

ARTIST BOOKING

The presentation hereby has in view the legal provisions in force on the 31st of March 2004

Applicable legislation in this field

- Government Decision no. 751/2002 on the establishment of the Attesting and Certification Commission in the field of artist booking and of attesting for the performing of the activity of booking agent, published in the Official Gazette no. 538/23rd of July 2002

I. Scope of the legal provisions in the field of artist booking

The legal or natural person, who, on the basis of a written agreement with a performer, acts in his name and on his behalf for the identification of the possibilities of execution or performance of a literary or artistic work, can be booking agent.

The natural person performing activities of artist booking grants the capacity of *trader*, exercising the rights and fulfilling the obligations deriving from such capacity.

The natural person performing activities of booking agency, the legal person of private law must have in its object of activity the operations of booking agency in order to perform artist booking activities.

II. Public authorities having duties in this field

The activity of granting, withdrawing or suspending the certificates and permits in the field of artist booking is coordinated by the Attesting and Certification Commission in the field of artist booking, functioning in the Ministry of Culture and Cults subordination.

The commission is composed of seven members. The members of the commission are appointed as follows:

- a) two members – by the Ministry of Culture and Cults;
- b) two members – by the Ministry of Justice;
- c) one member – by the Ministry of Internals;
- d) one member – by the Ministry of External Affairs;

The representatives of the ministries above mentioned are designated by the managers of such ministries and appointed by an order of the minister of culture and cults.

The management is insured by a president, who is an official within the Ministry of Culture and Cults.

III. Performing the activities of booking agency

1. Booking agent – natural person

The natural person may perform activities of artist booking only after the obtaining of the booking agent certificate issued by the Attesting and Certification Commission in the field of artist booking.

Conditions that must be fulfilled by the natural person in order to perform activities of artist booking

In order for a natural person to be allowed to perform activities of artist booking it must fulfill cumulatively the following conditions:

- a) he or she is a Romanian citizen;
- b) he or she has full exercise capacity;
- c) he or she has no criminal record.

Procedure of obtaining the booking agent certificate

In order to obtain the booking agent certificate, the natural person files with the secretary of the Commission a dossier comprising the following documents:

- standard form application requesting the issuing of the certificate;
- curriculum vitae;
- certified copies of the documents regarding the education;
- certificate of criminal record;
- certificate of fiscal record.

The acts filed with the dossier are verified by the secretary of the Commission, within maximum 10 days from the date of its filing. If the applicant, natural person, fulfills the aforementioned conditions and the presented dossier is complete, the secretary submits the dossier to the president of the Commission who, within maximum 10 days establishes the date of the applicant's examination. Upon the established date, the members of the Commission verify the knowledge of legislation of the applicant in the field of copyright and neighboring rights, civil law and commercial law.

Within 5 days from the date of the examination, the Commission communicates to the applicant the decision of issuing the booking agent certificate or of rejection of the petition, as the case may be.

The commission issues to the applicants declared admitted, by a decision, the booking agent certificate.

2. Booking agent – legal person

The legal person of private law may perform activities of artist booking only after the obtaining of the booking agent permit issued by the Commission.

In order to obtain the booking agent permit the legal persons have to provide the proof that at least one of its associates or an employee having individual labor contract for an indefinite period holds a booking agent certificate.

Procedure to obtain the booking agent permit by the legal persons

In order to obtain the booking agent permit the legal person, by its legal representative, files with the secretary of the Commission a dossier containing the following documents:

- a) standard form application;
- b) certified copies of the certificate of incorporation, bylaws, certificate of fiscal registration;
- c) booking agent certificate or certificates, as the case may be, of the natural person / natural persons associated to the legal person or employed within the legal person with individual labor contract for indefinite period.

We specify that the booking agent permit for the interested legal person and also the booking agent certificate for the natural person / persons associated with the legal person requesting the booking agent permit or employed with individual labor contract for indefinite period can be obtained at the same time.

The acts filed by the legal person shall be verified within maximum 10 days from the date of its filing. If the dossier presented by the legal person is complete, the secretary transmits it to the president of the Commission. The dossier shall be subjected to the examination of the members of the Commission by the president within maximum 10 days from the date of the filing.

Within 5 days from the examination, the Commission communicates to the legal person the decision of issuing of the booking agent permit or of rejection of the application, as the case may be.

Natural persons, holding the booking agent certificate, as well as legal persons who have obtained the booking agent permit are registered in the Booking Agents Register, under the coordination of the secretary of the Commission.

Booking agent certificate or booking agent permit suspension.

The booking agent permit or the booking agent certificate suspends on the basis of the grounded decision of the Commission, in the case of the performing by the holder of the certificate or of the permit of one or many of the following acts:

a) one or many offenses from those provided for by the Art. 12 – 17 from the Law no. 678/2001 on the prevention and combating of the traffic of persons;

The offenses that can be performed by the persons performing activities of artist booking are: the offense of traffic of persons, the offense of traffic of infants and the offense provided in the Art.17 from the Law no. 678/2001, this one consisting of determination, willingly allowing directly or through a mediator, the entering and remaining on the territory of the country of a person who is not Romanian citizen subjected to the traffic of persons:

- using for this fraudulent means, violence or threatening or another form of coercion; or
- abusing of the special situation in which that person is, because of his illegal or precarious situation of entering and staying in the country, or because of a pregnancy, disease or infirmity or of a physical or mental deficiency.

b) violation of the performers' patrimonial rights provided by the Law no.8/1996 on copyright and neighboring rights, as further amended and completed, upon their complaint

c) exceeding the limits of the power of attorney granted by the performers, upon their complaint.

The suspension produces its effects from the date of the communication of the decision adopted by the Commission and lasts until the end of the investigations performed by the competent authorities in connection with the facts that have determined for this measure to be taken.

Booking agent certificate or booking agent permit withdrawal

The booking agent certificate of the natural persons is withdrawn by a grounded decision of the Commission in the following situations:

- in the case of the sentencing through a final judgment for the performing of one or many offenses from those stipulated in the Art. 12 – 17 from the Law no. 678/2001;
- in the case of the compelling to the payment of damages in the case of the violation of the performers' patrimonial rights, provided for in the Law no.8/1996 on copyright and neighboring rights, as further amended and completed.
- In the case of exceeding the limits of the power of attorney granted by the performers.

The booking agent permit of the legal persons is withdrawn by the grounded decision of the Commission in the case in which the condition of holding of the booking agent certificate by at least one associate of it or by an employee with individual labor contract for indefinite period is no longer complied with.

The permit shall be also withdrawn in the case of the compelling of the legal person to the payment of damages in the case of the violation of the performers' rights provided for in the Law no.8/1996 on copyright and neighboring rights, as further amended and completed or in the situation of the exceeding the limits of the power of attorney granted to it by the performers.