

## **Disputes Committee Regulations of BumaStemra**

Approved by the Board of Directors of BumaStemra on 26 April 2021. Approved by the Control Board of the Collective Management Organizations (governmental supervisory authority) (CvTA = College van Toezicht Auteursrechten (Dutch Supervisory Authority for Copyrights) on 19 July 2021.

Including Explanatory Notes to the Disputes Committee Regulations of BumaStemra

## Definitions

### Article 1

For the purposes of these Regulations, the terms below are defined as follows:

- a. **Buma**: the Vereniging Buma, with its registered office in Amstelveen;
- b. **Stemra**: the Stichting Stemra, with its registered office in Amstelveen;
- c. **Participant**: the participant in the sense of article 2 of the articles of association of Buma and Stemra, or a former participant insofar as it concerns a distribution for which the complaint period, in the sense of article 5, paragraph 2 of the exploitation contract of Buma and/or Stemra respectively, has still not expired;
- c-bis. For the application of these regulations, a Participant also means the collective management organisation for whom a dispute settlement procedure has to be made available in the sense of the Collective Management Organizations for Copyrights and Neighbouring Rights and Dispute Settlement (Supervision) Act ("*Wet Toezicht*") as well as a Sister Society in the sense of article 16, paragraph 1(b) and article 12 paragraph 1 (b) of the Distribution Rules of Buma and/or Stemra respectively.
- d. **Chairperson**: the Chairperson of the Disputes Committee appointed in accordance with article 3, paragraphs 1 and 6, of these regulations;
- e. **Secretary**: the Secretary of the Disputes Committee designated in accordance with article 4, paragraph 1, of these regulations;
- f. **Regulations**: the Disputes Committee Regulations of BumaStemra with the associated Explanatory Notes to the Disputes Committee Regulations of BumaStemra.

## Scope of application

### Article 2

1. These Regulations are applicable to disputes between on the one hand a Participant and on the other Buma and/or Stemra in relation to decisions of Buma and/or Stemra as a result of which the interests of the relevant Participant have been individually and directly affected, and which decisions were taken for the implementation of articles of association, regulations or exploitation contracts.
2. These Regulations are applicable to disputes in the sense of Article 23, paragraph 1, parts b and c respectively, of the Supervision Act between BumaStemra and a Participant in relation to multi-territorial licences for online rights in relation to musical works in connection with the application of Articles 5c to 5i and/or the application of Articles 5c to 5h respectively of the Supervision Act. The provisions of paragraph 6 of this article are not applicable to these types of disputes.
3. These Regulations are not applicable to decisions of the members' meeting of Buma or the meeting of affiliates of Stemra, notwithstanding the provisions of paragraph 10.
4. Excluded are disputes in relation to decisions whereby in accordance with the articles of association, regulations, or exploitation contracts the Board of Directors is authorised to supplement the policy of Buma and/or Stemra or has discretionary freedom, notwithstanding the provisions of paragraph 10.
5. Excluded are disputes that have already been put to a different body for settlement, such as the ordinary civil courts.
6. The Disputes Committee shall declare a dispute inadmissible that in its opinion involves an interest that exceeds an amount € 100,000.00, and refer the parties to the ordinary civil courts.
7. Disputes which the Plagiarism Disputes regulations of BumaStemra are applicable to will not be handled by the Disputes Committee.
8. Disputes in relation to a certain distribution will only be handled after the normal complaints procedure of Buma and/or Stemra has been fully exhausted, unless the Disputes Committee is of the opinion that the period of settlement is unreasonably long.
9. A dispute can only be submitted to the Disputes Committee once.
10. These regulations will be applicable, and/or a complaint will be declared admissible, if the complaint which the dispute relates to is against a decision of the meeting of members or

affiliates or of the Board of Directors, or relates the general policy of BumaStemra, but the Disputes Committee can only make a marginal assessment about whether or not the individual interests of the relevant individual Participant were sufficiently taken into account. If the Disputes Committee is of the opinion that this was not sufficiently the case, the Disputes Committee will ask for re-assessment of the dispute by the meeting of members or affiliates, or by the Board of Directors.

## Composition and appointment of the committee

### Article 3

1. In relation to the disputes referred to in article 2, paragraph 1, of these Regulations, the Disputes Committee shall consist of at least seven members, namely:
  - a. an independent Chairperson (who has to be a legal expert with expertise in the field of intellectual property rights);
  - b. a deputy Chairperson (who has to be a legal expert with expertise in the field of intellectual property rights);
  - c. five ordinary members who are Participants of Buma and/or Stemra, of which three are authors and two are publishers;
  - d. employees of Buma or Stemra are not allowed to be members of the Disputes Committee.
2. A dispute in the sense of article 2, paragraph 1, of these Regulations will be handled by three members of the Disputes Committee, namely:
  - a. the Chairperson (or their deputy) and
  - b. two ordinary members of the Disputes Committee to be designated by the Chairperson (or their deputy).
3. The Chairperson, members and deputy members of the Disputes Committee in the sense of paragraph 1 of this article shall be appointed and dismissed by the members' meeting of Buma and the meeting of affiliates of Stemra at the nomination of the Board of Directors of BumaStemra, after consultation with the Chairperson of the Disputes Committee.
4. On each occasion, the members will be appointed for a period of three years.
5. At the end of their term of office, a member or deputy member can be reappointed immediately for one period.
6. Disputes in the sense of article 2, paragraph 2, of these Regulations shall be handled by a Disputes Committee that consists of at least three independent members, which includes an independent Chairperson (who has to be a legal expert with expertise in the field of intellectual property rights). The members of this Disputes Committee must be independent, impartial, and expert, in particular in the field of the conclusion, application, and fair distribution of the royalties charged for by collective management organisations for use of works of literature, science or art and other material. All the members of this Disputes Committee shall be appointed by the Board of Directors of BumaStemra. The secretariat of the Disputes Committee shall be formed by BumaStemra in accordance with article 4 of these Regulations.

## Secretariat

### Article 4

1. The Board of Directors of BumaStemra shall appoint a Secretary and a deputy Secretary in consultation with the Chairperson.
2. The Secretary shall attend all hearings and take minutes of the proceedings; he/she shall have an advisory voice.
3. The address of the secretariat shall be the address where BumaStemra has its offices.

## Filing of a dispute

### Article 5

1. A dispute shall be instituted by filing it with the secretariat in writing.
2. The filing must contain the following details:
  - a. the name and business address or home address of the complainant, as well as their telephone number and/or fax number;
  - b. the name and business address or home address of the opposite party, as well as their telephone number and/or fax number;
  - c. a clear description of the dispute, as well as, insofar as applicable, a description of that which the complainant is claiming, together with copies, if applicable, of any relevant documents.
3. The Secretary shall confirm the receipt of the filing in writing stating the date on which it was received.
4. At the same time, the Secretary shall notify Buma and/or Stemra about the filing.
5. The Secretary shall invite Buma and/or Stemra to give a written response to the filing within six weeks after the receipt of the dispute handling fee became known to the Secretary.

## Representation

### Article 6

1. The Parties can be represented during the handling of the dispute by an authorised representative with a written power of attorney or by a lawyer.
2. The appointment of a representative must be notified by the parties as quickly as possible to the Secretary and Buma and/or Stemra, unless that appointment is already apparent from the filing or the written response of Buma and/or Stemra.

## Hearings of the Disputes Committee

### Article 7

1. The Disputes Committee shall adopt its own rules of procedure. In principle, the periods for the submission of documents and the date of a hearing must be chosen such that a dispute can be settled within six months.
2. The Disputes Committee shall give the parties the opportunity to explain their standpoints orally at the hearing.
3. If a party fails to appear at a hearing without a valid reason, even though they were duly called to appear by the Secretary, this shall not prevent the Disputes Committee from hearing the other party or parties and passing a decision.
4. The Disputes Committee can seek the advice of one or more experts of its choosing, and pay them a fee for such, and/or seek the advice of Buma and/or Stemra or hear witnesses.
5. If a settlement is reached, it shall be laid down in writing in an agreement between the parties which is signed by the parties, and this will bring the dispute settlement procedure to an end.

## Written handling of a dispute

### Article 8

1. The Disputes Committee, taking into account the nature and size of a dispute, can also decide to settle a dispute by way of a written procedure.
2. If the Disputes Committee decides to handle a dispute in writing, the complainant will be given the opportunity to submit a further written explanation, after which Buma and/or Stemra will be given the opportunity to submit a further written reply.

3. In principle, the periods for the submission of documents must be chosen by the Chairperson such that a dispute can be settled within six months.

## Submission of Documents

### Article 9

1. The Disputes Committee shall at all times have the right to demand that the parties and/or Buma and/or Stemra submit certain documents that it deems important for the hearing of the dispute.
2. All documents submitted by a party, such as to include the filing of the dispute, must be submitted in sextuplicate to the Secretary, who shall immediately send the relevant documents to the other party with confirmation of the date of receipt.

## Decisions of the Disputes Committee

### Article 10

1. After the hearing of the dispute has been completed, the Chairperson shall set the date on which the Disputes Committee will pronounce its decision.
2. The decisions of the Disputes Committee shall be passed by a majority of the votes cast.
3. The Disputes Committee shall reach its decision only taking into account those documents which all the parties have been able to take cognizance of.
4. The decisions of the Disputes Committee shall be reasoned and state at least the facts, the supporting documents that were taken into account, the reasons why the Disputes Committee came to its decision, as well as – insofar as applicable – the order to pay the costs in the sense of article 14.
5. The decisions of the Disputes Committee shall be notified in writing. The Secretary shall send a copy of such to all the parties.
6. The decision of the Disputes Committee shall be binding for all the parties.
7. Buma and/or Stemra shall be obligated to act in accordance with the decision of the Disputes Committee, notwithstanding the provisions of paragraph 8.
8. The implementation of the decision of the Disputes Committee shall be suspended if one of the parties wants to submit the decision to the civil court for assessment, and has submitted the case to the civil court within no later than 6 (six) weeks after the date of the decision. The suspension shall last until the court has pronounced an irrevocable judgment, which judgment shall then replace the decision of the Disputes Committee.

## Costs of the proceedings

### Article 11

1. Each party shall carry its own costs, such as to include the costs of legal representation in the sense of article 6.
2. The costs and disbursements of the Disputes Committee, the secretariat, and the experts referred to in article 7, paragraph 4, shall be for the account of Buma and/or Stemra.

## Remuneration and disbursements of Members of the Disputes Committee and the Secretary

### Article 12

1. The remuneration of the members of the Disputes Committee and the Secretary shall be set by the Board of Directors of BumaStemra.
2. The disbursements of the members and Secretary shall include amongst other things all reasonable travel and accommodation expenses, as well as postage and telephone and fax costs.

## Dispute handling fee

### Article 13

1. For the handling of a dispute, for each filing (a filing can contain more than one dispute) the complainant will have to pay a dispute handling fee as follows:
  - a) author: €150 per filing
  - b) other complainants: €300 per filing
2. The dispute handling fee must be deposited in the bank account of BumaStemra no later than 14 days after the date on which the Secretary confirms the receipt of the filing.
3. If a complainant does not pay the dispute handling fee within the period specified by the Secretary after the issuing of a written final demand by the Secretary, he/she shall be deemed to have withdrawn the complaint.
4. If the Disputes Committee rules in favour of a complainant, then the dispute handling fee will be reimbursed, without any interest.

## Final provisions

### Article 14

1. All proposals and counterproposals concerning a settlement, which are made by any party during the procedure, shall be deemed to have been made subject to a reservation of rights.
2. The members of the Disputes Committee and the Secretary shall not act in the capacity of an arbitrator, lawyer, or adviser in any judicial or arbitration proceedings relating to disputes that have already been wholly or partially dealt with under this dispute settlement procedure.

## Effective date and amendment of the Regulations

### Article 15

1. These regulations were last amended in relation to article 2, paragraph 2, by a decision of the Board of Directors of BumaStemra on 26 April 2021.
2. These regulations shall be adopted and amended by the Board of Directors of BumaStemra. Insofar as otherwise is not provided for, the regulations shall apply as in effect on the date on which the dispute was filed.

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## Explanatory Notes to the Disputes Committee Regulations of BumaStemra

### A. Background

The dispute settlement regulations were introduced following the passing of the 'Echerer resolution' by the European Parliament<sup>1</sup> and in order to satisfy the requirements introduced under the Supervision of Collective Management Organizations (Copyright and Neighbouring Rights) Act<sup>2</sup>. In a letter on 8 February 2005, the Supervisory Authority for Copyrights asked Buma to submit its dispute settlement regulations. Buma then submitted the VCP regulations and informed the Authority that it was also working on more general regulations in relation to complaints of rightholders about, amongst other things, the distributions.

### B. Status of these explanatory notes

These explanatory notes describe the intention of the regulations and form an integral part of the regulations. The explanatory notes moreover serve as instructions for how the regulations should be interpreted and applied.

### C. Scope of application

These Regulations are for the settlement of disputes between a Participant and Buma and/or Stemra in relation to certain decisions of Buma and/or Stemra. In other words, not all decisions fall within the scope of these regulations. These Regulations are applicable to disputes in relation to decisions whereby the interests of the relevant Participant are individually and directly affected (see point 4 below). Furthermore, the relevant decisions must have been taken in connection with the implementation of articles of association, regulations or exploitation contracts. This according to article 2, paragraph 1, of the Regulations. This is the main rule.

On the one hand, the intention of this main rule and the exceptions to this main rule are explained, and on the other hand examples are given of what falls within the scope of the regulations and what does not.

With respect to the implementation and application of the regulations, for example, the Disputes Committee can hear a dispute about a complaint of a Participant that the Board of Directors has implemented the articles of association, regulations, or exploitation contracts incorrectly in his particular case. On the other hand, disputes about subjects where, under the articles of association, regulations or exploitation contracts, the Board of Directors has discretionary freedom, do not fall within the scope of application of the dispute settlement procedure, even if the complaint relates to a specific, individual case. Furthermore, the Disputes Committee is not there to make rulings about the (contents of the) articles of association, regulations and exploitation contracts themselves. This is because the articles of association, regulations and exploitation contracts have been adopted by the members' meeting and the meeting of affiliates.

It is therefore not the intention, for example, that the dispute settlement procedure should be used for a complaint of a tunes composer that was submitted in the past concerning the devaluation of jingles, bridges, links, etc. via an amendment of the Distribution Rules. This complaint did not relate to the application of certain regulations in an individual, concrete case, but to general policy, which was introduced by via an amendment of the Distribution Rules by the Board of Directors and the members' meeting. The Disputes Committee does not make any rulings about policy. If a Participant does not agree with the policy, then they can try to get this policy changed in

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<sup>1</sup> At the initiative of Ms Raina A. Mercedes Echerer, a Resolution was passed by the European Parliament on a Community framework for collective management societies in the field of copyright and neighbouring rights (2002/2274(INI) on 15 January 2004). In sections 29, 39 and 49 of that resolution, it calls for affordable dispute settlement mechanisms to be introduced for authors for the settlement of disputes between the rightholders and the collective rights management societies.

<sup>2</sup> Supervision of Collective Management Organizations (Copyright and Neighbouring Rights) Act of 6 March 2003 (last amended on 1 January 2021). In Article 2, paragraph 2, and Article 23, paragraph 1(b) and (c), it states that the Supervisory Authority for Copyrights has to ensure 'that a collective rights management organisation has an adequate dispute settlement procedure'.

accordance with the general rules of the association and/or foundation, or the Participant can take the matter to the civil courts.

In connection with the amendment of article 23, paragraph 1, preamble, of the Supervision Act on 1 January 2021, the Minister designated the Disputes Committee of BumaStemra as the designated body for the settlement of disputes between BumaStemra and rightholders and other collective management organisations in connection with multi-territorial licensing. This is included in article 2, paragraph 2, of the Regulations.

#### D. Individual interests directly affected

This terminology in article 2, paragraph 1, is based on the General Administrative Law Act and European law.

Under article 1:2, paragraph 1, of the General Administrative Law Act, an interested party is defined as a person whose interests are directly affected by a decision. According to the case law of the administrative court, five requirements have to be satisfied for a person to be designated as an interested party:

- a. the interested party must have a personal interest;
- b. this personal interest has to be sufficiently distinct from the interests of other persons;
- c. this interest has to be objectively quantifiable (which means idealistic or sentimental complaints are excluded);
- d. the interest has to concretely exist (i.e., potential future interests are excluded);
- e. the interest must directly affected by the decision.

The addition of the word 'individual' is based on the European law, which requires interested parties to have an individual interest that is directly affected. A Participant can therefore only submit a complaint about a decision that affects him/her personally. For example, Author A cannot submit a complaint about a decision that has affected Author B.

#### E. Exceptions to the scope of application

In addition to the explanation and the exceptions described in point 3 above, there are also a number of other concrete exceptions.

##### a. Decisions of the meeting of members and/or affiliates

A decision of the highest body, for example the members' meeting, cannot be submitted to the Disputes Committee for review (article 2, paragraph 3). If a Participant does not agree with the policy, then they can try to get this policy changed in accordance with the general rules of the association and/or foundation, or the Participant can take the matter to the civil courts.

##### b. Discretionary freedom, practical interpretation

As explained above, these Regulations do not apply to disputes about the policy of the Annual General Meeting or the Board of Directors, but to complaints from individuals who have been personally disadvantaged by the implementation/application of the policy in a concrete case. The dispute settlement procedure is therefore not intended to be used so that the Disputes Committee can make rulings about cases where the Board of Directors has discretionary freedom under the articles of association, regulations, or exploitation contracts. This is because it is not the intention that the Disputes Committee should make rulings about policy, in other words it should not take over the role of the policymakers. If the policymaker, for example the members' meeting, gives the Board of Directors discretionary freedom – for example to allow exceptions to certain regulations – then the Disputes Committee is not allowed to make a ruling about the practical implementation of this decision. If a Participant has a complaint about the application of the policy by the Board of Directors in his concrete case, he cannot go to the Disputes Committee, but instead he has to go to the Board of Directors or the members' meeting in order to try and get the policy changed. As long as the Board of Directors or the members' meeting does not consider it necessary for the policy to be changed, then there will be no decision that can be submitted to the Disputes Committee for review, namely a 'decision [...] that has been taken for the implementation of articles of association, regulations or exploitation contracts', as required under article 2, paragraph 1. The Disputes Committee can therefore hear disputes about whether or not the existing policy has been implemented/applied correctly in a concrete case, but not about whether or not the policy itself is correct.

##### c. Other regulations

The VCP is an independent committee consisting of subject-matter experts. The members of



the new Disputes Committee must not be working in the same field as the VCP experts. In the event of any doubt, the VCP will decide. This exception relates to article 2, paragraph 7.

d. Complaints about the distribution

This concerns article 2, paragraph 8. The usual procedure is as follows. Complaints about distributions have to be dealt with in accordance with article 15 of the Distribution Rules (i.e., complaints about distributions up to a maximum of 2 years after the distribution, as well as the corresponding article 5 of the exploitation contract). These types of complaints are dealt with by the Board of Directors via the staff of the organisation.

Up until now, it was moreover possible to submit an appeal to the Board of Directors. If a complaint is submitted about a distribution, then use can only be made of the dispute settlement procedure after a decision has been taken about the complaint. This is based on the assumption that the allowing or refusal of a complaint will take place formally and be explained in writing. Nonetheless, if a decision is not taken about a complaint – taking into account the complexity, scope and clarity of the complaint – then the ‘not taking’ of a decision will apply as a refusal of the complaint. The current procedure that is used for the submission of complaints to the Board of Directors will therefore be abolished with introduction of these new Regulations.

e. Dispute has already been submitted to the ordinary courts

Article 2, paragraph 8, states that if the relevant dispute is already being handled by the civil courts, then the Disputes Committee cannot be asked to hear the dispute. This means that instead of submitting a complaint to the Disputes Committee (binding decision, see article 10, paragraph 6), a Participant can submit the dispute to a different body, such as the civil courts.

f. Other exceptions of article 2

This concerns the exceptions referred to in paragraphs 6 and 9 of article 2. These exceptions are self-explanatory.

F. Additional examples: when the Regulations are applicable

- a. A dispute about the implementation of the distribution rules via, for example, a decision of the Board of Directors, whereby the Board of Directors does not have any discretionary freedom in relation to the implementation.
- b. Previously, for complaints about the incorrect application of the copyright royalty share splits, an appeal could be submitted (against a decision of the Board of Directors) to an Appeals Committee established by the Board of Directors (article 13, Appendix 5, Distribution Rules Buma). This procedure has been abolished with the introduction of these new Regulations. A complaint can now be submitted to the Disputes Committee if all the requirements have been satisfied (e.g., dispute not already submitted to the civil courts, etc.).
- c. A dispute about the non-admission of a Participant as a member or affiliate, or about the revoking of that capacity (e.g., because in the opinion of the Board the income requirement is no longer being satisfied, which is formulated very precisely in the articles of association, and thus there is no discretionary freedom).
- d. A complaint about the late notification of a decision not to carry out exploitation in a certain country in accordance with article 3 of the exploitation regulations (however, the complaint cannot relate to the actual decision not to carry out exploitation in that country: discretionary freedom).
- e. A complaint about the late notification of a decision to set a minimum amount, below which no distribution will take place, in accordance with article 6 of the exploitation regulations (however, the complaint cannot relate to the actual decision to apply the relevant limit, or the amount of the limit: discretionary freedom).
- f. A complaint about a fine in the sense of article 4 of the exploitation regulations.
- g. Previously, complaints about a classification based on duration could be submitted (against a decision of the Board of Directors) to an Appeals Committee established by the Board of Directors (article 6, appendix 1, Distribution Rules Buma). This procedure has been abolished with the introduction of these new Regulations. A complaint can now be submitted to the Disputes Committee if all the requirements have been satisfied (e.g., dispute not already submitted to the civil courts, etc.).
- h. Incorrect application by the Board of Directors of the procedure for extrajudicial

dissolution, see below under point G(c).

G. Additional examples: when the regulations are not applicable

a. Complaint of Hille about non-collection at crematoria

Although the Participant had been individually and directly affected by the decision of the Board of Directors, it was taken based on a (published) policy. Hille therefore had to appeal to the policymakers, namely the Board of Directors and the Annual General Meeting. Furthermore, the civil courts also refused the complaint of Hille.

b. Decision of the Board of Directors to suspend a distribution due to contradictory claims

Such a decision is based on article 8, paragraph 2, Distribution Rules Buma (Stemra article 7, paragraph 2). The Board of Directors 'has the right' to suspend a distribution. The Board of Directors has been given discretionary freedom on this subject via the Regulations. This is the exception of article 2, paragraph 4.

There are various types of distribution suspensions within BumaStemra. The Board of Directors has the right to suspend a distribution in the event of amongst other things:

1. Conflicting CTB's (CTB = registration of work by the author).
2. Contradictory claims between publishers concerning foreign works with a Dutch sub-publisher. BumaStemra suspends the distribution and asks for a response. If the accused does not reply within 2 months, the claim is awarded to the person who has complained.
3. Contradictory claims of publishers of original Dutch works. Since the end of 2004, this is deemed equivalent to point 2.
4. Requests from a sister society involving a Buma/ Stemra Participant.
5. Extrajudicial dissolution in accordance with the procedure published in the Newsletter of January 2003.
6. A complaint to the VCP (article 7, paragraph 2 VCP).
7. And other cases of contradictory claims on shares of musical works in the sense of article 8 of the Distribution Rules Buma (Stemra article 7).

c. Extrajudicial dissolution procedure

This is a procedure for the settlement of disputes between individual rightholders. The dispute settlement procedure does not apply to such disputes (exception of article 2, paragraph 6). However, if the Board of Directors has not carried out a procedure in the right way (incorrectly, incompletely, unreasonably), then the dispute settlement procedure can be followed for a complaint against this type of decision of the Board of Directors.

d. Decision about a minimum limit/basic amount

The dispute settlement procedure cannot be used for a complaint about a decision to set a minimum amount, below which no distribution will take place, in accordance with article 11 of the exploitation regulations. Because the Board of Directors has discretionary freedom in this area, the complaint would have to be directed against the decision to set a limit and/or the amount of the limit. However, this type of complaint is excluded under the Regulations. On the other hand, a complaint can be submitted if the relevant decision is not notified on time (see point (e) of section F 'Additional examples: when the Regulations are applicable'. The foregoing principle also applies for a decision about the setting of the basic amount in accordance with article 13 of the Distribution Rules of Buma.

e. Reservation of rights and withdrawal of repertoire

Under article 3 of the exploitation regulations and article 27, paragraph 2, of the articles of association, the Board of Directors is authorised not to carry out exploitation in respect of an individual Participant in a particular country or in certain cases or for certain forms of exploitation. The Board of Directors has discretionary freedom in this area, which means the dispute settlement procedure is not applicable.

f. Exclusion of dubious lists of performed works from the distribution

The Board of Directors is authorised to exclude dubious lists of performed works from the distribution and to take additional measures (article 5, paragraph 5, Distribution Rules Buma). This discretionary freedom means the dispute settlement procedure will not apply to such cases.

g. Additional payout in connection with non-reported performances

The Board of Directors is authorised to decide whether or not to make an additional payout in connection with non-reported performances (article 9 and 10, Distribution Rules Buma). This discretionary freedom means the dispute settlement procedure will not apply to such cases.

- h. Extension of exploitation contract for a maximum of 3 years  
In the event of the termination of the exploitation contract by a Participant, the Board of Directors has the right, on the grounds of reasons derived from its assigned tasks, to extend the contract for a maximum of 3 years. This means the Board of Directors has discretionary freedom in this area.
- i. Distributions that are disputed on grounds that fall within the competency of the VCP. This is the exception of article 2, paragraph 7.

#### H. Appointment (Article 3)

Because the complaints are often directed against the Board of Directors of Buma or Stemra, then an appointment by the Board of Directors is not really appropriate. That is why an appointment has to be made for and by the rightholders, but at the nomination of the Board of Directors in consultation with the committee.

Disputes in relation to multi-territorial licensing in the sense of article 2, paragraph 2, of the Regulations have to be dealt with by an independent disputes committee. The Regulations have therefore been amended to ensure the impartiality of the members of the Disputes Committee is guaranteed. This is set out in article 3, paragraph 6.

#### I. Filing of a dispute (Article 5)

A complaint has to be submitted in a timely manner to a special, carefully selected committee (a disputes committee). The complaint has to be clearly described and the grounds for the complaint have to be explained. The committee has to inform the Board of Directors about the complaint immediately. This is because the dispute might have an impact on the royalty split. In that case, Board of Directors can decide to suspend the relevant distribution. The committee has to be (given the opportunity) to reach a decision quickly. The decision of the committee will be binding on all parties.

#### J. Binding decision (Article 10)

A civil court can only carry out a marginal review of a binding decision. The dispute settlement procedure is relatively inexpensive for both rightholders and BumaStemra. The committee also has the necessary know-how. However, a Participant can still decide to submit a dispute to the civil court instead of the Disputes Committee.