

On the basis of the article 160. of Copyright and Related Rights Act (Official Herald of the Montenegro, no. 37/11, 53/16) (hereinafter: Act) и article 18. of the Statute of PAM CG, Assembly of PAM CG on 21.12.2018 adopted a Distribution Plan. The coming into force this Distribution Plan, the Distribution Plan from 16.01.2006 is not valid anymore. , with changes of 06.07.2007., 02.04.2011., and 23.11.2014.

## DISTRIBUTION PLAN

### 1 General principles

By Distribution Plan are defined general principles, procedures and criteria on the basis of which PAM CG carries out its distribution of collected remuneration for use of music works from users of music works on the basis of the Act and current laws of the Montenegro, in accordance with the Statute, enactments of PAM CG and international agreements.

Basic criteria for the distribution are the way and scope of use of the music work, depending on the kind of the work, based on the principles of proportionality, adequacy and equity of distribution, all in accordance with Distribution Rules, other enactments of PAM CG and enactments of CISAC and BIEM.

Distribution principles contained in these Distribution Rules are applied in the same manner on all rights of authors and right holders whose rights are being managed by PAM CG in accordance with the Act and international agreements concluded by PAM CG with foreign authors' societies .

Authors' Council will, within the period of 60 days, examine the objection and advise the member.

Each member, at anytime, is entitled to inform PAM CG in written form with the reason, of the comments on any article of the Distribution Plan. This Distribution Plan is compulsory for all the authors and right holders whose rights are being managed by PAM CG.

### 2 Terms

**Author** of music works is a physical person who created or participated in creation or modification of the music work and right holder is legal or physical person who acquired author's right in accordance with the law;

**Co-Authors** of a music work are physical persons who have by joint creative work created music work; **Co-authors** of music, text or arrangement, are the physical persons who have jointly created music, text of a music work or arrangement of a music work;

**Work** – music work, with or without words;

**Used music work** - music work which was broadcasted, performed publicly, publicly communicated, noted, copied (published) or in some other way made available to the public, in accordance with the Act;

**Arrangement** - alteration of form of the work, its harmony, rhythm, performing composition, i.e. any type of adaption of the original work;

**Adaptation** - any alteration of text in order to adapt to a new rhythm or harmonization with other language and depending on the mode it may be - new text added to the existing, alteration of text in the original language, translation of the text, substitution with completely new text, text added to the existing instrumental work;

**Playlist** - a list of used music works which contains all relevant data necessary for identification of the work and author i.e. right holder, and which refers to the certain time period or the certain event;

**Remuneration** - amount which PAM CG collects for use of music works from users of music works;

**Royalty** - a share of collected remuneration which, through the system of distribution, belongs to the certain music work (work's royalty), i.e. to the certain author or right holder (author's royalty, i.e. of the other right holder).

**Performing rights** - on the basis of broadcasting, public performance and public communication;

**Mechanical rights** - on the basis of the production and distribution of sound carriers / sound and image;

**Cue Sheet (CS)** – document which contains all data about music used in one audiovisual work (AV).

### 3 Parts in the work

In Distribution Plan, and in accordance with the CISAC standards, there are following parts in the work:

Composer	C	Author of music work
Lyricist	A	Author of text of the music work
Right Holder	E	Holder of author's right who, based on the contract with the author, acquired share of the work.
Arranger	AR	Author of instrumentation, changed or altered original music work (written alteration of form of the work, its harmony, rhythm, performing composition, etc.) in the way that his contribution to the new form of the work, is obvious;
Subarranger	SR	Author of arrangement for subpublished works
Adapter	AD	Author of the change of text of the work
Subauthor	SA	Author of text which replaces or modifies existing text.
Translator	TR	Author of the translation of the original text

Acquirer	AQ	Holder of author's right who has, based on the contract, acquired some or all rights from original publisher.
Administrator	AM	Holder of author's right who has, based on the contract, acquired control over works, but without being entitled to collecting royalties.
Publisher Income Participant	PA	Physical or legal person who, based on the contract, receives royalties but is not an owner of author's right.
Subpublisher	SE	Holder of author's right who has, based on the contract with E, AQ, AM and PA acquired right on the work.
Substituted Publisher	ES	Publisher who, based on the contract, represents another publisher or subpublisher.

#### **4 Documentation of PAM CG**

As a base for its distribution, PAM CG applies documentation which is uncontroversial and complete, i.e. which contains all relevant data necessary for establishing royalties and is applying it from the fiscal period in which it was submitted until the conclusion of documentation. Obligatory data are foreseen by this Distribution Plan and by CISAC standards.

Incomplete documentation, i.e. documentation submitted to PAM CG which does not contain all relevant data will not be used as a base for distribution until receipt of complete data, and in accordance with the time limit for conclusion of documentation.

Documentation of PAM CG consists of:

- documentation of the author and right holder,
- documentation of the work,
- documentation of foreign authors and works.

##### **4.1 Lack of documentation**

If at the moment of distribution, PAM CG does not have documentation for used work and original author or right holder is identified as a member of some foreign society, complete remuneration for that work will be effected to that foreign society (Warsaw rule).

If at the moment of distribution, PAM CG does not have documentation for the work published on carrier of sound/sound and image, and original author or right holder is identified as a member of some foreign society, complete remuneration for that work will be effected to that foreign society (Roman rule).

If at the moment of distribution it is not possible to identify foreign author or right holder whose work was used, PAM CG will create list of works (UP list, Circular) and request foreign societies to identify their repertoire. Amount of royalty of the work above which are works included into UP list is defined for each fiscal period according to the standards of CISAC, and on the basis of the decision of the Managing Board. After receipt of documentation on works, PAM CG will effect payment of the author or right holder according to the new documentation, and at the latest three years back counting from the fiscal year to which Circular refers. After expiry of a three year period, amount is being included into Distribution Fund, as per the decision of the Managing Board.

Royalty for film or series for which CS was not received is kept for three years, and distribution is carried out upon receipt of CS. PAM CG will form a list of unidentified films and series and of films and series for which CS does not exist; PAM CG will make it available on the internet page for the members, and send it to foreign organizations at least once a year.

After expiry of three-year period, royalties for which CS was not received are included into current Distribution Fund, into the same class of the distribution.

#### **5 Documentation of authors and right holders**

Documentation of the author and right holder consists of a contract of the author/ right holder on exclusive transfer of property author's rights to PAM CG, reported data about author or right holder, submitted contracts between author with other author and contract on electronic services of PAM CG to authors and right holders.

##### **5.1 Conclusion of the Contract**

Author or right holder is obliged to conclude Contract on exclusive transfer of property author's rights with PAM CG as well as to submit to PAM CG:

- copy of ID card for physical persons
- copy of birth certificate for underage person or
- copy of its registration at authorized state authority for legal entity and
- copy of legacy decision which went into effect and its original for inspection i.e. certified copy of legacy decision which went into effect in which, in the subject of the decision, he is cited as heir of author's right, when author's rights are being inherited.

In case that author or right holder is underage person, contract with PAM CG concludes one of the parents or legal guardian and contract is valid until author reaches legal age and after that author i.e. right holder concludes new contract independently.

Both parents have to be present when signing the contract or written consent of other parent should be presented, certified in court or municipality, except in the case when parent has died, or is being registered as missing or his residence is unknown.

After conclusion of the contract, author i.e. other right holder is obliged, under full financial and criminal liability, to state on the form "Data about Author/Right holder" accurate personal data i.e. data about legal entity and to sign consent for personal data processing for the needs of PAM CG.

Author or other right holder is obliged to inform PAM CG promptly in written form about each change of those data.

The forms "Contract on exclusive transfer of property author's rights", "Data about Author/Right holder" and "Contract on electronic offering services" are being regulated by the decision of the Managing Board on the basis of the previously obtained opinion of the Authors' Council and are integral part of the Distribution Plan, and are being published on the web page of PAM CG.

If the author or other right holder has, at the moment of conclusion of the contract, already concluded the contract with other foreign organization for the same territory, PAM CG will advise the author or foreign organization and contract will not be valid.

## **5.2 Authors/right holders who have not concluded contracts with PAM CG**

Royalties of domestic authors, i.e. of other right holders who have not concluded contracts with PAM CG, are calculated the same way as of the authors who have concluded contracts with PAM CG. PAM CG will take all reasonable measures to advise authors i.e. other right holders and invite them to conclude contract.

## **5.3 Change of territory of the Contract**

In case that author or right holder, who is the citizen of Montenegro, requests cancellation of contract on exclusive transfer of property author's rights to PAM CG, due to joining i.e. transfer of rights in favor of foreign organization, cancellation of contract will be approved to author/right holder, on condition to submit proof about residence abroad and to leave managing of the rights on the territory of Montenegro with PAM CG. If author i.e. other right holder does not have residence abroad, decision about cancellation of contract is made by the Managing Board.

In case of the request of the author who is not the citizen of Montenegro or has dual citizenship for cancellation of contract on exclusive transfer of property author's rights to PAM CG, and due to joining i.e. transfer of rights in favor of foreign organization, cancellation of contract will be approved to the author.

Joining of author/right holder into foreign organization may be approved in accordance with IPI rules of CISAC ([www.ipisystem.org](http://www.ipisystem.org)) and that is from the date after completed last settlement in which the request was submitted.

### **5.3.1 Subsequently received royalties or outstanding ones**

If due to the change of the territory of the contract, PAM CG receives remuneration for its member from foreign society for the territory which is no longer within the scope of the contract of the author/right holder concluded with PAM CG, i.e. belongs to other society according to IPI data, it will effect payment of royalties and advise society of the author or other right holder to whom managing of rights is entrusted for that territory as well as the society which has sent remuneration.

In case that at the moment of the transfer of the author/right holder to foreign society some financial means are not effected to author/right holder, and author i.e. other right holder does not have account in the Montenegro, royalty will be forwarded to the foreign society together with the next distribution.

## **5.4 Individual management of author's rights - breaking of a contract**

To author/right holder who has advised PAM CG that he wishes to manage his author's rights individually or if PAM CG has cancelled management of his rights, contract ends upon expiry of the fiscal period during which written notice was received.

Exceptionally, author's/right holder's cancellation of contract will not be accepted if advance payment of royalties was effected, that until settlement of debt.

## **5.5 Nonresidents**

Author/right holder who does not have residence i.e. main office in the Montenegro (nonresident), may conclude with PAM CG contract on exclusive transfer of property author's rights for the territories for which he has not concluded contract with other foreign organization. If for the requested territory he has entrusted management of rights to foreign society, contract with PAM CG will come into effect upon receipt of the notice from foreign society stating that it agrees with mentioned transfer of author/right holder.

## **5.6 Name of author i.e. of other right holder**

Patronymic name of the author, i.e. of other right holder is always valid civil name i.e. name of the legal entity. When name is changed new patronym is being registered, while the existing remains connected to the author, but as modification of the name. Name once registered can not be cancelled.

Author i.e. other right holder may, in addition to civil name, also use pseudonym (or other type of name) which should be registered at PAM CG. Besides pseudonym, PAM CG may also register additional names of the author if that is necessary according to the IPI rules.

## **6 Documentation of the work**

Documentation of the work consists of: registration of the work, contract of the author i.e. of other right holder with another author, audio recording of the work and music Cue Sheet of audiovisual work.

Each author i.e. other right holder is entitled to inspection of his own documentation i.e. of the documentation in which he is cited as the author, i.e. other right holder. PAM CG is obliged to make the list of reported/registered works available through PAM's internet page for members.

### **6.1 Registration of the work**

Authors and right holders on works defined in the provision 8 Domestic works - domestic repertoire, are obliged to register works at PAM CG on foreseen form (paper or electronic), stating all requested data. Incomplete registrations of the works shall not be taken into account.

Author i.e. other right holder may register the work only if he has concluded Contract on exclusive transfer of his rights in favor of PAM CG.

Author guarantees by his signature, under full financial and criminal liability, that all data stated in the "Registration of the work" are correct.

For registering the work with the composition and/or the text which, according to the available documentation in PAM CG, is not public domain, written consent of the composer i.e. lyricist is necessary.

Music work is reported by the composer of the work, and if music work contains lyrics (music work with words), composer may report the work only upon written consent of the lyricist, i.e. right holder on the text.

Lyricist may report the work only upon written consent of the composer, i.e. right holders on the musical composition of the work.

Author i.e. right holder may report someone else's music work, if he submits appropriate documentation (contract or the decision of inheritance) to PAM CG proving that he realizes economic rights on the work.

Submitter of registration of the work is liable to PAM CG and to other authors and right holders for the damage which can be caused by incorrect and incomplete registration. Author i.e. other right holder is obliged to correct incorrect information by submitting new registration or by submitting statement about withdrawal of registration within the period of 10 days from receipt of the notice.

In case that author i.e. other right holder whose consent is necessary for registration, has died i.e. that registered legal successor in PAM CG does not exist, temporary registration of co-author will be accepted, until legal successor is registered who will confirm or deny the registration.

Registration of work submitted by one of the authors i.e. by other right holder is considered correct until proved otherwise.

The form "Registration of the work" (electronic or paper) is being regulated by the decision of the Managing Board on the basis of the previously obtained opinion of the Authors' Council and is an integral part of the Distribution Plan, and is being published on the web page of PAM CG.

Audio recording is being submitted recorded on the sound carrier/sound and image carrier or through "upload" service on internet page of PAM CG.

#### **6.1.1 Registration of the free works**

If the work which is being registered as author's work is already registered in PAM CG under the same or similar title as the work of folklore inheritance i.e. if the period of use of that work is longer than 10 years, the Authors' Council may, on the basis of the opinion of expert commission establish the authenticity of the new registration.

When registering arrangements of free and traditional works, Authors' Council may, request proof in order to establish whether it is author's work or if the change is irrelevant, it will be qualified as performance and not as arrangement.

#### **6.2 Author's contracts**

Co-Authors may establish mutual shares on music work by certified contract. If such a contract has not been delivered to PAM CG, PAM CG will apply adequate scheme of shares from the provision 13.3.1 Key of shares if it is about different roles on work, while in case if the same roles equal shares will be understood.

Author i.e. other right holder is obliged to deliver to PAM CG one copy of each contract concluded with the publisher, with the producer of commercial film, TV film or TV series for the purpose of use of the music in the film i.e. TV series and all other contracts on order or use of music works, concluded with third parties.

Data about domestic works created in cooperation with foreign authors received from foreign author's society will be accepted as correct, until author submits documentation, i.e. registers the work.

Author i.e. other right holder may register the work created in cooperation with foreign authors without additional consent if it is about domestic repertoire defined in the article 8.

#### **6.3 Music Cue Sheet of audiovisual work**

Authors register Cue Sheet (CS) on the form published on the internet page of PAM CG or in AVR format defined by CISAC.

Foreign societies and productions submit CS on the basis of which distribution is carried out. CS must contain all data about music used within the scope of audiovisual work. If PAM CG receives incomplete CS, it will advise registrant, and audiovisual work shall be treated as work without CS.

PAM's documentation also consists of the documentation of the works used in films and TV series, i.e. of "Cue Sheets" for films and TV series and contains:

- Title of the film or series (original title, if it is foreign film),
- Production year,
- Name of the director,
- Title of production,
- Number and title of episode of TV series,
- Duration of audiovisual work,
- Duration of music of audiovisual work,
- Titles of all used works with mode of use, names of authors and duration of the work.

##### **6.3.1 Cue Sheet of the series**

Depending on the mode of noting used works, CS of the series may be:

- Average CS – proportional showing of used music in the series in some or all episodes;
- Collective CS - summed-up showing of all used works, with joint author, mode of use and share in the work;
- Compound CS - showing of all used works in the series or in a group of episodes.

PAM CG will accept Collective/ Average CS only when CS per episode is not available and when used music is similar in one episode to the music in the another. Collective/ Average CS can also be used in case when the

difference in used music is small in comparison with number of episodes i.e. where processing would not be in proportion with deviation in duration.

### **6.3.2 Mode of use of single works within audiovisual works**

Background music is the music which is used as sound effect i.e. which is not heard by the participants of audiovisual work but is not a motive. Feature is the music which, visible or not, is performed by participants of audiovisual work. Announcement and end motives are works used as motives at the beginning i.e. the end of the audiovisual work.

## **6.4 Unregistered works**

Calculated royalties for unregistered work for which there is no documentation and it is assumed that the work is domestic, are not paid and are kept on files for three fiscal periods, counting from the period when royalty was calculated. In case that author i.e. right holder does not register the work i.e. does not submit documentation within the period of three years counting from calculation in which royalty was realized, financial means are assigned to distribution fund through increase of fund, as per the decision of Managing Board.

PAM CG is obliged to invite authors and right holders to report works i.e. to submit documentation about work at least 30 days before the date of closure of documentation, by making available to members on internet page of PAM CG the list of unregistered works and list of domestic works for which documentation does not exist.

Shares which belong to foreign authors are being forwarded to foreign author's societies i.e. local sub-publishers from which is requested complete documentation and corrective calculation is performed according to need.

## **6.5 Change of Registration of work**

Change and amendment of data in Registration of work may be performed at the request of the author of work/ right holder, with written consent of all co-authors or on the basis of court decision which went into effect.

Request for change and amendment of data which meets requirements but is submitted after closure of documentation, will be realized from the next fiscal period.

### **6.5.1 Correction of royalties**

If author i.e. other right holder submits request for correction of calculation due to change of the data in Registration of work, decision about that is made by Author's Council within the period of 60 days from the date of the receipt of the request.

## **6.6 Registrations of published, administrated and sub-published repertoire**

Publisher registers the contract concluded with authors and/or right holders through internet page for members of PAM CG or on the form foreseen by PAM CG. Publisher is obliged, at the request of PAM CG, to submit copy of the contract within the period of 7 days from the date of the receipt of the request. Contracts have to be concluded for the period of one year at least and will be applied three months from the receipt in accordance with dates and duration stated in the contract.

### **6.6.1 Sub-publishers**

Sub-publisher is registering sub-published works which he represents, i.e. catalogues, in the adequate electronic format, determined by CISAC and in CWR format.

Data necessary for registration of each work are:

- title of the work (original and translated)
- ISWC number (if assigned)
- All authors and right holders on the work
- IP name number

- Function in relation to the work,
- total of shares 100% both for performing and mechanical rights.

Sub-publisher is registering sub-published catalogues/contracts which he represents through electronic format, determined by CISAC and in CWR version 2.1 (ACR transaction) or through electronic format determined by PAM CG. Sub-publisher is solely responsible for credibility of the data. PAM CG sends reply to registration (ACK) to sub-publisher in accordance with the standard of the format. Sub-publisher may complain on the status of registration within six months from the day of the receipt of ACK file, at the latest.

Publisher or sub-publisher has the obligation to inform PAM CG about breaking or alteration of the contract, loss of rights on the whole or part of the catalogue, within the period of 15 days.

#### **6.6.2 Deadline for submitting documentation**

Publishing and sub-publishing contracts (co-publishing, administrative, etc.) and registration of the work, received by PAM CG until closure of documentation of the larger scope, will be applied on the year for which calculation is underway, and those received after that date, will be applied from the next fiscal period.

#### **6.7 Controversial documentation**

If PAM CG receives notice that controversial situation occurred between authors i.e. right holders on some work, PAM CG will, without delay, inform all authors involved and will block payment of controversial royalties for the period of six months.

If authors/ other right holders on controversial royalties do not submit written statement about resolution of the conflict or the proof that court proceedings for solution of controversial matters have been initiated, PAM CG will distribute royalties according to the documentation before developing controversial situation. However, if one of the parties submits proof about initiated court proceedings, PAM CG will deposit blocked royalties until court decision goes into effect.

At the request of foreign author's societies for blocking payment of royalties, PAM CG will act in accordance with the request and suspend payment till new notice from foreign society is received. If PAM CG receives contradictory requests for blocking payments from several foreign societies, PAM CG will suspend the payment until harmonized information are received.

If publisher submits registration for catalogue already registered by other publisher, PAM CG will advise both interested parties. Newly registering publisher should submit additional documentation proving taking over the catalogue.

If such documentation is submitted, publisher who registered the catalogue first, has 60 days to submit additional documentation, and PAM CG will suspend further payment of royalties. If publisher does not submit documentation within the foreseen period, PAM CG will erase his registration and will register other publisher on the basis of the submitted documentation. At the request of publisher who was registered first, PAM CG may grant additional period of 15 days.

In case of established conflict, PAM CG will block the payment of royalties until dispute is settled.

### **7 Documentation of foreign authors and works**

Registered foreign work is information received from foreign society in the form of Fiche International card (FI), Cis-Net, WID (former WWL) and/or registration of sub-publisher for the territory of Montenegro (CWR registrations – Common Works Registration Format).

In accordance with the rules of International Confederation of Societies of Authors and Composers (CISAC) and the rules of International Bureau of Mechanical Rights Societies (BIEM), and on the basis of bilateral international reciprocal representation contracts which PAM CG concludes with foreign author's societies, documentation of PAM CG also includes foreign documentation.



Foreign documentation consists of:

International database of authors IPI (Interested Parties Information), international database of works WID (Musical Works Information Database), former WWL (World Works List) and international database of works, agreements and Cue Sheets Cis- Net (Common Information System), corrections of calculations, FI and modifying cards and letters and other documentation received from foreign author's societies.

Documentation of members of PAM CG who represent foreign repertoire on the territory of Montenegro, has to be in conformity with foreign documentation, otherwise it will be considered controversial.

## **8 Domestic works – domestic repertoire**

Works in which member of PAM CG is a composer, lyricist or publisher and some free works in which members of PAM CG are arrangers, translators, sub- authors of text or authors of adapted text, are considered as domestic works.

Domestic works, whose uses are noted in PAM CG, will be placed in international database of works WID, and, if necessary in other databases. Each placed work receives ISWC number (International Standard Work Code), which is accessible to authors and right holders through internet page of PAM CG for members.

## **9 Categorization**

According to Distribution rules there are music genres: popular, jazz and serious music.

By work of serious music, as highly sophisticated work, i.e, type of music according to this Distribution Plan, is considered music work which meets following criteria:

- It is formed in the way that it relies on some specific, creative use of forms, mode of structuring material, compositional procedures and techniques, developed within evolution of (European) professional musical creativity and
- Fulfills academic professional standards in creating material and form of the work, development of music parameters and realization of their collaboration, in relation to the mode of media use and to adequacy of written notes.

By work of jazz music, as the type of music according to this Distribution Plan, is considered music work which meets following criteria:

- it is formed so that it relies on evolution of kind of music originating from completely or partially improvised folklore Afro-American music, in which elements of European harmony and European- African study of melody combine with African rhythm and intonation, and
- it uses form of improvisation, melodic, harmonic and rhythmic content, reflection and instruments which are characteristic for some styles of jazz music.

Music works which are not artistic or jazz, belong to the category of popular music.

One point is awarded to each reported music work as a start and the final number of points of the work is obtained by application of the following criteria:

- **kind of music:** initial point of the music work, depending on the type of music, is multiplied by adequate coefficient and that is:

- 1,00 for music works of popular music;
- 3,00 for music works of jazz music;
- 6,00 for music works of serious music;

- **performer's composition:** attained number of points of music work, depending on performer's composition, is multiplied by adequate coefficient, and that is:

<b>C ode</b>	<b>Coefficient</b>	<b>Description</b>
<b>Popular music</b>		
1	0,50	Work for no established performer's composition
2	1,00	Work performed by up to 14 instrumentalists (vocal lines) and up to 8 different instruments.
3	2,00	Work for ensemble of at least 15 instrumentalists (vocal lines), and at least 9 different instruments*.When registering the work it is necessary to enclose the score. Work realized electronically if recording contains at least 9 timbrally different parts not counting drum set and percussions. When registering the work it is necessary to enclose the computer document in adequate program (DAW).
<b>Jazz music</b>		
1	1,00	Work for ensemble of up to 11 instruments, with vocal part or without it
2	2,00	Work for ensemble of at least 12 instruments, with vocal part or without it
<b>Serious music</b>		
1	1,00	Work for an ensemble up to 5 instruments, with vocal part or without it, i.e. instrument and choir, for vocal soloists, i.e. choir
2	1,50	Work for ensemble of at least 6 instruments, with vocal part or without it, for string and chamber orchestra, with vocal part or without it, with vocal structure of at least 6 soloists, i.e. choirs with more than five-voices, work of electro-acoustic music
3	2,00	Work for symphony orchestra with vocal part (i.e. choir) or without it

\*Electronic music instrument (*synthesizer, sampler, plug in of computer program, etc.*) is treated as acoustic, i.e. as one instrument.

- **Complexity of the work:** taking into consideration the complexity of reported music work, obtained number of points of the work, which within the type, genre or structure, harmonic contents and development of greater number of independently lead parts, or at least two of mentioned characteristics, is multiplied by the coefficient 1,50.

Application of mentioned coefficient is realized only upon request of the author of the work. Author's Council decides about author's request, within 60 working days from the day of submission of the request accompanied by the corresponding documentation. Decision of Author's Council is final.

#### **Use of the work:**

a) Taking into consideration of period of use, for the reported music work which is being broadcasted:

- 10 years after creation of the work, obtained number of points is multiplied by the coefficient 1,30;
- 20 years after creation of the work, obtained number of points is multiplied by the coefficient 1,60;
- 30 years after creation of the work, obtained number of points is multiplied by the coefficient 1,90;

As the moment of creation of the work is considered the date when the work was registered in PAM CG, i.e. its first use noted in PAM CG, if it comes earlier;

6) Taking into consideration mode of use of the work and quantity of the music in a work, regardless to the type of music, performer's composition and date of creation, music work, which is used as:

\* introductory music i.e. use of music motives for announcing and/or closing the program or broadcast (news, report, drama, etc.), for separation of the parts of the same program (sound screens, jingles or music effects in advertisements) or more different programs, obtains number of points is 1,0.

\* background music, i.e. use of music works or their fragments as background music in talk shows (news, reports, poetry, prose) obtains 0,10 points, while the use as accompanying music in the programs from other artistic genres (drama, TV series, film broadcasted on television, animated or documentary film) obtains 0,20 points.

b) Taking into consideration mode of use of the work and quantity of the music in a work

- To the music work which is predominantly improvised based on instructions from the score i.e. note, initial point for artistic music, regardless to performer's composition, is multiplied by the coefficient 0,60;
- To radiophonic work, multimedia work which contained music layer and to music theatre, initial point for artistic music, regardless to performer's composition, is multiplied by the coefficient 0,75;

Feature music in audiovisual work as per the provision 6.3.2 is being scored as independent music work by basic point of the of certain type of music.

If background music in AV works stands out by its quality and complexity, Committee of Experts may, at the request of author upon delivery of from the score and recording decide to grant 0,7 points.

All reported music works are scored as per rules from this Distribution Plan and established number of points of work makes integral part of the documentation of the work, as categorization of the work. Categorization is done by an expert commission ad hoc formed by an Executive Director. The members of this Expert Commission can not be the members of the organs of the management of PAM CG.

#### **Change of categorization**

Change in categorization of the registered music work is carried out on the basis of the decision of Committee of Experts about the request of the author or his successor for change of categorization of the work, within the period of 30 working days from the day of submitting request and the score.

Author or other right holder is obliged, at the request of Author's Council within the period of 15 days from the day of the receipt of the request, to submit the copy of registered work i.e. the score and the recording, for control of the categorization. Otherwise, Expert Commission may independently decide about change of categorization of the work.

Complaint on the decision of Committee of Experts is being lodged to the Managing Board, in 8 days at the latest from the date of the receipt of the decision.

Managing Board has to decide within the period of 30 days from the date of the receipt of the complaint. Decision of the Managing Board is final.

## **10 Playlists**

Mode of submission and user's obligations in connection with music playlists are being regulated by the Rule book on Music Playlists, which is passed by Managing Board, and is published on internet page of PAM CG.

Acceptable playlists are all accurate playlists in the certain distribution class, for the certain fiscal period, which are collected until the time limit for closure of the documentation and are taken into consideration for distribution, except:

- Playlist where collected remuneration is not in proportion with costs of the processing and for each class is determined separately, upon the decision of the Managing Board,
- Untrustworthy playlists.

Acceptable playlist in classes where all playlists are being processed i.e. where the distribution is not carried out on the basis of statistical sample, which was gathered after closure of the documentation, will be applied in fiscal period in which it was gathered until closure of documentation for that fiscal period.

As untrustworthy playlist is considered following playlist:

Where it is for over 20% music parts established, through report or video recording, that they do not correspond to actually used repertoire on the basis of the control carried out by PAM CG,

- Where registered duration of music for certain time period exceeds physically possible duration in that period.

Playlists where deviation of music parts is under 20%, will be partially included in distribution, and users will be asked for correction of incorrect data and will be included in the distribution in which are submitted correct data in accordance with the term for closure of documentation.

If the data about performer's composition from the playlist are different from the data about performer's composition from the registration of the work, data from the playlist are used for that particular use; in all other cases are used data from documentation of the work.

To works for which there are not any data about performer's composition neither in playlist nor in documentation of the work, will receive the least point.

Each author i.e. other right holder is entitled to inspection of gathered playlist once in each fiscal period.

### **10.1 Playlist of radio and TV broadcaster**

Playlist of radio and TV broadcaster is correct if it contains:

- names of music works with names of authors, performers and mode of use,
- date, term of broadcasting, duration of each broadcasted work and program if there is program scheme,
- original title of film or series, production year, name of the director, title of the production, number of the episode if it is about the series.

#### **10.1.1 Certificate about used repertoire**

Exceptionally, PAM CG may accept as the basis for distribution, data about used repertoire which haven't been cited in regularly submitted playlists, if these data are of minor scope in relation to those registered in regularly submitted playlists, and are omitted due to obvious omission by the user (missing time and program entirenesses).

Mentioned data will be accepted on the basis of the Certificate about used repertoire submitted by user upon the request of PAM CG, which must contain all data foreseen by PAM CG for the playlists in the certain class of distribution and which has to be orderly signed by the authorized person quoted on the foreseen form, certified by official seal of the user and must contain business number in case that user keeps bookkeeping journal.

PAM CG retains the right to check accuracy of the data stated in the certificate and in case of established irregularities not to accept the certificate, as well as to carry out deduction of realized royalties in case of subsequent check.

Certificate submitted after the closure of documentation of the greater scope, may be the basis for distribution in the next fiscal period.

### **10.2 Playlist for the class live public performances**

Playlist in distribution class Public Performance is correct if it contains:

- titles of all performed music works with names of authors and performers,
- date and place of the performance.

### **10.3 Playlist for the class Public Communication**

Playlists in distribution class General users are not gathered.

Playlists in distribution class Cinemas is correct if it contains:

- title of the film (original title for foreign film),
- year of production,
- name of the director,
- title of the production,
- number of screenings.

### **10.4 Playlist in distribution class Production and distribution of sound carriers/sound and image**

Playlist in distribution class Production and distribution of sound carriers or sound and image carriers is "Recording plan (Registration of recording)" and "Sales report" for certain fiscal period.

Forms "Recording plan (Registration of recording)" and "Sales report", both in paper and electronic form, are regulated by the decision of Managing Board, on the basis of the proposal of the Professional Service in accordance with necessary data as per BIEM contract, and are being published on the internet page of PAM CG.

### **10.5 Playlist in distribution class Internet and other services**

Playlist of the distributor of music works used through internet or other services must contain following data:

- data about used music works, for each work: exact title of the work, author(s) and performer(s).
- number of downloadings/ streamings, with stated cost of single downloading.

## **11 Duration**

Duration of music work is its effective duration stated in the playlist.

Total effective duration of music work is a total of all durations of its use in a certain distribution class for a certain fiscal period. Duration is expressed in seconds.

Effective duration of music work, according to information from the playlist, is used for the distribution. If duration of the work is not stated in the playlist, then information about duration of work from PAM's data base will be applied.

When mixes of several songs appear in the playlist and duration of each single song is not specified, equal duration for all songs will be used for calculation and it will be obtained by dividing duration of the mentioned mix by the number of songs from the playlist of the mix.

### 11.1 Limitations of duration

For music works used as introductory music duration of 30 seconds is taken into consideration, if the duration stated in the playlist is longer than 30 seconds.

For authentic folk songs, duration of 60 seconds is taken into consideration, regardless to duration stated in the playlist.

If in the playlist, in distribution classes 1 Broadcasting and rebroadcasting and 2 Public Communication, is registered duration of work, without special mode of use, which exceeds longest duration stated on sound carriers or in PAM's documentation, additional duration up to 120 seconds is being taken into consideration.

Total effective duration (TED) of music work with the mode of use, in certain distribution class for fiscal period of one calendar year (or is proportionally reduced depending on the period) is being calculated in percent in certain ranges and that is:

#### a) Introductory music:

<b>TED range (in seconds)</b>	<b>percentage</b>
up to 15.000	100%
next 15.001 – 30.000	60%
next 30.001 – 45.000	40%
next 45.001 – 60.000	20%
next over 60.001	1%
Headlines – Regardless of the number of broadcasts	20%

#### 6) Background music:

<b>TED range (in seconds)</b>	<b>percentage</b>
up to 35.000	100%
next 35.001 – 70.000	60%
next 70.001 – 106.000	40%
next 106.001 – 144.000	20%
next over 144.001	1%

#### в) Background music in series:

<b>TED range (in seconds)</b>	<b>percentage</b>
up to 72.000	100%
next 72.001 – 108.000	60%
over 108.001	30%

Mentioned limitations of the duration of the work do not refer to the music in feature and documentary films.

## **12 Distribution classes**

Total collected remuneration excluding VAT, upon deduction of administrative costs, deductions for cultural and social purposes and other possible deductions, as well as all necessary fiscal deductions in accordance with the law, is being distributed to authors and other right holders through classes of distribution, in accordance with the Distribution plan.

Following distribution classes are established by this Distribution plan:

### **1. Broadcasting and rebroadcasting**

- A. Radio broadcasting
- B. TV broadcasting
- C. Rebroadcasting

### **2. Live Public performance**

- A. Concerts of serious music
- B. Concert of popular music
- C. Concert of jazz music
- D. Restaurants with live music
- E. Other manifestations

### **3. Public Communication**

- A. Cinemas
- B. General users

### **4. Production and distribution of sound carriers or sound and image carriers**

### **5. Internet and other services**

- A. Download
- B. Streaming
  - 1) Live streaming
  - 2) Streaming on demand
  - 3) Streaming in narrower sense
- C. Webcast
  - 1) Radio program
  - 2) TV program
- D. Ringtone
- E. Simulcast
- F. Subcast
- G. Background

### **6. Private copying**

#### **12.1 Broadcasting and rebroadcasting**

Always when economically justifiable, complete registered use of the work, i.e. all acceptable playlists, are used as the basis for calculation, while in other cases statistic sample is used, as per the decision of the Managing Board.

##### **12.1.1 Radio and TV broadcasting**

Total remuneration per broadcaster is calculated on the basis of the direct collection, remunerations received from foreign societies on the basis of rebroadcasting of domestic channels abroad and remuneration determined for broadcaster on the basis of the calculation in class 1B (Rebroadcasting), in accordance with the provision 12.1.1 Rebroadcasting.

If remuneration is collected from one broadcaster as a joint amount for all radio and TV broadcastings of that broadcaster, total amount is distributed as follows:

- 20% in distribution class Radio broadcasting,
- 80% in distribution class TV broadcasting.

If remuneration is collected for national public service Radio and Television of Montenegro (RTCG) as a joint amount for all radio and TV broadcasts, the total sum is allocated in the amount:

- 20% in distribution class Radio broadcasting,
- 80% in distribution class TV broadcasting.

## **Rebroadcasting**

Distribution in class 1C (Rebroadcasting) is divided per channels shown in the broadcaster's playlists and number of connectors.

Distribution classes 1A (Radio broadcasting) and 1B (TV broadcasting) are being increased by collected remuneration in class 1C (Rebroadcasting) on the basis of the report of cable operators and in accordance with decision of the Managing Board.

Remuneration collected from cable operators, calculated for each foreign channel rebroadcasted on the territory of Montenegro, is being paid to the foreign authors' society which is located on:

- a) the territory of the original broadcast,
- b) the territory from which channel is taken over,
- c) the territory of the production of the program or d) the territory whose society claims to control the repertoire.

PAM CG may, on the basis of the decision of the Managing Board, carry out direct distribution of remuneration determined for foreign channels, as distribution through special fund within this class, in case

- when administrative costs are not disproportionately high and/or
- when mainly domestic repertoire was used.

In mentioned case, PAM CG has to obtain playlists from foreign society from the territory of broadcaster's origin or from operator/distributor or from the owner of the channel and advise foreign societies that PAM CG carries out direct distribution for those channels.

## **12.2 Public Performance**

Remuneration in the class 2 (Public performance) which is collected completely or partially above the limit established by the Managing Board, on the basis of the reports about concerts in that fiscal period and for which playlists have not been gathered, will be effected upon obtaining them, within time period which can not exceed three years from the year in which monies were collected. If playlists are not obtained, collected monies, upon expiry of three fiscal periods, will be distributed through adequate class, as increasing the fund.

List of the concerts with missing playlists (program of the concert), but for which remuneration is collected, will be placed on the internet page of PAM CG.

### **12.2.1 Concerts of popular music, Restaurants with live music and manifestations**

If remuneration for playlists in distribution classes 2B (Concerts of popular music), 2C (Concerts of jazz music) 2D (Restaurants with live music) and 2E (Other manifestations) has not been collected completely in one fiscal period, remuneration will be effected in the amount collected from users, while the rest will be effected in fiscal year in which the collection takes place, but not longer than three fiscal periods, counting from the period in which first amount was collected. Amounts collected upon expiry of three fiscal periods will be distributed through PP factor in fiscal year in which they were collected.

PP factor is coefficient by which is multiplied royalty of the work calculated on the basis of playlists and remuneration through the system of the program, and it is obtained by dividing remuneration from the events for which playlists have not been gathered by the remuneration for which playlists have been gathered.



In distribution classes Concerts of popular music and Other manifestations distribution of royalties is carried out in relation 20% for works performed by introductory performers (supporting bands) and 80% for works performed by leading performer.

Extraordinary payments of concerts and festivals may be effected within 30 days from the day of the receipt of the complete payment and playlist, in case of a written agreement between PAM CG and other foreign society.

#### **12.2.2 Concerts of serious music**

All acceptable playlists, received in one fiscal period, create the basis for distribution.

### **12.3 Public Communication**

#### **12.3.1 Cinemas**

If remuneration collected from cinemas in one amount for music used in film, trailer and in advertisement and for music used out of the theater (music in the lobby, etc.), amount of 10% of the total collected remuneration is proportionally added to class 1A (Radio broadcasting) and 1B (TV broadcasting).

Distribution in the class 3A (Cinemas) is carried out according to the collected remuneration per film, through the system of scoring. Part of the collected remuneration, for which playlists might not be gathered, is being distributed by establishing and applying PP factor in this class.

#### **12.3.2 General users**

With amount of collected royalties in class 3B The General users, are being increased the distribution class 1A Radio Broadcasting and 1B TV broadcasting, on decision of Managing Board.

### **Production and distribution of sound carriers or sound and image carriers**

Remuneration on the basis of the production and distribution of sound carriers or sound and image carriers is being collected in accordance with the model contract of BIEM which PAM CG concludes with the producer of the sound and image carriers.

Remuneration is being calculated and distributed on the basis of "Recording plan (Registration of recording)" and "Sales report" submitted by the producer and in proportion with the total share of the author of sound and image carrier.

Publisher will be exempt from payment of remuneration for the production and distribution of author's edition of sound carriers or sound and image carriers, on the domestic territory, on the basis of the submitted request, if following conditions are fulfilled:

- that an author is the owner of all author's shares on that sound carrier or sound and image carrier, or of the majority of at least 80% shares in which case is exempt proportionally, in the extent of his total share on that sound carrier/sound and image
- that an author has concluded with PAM CG contract on exclusive transfer of his rights in favor of PAM CG,
- that publisher delivers to PAM CG all information about production and distribution of that sound carrier or sound and image carrier,
- that author submits to PAM CG statement that he has paid remuneration directly to the publisher and that he does not have any claims towards PAM CG on that basis.

### **12.5 Internet and other services**

Collected remuneration in the class Simulcast is being transferred into class Broadcasting, in such a way that individual sum of the certain broadcaster is being increased and such amount is being used when creating a sample.

Collected remuneration in class 2B (Webcast) and 5B (Subcast) are being distributed by the scoring system, per sample decided by the Managing Board.

Remuneration collected in the classes 5A (Download), 5B (Streaming), 5G (Ringtone) and 5G (Background) is being carried out according to the number of streams i.e. the number of downloads. Calculated royalty of

the work in this class is being distributed based on performing and mechanical rights in the following proportion:

<b><i>Distribution class</i></b>	<b><i>Performing rights</i></b>	<b><i>Mechanical rights</i></b>
Download	30%	70%
Streaming	100%	0%
Webcast	100%	0%
Ringtone	30%	70%
Simulcast	100%	0%
Subcast	100%	0%
Background	100%	0%

## **12.6 Private copying**

Collected private copying levy from import i.e. sale of technical devices and blank carriers suitable for multiplication and reproduction of music, is being distributed upon deduction of administrative costs, in proportion: 30% into the class 1A (Radio broadcasting), 30% into the class 1B (TV broadcasting) and 40% into the class 4 (Production and distribution of sound carriers or sound and image carriers).

## **13 Distribution of remuneration**

Remuneration collected during calendar period as fiscal period, goes into distribution for that fiscal period, regardless to the fact which period of use does it cover.

Decision about duration of the fiscal period is made by Managing Board at least once a year.

Fiscal period may be:

- calendar year ( January, 1 - December, 31),
- half of the calendar year (January, 1 - June, 30 and July 1 - December, 31)

Collected remuneration, according to the type of use, is being distributed per distribution classes, on the basis of the gathered playlists and documentation in PAM's possession, within time periods and in the manner foreseen by this Distribution plan.

Deadline for closure of the complete documentation is 60 days from the calendar ending of the fiscal period, while the deadline for closure of the documentation of the greater scope is 30 days from day of the calendar expiration of fiscal period.

Documentation of the greater scope are playlists in the class of Broadcasting and Rebroadcasting, CWR registration and registration of publishing/subpublishing agreements.

Due to the requirements of the term calculation plan and business process, Managing Board may also establish other terms for closure of documentation, but that decision has to be made and published on the PAM's internet page for members, at least 60 days before the foreseen term.

Distribution procedure consists of the following phases:

1. establishing of the General Calculation - distribution of the collected remuneration through establishing Fund for distribution of royalties for each distribution class;
2. establishing royalties of the work - distribution of the fund per used music works within each distribution class, by application of the scoring system, program, outside royalties or in other way foreseen by this Distribution Plan;
3. establishing royalties of author i.e. other right holder - distribution of royalty of the work per authors who realize economic rights on each used music work,
4. establishing Individual calculations - adding author's royalties i.e. of the right holder which each author has realized in all distribution classes.

Distribution of remuneration on works with

foreign element is carried out in the same manner as for domestic works, conclusive with the phase of establishing royalty of the work. Affiliation of the author is determined according to the data from IPI base on the day of calculation.

### **13.1 General calculation**

Distribution of collected remuneration in fiscal period is established by General calculation .

General calculation, per classes of collection, contains:

- amount of collected remuneration, excl. VAT,
- percentage of administrative costs,
- amount for distribution per classes of collection,
- distribution fund per distribution classes,
- point value in distribution classes in which royalty of the work is established by scoring system, i.e. value of the PP factor in distribution classes in which royalty of the work is established by application of the system of programs.

General calculation is established by the Managing Board of PAM CG.

#### **13.1.1 Distribution fund**

Distribution fund for royalties is obtained upon deduction of administrative costs from collected remuneration.

If more than 50% of the collected remuneration from the certain user or for the certain event in one calculation period does not refer to that fiscal period, Managing Board may decide that distribution is carried out according to the playlists from the period from which remuneration originates, or that the financial resources are transferred into next fiscal period i.e. reserved until Assembly decides.

If during some fiscal period part of collected remuneration in certain distribution class, due to lack of the data about use, it is not possible to distribute legally and righteously, or if costs of processing would be unproportionally high, Managing Board may decide that remuneration is distributed through another distribution class.

Remuneration collected on the basis of untrustworthy playlists may be transferred into next fiscal period, as per the decision of the Managing Board. If broadcaster submits correction of the data for untrustworthy playlists, within the period of three years from fiscal period in which remuneration was collected, remuneration will be included into next fiscal period. If even after the expiry of the three-year period correction of untrustworthy playlists is not received, remuneration will be included into distribution through proportional increase of royalties of all authors and right holders realized in fiscal period on which remuneration referred to.

#### **13.1.2 Administrative costs**

Administrative costs are the costs of collection of remuneration, costs of establishing royalties and other costs of collective management of author's right.

Administrative costs are charged individually in each class of collection, in corresponding amount established by the Managing Board of PAM CG and is stated as a percent of the collected remuneration in that class of collection. Classes of collection are distribution classes increased for deposits from abroad and other deposits out of distribution classes.

The amount of administrative costs in the class 4  
Production and distribution of sound carriers or image and sound carriers, for foreign authors and right holders is established by bilateral contracts on mutual representation based on reciprocity with foreign author's societies.

### **13.2 Establishing royalties of the work**

Upon establishing Distribution fund of royalties, processing playlists and application of documentation in accordance with this Distribution plan, royalties of works are being established, in the certain distribution class for certain fiscal period.

Establishing of royalties of works is being carried out by application of scoring system, system of programs and system of outside royalties, depending on the distribution class i.e. the way of use of the works and mode of collection of the remuneration.

#### **13.2.1 Scoring system**

Scoring system is a mode of establishing the amounts of royalties of work, by classifying works in relation to the genre of music, instrumentation, year of origin and the way of use of the work.

All registered music works are being scored according to rules from this Distribution plan and established number of points of the work is an integral part of the documentation of the work, as categorization of the work.

Establishing royalties of the work by applying scoring system is carried out as follows:

1. total number of points of the distribution class is being obtained by multiplying number of points from categorization of the work by total effective duration of that work in certain class for certain fiscal period, and then is a sum of calculated points of all used works in that class taken into consideration;
2. fund for distribution of royalties in certain distribution class, obtained by General calculation, is being divided by total number of points realized in that class and that way value of one point in that class is obtained;
3. realized number of points of one music work in certain class is multiplied by value of one point and that way royalty of certain music work in certain class is obtained.

By application of scoring system, royalties of the work are being established in distribution classes 1A (Radio broadcasting), 1B (TV broadcasting), 3A (Cinemas), 2A (Artistic concerts), 5C (Webcast), 5F (Subcast) and conditional in 1C (Rebroadcasting) upon the decision of Managing Board.

#### **13.2.2 System of programs**

System of programs is the mode of establishing the level of royalties by application of the data from playlists, so that collected amount of remuneration is divided proportionally to the duration of the work in corresponding playlist.

By application of the system of programs, royalties of the work are established in distribution classes 2B (Popular concerts), 2D (Restaurants with live music) and 2E (Other manifestations).

#### **13.2.3 System of outside royalties**

System of outside royalties is the mode of establishing the level of royalties by application of the data from playlists, where royalty of the work is equal to collected remuneration of that work, reduced for administrative costs.

Distribution by application the system of outside royalties is carried out in distribution classes 5D (Ringtone), 5A (Download), 5B (Streaming), 5G (Background) и 4 Production and distribution of sound carriers or sound and image carriers.

### 13.3 Establishing author's royalties

Established author's royalties within the distribution class are being divided according to shares of authors/right holders on the work and author's royalties are established on each single music work.

Established royalties of authors out of protection (public domain, traditional) or of unknown authors, are being distributed through increasing the same class in distribution fund of next fiscal year.

Distribution of the part of private copying levy transferred into class 4( Production and distribution of sound carriers or sound and image carriers), is carried out in proportion to the level of achieved author's royalties on the basis of mechanical rights for all registered editions which were published in that fiscal period (regardless to whether remuneration is collected or not).

#### 13.3.1 Key of the share on the work

PAM CG is applying its Key of the share on the work when it refers to domestic repertoire, when documentation of foreign society does not contain Key of the share on the work or when it is different in two societies, whose members are registered as authors i.e. right holders on the work.

Domestic repertoire are original works in which members of PAM CG are registered as authors i.e. right holders on the work in the roles C, A, E и AQ and adaptation of free works i.e. works where members of PAM CG are registered as authors i.e. right holders on the work in the roles AR, AD, SA, TR.

If shares of coauthors are not established by their mutual contract, PAM CG applies following Key of the share on the work

Key	Author(s)	% of the total royalty of the work
1	Composer	100
2	Composer	50
	Arranger	50
3	Composer	72
	Songwriter	28
4	Composer	40
	Songwriter	28
	Arranger	32

If the share of arranger is not specially agreed on (by the document certified in court or on the form foreseen by PAM CG), and composer has stated it on the Registration of the work, 25% of the share on the work belongs to him.

If it is unmistakably visible that some arrangement was used, and name of the arranger is not stated, whole remuneration is distributed to the original work.

When music works with adaptation of the free text are concerned, whole share for text is calculated to author of the adapted text.

75% share is being calculated to the arranger of the free work (DP or traditional) regardless if it refers to instrumental or work with text.

Upon written consent of the author of the original text, to an author of adaptation of protected text of the music work, is calculated 50% royalty of author of the text, if through the contract between him and the author of original text has not been determined differently.

If the music work which was originally created as a music work with text, is being used without text (instrumental), author of text is entitled to foreseen remuneration, on condition that composer does not register the instrumental as a new work.

Versions of the registered work i.e. arrangements, are being calculated according to the scheme of shares of originally registered work, for as long as written consents of original authors are not submitted i.e. until authors of the work do not register author of adaptation.

### 13.4 Publisher's share (Stockholm key)

Share which author i.e. other right holder transfers to publisher of works on the basis of broadcasting, public performing and communication to the public (small rights) may not be over 50%.

Total share assigned to subpublishers may not be over 50% of the total share on the work.

Subpublisher's share can not, in any case, exceed the share which PAM CG gives to its own members publishers, according to its rules.

### **13.5 Establishing Individual calculations**

Upon established authors' royalties i.e. of other right holder, for each author and right holder who appeared in calculation in some of the distribution classes is established total output which that author i.e. right holder has realized in distribution system, for certain distribution class and certain fiscal period.

#### **13.5.1 Individual calculation for domestic authors**

Individual calculation is made for each domestic author / right holder if he has participated in the certain fiscal period.

Individual calculation must contain:

- Surname and the name of the author i.e. other right holder, address and account number,
- Information about advance payment and deduction/addition,
- Instruction about mode of submission of objection or request for subsequent calculation or correction of the calculation,
- Gross royalties of each work for which author has realized remuneration,
- Gross royalties of the author which he realized for distribution class and total royalty and for calculation on the basis of the "small rights"
- Information about broadcasted film/series and channel, on the basis of which have been calculated royalties of the work, i.e. for calculation on the basis of mechanical rights
- Name of the production, catalogue number of the publication and number of sold publications.

Calculation is being delivered to the publishers in CRD format also, according to the CISAC standards.

Upon proposal of Author's Council, Managing Board of PAM CG may decide that Individual calculation should also contain other information.

Individual calculation is being delivered to the author/right holder within 30 days upon payment at the latest, via email address registered at PAM CG. If email address has not been registered, Individual calculation is being delivered by regular mail to the address registered at PAM CG. Individual calculation will be delivered to authors for whom PAM CG does not have valid contact information, upon registration of their contact information.

#### **13.5.2 Individual calculation for foreign societies - foreign calculation**

For foreign authors and right holders foreign calculation for a certain foreign author's society is being made, which contains realized royalties of members of that society on the territory of Montenegro, per distribution classes for certain fiscal period.

Data contained in Individual calculation for foreign societies are defined by CRD format (Common royalty distribution), which is determined by CISAC.

Remuneration set for foreign societies with whom PAM CG does not have representation contract, upon expiry of three years from the fiscal period in which it was established, is being placed into extra income.

### **13.6 Cultural and social fund**

Cultural and social fund is charged from collected remuneration upon tax deduction, in all distribution classes except in the part where remuneration is distributed on the basis of production and distribution of sound carriers or sound and image carriers (mechanical rights).

Amount of money for Cultural and social fund in percent for each fiscal period is being established by the Managing Board in accordance with the Statute of PAM CG, i.e. bilateral contracts on mutual reciprocal representation with foreign societies.

Financial resources from the Cultural and social fund, which have not been distributed may be returned into the Fund for distribution or transferred into Fund for next year, upon the decision of the Managing Board.

#### **14 Payment of royalty**

##### **14.1 Payment of royalties realized in the Montenegro.**

Upon establishing Individual calculations i.e. foreign calculations, payment of royalties realized in the Montenegro is being effected.

If net amount does not exceed minimal amount of 10.00 €, payment of the amount is not going to be effected to the domestic author, but will be attributed to author/right holder and will be effected with some of the next distributions when the sum will exceed mentioned minimum for payment. At the request of the author i.e. of other right holder, payment may also be effected earlier.

Payment to foreign societies on the basis of realized royalties of the author i.e. other right holder who they represent, is carried out within time limits and in the manner established by bilateral international contract on mutual reciprocal representation which PAM CG concluded with that society.

When effecting payments of royalties, appropriate taxes are being withheld, in accordance with current regulations of the Montenegro.

Author i.e. other right holder who owes to PAM CG, may not effect transfer of his author's rights in favor of the third party before payment of debt.

If author i.e. other right holder is VAT payer, payment will be effected according to the invoice issued by him to PAM CG, in which is the net remuneration increased for the amount of VAT.

In case that author i.e. other right holder is according to the regulations, obliged to issue invoice, payment is not going to be effected until he submits corresponding invoice.

Author i.e. other right holder is obliged to offer to PAM CG all relevant information for establishing his status as taxpayer and is responsible for their

##### **14.1.1 Payment of subsequently registered works**

Royalties calculated for works which have been registered after the deadline for closure of the documentation i.e. which at the time of calculation have not been registered, will be paid within the period of 60 days from the registration of the work.

##### **Payment of royalties realized abroad**

Payment of remuneration realized abroad is carried out upon deduction of administrative costs and tax payment. If net counter value on the day of calculation does not exceed minimal amount for payment which is established by the Managing Board, payment of royalties will not be effected, but will be attributed to the author or right holder in the currency in which calculation was received and will be paid through one of next distributions when the sum will exceed minimal amount for payment.

Exceptionally, at the request of the author or right holder, payment may be carried out earlier.

##### **14.1.2 Advance payment**

To author and right holder who realized remuneration in previous fiscal year, at the personal request, may be effected advance payment in the amount up to 30% of the average remuneration in the past five years on the basis of performing rights.

To author and right holder who realized remuneration abroad, may be effected advance payment in the amount up to 50% of the income in foreign currency. Advance payment may be effected only if PAM CG received payment and fiscal documentation from foreign author's society.

Advance payments of realized royalties is possible in distribution classes in which Managing Board does not establish several fiscal periods within general fiscal period, in accordance with the Distribution Plan.

Author i.e. other right holder who owes to PAM CG, may submit request for advance payment, but it will be approved only in the amount left from calculated advance payment upon covering the debt.

Decision about advance payment is made by Managing Board of PAM CG.

### **15 Distribution of remuneration from abroad**

Realization of rights of authors and right holders abroad, PAM CG carries out on the basis of contracts concluded with foreign and international organizations for collective management of author's right. List of organizations is placed on the internet page of PAM CG.

Remuneration collected by foreign societies and distributed to PAM CG is subject to laws, requirements and practice in force in the country of collection.

Remuneration realized abroad is being processed and paid to authors upon conclusion of processing calculations of foreign author's societies, and per sequence of arrival of the complete documentation and received entire payment. Managing Board of PAM CG may determine calculations which will be processed urgently.

Amount of remuneration received from foreign societies on the basis of rebroadcasting of domestic channels and channels for which PAM CG carries out direct distribution, is being included into distribution fund, as per the decision of the Managing Board.

If in the calculation of foreign author's society is carried out distribution per documentation which is not in possession of PAM CG, additional documentation of the author will be requested. If the author does not submit documentation within the period of 30 days from the day of request, PAM CG will make the calculation per distribution of the foreign author's society.

If, upon receipt of the documentation, it is established that foreign society effected payment on the basis of the incorrect documentation, PAM CG will carry out deductions or return to the foreign society. If the total return per foreign society is below US dollars 20., return is not carried out, but are proportionally increased remunerations of each author in that calculation.

If PAM CG receives remuneration which does not belong to authors who are members of PAM CG, whole amount of remuneration will be returned to the society who sent it, in accordance with recommendation of CISAC.

Specification of the calculated remuneration on the basis of use of PAM's repertoire abroad, is being delivered to authors within the period of 30 days from the day of payment, as per the procedure.

#### **15.1. Multiterritorial Digital Services Providers**

The Collected remuneration by the Multiterritorial Digital Services Providers is distributed in accordance with Clause 13.2.3 of the Distribution Plan.

The distribution of the remuneration is made after receipt of the payment and reports from the digital service, after deduction of the administrative costs determined by the Board.

### **16 Credit/debit**

In case that PAM CG effects payment or carries out distribution according to the incorrect key between author and right holder, PAM CG will make debit/credit adjustments. Upon establishing the accurate schemes of shares of authors i.e. right holders, correction of the paid royalties will be carried out.

Deductions/additions will be carried out from the first following distribution on the basis of "small rights" from the territory of Montenegro.

According to international standards, PAM CG does not process corrections which refer to uses which occurred more than three years before the date of sending the calculation.

In case that it is established that playlist according to which calculation was made, is incorrect, PAM CG will invest reasonable effort to obtain correct playlists and carry out the correction of the calculation in the first following payment.



Royalty of the author i.e. other right holder may be reduced for the amount of possible debts, which author has towards PAM CG, as per other enactments of the organization and per the decision of the Managing Board.

### ***17 Complaint on the calculation and Objection of foreign Copyright societies***

Author i.e. other right holder may submit request for subsequent calculation or correction of the calculation if the royalty has not been calculated or if author i.e. other right holder is of the opinion that it was calculated irregularly.

Complaints are submitted in written form within 8 days from the day of the receipt of the calculation. Complaint have to contain following data:

- Title of the work
- Period of use,
- Type of use i.e. name of the broadcaster and the broadcast, name and place of the event and other information about the use or information on scoring and registration of the work.

The decision on the appeal is made by the Expert Commission which is ad hoc formed by Executive Director.

Expert Commission has to decide about the objection within the period of 30 days from the day when PAM CG received the proof:

- from user – playlist
- from publisher/subpublisher - certificate on registration of the contract on representation of the repertoire and the repertoire.

The decision of Expert Commission is final.

Professional Service decides about objections of foreign author's societies in accordance with reciprocal contracts and international obligations. In exceptional situations, Professional Service may request the decision of Author's Council or Managing Board. Objections of foreign author's societies are taken into consideration only if the use occurred up to three years from the date of submitting the request.

Corrections may be made three years back from the day of submitting objection in case of unregistered uses of works i.e. five years in case of incorrect data in documentation.

### ***Extra income***

Extra income realized within society's activity, positive exchange rate differences, interests, rental fees, etc. are being included into Distribution fund of royalties in the manner established by the Managing Board of PAM CG for each fiscal period.

### ***Transitional and Closing Provisions***

Distribution Plan goes into effect on the day of its adoption and is applied from 01.01.2019.

Harmonization of the documentation of PAM CG with the Distribution Plan will be carried out within 6 months from going into effect of this Distribution Plan.