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## **WIPO-BCC 27<sup>th</sup> Advanced Training Seminar on Copyright and Related Rights**

### **Country Report**

#### **PARAGUAY**

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## Intellectual Property and Copyright and Related Rights in Paraguay

In Paraguay, Intellectual Property is protected by National Constitution<sup>1</sup> since 1992 that in the Article 110 establish that *“All authors, inventors, producers, or merchants will enjoy the exclusive property of their work, invention, brand or commercial name, in accordance to the law”*. The National Direction of Intellectual Property (DINAPI), is the National IP Office, set up since December 31<sup>th</sup>, 2012. Before the DINAPI set up, the IP matters were handled thru a General Direction under the Industry and Commerce Ministry. After 2012, DINAPI was separated off the Industry and Commerce Ministry's structure by the 4798<sup>2</sup> Law, and conceived as an autonomous entity, responsible to promote, design, implement and coordinate the IP policies. The aforementioned Law is implemented thru the Presidential Decree 460<sup>3</sup> of 13, in force since October 10<sup>th</sup> 2013.

DINAPI has three missional areas, that are **General Direction of Industrial Property** in charge of grant trademarks, patents, utility models, industrial designs, **General Direction of Copyright and Related Rights**, with a registration office for all types of works, an office in charge of control of Collective Management Organizations and one to promote creative industries and folklore, and the **General Direction of Enforcement**, that has the work of promotion and prevention of Intellectual Property, carrying out the research and control work in all customs of the country fighting against piracy and counterfeiting as main duty, and carrying out awareness-raising tasks in educational institutions and public of interest.

### Copyright and Related Rights Legislations

Paraguayan's legislation, in this subject, recognize rights following the continental model of the Droit d'Auteur. Those provisions are contained under Law 1328<sup>4</sup>, enacted by Legislature in 1998, and establish a set of moral and economics rights for authors, rights of compensatory remuneration, exceptions and limitations, following the three steps rule's, specific regulations for works in public domain, special provisions for certain types of works such as audiovisual and broadcast works or computer programs such as software and apps. Also regulates an interesting variety of contracts with presumption in favor of authors in cases of non-written contracts.

<sup>1</sup> [https://www.constituteproject.org/constitution/Paraguay\\_2011.pdf?lang=en](https://www.constituteproject.org/constitution/Paraguay_2011.pdf?lang=en)

<sup>2</sup> <http://www.wipo.int/wipolex/en/details.jsp?id=13784>

<sup>3</sup> <http://www.wipo.int/wipolex/en/details.jsp?id=13796>

<sup>4</sup> <http://www.wipo.int/wipolex/en/details.jsp?id=3557>

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The legislation also includes the following related legislation:

- ✓ Presidential Decree 5159<sup>5</sup>, in force since September 13<sup>th</sup>, 1999, which regulates Law 1328/98.
- ✓ Presidential Decree 4212<sup>6</sup> in force since October 12<sup>th</sup>, 2015, regulating Chapter IV 'Rights to Compensatory Remuneration of Law 1.328 on Copyright and Neighboring Rights and derogates Presidential Decree 6780.
- ✓ Resolution 22<sup>7</sup> of the National Direction of Intellectual Property (DINAPI) in force since November 9<sup>th</sup>, 2015 which establishes procedure for registration of importers of magnetic and optical supports and payment of compensatory remuneration.

### Paraguay in Conventions and International Agreements.

In Paraguay the process for international treaties approval and other supra legislations, are by law with approvals of both chambers of the National Congress to take in force those conventions.

In the field of Intellectual Property, they are many treaties approved by Paraguay, especially in Copyright and Related Rights. I summarize the important ones:

- ✓ **Berne Convention** for the Protection of Literary and Artistic Works (Paris text 1971)
  - ☑ Approved in Paraguay by Law 12<sup>8</sup> enacted by Legislature on August 1<sup>th</sup> 1991
- ✓ **Rome Convention** for Protection of Performers, Phonogram Producers and Broadcasters 1952
  - ☑ Ratified by Paraguay November 26, 1969, and in force since February 26, 1970<sup>9</sup>
- ✓ **TRIPS Agreement** on Trade-Related Aspects of Intellectual Property Rights - (1994)
  - ☑ Approved in Paraguay by Law 444<sup>10</sup> enacted by Legislature on October 11<sup>th</sup>, 1994
- ✓ **WIPO Copyright Treaty WCT** is a special agreement under the Berne Convention which deals with the protection of works and the rights of their authors in the digital environment.
  - ☑ Approved in Paraguay by Law 1582<sup>11</sup> enacted by Legislature on October 6<sup>th</sup>, 2000

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<sup>5</sup> <http://www.wipo.int/wipolex/en/details.jsp?id=3558>

<sup>6</sup> [http://www.presidencia.gov.py/archivos/documentos/DECRETO4212\\_5qcutdd.pdf](http://www.presidencia.gov.py/archivos/documentos/DECRETO4212_5qcutdd.pdf) (Spanish Version)

<sup>7</sup> [https://www.dinapi.gov.py/application/files/2214/4715/8493/RESOLUCION\\_RG-22-15\\_ESTABLECE\\_PROCEDIMIENTO\\_REGISTRO\\_DE\\_IMPORTADORES\\_DE\\_SOPORTES\\_MAGNETICOS\\_Y\\_OPTICOS.pdf](https://www.dinapi.gov.py/application/files/2214/4715/8493/RESOLUCION_RG-22-15_ESTABLECE_PROCEDIMIENTO_REGISTRO_DE_IMPORTADORES_DE_SOPORTES_MAGNETICOS_Y_OPTICOS.pdf) (Spanish Version)

<sup>8</sup> <http://www.wipo.int/wipolex/en/details.jsp?id=9682>

<sup>9</sup> [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=17](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=17)

<sup>10</sup> [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=225980](http://www.wipo.int/wipolex/en/text.jsp?file_id=225980)

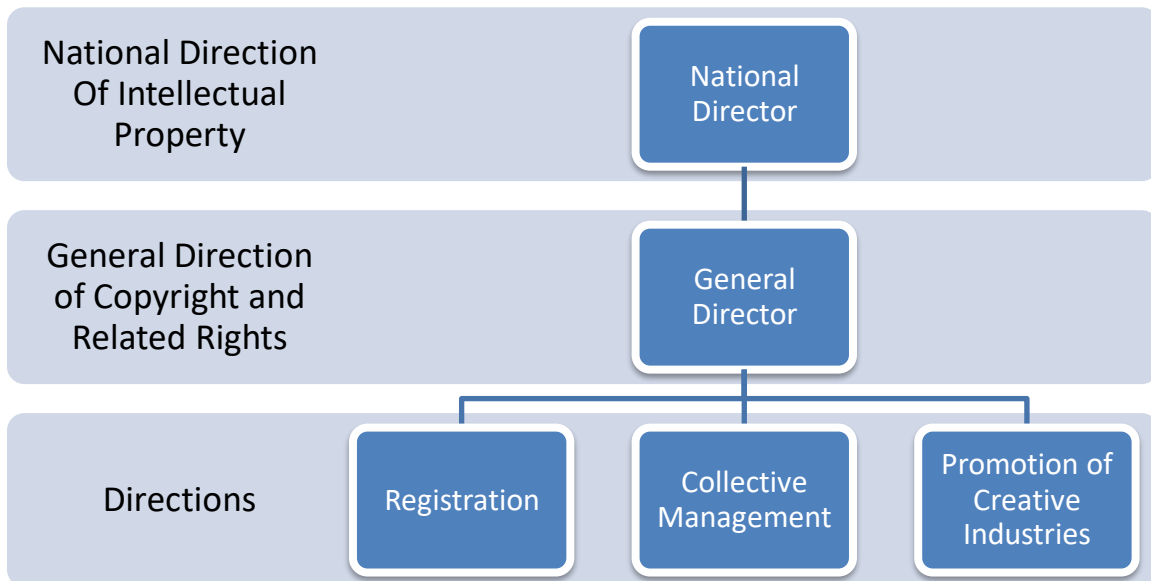
<sup>11</sup> [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=225994](http://www.wipo.int/wipolex/en/text.jsp?file_id=225994)

- ✓ **WIPO Performances and Phonograms Treaty WPPT** deals with the rights of two kinds of beneficiaries, particularly in the digital environment: (i) performers (actors, singers, musicians, etc.); and (ii) producers of phonograms (persons or legal entities that take the initiative and have the responsibility for the fixation of sounds).
  - ☑ Approved in Paraguay by Law 1583<sup>12</sup> enacted by Legislature on October 6<sup>th</sup>, 2000
- ✓ **Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled.**
  - ☑ Approved in Paraguay by Law 5362<sup>13</sup> enacted by Legislature on November 24<sup>th</sup>, 2014

### Status of Copyright and Related Rights Office

Despite insufficient resources, the report is positive due the efforts of the National Direction for Intellectual Property (DINAPI) especially in copyright and related rights area, considering the high level of awareness accomplished with stakeholders, with cooperation of multiple companies and other entities of the government, and the special coordination of WIPO.

Considering the structure shown on table below with 8 people working in this area we aren't not even close of being considered as a model Copyright Office, however the results are quite interesting.



<sup>12</sup> [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=226006](http://www.wipo.int/wipolex/en/text.jsp?file_id=226006)

<sup>13</sup> <http://www.bacn.gov.py/leves-paraguayas/4565/aprueba-el-tratado-de-marrakech-para-facilitar-el-acceso-a-las-obras-publicadas-a-las-personas-ciegas-con-discapacidad-visual-o-con-otras-dificultades-para-acceder-al-texto-impreso> (Spanish Version)

There are 3 projects in which Dinapi has focused its attention since the new government.

1. The month of intellectual property held in April, where each of the mission areas presented and carried out various activities for the promotion of intellectual property. ending with a seminar on Sport and intellectual property, according to the axis presented this year by WIPO,
2. The creative party, a party that takes place from city to city, where it approaches DINAPI and the different groups of artists, who teach courses and raise awareness about intellectual property rights.
3. LA MUSICA VALE. A 360 media campaign, with 3 strong thematic axes, empathy with the work of the authors, the valorization of the work of the creation of artists and the empowerment of collective management societies. "LA MUSICA VALE" THE MUSIC HAS VALUE

### Collective Management Organizations in Paraguay

In Paraguay, all collective management organizations are conceived by Law 1328 as non-profit entities, represent and administrate the national and international repertoire, collects and distribute all types of economical rights for different types of right holders.



1. <http://www.apa.org.py/home/> First Collective Management Organization created in 1951, for authors as a General Society.



2. <http://sgp.com.py/v1/> Collective Management Organization that represent producers of phonograms.



3. <http://aieparaguay.org.py/> Collective Management Organization that represent artists and performers.

4. <http://interartis.com.py/> Collective Management Organization that represent performers of audiovisual works.