

# BOGA & ASSOCIATES

## NEWSLETTER

*To keep you up-to-date with the latest legal and economic developments, this newsletter prepared by our Team provides information that may affect the operation of your business in Albania.*

### DRAFT LAW

**“On Additions and Amendments to  
Law no. 35/2016 on Copyright and  
other Related Rights”**



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## The Draft Law “On additions and amendments to Law no. 35/2016 On Copyright and other Related Rights”

A draft law “*On additions and amendments to Law no. 35/2016 On Copyright and other Related Rights*” is proposed by the Council of Ministers, aiming to further align and improve the legislation with the *acquis communautaire* and to regulate the operation of Collective Administration Agencies (CAAs).

The recent developments in the field of intellectual property as well as the rapid steps towards digitalization resulted in the need for adapting the current Law to the three following EU directives:

- Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 “*On certain permitted uses of orphan works*”;
- Directive 2017/1564 of the European Parliament and of the Council of 13 September 2017 “*On certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled*” and amending Directive 2001/29/EC “*On the harmonization of certain aspects of copyright and related rights in the information society*”;
- Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 amending Directive 2006/116/EC “*On the term of protection of copyright and certain related rights*”.

The draft law introduces two new concepts with regards to *orphan works* and the *diligent search* procedure. It creates a legal framework to facilitate the digitization and dissemination of orphan works and other subject-matter which are protected by copyright or related rights and for which no

rightholder is identified or for which the rightholder, even if identified, is not located.

An *orphan work* is deemed as such after having performed and recorded a diligent search, which is conducted before the use of the work by searching in the appropriate sources for the category of the work. The rights of identified co-authors and whose location is known remain intact.

The draft law recognizes the possibility of unrestricted use of orphan works by public libraries, educational institutions or museums, other legal entities performing museum activities, archives, film archive or audiovisual institutions and public broadcasters established in Albania. However, in the circumstances that the author or co-author of an orphan work decides to terminate this status, the author/co-author is entitled to a fair compensation for the use of its work.

The draft law provides for the possibility of using copyrighted works by individuals and legal entities referred to as authorized entities, which represent the interests of persons with disabilities, as long as they act without purposes of economic gain, without the authorization of the author or rightholder of a work and without reward.

The latest amendments provided in the draft law anticipate that collective administration agencies are authorized to collect copyright royalties and distribute to their members on a contract basis as well as to non-member rightholders, only with the written consent of the latter.

The One-stop Shop/Counter in cooperation with the collective administration agencies, will perform the function of collecting fees for all categories of rightholders in collective administration and of issuing permits/authorizations to user entities.



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**BOGA & ASSOCIATES**  
**TOP TIER ACHIEVEMENTS 2021-2022**

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**IFLR1000 2022:** Ranked in Tier 1 in Financial and Corporate

**Chambers Global 2022:** Ranked in Band 1 in Corporate/Commercial

**Chambers Europe 2021:** Top Ranked in 4 practice areas

**The Legal 500 2021:** Top Ranked in Legal Market Overview

**Benchmark Litigation Europe 2022:** Top Ranked in Dispute Resolution

**WTR1000 2021:** Top Ranked in Trademarks

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The firm’s particularity is linked to the multidisciplinary services it provides to its clients, through an uncompromising commitment to excellence. Apart from the widely consolidated legal practice, the firm offers the highest standards of expertise in tax and accounting services, with keen sensitivity to the rapid changes in the Albanian and Kosovo business environment. The firm delivers services to leading clients in major industries, banks and financial institutions, as well as to companies engaged in insurance, construction, energy and utilities, entertainment and media, mining, oil and gas, professional services, real estate, technology, telecommunications, tourism, transport, infrastructure and consumer goods.