of mediators, and as to the remainder Article 35 par. 9 of the Law 2121/1993 shall apply accordingly.



The H.C.O. and the mediators provide assistance to the parties during their negotiations and help them reach an agreement, including, where appropriate, submission of proposals.



Article 35 par. 9 Law
2121/1993

Non conclusion of an agreement between the collective management organization and the operator of retransmission services or between the operator of retransmission services and the broadcasting organisation regarding authorization for the retransmission of a broadcasting

Any of the interested parties may request the assistance of one or more mediators selected from a table of independent and impartial mediators, drawn up by the HCO every two years.

Mediators provide their assistance during negotiations and submit proposals to the parties.

It is considered that all parties are accepting the said proposal in the case where none of them raises objections within a period of three months from the notification of the proposal.

Article 39A Law 2121/1993:

Alternative disputes resolution procedures

Disputes concerning the transparency obligation under Article 15A and the claim for additional remuneration under Article 32A may be submitted to an alternative dispute resolution procedure, **insofar as the parties agree, and par. 9 of Article 35 shall apply accordingly.**

Authors' representative organisations may initiate such procedures **following a specific request of one or more authors. Any contractual provision excluding recourse to mediation is void. Invalidation may only be invoked by the author.**

TECHNOLOGICAL MEASURES - *NON-TAKING VOLUNTARY MEASURES*

Article 66A par. 5 Law
2121/1993


If rightholders do not take voluntary measures, including agreements between rightholders and third – parties who are benefiting from exceptions and limitations as respectively provided for in the law, both rightholders and such third parties request the assistance of one or more mediators selected by the [table of mediators](#), which is drawn up by the HCO.

Mediators **submit proposals** to the interested parties. It is considered that **all parties are accepting this proposal when none of them raises objections within a time – period of one month from the notification of the proposal**. In the opposite case, the dispute is resolved by the Single Member Court of Appeal of Athens, which judges in first and last instance.

This provision **shall not apply to works or other subject - matters of protection which are made available to the public on the basis of terms which had been contractually agreed in a way that the public may have access to them at the place and time individually chosen by them.**

DISPUTES BETWEEN RIGHTHOLDERS AND USERS IN RELATION TO THE DISABILITY OF ACCESS TO OR TO THE REMOVAL OF WORKS OR SUBJECT - MATTERS OF PROTECTION UPLOADED BY THE LATTER

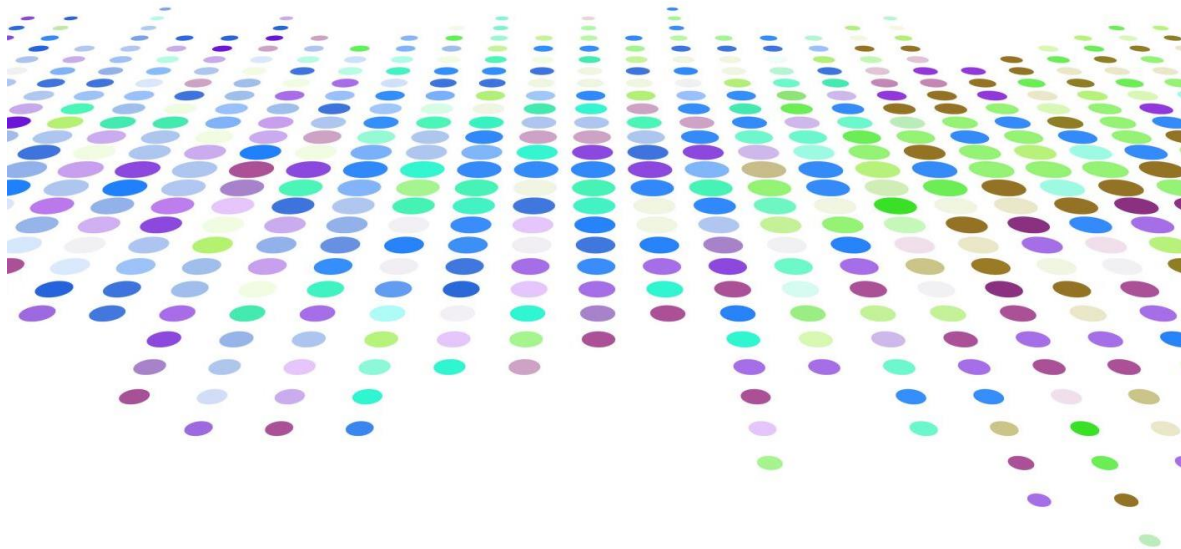
In accordance with par. 10 of Article 66F of the Law 2121/1993, **when a dispute arises in relation to the disability of access to or to the removal of works or subject – matters of protection which had been uploaded by users**, apart from the complaint and redress procedure and the respective, **it may be resolved with the assistance of one or more intermediators**, and as to the remainder par. 9 of Article 35 of the Law 2121/1993 shall accordingly apply.




**WIPO EXPERT
DETERMINATION FOR
USER UPLOADED CONTENT
(WIPO EDUUC)**

COLLECTIVE MANAGEMENT

LAW 4481/2017





In accordance with Article 44 of the Law 4481/2017, disputes between collective management organisations, collective protection organisations and members of collective management organisations, rightholders or users, regarding the provisions of this Law and of the Law 2121/1993, may, if so desired by all parties involved, be submitted to mediation, in accordance with the provisions of Law 4640/2019 (A' 190).

In addition, disputes relating to a collective management organization that grants or offers to grant **multi-territorial licenses for online rights to musical works** may be subject to mediation and, in particular:

- a) disputes with an existing or potential online service provider regarding the application of articles 22, 34, 35 and 36,
- b) disputes with one or more rightholders regarding the application of articles 34 to 40, and
- c) disputes with another collective management organization regarding the application of articles 34 to 39 of the law 4481/2017.

<https://www.opi.gr/en/library/law-4481-2017>

MULTI- TERRITORIAL LICENSES FOR ONLINE RIGHTS TO MUSICAL WORKS



The mediation procedure shall be **without prejudice to the right of the parties to proceed to court litigation**. Parties may submit the dispute at issue to mediation **either before or during the pendency of proceedings**. In the event that the dispute is submitted to mediation, the filing of a lawsuit **prior to** the completion of the mediation procedure, is excluded. If it is submitted **during** the pendency of proceedings, the court at each stage, if the parties agree, postpones the trial of the case to a short hearing and in any case **not beyond six months**.

This case is the **only one for which the possibility of subjecting it to arbitration is provided for in the law.**

- In particular, par. 4 of Article 23 of the Law 4481/2017 provides that **disputes between collective management organisations and users concerning the amount of the remuneration that the user must pay may be submitted to arbitration by agreement.**
- The **arbitrators are appointed from a table drawn up by the HCO every two (2) years, the preparation of which takes mandatorily into account the opinions of both parties.**
- As to the rest, Articles 867 et seq. of the Civil Procedure Code shall apply.

Article 23(5) of the Law 4481/2017

Collective management organizations and representative associations of users may agree in writing and before a dispute arises, on the appointment of a person as arbitrator in order to determine the remuneration to be paid by the user.

The arbitrator is appointed also in this case from the table drawn up by the HCO every two (2) years, the preparation of which takes mandatorily into account the opinions of both parties.

Arbitrators can order the advanced payment of the amount until the final amount of the remuneration due is determined.

The arbitrator thus appointed is the **sole person competent for the resolution of the dispute and his decision is enforceable.**

An arbitrator can be also appointed by the Minister of Culture and Sports and resorting to that arbitrator for the resolution of the dispute shall depend on the will of the parties.

This web site uses cookies. With the use of this web site you accept the use of cookies.

Accept



[Contact](#) [Ελληνικά](#)

[OPI](#) [ABOUT COPYRIGHT](#) [CMOs/IMEs](#) [COMMITTEE](#) [TIMESTAMP](#) [EDUCATION](#) [LIBRARY](#) [CURRENT AFFAIRS](#)

Alternative forms of dispute resolution

1. General

2. Special cases according to the Law 2121/1993

3. Collective management: Law 4481/2017

4. HCO & WIPO

5. News

6. WIPO tools



[Attribution 2.0 Generic — CC BY 2.0 - Creative Commons](https://creativecommons.org/licenses/by/2.0/)

Σας ευχαριστώ για την προσοχή σας!
Thank you for Your Attention!

ΕΥΑ ΜΟΥΣΤΑΚΑ, Δικηγόρος ΟΠΙ
Υπ. Διδάκτωρ Νομικής ΕΚΠΑ

EVA MOUSTAKA, Counsellor — At — Law
PhD Candidate, Law School of Athens

LEGAL@OPI.GR | T. (+30) 2132147800