

Articles 15 & 17 of the Directive on
Copyright in the Digital Single Market
Questionnaire – Annex to the Comparative
National Implementation Report

LITHUANIA

Last Updated: 30 August 2023

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This comparative report is based on 25 national questionnaires prepared by national legal experts.

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The full study is available for download at: <https://informationlabs.org/copyright>

Country: LITHUANIA

National Expert: DR RITA MATULIONYTĖ (Macquarie University)

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PART I: Article 15 CDSMD

Note: The questions below concern the national implementation of Article 15 CDSMD in your country. They refer to this as the “local national implementation” or LNI. It is recommended that you read all the questions before beginning to compose answers. In all responses, please cite the relevant provisions of national law in your country.

Background information

1. Did your national jurisdiction provide protection (whether via copyright or a relevant targeted related right) for press publications prior to the adoption of the CDSMD? If so, please briefly describe this, indicating any differences from the protection provided by Article 15 CDSMD.

No.

2. Has Article 15 CDSMD been transposed into national law in your country? If so, please cite the legal act with which and the date on which this was done. Please also briefly indicate whether you consider that the transposition takes a textual (“*ad litteram*”) or intentionalist approach (e.g., one that is adaptive to national circumstances).

Article 15 CVSMMD has been transposed into Lithuanian law by adopting *Lietuvos Respublikos autorių teisių ir gretutinių teisių įstatymo Nr. VIII-1185 1, 2, 3, 5, 11, 15, 21, 22, 23, 25, 32, 40, 42, 46, 48, 51, 53, 55, 56, 58, 59, 63, 65, 68, 70, 72-9, 72-10, 72-12, 72-13, 72-30, 72-31, 75, 78, 80, 87, 89, 91, 92, 93, 95, 96 straipsnių, 3 priedo pakeitimo ir Įstatymo papildymo 15-1, 15-2, 21-1, 22-1, 22-2, 40-1, 40-2, 40-3, 57-1, 65-1 straipsniais, VIII ir IX skyriais įstatymas.*

English translation of the title: Republic of Lithuania Authors’ Rights and Related Rights Act No VIII-1185 concerning the change of articles 1, 2, 3, 5, 11, 15, 21, 22, 23, 25, 32, 40, 42, 46, 48, 51, 53, 55, 56, 58, 59, 63, 65, 68, 70, 72-9, 72-10, 72-12, 72-13, 72-30, 72-31, 75, 78, 80, 87, 89, 91, 92, 93, 95, 96 and annex 3, and the supplementation of the Act with articles 15-1, 15-2, 21-1, 22-1, 22-2, 40-1, 40-2, 40-3, 57-1, 65-1 and sections VIII ir IX.

Adopted on 2022-03-24 Nr. 2022-06306; came in force on 2022-05-01.

Article 15 of the Directive is currently implemented as article 57¹ of the Authors’ Rights and Related Rights Act (ARRRA).

The transposition mainly takes a textual approach, with a few modifications and clarifications.

If available, please provide a link to the legal provision in the official language(s) of your jurisdiction. If you are aware of a good (official or unofficial) English language translation, please include that as well.

The Act in Lithuanian language is available on <https://www.e-tar.lt/portal/lt/legalAct/5b445220b02711ec8d9390588bf2de65>

I am not aware of any translation of the Act.

Note: if there is no national implementation of Article 15 CDSMD you can end the questionnaire at this point.

AC 1: Subject matter

3. What is the subject matter (object) of protection by the LNI and how is this defined? Please focus on any differences (including additions) from the concept of “press publications” as defined by Art. 2(4) CDSMD.

The object of the protection is ‘electronic press publications’ as defined under article 2(9) of ARRRRA.

While structured and designed differently, the definition provided in article 2(9) mostly corresponds to the definition provided under 2(4) of the Directive. The few identifiable differences:

- Art 2(9) ARRRRA specifically refers to ‘electronic’ press publications, which are ‘recorded in electronic format’ but ‘previously published in any format’
- Art 2(9) ARRRRA sentence 2 clarifies that electronic press publications “can be comprised of author works (e.g., literary or photographic works), related rights objects (e.g., video recordings) or sui generis rights objects”. I.e., it is more specific than art 17 of the Directive.
- Apart from periodical or regularly updated publications under a single title, such as a newspaper or a general or special interest magazine (the Lithuanian wording is slightly different), Art 2(9) ARRRRA also includes ‘news sites’.
- Art 2(9) ARRRRA refers to an ‘electronic press publication’ as a ‘collection’, and not as an ‘individual item’. This ‘electronic press publication’ can be comprised of works, related rights or sui generis rights’ objects.

4. Does the LNI protect against uses of individual words or very short extracts? If these are excluded from protection, how are they defined? Please note whether a qualitative or quantitative approach is taken and whether such short extracts may include non-literary content. Please note whether there are specific provisions on headlines.

According to Art 57¹(2) section 3 of ARRRRA, the article does not apply with relation to the “use of individual words from the electronic press publication, or its very short extracts which are comprised of 125 characters or less, excluding the headline of the text and spaces between characters” (translation – Matulionyte).

As is seen from the translation above:

- A quantitative approach was taken.
- The exception does not mention non-literary works.
- The headlines are excluded from the calculation of the word limit covered by the exception. To my understanding, thus, headlines are entirely excluded from the protection provided by the Article.

5. Does the LNI extend to mere facts reported in its subject matter? If these are excluded from protection, how are they defined?

Art 57¹ ARRA does not specifically exclude facts.

6. Does the LNI extend to public domain content incorporated in its subject matter? If these are excluded from protection, how are they defined?

Art 57¹ ARRA does not mention public domain content in its list of exclusions. Whether it is excluded or not will depend on how the section is interpreted by courts. Art 57¹ section 4 subsection 3 explicitly excludes subject matter for which protection has expired.

7. Does the LNI include any other threshold conditions for protection?

In addition to single words and short excerpts, Art 57¹ excludes:

- hyperlinks;
- private and non-commercial uses;
- press publications that were first published before 6 June 2019.

AC 2: Right-holders

8. Who are the beneficiaries of the protection for press publications in the LNI? Please indicate any exclusions, (e.g., territorial). Please indicate if the LNI employs lists of press publications or beneficiaries that would be covered.

The beneficiaries are “electronic press publishers”. They are defined under Art 2(8) ARRRRA as:

“a natural or legal person or another organization or an affiliation of the legal person or organization that conduct economic activity in the service sector, and whose permanent residence or business place is in the Republic of Lithuania or another European Union Member State, and under whose initiative and direction the electronic press publication was published, including press publishers and news agencies when they publish electronic press publications” (translation – Matulionyte).

As could be seen from above, the only exclusion is territorial (EU).

It includes both “traditional” and electronic press publishers, as long as they publish “electronic press publications”.

The Act does not contain specific lists of electronic press publications or beneficiaries.

AC 3: Restricted acts

9. Against what kind of acts does the LNI protect? Please provide any relevant definitions.

Art 57¹(1) ARRRRA provides beneficiaries with two exclusive rights:

- “1) Reproduce the electronic press publication or its part;
- 2) Make the electronic press publication or its part publicly available” (translation – Matulionyte)

Article 2(1) defines ‘reproduction’ as “direct or indirect, temporary or permanent making by any means and in any form, including an electronic form, of a copy (copies) of a work, an object of related rights or *sui generis* rights (in whole or in part).”

‘Making publicly available’ is not independently defined in the Act. Instead, it constitutes a part of a broader communication to the public right. Article 2(55) defines ‘communication to the public’ as “the transmission to the public of a work, by wire or wireless means, including the making available to the public of the work in such a way that members of the public may access it from a place and at a time individually chosen by them. Communication to the public of an object of related rights means any transmission to the public of an object of related rights, including the making of the sounds or expression of the sounds recorded in a phonogram audible to the public, except broadcasting.”

Both definitions are taken from an official translation of the Act, 5 March 2003 No. IX-1355 version, available at <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.226598?jfwid=wts935e3k>

10. Does the LNI cover hyperlinking to the protected subject matter? If not, how is hyperlinking defined?

Yes, Art 57¹(2) excludes hyperlinks (or hypersites, lithuanian – *hipersaitai*), but their definition is not provided in the act.

AC 4: Targeted users

11. Does the LNI target use by a specific kind of user (provider)? Please provide any relevant definitions. Specifically, please indicate whether private or non-commercial uses by individual users are covered. Please also indicate whether online platforms (OCSSPs) are covered.

The provision targets “information society service providers” only. The Act does not provide the definition, so it is unclear whether online platforms are covered. I would argue that they are not covered as they are regulated and defined separately and this Article does not mention them at all.

Art 57¹(2)(1) states that exclusive rights granted under 57¹(1) do not apply “when individual users use press publications for private or non-commercial purposes” (translation - Matulionyte)

12. Does the LNI allow for the rights it provides to be invoked against:

- a) **right owners whose content is incorporated in the protected subject matter?**
- b) **holders of licenses to exercise rights in content that is incorporated in the protected subject matter?**

Please describe the applicable rules.

Art 57¹(4) ARRRRA explicitly excludes such situations. It suggests that:

“4. Rights provided in the 1st part of this article cannot be a basis to prevent:

- 1) the use of protected object by the subjects of protected rights, irrespectively of electronic press publication in which they are incorporated;
- 2) the use of a protected object by other users, when the protected object was incorporated in the electronic press publication under a non-exclusive license” (translation – Matulionyte)

AC 5: Exceptions and limitations

13. Does the LNI recognise exceptions or limitations to the protection it provides? If so, please indicate what these are.

According to Art 57¹(5), the right is subject to exceptions provided in Arts 22¹, 22², 23 ir 89–96 of the Act. These provisions cover:

- use of work for caricature, parody and pastiche – art 22¹;
- use of works for text and data mining purposes – art 22²;
- use of works to preserve the collections of cultural heritage organizations – art 23;
- use of orphan works – arts 89-96.

In addition, according to Article 58, general exceptions applicable to all related rights holders also apply to electronic press publications.

AC 6: Licensing

14. Does the LNI include provisions on the licensing (incl. systems of extended collective licensing) of uses of press publications? If so, please briefly describe any relevant details. For example, these could involve the following:

- **criteria for determining the height of compensation;**
- **the process for negotiating compensation;**
- **transparency duties (incl. data sharing obligations);**
- **duties to engage in negotiations;**
- **oversight by a government authority;**
- **(mandatory) collective rights management.**

There are no specific provisions on the licensing of uses of press publications. Press publications are not mentioned in the provisions on collective rights management either.

AC 7: Revenue sharing

15. Does the LNI require that any revenue it provides be shared with authors of works incorporated in its subject matter? If so, does it provide details on e.g., the size of the share or modes of collection and distribution or transparency obligations on press publishers? Please describe the applicable rules.

Yes, this provided under Art 57¹(6) ARRRRA:

“Electronic press publishers should ensure that the authors of works included in electronic press publications receive an appropriate share from income which electronic press publishers receive from information society service providers for the use of electronic press publications. If the electronic press publisher and the author of a work included in the electronic press publication do not agree otherwise, the revenue is divided equally.” (translation – Matulionyte)

As can be seen, the provision sets a duty on the publisher to give an “adequate” share of income to the authors. Absent any agreement, the income should be equally distributed among the publisher and the author.

AC 8: Term of protection

16. What is the term of the protection afforded to press publications by the LNI?

According to 59(5) ARRRRA, the protection lasts for 2 years from when the electronic press publication was published. The term expires on 1 January of the year that follows the publication date.

AC 9: Waiver

17. Can right-holders waive their rights under the LNI? Can authorisation be given for free?

The Act does not specifically prevent either of these.

AC 10: Entry into effect

18. From what date did the protection provided by the LNI come into effect in your jurisdiction?

The protection came into effect on 1 May 2022.

Additional information

19. Can you think of any noteworthy divergence in the LNI from the standards set out in Article 15 of the CDSMD that you have not already addressed above? If so, please elaborate.

N/A. In my opinion, Art 12 is quite closely – while not entirely literary – transposed into the Lithuanian ARRRRA.

PART II: Article 17 CDSMD

Note: The questions below concern the national implementation of Article 17 CDSMD in your country. They refer to this as the “local national implementation” or LNI. It is recommended that you read all the questions before beginning to compose answers. In all responses, please cite the relevant provisions of national law in your country.

Background information

- 1. Has Article 17 CDSMD been transposed into national law in your country? If so, please cite the legal act with which and the date on which this was done. Please also briefly indicate whether you consider that the transposition takes a textual (“*ad litteram*”) or intentionalist approach (e.g., one that is adaptive to national circumstances).**

Article 17 CVSMD has been transposed into Lithuanian law by adopting *Lietuvos Respublikos autorių teisių ir gretutinių teisių įstatymo Nr. VIII-1185* 1, 2, 3, 5, 11, 15, 21, 22, 23, 25, 32, 40, 42, 46, 48, 51, 53, 55, 56, 58, 59, 63, 65, 68, 70, 72-9, 72-10, 72-12, 72-13, 72-30, 72-31, 75, 78, 80, 87, 89, 91, 92, 93, 95, 96 straipsnių, 3 priedo pakeitimo ir Įstatymo papildymo 15-1, 15-2, 21-1, 22-1, 22-2, 40-1, 40-2, 40-3, 57-1, 65-1 straipsniais, VIII ir IX skyriais įstatymas.

English translation of the Act: Republic of Lithuania Authors’ Rights and Related Rights Act No VIII-1185 concerning the change of articles 1, 2, 3, 5, 11, 15, 21, 22, 23, 25, 32, 40, 42, 46, 48, 51, 53, 55, 56, 58, 59, 63, 65, 68, 70, 72-9, 72-10, 72-12, 72-13, 72-30, 72-31, 75, 78, 80, 87, 89, 91, 92, 93, 95, 96 and annex 3, and the supplementation of the Act with articles 15-1, 15-2, 21-1, 22-1, 22-2, 40-1, 40-2, 40-3, 57-1, 65-1 and sections VIII ir IX

Adopted on 24 March 2022, Nr. 2022-06306; came in force on 1 May 2022.

Article 17 of the Directive is currently implemented as articles 105-107 of the Authors’ Rights and Related Rights Act (ARRRA).

The intentionalist approach has been applied when transposing this provision. I.e., Articles 10107 ARRRA are quite different in their expression from Art 17 of the Directive.

If available, please provide a link to the legal provision in the official language(s) of your jurisdiction. If you are aware of a good (official or unofficial) English language translation, please include that as well.

The Act in Lithuanian language is available on <https://www.e-tar.lt/portal/lt/legalAct/5b445220b02711ec8d9390588bf2de65>

I am not aware of any translation of the Act.

Note: if there is no national implementation of Article 17 CDSMD you can end the questionnaire at this point.

AC 1: Subject matter

2. What is the subject matter (object) of protection by the LNI?

The object of protection are works protected under authors' rights (copyright) or related rights objects (performances, sound recordings, broadcasts, first fixation of films) that were uploaded by users, excluding electronic press publications, databases and computer programs. See art 105 (1) ARRRA.

AC 2: Right-holders

3. Who are the beneficiaries of the protection provided by LNI? Please note whether there are any deviations from the directive.

The beneficiaries are "the subjects of authors' rights or related rights, except of electronic press publishers, authors of databases or computer programs". See art 105 (1) ARRRA.

AC 3: Exclusive rights

4. Against what kind of act does the LNI protect right-holders? Is a legal qualification given to those acts (e.g., "communication to the public")?

Art 105 (1) ARRRA covers both 'communication to the public' and 'making the subject matter available to the public'.

AC 4: Targeted providers

5. Does the LNI target a specific kind of service provider? Please provide any relevant definitions, including any exclusions ("carve-outs"). Please focus on any differences from the concept of "online content sharing providers" (OCSSPs) as defined by Article 2(6) CDSMD and any elements taken from the recitals (e.g., facilitating piracy, definitions of "large amounts").

Art 105 targets "online content sharing service providers". These are defined in Art 2(53) ARRRA, which is very close to the definition provided under 2(6) of the Directive. The only notable differences are:

- Art 105 specifically indicates that it should be "a natural or legal person or another organization, or a branch of a legal person or organization, which provide information society services as defined under the Republic of Lithuania Law on Information Society Services";
- Art 105 specifically adds that the content is organized and promoted for "direct or indirect" profit making purposes.

Art 105 provides exclusions that are identical to the exclusions under article 2(6) sentence 2 of the Directive.

6. Were the targeted service providers considered to infringe the relevant exclusive rights in your country prior to the adoption of the LNI? Please indicate whether any liability was primary or secondary.

Prior to the implementation of the Directive, the situation was not clear. There was no specific legislation. I am not aware of any Lithuanian case law on the issue either.

AC 5: Scope of protection

- 7. In your national jurisdiction prior to the transposition of the CDSMD did the service providers targeted by the LNI benefit from the protection of an immunity (e.g., the national implementation of the hosting safe harbour provided by Article 14 of the ECD (Directive 2000/31/EC))? If so, does this provision continue to apply?**

Yes, this article was transposed into Art 14 of the Law on Information Society Services. Neither the Law on Information Society Services nor ARRRRA has declared that this Art 14 does not apply to content sharing service providers. In contrast, content sharing service providers are defined in ARRRRA as “a natural or legal person or another organization, or a branch of a legal person or organization, which provide information society services *as defined under the Republic of Lithuania Law on Information Society Services*” (Italics added). I thus believe that Art 14 continues to apply.

- 8. Does the LNI provide an immunity for targeted service providers against the protection it introduces? If so, please describe the conditions for this immunity. To the extent that such conditions relate to obligations to take action against infringing content, please distinguish between obligations to take action against current infringing content and obligations to take action against future infringing content.**

Yes. The immunity introduced under art 17(4)-(6) of the Directive has been transposed into Lithuanian law, through art 106 ARRRRA. The provisions of this article almost literally – with some additional elaborations – transpose art 17(4)-(6) of the Directive. A few minor differences are e.g.:

- the notice could be provided by right holders *or* a collective management organization representing the right holders;
- Art 106(3) elaborates what a sufficient notice should include, namely, “the reasons for which the notice provider consider the content illegal; a clear location of the content; notice should contain such information that would allow the service provider to make a justified and well considered decision regarding the content, and especially whether the content is illegal and therefore should be removed or the access to it should be eliminated” (translation – Matulionyte)

Art 106(3) requires that OCSSPs take action against future infringing content in exactly the same way as provided under art 17(4) and (6) of the Directive.

- 9. Does the LNI identify a standard of care to which targeted service provider should adhere in relation to the conditions of the immunity? For example, the Directive makes reference to “best efforts” and to “high industry standards of professional diligence”. Please also discuss whether you consider any such terms used in the LNI to represent accurate translations of the corresponding terms in the EU provision, preferably taking into account both the English language and the national language versions.**

Yes, Art 106 applies the same standard of care as implemented in the Directive. It uses terminology which, in my opinion, is the accurate translation of “high industry standards of professional diligence” and “best efforts”, in the same contexts and in the same way as they are used in the Directive.

- 10. Are the conditions for the immunity in the LNI subject to the principle of proportionality? If so, please describe any specified implications.**

Yes, Art 106 of ARRRRA transposes the proportionality criteria into Lithuanian law. Namely, under 106(3), it is required to assess whether the service providers complied with high industry standards of professional diligence and whether they took all requested actions, by relying on the principle of proportionality and by considering factors identical to those listed under 17(5)(a) and (b) of the Directive.

11. Do the conditions of the immunity differ depending on the characteristics of the specific service provider (e.g., size or age)? If so, please describe those differences, providing any relevant definitions.

Yes. Art 106(4)and(5) ARRRA almost literally transpose art 17(6) of the Directive. Arts 106(4)and(5) are slightly more elaborate and to some extent repetitive but their content appear to be the same as the content of art 17(6) of the Directive.

AC 6: Right-holder cooperation

12. Does the LNI depend the conditions of the immunity on right-holder cooperation? If so, please describe what cooperation is expected of right-holders.

Art 105 ARRRA does not directly and explicitly impose right holders an obligation to cooperate with the OCSSPs.

At the same time, such duty is indirectly established in two ways.

First, according to Art 106(2)(2) ARRRA, service providers are required, “in accordance with high industry standards of professional diligence, [make] best efforts to ensure the unavailability of specific works and other subject matter *for which the rightholders have provided the service providers with the relevant and necessary information* (emphasis added) (note: this article is a literary transposition of art 17(4)(b) of the Directive).

Second, according to Art 106(2)(3) ARRRA, *upon receiving from the right holders or from the collective management organization a sufficiently substantiated notice that identifies the content*, service providers are required to act expeditiously to disable access to, or to remove from their websites, the notified works or other subject matter, and make best efforts to prevent their future uploads [*emphasis added*]. According to this section, a “sufficiently substantiated and precise notice” is “the notice that lists the reasons why the notice provider considers the content illegal, clearly identifies the location of the content, and enables service providers, on the basis of information provided, to make a carefully considered decision regarding the content related to the notice, and especially whether that content is illegal and therefore should be removed or the access to it should be disabled” (unofficial translation by Matulionyte).

13. Does the LNI allow right-holders to “earmark” content the unauthorised online availability of which could cause them significant economic harm? If so, please provide any definitions and conditions that govern such earmarking and describe any special regime set in place for earmarked content.

The ARRRA does not specifically envisage this opportunity.

It merely allows right holders to inform the service provider of their content that was illegally made publicly available and request them remove this content or disable access to it.

AC 7: General monitoring

14. Does the LNI permit the conditions of the immunity to result in general monitoring? If not, please explain how “general monitoring” is defined.

Art 105(4) ARRRA states that service providers, when performing their duties under arts 105 and 106, “do not have a general duty to monitor information that service providers keep, manage and market”. No further definition is provided.

While the Act suggests that no such duty exists, it *does not explicitly prevent or prohibit* general monitoring of the content.

15. Does the LNI recommend or dissuade from using any specific kind of technology in order to adhere to the conditions for immunity? If so, please describe.

The Act does not mention any specific technology.

AC 8: Exceptions and limitations

16. Prior to the adoption of the LNI, did national law provide for an exception or limitation to copyright for uses for the purpose of a) quotation, criticism and review; and b) caricature, parody or pastiche? If not, has it now introduced such exceptions or limitations? Please describe the conditions under which such exceptions or limitations apply.

- a) Prior to the adoption of the LNI, ARRRA provided for a quotation exception under art 21 ARRRA. When implementing the Directive, this provision was revised to explicitly mention “citation for criticism and review” purposes.
- b) There existed no exception for caricature, parody and pastiche. It has now been introduced via a new art 21¹ ARRRA. This simply states that “It is permitted without the permission of author or other right subject and without paying a remuneration to use the work for creating a caricature, parody or pastiche.” (translation – Matulionyte). No further conditions are attached to such use.

17. Do other exceptions or limitations apply to the protection provided by the LNI? If so, please describe.

The only provision that discusses exceptions with relation to content sharing platforms is art 105(3) ARRRA, which states:

“In their use of service conditions and terms of services, service providers should inform their service users that they can use the protected content that is subject to author and related rights limitations provided in this Act” (translation – Matulionyte).

While the Act provides a revised version of the quotation exception and introduces new caricature, parody and pastiche exceptions (discussed above), Article 105(3) does not specifically mention any of the exceptions.

Art 105(3) seems to only set the duty for service providers to inform users that they can use the works to which exceptions apply. This provision seems to be similar to the one provided under Art 17(9).

In my opinion, this does not mean that copyright exceptions do not apply in the context of content sharing websites. However, it shows that the Lithuanian legislator gave little significance to copyright exceptions and users’ rights in this context and did not see the need to emphasise the exceptions, contrary to what was done in the Directive.

AC 9: Licensing

18. Does the LNI include provisions on the licensing (incl. systems of extended collective licensing) of relevant uses? If so, please briefly describe any relevant details. For example, these could involve the following:

- **criteria for determining the height of compensation;**
- **the process for negotiating compensation;**
- **transparency duties (incl. data sharing obligations);**
- **duties to engage in negotiations;**
- **oversight by a government authority;**
- **(mandatory) collective rights management.**

The Law implementing this provision does not set any specific rules regarding the licensing in this context. General collective licensing laws thus apply.

105(2) ARRRRA sets specific information duties to service providers. The act requires that they provide information:

- 1) the functioning of measures that service providers apply to ensure the inaccessibility of the protected content (the Law provides a relatively long list of information that should be supplied by service providers).
- 2) regular and accurate reports on the use of the protected content, when service providers and right holders have licensing agreements.

This information should be provided in compliance with laws on data protection and the protection of privacy, and by respecting confidential information of the parties.

19. Under the LNI, do licenses obtained by a platform cover the platform’s users and/or the other way around? If so, please explain.

Under 105(1) ARRRRA, licenses obtained by a service provider cover the platform’s users, when they are not acting on a commercial basis or where their activity does not generate significant revenues. The license covers only the users’ acts of public communication and making publicly available; and only to the extent provided to the service providers. The law does not comment on the reverse situation.

AC 10: Legitimate uses: *ex ante* safeguards

20. Does the LNI include a concept of “legitimate uses”? If so, how are these defined? How are legitimate uses treated?

No, such a concept does not exist in ARRRRA.

21. Does the LNI include a concept of “manifestly infringing uploads”? If so, how is this defined? How are “manifestly infringing” and “non-manifestly infringing” uploads treated?

No, such a concept does not exist in ARRRRA.

22. Does the LNI include other *ex ante* mechanisms for the avoidance of action against legitimate content? If so, please describe these citing the relevant provisions of national law.

No, such mechanisms do not exist in ARRRRA.

AC 11: Legitimate uses: *ex post* safeguards

23. Does the LNI provide for effective and expeditious complaint and redress mechanisms in the event of disputes? If so, please describe these. If applicable, please include information on time limits, decision-makers, procedural steps and whether any review is performed by humans.

Art 107 ARRRRA regulates dispute resolution. It has three quite elaborate parts that are summarized below:

1. Service providers should make publicly available rules on how disputes concerning the protected content will be solved. These rules should explain how the requests to remove content or access to it should be submitted, what evidence should be provided, dispute mediation and dispute resolution process; it should also be indicated that the disputes should be analysed expeditiously. These rules should also provide for sanctions when right holders misuse automatic content recognition technologies or submit frivolous or unfounded claims.
2. Right holders should respond to users' complains during the timeframe determined by the service provider, and should properly justify their requests to remove the content. Right holders should review the content for which the removal request is lodged, and ensure that this review is conducted by a human. When right holders respond to a user's complain but the user does not agree with the decision of the right holder, the right holder has a right to take action to resolve the dispute. Until the dispute is resolved, the service provider restricts access to the disputed content.
3. Disputes between right holders and users are adjudicated by the Lithuanian Authors' Rights and Related Rights Commission, as determined under art72³⁰ (4) of ARRRRA. Parties can also use other out-of-court dispute resolution method or start a case in a court.
4. This provision applies to service providers established in Lithuania.

24. Does the LNI foresee for any other ways of settling disputes over content posted on their platforms (e.g., out-of-court mechanisms or recourse to the courts, incl. collective redress)? If so, please list these.

See answer to question 23: Parties can either approach the Lithuanian Commission for Authors and Related Rights, another dispute resolution body, or a court.

AC 12: Sanctions

25. Does the LNI foresee sanctions in cases of abuses of the procedures it introduces by right-holders, users and/or platforms? If so, please describe these.

According to Art 107(1) ARRRRA, service providers, in their rules, should provide sanctions that apply when right holders misuse automatic content recognition technologies or submit frivolous or unfounded claims. The law itself does not determine sanctions.

AC 13: Information obligations

26. Does the LNI impose information obligations on platforms? If so, please describe these.

According to Art 105(2) ARRRRA, "at the request of right holders, and in compliance with the requirements of the General Data Protection Regulation, the Law on Legal Protection of Personal Data and by ensuring adequate protection of commercial secrets and/or confidential information, service providers must provide right holders with the following information:

1) about their practices, how the measures they use to ensure the unavailability of protected content work (e.g., a description of the types of tools (if any) or measures provided by other service providers, information about the technology providers (third parties) whose services they may use, the average level of effectiveness of these tools, any changes to the tools and/or services (such as possible updates or changes to the use of third-party services));

2) regular and accurate reports on the use of protected content subject to contracts, when service providers and right holders of protected content have entered into licensing agreements. (unofficial translation by Matulionyte).

According to Art 105(3) ARRRRA, "[i]n their use of service conditions and terms of services, service providers should inform their service users that they can use the protected content that is subject to author and related rights limitations provided in this Act" (unofficial translation by Matulionyte).

AC 14: Waiver

27. Can right-holders waive the rights provided by LNI? Can authorisation be given for free?

The law does not mention these possibilities. In my opinion, this means that waiver or free-of-charge licenses are not prohibited.

AC 15: Entry into effect

28. From what date did the protection provided by the LNI come into effect in your jurisdiction?

The same as the entire Act: 1 May 2022.

Additional information

29. Does the LNI explicitly address the relationship between the protection it provides as against OCSSPs and fundamental or human rights (whether of OCSSPs or third parties)?

No.

30. Can you think of any noteworthy divergence in the LNI from the standards set out in Article 17 of the CDSMD that you have not already addressed above? If so, please elaborate.

The Lithuanian ARRRRA does not make explicitly clear that copyright exceptions remain applicable, whether the content on the platforms is licensed or not. Overall, the legislator seems to have given limited attention to this issue/made insufficient emphasis on users' rights.