

# Performing artists in the IP law of Bulgaria and the international treaties

Victoria N. Chorbadijska-Angelova

*PHD Candidate*

*Department “Creative industries and intellectual property”*

*University of national and world economy-Sofia, Bulgaria*

*Email: victoria\_nikolaeva@abv.bg*

## ABSTRACT

**Keywords:** Copyright, performers rights, related right, neighboring rights; recording; intellectual property

The paper discusses the figure of the performing artists as holders of particular type of rights, called related rights or also called neighboring rights. Performers are persons such as **actors, singers, musicians, dancers** and other persons who **act, sing, deliver, declaim, play in, or otherwise perform literary or artistic works**. For their performance they are given by law with **specific type of rights**, which are very similar to the copyright. Because these rights occur after the copyright and based on them, **they are called Related rights** (related to the copyright). By their nature, the related rights are **exclusive rights** and just like the copyright, they shall ensure their holders the opportunity to make use of their performances and to authorize, under certain conditions the use of the performances by third parties, such as cafes, restaurants, radio stations, television channels, discos, theatres and many others.

Apart from performers, related rights are also recognized to the following categories: **producers of phonograms, producers of first fixations of films** or other audiovisual work, as well as **radio and television organizations**.

The paper aims to reveal in details the following points: **who are** the performers; **what kind of** rights they are granted by law; **what can they do** with such rights; **what is the duration** of the protection of these rights and **how these rights deal** with the copyright. As well as what is the difference between the literary and artistic works (whose authors are granted copyright) and the performances of those literary and artistic works (whose performers are granted related rights).

Similarly the copyright, the related rights constitute a **bundle of number** of individual powers. Based on the nature and purposes of their establishment, they are conditionally divided into two categories: **moral rights** and **economic related rights**.

The first category of rights is intended to have rather **moral features** and they have been established in order **to ensure** and **maintain the relation** of the artist with his performance. For example the performing artist shall enjoy the following moral right to demand that his name, pseudonym or stage name be indicated or otherwise communicated in the customary manner at each live performance, or on every use of a recording of that performance when it is reproduced or used in any other manner.

The **second category** deals with the opportunity **for economic returns** from the use of the performances. For example the right to make **sound recording or visual recording** of the performance, the **right of fixation** and **broadcasting**, and etc.

For any use in any particular way of specific performance by third parties, the law provides that equitable **remuneration shall be paid by the user** to the performers.

The **term of protection** to be granted for the related rights under the European legislation shall **last 50 years** computed from the end of the year in which:

- (a) the fixation was made—for phonograms and for performances incorporated therein;
- (b) the performance took place—for performances not incorporated in phonograms;
- (c) the broadcast took place—for broadcasts.

## **References:**

- International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, (ROME CONVENTION, 1961)
- Law on Copyright and Neighboring Rights ( amended in 2011)
- Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society