



## BULGARIA



CONTENTS ([show](#))

Author(s)	
Contributed by:	<p>Djingov, Gouginski, Kyutchukov &amp; Velichkov</p> <ul style="list-style-type: none"> <li>• <a href="#">Violetta Kunze</a></li> <li>• <a href="#">Dessislava Iordanova</a></li> <li>• <a href="#">Kamen Gogov</a></li> </ul>
1. Legislation and regulation	
1.1 What are the main sources of copyright law?	<p>The main source of Bulgarian copyright legislation is the Copyright and Related Rights Act (CRRRA), adopted in 1993 and promulgated in the State Gazette N 56/29.06.1993 as amended from time to time to reflect developments of EU law.</p> <p>Since 2007 Bulgaria has been a member of the European Union, and therefore Bulgarian legislation must be interpreted and applied by the judiciary in accordance with European directives and regulations which have direct effect.</p> <p>Bulgaria is also party to several bilateral and international conventions, such as Berne Convention of 9 September 1886 for the Protection of Literary and Artistic Works, the Universal Geneva Convention of 6 September 1952 on Author's Rights, the Rome Convention of 26 October 1961 on the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, the Geneva Convention of 29 October 1971 for the Protection of Producers of phonograms against unauthorized duplication of their phonograms, Trips of 15 April 1994, etc.</p>



matter can be protected by copyright?

virtue of their creation, without any formal requirements. Article 3 of CRRA provides that any literary, artistic and scientific work resulting from a creative endeavor and expressed by any mode and in any material form shall be the object of copyright. The law explicitly outlines the following works: - literary works, including works of scientific and technical literature, journalism; - computer software; - musical works; - performers works - dramatic or dramatic-musical works, entertainments in dumb show, choreography, etc.; - films and other audio-visual material; - works of fine art, including works of applied arts, design and crafts; - completed architectural works and applied development plans; - photographic works to which are assimilated works expressed by a process analogous to photography; - approved architectural blueprints, maps, approved development planning projects, sketches, plans and others related to architecture, urban planning, geography, topography, museum research and any other area of science and technology; - graphic design of publications; - cadastral maps and state topographic maps; - translations and adaptations of existing works and folklore; - arrangements of musical works and folklore; - periodicals, encyclopedias, collected works, anthologies, bibliographies, data bases and other similar objects that include two or more works or products.

2.2 What is required for works to qualify for copyright protection?

Pursuant to Bulgarian law, all intellectual creations may be protected by copyright, whatever their kind, their form of expression, their merit or their purpose, subject to fulfillment of the following two conditions:

- the work must be fixed in a material form; and
- the work must be original.

2.3 What rights does copyright grant to rights holder?

The CRRA sets out both the exclusive moral and economic rights of the rights holder arising from copyright (before any license is granted). In particular, the CRRA provides to right holders the right to:

- use of their work;
- reproduction of the work;
- distribution of the original of the work or copies thereof among unlimited number of persons;

public display of a work of art or a work created by photographic or similar means;

- translation of the work into another language;
- revision and synchronisation of the work;
- implementation of an architectural design through the building or manufacture of the object described in it;
- transmission by wireless or cable of access to the work or part thereof for an unlimited number of persons in a manner which permits that access to occur from a place and at a time individually chosen by each one of them; and
- import or export to third parties of production specimens in commercial quantity.

Rights holders also have the moral rights described in 2.4.

2.4 Are moral rights protected (for example, rights to be identified as an author of a work or to object to derogatory treatment of a work)?

Pursuant to Art. 15 CRRA, the following moral rights belong to the author of the work:

- to decide whether, when, and where the work created by him/her may be made available to the public;
- to claim the copyright over the works;
- to decide whether the works shall be made available to the public anonymously or pseudonymously;
- to require that his/her name, pseudonym, or other identifying mark be identified in a suitable manner whenever his/her work is used;
- to require that the entirety of his/her work is preserved and oppose to any changes therein as well as any other actions that may violate his/her legitimate interests or personal dignity;
- to make alterations in the work inasmuch as this does not prejudice rights acquired by other persons;
- to have access to the original of the work when it is in the possession of another person and whenever such access is necessary for exercising his/her moral or economic rights;
- to prevent the use of the work due to changes in his/her beliefs, with the exception of already implemented architectural works, providing compensation for the damages incurred by persons who have lawfully obtained the right to use the work.



an annex thereto, as long as such actions are undertaken in conformity with existing regulations.

2.5 What is the duration of copyright in protected works and other subject matter?

Generally, the economic rights last for the lifetime of the author and for 70 years after his or her death, irrespective of the date when the work is lawfully made available to the public. All moral rights of an author are protected for an unlimited duration of time. In cases of co-authorship, the copyright lasts 70 years after the death of the last surviving author. This also applies to musical works with text and dramatic-musical works regardless of whether these persons are pointed out as co-authors, provided that the text and the music have been created for the purpose of being used together. Pseudonymous or anonymous works are copyright protected for 70 years after the work is made available to public for the first time. Pursuant to Bulgarian law, computer programs and databases are copyright protected for a period of 70 years after making the work available to the public. Films are protected for 70 years after the death of the last surviving rights holder - among the director, the author of the screenplay, the director of photography, the author of the dialogue, or the composer, if the music had been specially made for the film. Collective works (encyclopedias, periodicals, and other works) are protected for 70 years after their publication. With respect to works which are published in volumes, parts, issues, or episodes, the term is calculated for each one individually. Works of unknown authors are protected for 70 years as of their creation.

2.6 For how long do moral rights subsist in copyright works?

Under Bulgarian law, moral rights last for the life of the author. Pursuant to art. 34 CRRRA, two of the moral rights of the author are unlimited in time – (i) the right to be indicated as the author of the work in any single use of the work, and (ii) the right the integrity of the work to be preserved and to oppose any change in the work and any other actions that might violate his/her legitimate interests or his/her personal dignity.

### 3. Ownership



- when the work is created in the course of employment, the employer has the exclusive right to use the work, without any permission from the author and without paying compensation for the purposes in a manner and to a degree corresponding to employers' customary activity;
- when the work is created under commission, the person who has commissioned the work enjoys the right to use it without any permission from the author for the purposes for which the work was commissioned; and
- the copyrights in the software created by one or more employees in the execution of their duties or following the instructions given by their employer belong to the employer.

3.2 Can copyright in a work be jointly owned? If so, what are the rights of a co-owner?

Copyright in a work can be jointly owned by two or more persons. This can occur when a work is created by more than one natural person or where there is an assignment of the whole or of part of the rights relating to the work. A collaborative work is the joint property of the authors (so called “co-authorship”). The joint authors shall exercise their rights by mutual agreement, or in case of confusion – as prescribed in the judgement of the court. Nevertheless, where the contribution of each of the joint authors is of a different kind, each may, unless otherwise agreed, separately exploit his or her own personal contribution without, however, prejudicing the exploitation of the common work.

3.3 Can you register copyright? If so, what are the benefits of such registration and what other steps, if any, can you take to help you bring an infringement action?

Under Bulgarian law, copyright is an unregistered right which arises automatically upon creation of the work. To have evidence of ownership of copyright and the date of authorship the author may ask a notary public to verify the content and the date of creation of their work.

3.4 What steps should you take to validly transfer, assign or license copyright?

Under Bulgarian law only the economic rights could be (exclusively or non-exclusively) licensed against remuneration. The assignment must be explicit and in writing and should be signed by or on behalf of the copyright owner.



indicated as the author of the work in any single case when the work is used. In case of assignment of economic rights, the rest of the moral rights are alienable

#### 4. Infringement

4.1 What acts constitute direct infringement of copyright?

Right holders can take legal action if any of their exclusive economic and/or moral rights (as set out in 2.3 and 2.4 above) has been infringed. Bulgarian law does not differentiate between direct and indirect infringements but considers that the use of works protected by copyright law without the rights holder's authorisation constitutes an infringement of copyright, unless any of the statutory exceptions applies (see 4.3 below).

4.2 What acts constitute indirect infringement of copyright?

As mentioned in 4.1 above, Bulgarian law does not differentiate between direct and indirect infringements. As a general rule, any use of a copyright protected work without the prior consent of the copyright holder may constitute infringement of copyright, unless any of the exception provided by the law may be invoked.

Nevertheless, Bulgarian copyright law provides for the imposition of administrative financial penalties for some acts which, although do not constitute unauthorized use of works and accordingly do not constitute copyright infringement per se, are punishable in particular because they facilitate or are otherwise related to copyright infringement. These acts are punishable as infringements of the rules of law (administrative violations) and might be considered as indirect infringement of copyright. They include:

- manufacturing, distribution, advertising or importing, as well as possession for commercial purposes of decoding devices which may provide access to an encoded signal for persons who are outside the audiences determined by the broadcasting organization;
- intentional removal, damaging, destruction or putting out of order, or circumvention in any other way, without being entitled to do so, of any technical means for protection used by right holders;

or provision of services which are offered or advertised as means of circumvention of technical means of protection, have only limited commercial purpose or application different from that to circumvent technical means of protection, or are principally intended, manufactured, adapted, or used to make possible or to facilitate circumvention of technical means of protection; and

- removal or modification of information presented in an electronic form about the regime of rights over an object of copyright or a neighbouring right, or distribution, including imports, performance, broadcasting, transmission or retransmission and the provision of access to an unlimited number of persons to such an object in a manner allowing the access to takes place from a place and at a time individually selected by each of these persons, being aware that the information presented in an electronic form about the regime of rights over this object has been removed or modified without any right to do so.

4.3 What acts are permitted with respect to copyright works (ie what exceptions apply)?

The following acts of use of copyright works are permitted without the consent of the author and without payment of remuneration:

- temporary reproduction of works if it is transitional and incidental by nature, is of no independent economic significance, constitutes an inalienable and important part of the technical process, and is conducted for the sole purpose of allowing:
  - transmission via a network through an intermediary; or
  - other allowed use of a work.
- the use of quotations from already announced works for critical appraisals or reviews by providing due indication of the source and name of the author, unless that is impossible to do, provided that quotations shall be made in the customary manner and their volume shall be justified by their purpose;
- the use of parts of published works or of a moderate number of works in other works in a volume that is required for the purposes of preparing an analysis, commentary, or other scientific research, provided that it is done for scientific or

- speeches, reports, comments, and others or parts thereof, delivered at public gatherings, as well as speeches delivered in the course of legal proceedings, if reference is made to the source and name of the author, unless that is impossible to do;
- reproduction by the mass media of articles on current economic, political, and religious topics in all cases where such reproduction is not expressly forbidden and if reference is made to the source and name of the author, unless that is impossible to do;
  - reproduction by photographic, cinematographic or similar manner, as well as audio or video recordings of works related to a current event for the use of such works by the media in a limited volume for the purpose of providing news coverage if reference is made to the source and name of the author, unless that is impossible to do;
  - use of works that are on permanent display in streets, squares, and other public places without mechanical contact copying, as well as their wireless broadcast or transmission via cable or other technical means, if such this is carried out for informational or other non-commercial purpose;
  - the public presentation or performance of published works in educational institutions if this does not involve the collection of revenues from such performance and if the participants in the preparatory work and the actual public performance do not receive compensation;
  - reproduction of already published works by generally accessible libraries, research and other educational institutions, museums, and archives for educational purposes or to ensure the preservation of the work inasmuch as such action is not undertaken for profit;
  - the use of already announced works for the benefit of people with disabilities if it is directly related to the particular disability and is not for profit, except for the cases referred to in a special Section of the Bulgarian Law on Copyright and Neighbouring Rights concerned with permitted use of works for people with disabilities which make them unable to read;
  - providing access to natural persons to works that belong to collections of organizations as described above if this is not done for commercial purposes and not for profit;
  - temporary copying of works by radio and television organizations, to which the author has granted the right to use

works may be reproduced in the following cases:

- use of works for the purposes of national security, in judicial or administrative proceedings, and in parliamentary practice;
- use of works in religious ceremonies or official ceremonies organized by public authorities;
- use of buildings that are considered works of architecture or of plans thereof for the purpose of the reconstruction of such buildings, performed after consultation with the relevant organisation for collective management of rights.

The above exceptions do not apply for computer programs.

The following acts of use are permitted without the consent of the author but subject to payment of compensation (which is collected by collective rights management organisations from manufacturers or importers of empty data carriers by means of the so-called ‘private copying levies’):

- reproduction for non-commercial purposes of printed works, with the exception of musical note material, on paper or other similar media through photocopying or other similar method that provides similar results;
- reproduction of works regardless of the media by natural persons for their personal use if such reproduction is not done for commercial purposes.

The latter exception above does not apply for computer programs and architectural works.

4.4 Is it permissible to provide a hyperlink to, or frame, a work protected by copyright? If so, in what circumstances?

Bulgarian law does not contain express provisions on that matter and there is no relevant national court practice. The case law of the Court of Justice of the European Union (the CJEU), however, has developed certain rules relating to the use of hyperlinks which are also applicable in Bulgaria. In particular, CJEU has held that the provision on a website of clickable links to works freely available on another website does not constitute an ‘act of communication to the public’ (case C-466/12). The CJEU emphasised that to be a communication to the public, a link would have to be a communication to a “new” public, i.e. a public not in the contemplation of the rights holder when the rights holder published the work. As a result, when a person uploads material to the internet, the public communicated to is the internet at large. Therefore, linking

available on another website without the consent of the copyright holder, constitutes a 'communication to the public', it is to be determined whether those links are provided without the pursuit of financial gain by a person who did not know or could not reasonably have known the illegal nature of the publication of those works on that other website or whether, on the contrary, those links are provided for such a purpose, a situation in which that knowledge must be presumed (Case C-160/15). Thus, CJEU held that the posting of a hyperlink on a website to works protected by copyright and published without the author's consent on another website does not constitute a 'communication to the public' when the person who posts that link does not seek financial gain and acts without knowledge that those works have been published illegally. In contrast, if those hyperlinks are provided for profit, knowledge of the illegality of the publication on the other website must be presumed.

4.5 Is a licensee of copyright able to bring an infringement action?

Pursuant to Bulgarian law, only the exclusive licensee is able to bring an infringement action. Holders of non-exclusive licenses are not able to do so.

## 5. Remedies

5.1 What remedies are available against a copyright infringer?

Bulgarian law provides for several remedies against copyright infringement:

- court claims, including for discontinuation of the infringing acts, for award of compensation for damages, for seizure and destruction of infringing goods and facilitating devices, and for public announcement of the court judgement;
- provisional measures in the event of current or threatened infringement, or risk for destruction/concealment of evidence, including order of the court for prohibition of certain acts, seizure of infringing goods and facilitating devices/equipment, closure of premises;
- imposition of border control measures by the Bulgarian customs authorities for detaining counterfeit goods subject to import or export at the Bulgarian borders;
- imposition of mandatory coercive administrative measures by the Minister of Culture such as prohibition to carry out



competent supervisory authorities ranging up to BGN 20,000 (approx. €10,000), and up to BGN 30,000 (approx. €15,000) in the event of repeated infringements, as well as seizure of infringing goods and closure of premises in the event of repeated infringement; or, alternatively for more serious cases, criminal prosecution and imposition of criminal penalties ranging up to two to eight years of imprisonment.

5.2 Are there any specific remedies for online copyright infringement?

No, Bulgarian law does not provide for any specific remedies for online copyright infringement.

5.3 Under what circumstances is copyright infringement a criminal act and what sanctions may apply?

In the following cases copyright infringement is a criminal act and subject to criminal prosecution:

- anyone who records, reproduces, distributes, broadcasts or transmits, or makes any other use of an object of copyright or neighbouring right, or copies thereof, without the consent of the holder of such right as required by law, shall be punished by imprisonment for up to five years and a fine up to BGN 5,000 (approx. €2,500). In the event of repeated infringement or if considerable damages have occurred, the punishment shall be imprisonment from one to six years and a fine from BGN 3,000 to BGN 10,000 (€1,500 to €5,000).
- anyone who, without the consent required by law, holds material carriers containing an object of copyright or neighbouring right, amounting to a large-scale value, or who holds a matrix for the reproduction of such carriers, shall be punished by imprisonment from two to five years and a fine from BGN 2,000 to BGN 5,000 (approx. €1,000 to €2,500).

In the event of repeated infringement or if considerable damages have occurred, the punishment shall be imprisonment from one to six years and a fine from BGN 3,000 to BGN 10,000 (€1,500 to €5,000). Where the act amounts to a particularly large-scale value, the punishment shall be imprisonment from two to eight years and a fine from BGN 10,000 to BGN 50,000 (approx. €5,000 to €25,000). According to Bulgarian law, in minor cases of copyright infringement the infringer must be punished by administrative financial penalty (ranging up to BGN 20,000, approx. €10,000) instead of criminal penalties. There is no legal definition or clear criteria for



work of another person in the field of science, literature, or arts or a significant part thereof, shall be punished by imprisonment for up to two years or by a fine from BGN 100 to BGN 300.

5.4 Is there a time limit for bringing a copyright infringement claim?

The applicable statutory period of limitation for bringing a copyright infringement claim is five years from the discovery of the infringer.

5.5 Can legal (or any other) costs be recovered in an action for copyright infringement? If so, what percentage of costs will typically be recovered by the successful party?

Yes, according to the general rules of court litigation, the successful party may request the court to order that the state fees for bringing the action, the costs related to the court proceedings, and the legal fees for one lawyer paid by the claimant, if any, be recovered by the defendant in proportion to the successful part of the claims. The defendant, if the successful party, has a reciprocal right of recovery of costs. Where the legal fees paid are an excessive amount in view of the complexity of the case, the court may reduce the recovered amount up to a statutorily defined minimum.

## 6. Enforcement

6.1 What courts can you bring a copyright infringement action in, and what monetary thresholds, if any, apply?

A copyright infringement action may be brought in the district court (the upper-level first-instance civil courts in Bulgaria) as per the permanent address or seat of the defendant. The judgement of the district court could be appealed before the competent appellate court as the second-instance court. The judgement of the appellate court could be appealed in the Supreme Court of Cassation provided that the legal conditions for cassation are met.

6.2 Are there any other ways in which you can enforce copyright?

Yes, the right holder may submit an alert to the competent administrative authorities for conducting an inspection and imposition of administrative penalties or to the public prosecution for initiation of criminal proceedings. The right holder may also apply to the customs authorities for imposition of border control measures. See 5.1 above regarding available remedies.

The Ministry of Culture is responsible for overall supervision and



Copyright: What do they do?

care of an authorized Deputy Minister is competent to impose administrative financial penalties on infringers and/or mandatory coercive administrative measures. Mayors of municipalities have special competence to impose administrative financial penalties in particular for unauthorized public performance of works in local commercial and touristic sites such as hotels, restaurants, bars, clubs, etc.

6.4 What are the main collective rights management agencies that operate in your jurisdiction and who do they represent?

The main collective rights management organizations (CMOs) in Bulgaria are the following:

- Musicauthor – manages the rights of composers, authors of literature works related to music and other music authors;
- Prophon – manages the rights of music producers and music performers;
- Artistauthor – manages the rights of artists/performers other than music performers; and
- Filmauthor – manages the rights of authors and producers of films and other audio-visual works.

There are also other (smaller) CMOs managing rights in works of architecture, theatre, compensations for private copying, etc.

6.5 Are copyright levies payable? By whom, and in what circumstances?

Copyright levies are payable to CMOs by users of works. Bulgarian law defines 'users of works' as natural and legal persons such as publishers, theatres, concert organizers, radio and television organizations, enterprises providing public electronic communication services through an electronic transmission network for distribution of Bulgarian or foreign radio or television programs, public food and entertainment establishments, producers of phonograms, film producers, Internet content providers, and others who bring the work to the attention of readers, viewers, and listeners directly or through other parties such as distributors. Private copying levies are payable to CMOs by manufacturers and importers of empty data carriers.

## 7. Copyright reform

In March 2018, detailed new regulation of the schemes and



of works, and more transparent rules on the distribution of proceeds among right holders. A new development was the introduction of 'independent companies for rights management' which, along with CMOs, may also conduct collective management of copyright. Additional amendments in the CRRA were adopted to strengthen the supervision for compliance with the law aimed at facilitating the bringing of actions against copyright infringement by CMOs and providing more efficient powers of the supervisory administrative authorities for establishing infringements of copyright.

7.2 What do you consider will be the top copyright developments in the next year?

Undoubtedly, adoption of the Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market (the Copyright Directive) is the most important development in the modernization of the EU copyright rules, which will have effect in the forthcoming years. Bulgaria shall transpose the rules of the Directive into national law within two years of that date. Following the approval of the EU Copyright Directive, the next pivotal development in copyright law will be the implementation of the Articles of the Directive through Bulgarian legislation. To achieve the objectives of the Copyright Directive, content filters would be the most practical, if not the only way to sort through the huge volume of uploaded content. The issue presented by this is that such filters could potentially block use of copyrighted material which is actually permitted.

A further issue is that the implementation of such a system is expensive, which will restrict the access smaller businesses have to the market. How the legislative authorities tackle these issues will fundamentally establish the state of copyright law in the future.

## 8. Neighbouring rights

8.1 Neighbouring rights by type

The CRRA explicitly regulates related rights (also referred to as neighbouring rights). Pursuant to art. 72 CRRA, Bulgarian law grants protection of:

- performers;
- producers of sound;
- producers of audiovisual recordings; and



often differs in scope and duration.

8.2 Terms of neighbouring rights

All neighbouring rights mentioned in 8.1. are protected for a period of 50 years.

*This guide contains summaries of general principles of law. It is not a substitute for specific legal advice and should not be relied upon in relation to the application of the law or subject matter covered.*

#### FOLLOW US



#### EXPERTISE

Firms & Professionals  
Practice Groups  
News & Events

#### MEMBER'S PORTAL

Login and password request  
Request changes to firm and personnel profiles  
HighQ Collaborate (Member Login)  
Member Referral Tracking Tool  
Member's Only Resources (*Log-in Required*)

***NOTE: Forms are incompatible with Internet Explorer***

#### ABOUT US

About TerraLex  
Cross-Border Copyright Guide  
Contact Us



Our Mission is to help member firms serve their clients' legal needs and business interests through a worldwide network of quality law firms that meet high professional standards.



© 2019 HighQ Solutions Ltd | [Privacy Policy](#)