

Sena Disputes Committee

Article 1 - Definitions

- a)** Sena: the Foundation for the Exploitation of Neighbouring Rights, registered office in Hilversum. Sena is the legal entity, to the exclusion of all others, designated by the Minister of Justice on 29 June 1993 under Article 15 of the WNR charged with the collection and distribution of the fair compensation referred to in Article 7 of the WNR;
- b)** Executive Board: Sena's Executive Board as defined in Sena's articles of association;
- c)** Member: the natural or legal person who, in the capacity of rightsholder or successor in title, has concluded an exploitation agreement with Sena;
- d)** Complainant: the Member who submits a dispute in writing to the Secretary;
- e)** Respondent: the Member who is presented as the other party in the dispute brought by the Complainant, or Sena;
- f)** Disputes Committee: Distribution Disputes Committee as defined in Article 6 of Sena's general distribution regulations;
- g)** Chairman: the chairman of the Disputes Committee;
- h)** Secretary: the secretary of the Disputes Committee

Article 2 - Scope

- 1.** These regulations apply to disputes between Sena and Members and to disputes between Members relating to the implementation of the management of members' neighbouring rights and which have arisen as a result of the distribution regulations and the accompanying distribution subregulations, or decisions by the Meeting of Affiliates or Sena's Executive Board, or the general policy, which individually and directly affect the Member concerned.
- 2.** If the complaint is against a decision of the Meeting of Affiliates or the Executive Board, or against Sena's general policy, the Disputes Committee can only carry out a minimal assessment whether sufficient consideration has been taken of the individual interests of the party concerned, insofar as the complaint can be received by the party concerned. If the Disputes Committee is of the opinion that this is insufficient, the Disputes Committee will request a reassessment of the dispute by (possibly a committee of) the Meeting of Affiliates or the Executive Board

Article 3 - Notification of dispute

- 1.** A dispute is brought by the Complainant by notifying the Secretary in writing
- 2.** The notification contains the following information:
 - a)** the name, address and place of residence, place of business or actual residence of the Complainant and a telephone number and email address;
 - b)** the name, address and residence, place of business or actual residence of the Defendant and a telephone number and email address;
 - c)** a clear explanation of the dispute and of what the Complainant is claiming;
 - d)** all documents which the Complainant wishes to rely on in the proceedings
- 3.** The Secretary confirms receipt of the Complainant's notification, stating the date of receipt, and sends the Complainant a copy of the process regulations. The Secretary sends a copy of the confirmation to the Defendant and a copy to Sena if the Defendant is a Member

Article 4 - Representation

- 1.** The parties can be represented in the dispute proceedings by a person authorised to do so in writing or by a lawyer
- 2.** The parties shall inform the Secretary as soon as possible unless this is already evident from the notification or the statement of defence.

Sena Disputes Committee

Article 5 – Further course of the process and submission of defence

- 1.** The Secretary invites the Defendant to respond to the notification in a statement of defence within six weeks of the date of the notice. This term can be extended once by six weeks, stating reasons
- 2.** The statement of defence contains:
 - a)** name, address and residence, place of business or actual residence of the Defendant and a telephone number and email address;
 - b)** a substantive response to the dispute described in the notification;
 - c)** any documents the Defendant intends to rely on in the proceedings.
- 3.** Upon receipt of the statement of defence, the Complainant will be given the opportunity to respond in writing to the statement of defence. Finally, the Defendant will be given the opportunity to respond to this response in writing. In principle, a period of four weeks will be given to submit these further written responses.
- 4.** In principle, a hearing will be held in which the parties will be given the opportunity to express their views verbally, unless the Disputes Committee decides to settle the dispute in writing.
- 5.** At the request of the Other Party, the Disputes Committee declares the Complainant inadmissible, provided that this request has been made within the timeframe stated in paragraph 1, if the Complainant has not first submitted their complaint to Sena in accordance with Sena's complaints procedure. Alternatively, the Disputes Committee may decide to deal with the dispute if, in the opinion of the Disputes Committee, the Complainant is not at fault with regard to the non-compliance with Sena's complaints procedure.
- 6.** At the Defendant's request, the Disputes Committee shall also declare the Complainant's complaint inadmissible in the following cases:
 - a)** the Disputes Committee has already dealt with the content of the dispute between the same parties or is dealing with it in another dispute procedure;
 - b)** it concerns a dispute between the same parties in which proceedings are already pending before the court or arbitrator or in which the court or arbitrator has already ruled on the content of the dispute;
 - c)** there is a specific committee set up to handle the complaint;
 - d)** the complaint involves an interest of more than € 100,000.-
- 7.** The Disputes Committee shall not decide on a request as referred to in paragraphs 5 and 6 until after the Complainant has been able to respond (in writing) to the request.
- 8.** Any other Member who has an interest in a dispute pending between a Complainant and a Defendant may request to join or intervene in the dispute, provided the Disputes Committee has not yet reached a decision. Joining or intervention can lead to modification of the current procedure.
- 9.** Parties may request other Members or Sena to be summoned as a party in the dispute. This request must be submitted to the Disputes Committee as soon as possible after the dispute has been submitted.
- 10.** The Disputes Committee may independently convene other Members or Sena as a party or witness in the dispute or invite them to join or intervene in a dispute if it considers this appropriate.

Article 6 - Disputes Committee hearing and submission of further documents

- 1.** After consultation with the other members of the Disputes Committee, the Chairman sets the date and time of the hearing. When determining the date of the hearing, due account shall be taken of any impediments to timely submissions by the parties.
- 2.** The Secretary calls on the parties in good time. If a party has been duly summoned

Sena Disputes Committee

but does not appear at the hearing, without providing a good reason, the Disputes Committee can hear the other party or parties and make a decision.

3. The Disputes Committee holds its hearings at a location decided by the Chairman.

4. Parties can submit further documents up to ten days before the hearing. In principle, documents submitted afterwards are not considered.

5. The Disputes Committee itself determines the procedural order.

6. During the hearing, the parties will have the opportunity to present their positions verbally.

7. The Disputes Committee can appoint one or more experts and can be informed by these experts or hear witnesses.

8. If a settlement is reached during the hearing, this will be written in a settlement agreement between the parties and signed by the parties, at which point the dispute ends.

Article 7 - Written procedure

1. The Disputes Committee can decide to deal with the dispute in writing.

2. At any time during the proceedings, the Disputes Committee can decide, either further to a justified request from one of the parties or on its own initiative, to arrange a hearing to explain their positions verbally or to try to find an amicable settlement

Article 8 - Disputes Committee decision

1. After the dispute process is completed, the Chairman decides the date that the Disputes Committee will deliver its decision. In principle, the Disputes Committee decides within six weeks of the hearing date or - if no hearing has been scheduled - after the date of the reply by rejoinder. The parties will be notified of any extension of the decision period.

2. The Disputes Committee decides by majority vote.

3. In its ruling, the Disputes Committee will only consider documents that have been brought to the attention of all parties.

4. The Disputes Committee's ruling states the reasons for its decision and at least states the facts, the evidence considered and the reasons the Disputes Committee based its verdict on.

5. The Disputes Committee's ruling is given in writing and sent to all parties.

6. The ruling of the Disputes Committee is binding, which means that the decision of the Disputes Committee binds the parties, and they can no longer have their dispute judged by the court after the decision of the Disputes Committee

7. Sena is obliged to comply with the decision of the Disputes Committee, regarding the implementation of the distribution regulations, even if it is not involved as a party in the dispute.

Article 9 - Cessation / termination of process

1. If one of the parties wishes to submit the dispute to the ordinary court for adjudication, this party will notify the Disputes Committee in writing within one month of the confirmation of receipt of the complaint notification (as referred to in Article 3(3)). In that case, the dispute process, if it has already started with the Disputes Committee, will be suspended until the judgment of the ordinary court has been received. The Disputes Committee may only submit the dispute or continue the proceedings if the ordinary court has not assessed the content of the dispute in question.

2. If the Defendant does not submit a statement of defence and does not respond to correspondence from the Disputes Committee, the Disputes Committee will stop handling the dispute. In that case, the Complainant will receive the disputes contribution referred to in Article 10, without interest.

Sena Disputes Committee

Article 10 - Disputes contribution and procedure costs

- 1.** To process a dispute before the Disputes Committee, the Complainant must pay a dispute fee per dispute. The dispute contribution is € 150 per notification for performers and € 300 per notification for producers
- 2.** The dispute contribution must be paid no later than 14 days after the day on which the Secretary confirms receipt of the Complaint, to the account of Sena IBAN NL96ABNA0483700487 stating 'contribution to the dispute resolution committee'.
- 3.** If, after a written reminder from the Secretary, a Complainant has not paid the required dispute contribution within the period specified by the Secretary, they will be deemed to have withdrawn the complaint.
- 4.** If the Disputes Committee rules in favour of a Complainant, the dispute contribution will be refunded, without interest.
- 5.** The Disputes Committee does not award legal costs and expenses.

Article 11 - Cases not covered by these regulations

The Disputes Committee shall decide in all cases not provided for in these regulations. The decision shall be made in accordance with the provisions of these regulations as far as possible.

Article 12 - Entry into force and amendment of the regulations

The current version of the process regulations entered into force on 1 January 2017.