

What is the purpose of the Ministerial Decision ΥΠΠΟ/ΔΙΟΙΚ/98546 (Official Gazette: A 25/4 March 1993) "Reproduction of copyrighted work for the benefit of the blind and the deaf-mute and extension of the provision to other categories of persons with disabilities"?

The purpose of the Ministerial Decision is to determine the conditions under which the provisions of article 28A of Law 2121/1993 apply (art. 1 ΥΠΠΟ/ΔΙΟΙΚ/98546). According to art. 28A Law 2121/1993: «*The reproduction of the work is allowed for the benefit of blind and deaf-mute, for uses of a non-commercial nature, directly related to the disability and to the extent required by the specific disability. The conditions of application of this provision as well as the application of this provision to other categories of persons with disabilities may be determined by resolution of the Minister of Culture*».

Who are the beneficiaries?

- Blind people, but also
- People with defective or impaired vision that cannot be improved with the use of corrective lenses to a degree satisfactory for reading.
- Deaf-mute, but also, in general,
- People who, because of a disability, are unable to read a printed text in a conventional way or perceive the content of a work via their physical senses (art. 3 ΥΠΠΟ/ΔΙΟΙΚ/98546).

What are the works that fall within the scope of the Decision?

- It applies to all literary works (in as much as they cannot be perceived in their existing form by the beneficiaries).
- It does not apply to the source code of computer programs (art. 4 ΥΠΠΟ/ΔΙΟΙΚ/98546).

What are the forms that a work can take?

It may take the form of Braille; Moon; Daisy; talking books; or any other form designed to serve the needs of the beneficiaries and respond to those needs to the extent required by the disability (art. 5 ΥΠΠΟ/ΔΙΟΙΚ/98546).

Who is entitled to reproduce the work?

- Any non-profit organization, association, union or other pertinent organisation whose main mission is to provide specialised services related to the education and training of the beneficiaries.
- Tertiary education establishments, such as Universities, Polytechnics, Institutes of Technology and so on, are also included.

In case of doubt whether a body is entitled to reproduce works for the beneficiaries, the Hellenic Copyright Organisation (HCO) makes the final decision. HCO maintains a list of all competent bodies in this respect (art. 2 ΥΠΠΟ/ΔΙΟΙΚ/98546).

How are publishers involved in all this?

- It is publishers that provide the work (in the event that there is a cost for the copy provided, this cost cannot exceed the reproduction cost of the copy).
- The publishers are obliged to provide the work within thirty (30) days from the date of the competent body's request.
- They are obliged to deliver the work in electronic form on condition that the work is kept in electronic form.

The Ministerial Decision provides for an indicative list of electronic forms as well as an indicative list of means of delivery from the publisher to the competent body (art. 6 par. 4-7, art. 7 par. 7-8 ΥΠΠΟ/ΔΙΟΙΚ/98546).

What kind of works are the publishers required to deliver?

- all textbooks of primary and secondary education as well as mandatory textbooks of tertiary education.
- for all other works, up to 10% of their annual publishing output (excluding from such percentage any textbooks (i.e. category 1)).

In case the publisher refuses to comply with this obligation, the percentage doubles (art. 6 par. 1-3 ΥΠΠΟ/ΔΙΟΙΚ/98546).

What are the competent bodies' obligations?

- purchase one copy of the work they intend to reproduce, irrespective of the number of copies to be reproduced.
- notify the publisher of the number of copies of the work they reproduced and of the form of such reproduction.
- inform HCO and the Association of Book Publishers so that they update their records in respect of the titles of works in electronic form held by each competent body and the particular form in which the works have been reproduced.
- destroy, in the event of change in purpose or dissolution, all electronic files in their possession and report such destruction both to HCO and to the Association of Book Publishers.
- examine whether a beneficiary qualifies as such.
- refrain from using reproduced copies for purposes other than those specified in the Ministerial Decision. In any other case, the sanctions provided for in the Greek Copyright Act apply.

- incur the principal's liability for any copyright infringements committed by third parties they appointed to reproduce the works (art. 6 par. 4-7, art. 7 par. 7-8 ΥΠΠΟ/ΔΙΟΙΚ/98546).

What are the safeguards for authors and publishers?

- Only legally published works shall be reproduced. The reproduction shall not be for commercial uses, neither direct nor indirect. It shall be directly related to the disability.
- It does not apply to works that are already in the market in forms specifically designed for the needs of beneficiaries.
- The reproduced copy shall mention the name of the author, the publisher and the date of first publication, provided such information is included in the work.
- The physical carrier of such copy shall also mention that the copy has been reproduced pursuant to article 28A of Law 2121/1993 and the Ministerial Decision and that any further reproduction in forms other than those defined in the Ministerial Decision constitute a copyright infringement and shall incur the sanctions provided for in the Greek Copyright Act.
- The work cannot be amended without the author's and the publisher's authorisation in relation to each one's respective rights (art. 7 ΥΠΠΟ/ΔΙΟΙΚ/98546).

Please note that the exception as set out in the Ministerial Decree is obligatory. In other words, it cannot be contracted out in agreements between the publisher and the author.