

121/2000 Coll.

ACT

of 7 April 2000

**on Copyright and Rights Related to Copyright and on Amendment to Certain Acts
(Copyright Act)**

as amended by Acts Nos. 81/2005 Coll., 61/2006 Coll., 186/2006 Coll., 216/2006 Coll., 168/2008 Coll., 41/2009 Coll., 227/2009 Coll., 153/2010 Coll., 424/2010 Coll., 375/2011 Coll., 420/2011 Coll., 18/2012 Coll., 496/2012 Coll., 156/2013 Coll., 303/2013 Coll., 64/2014 Coll., 228/2014 Coll., 355/2014 Coll., 356/2014 Coll., 250/2016 Coll., 298/2016 Coll., 102/2017 Coll., 183/2017 Coll., 50/2019 Coll., 277/2019 Coll., 94/2021 Coll., 429/2022 Coll., 480/2024 Coll. and 218/2025 Coll.

The Parliament adopted the following Act of the Czech Republic:

PART ONE

COPYRIGHT AND RIGHTS RELATED TO COPYRIGHT

Section 1

Scope of Application

This Act implements the relevant legislation of the European Union¹, follows at the same time the directly applicable European union legislation²⁸ and regulates:

- a) The right of an author to their work;
- b) Rights related to copyright:
 - 1. The rights of a performer to their artistic performance;
 - 2. The right of a producer of a phonogram to their phonogram;
 - 3. The right of a producer of an audiovisual fixation to their fixation;
 - 4. The right of a radio or television broadcaster to their broadcast;
 - 5. The right of a person who first published a previously unpublished work after the expiry of its copyright protection;
 - 6. The right of a publisher to remuneration;
 - 7. The right of the publisher of a press publication;
- c) The rights of a database maker to their database;
- d) Protection of rights under this Act;
- e) Collective management of copyright and of rights related to copyright. (hereinafter referred to as “collective management”)

Chapter I

COPYRIGHT

VOLUME 1

Subject Matter of Copyright

Section 2

Author's work

(1) The subject matter of copyright shall be a literary work or any other work of art or a scientific work, which is a unique outcome of the creative activity of the author and is expressed in any objectively perceivable manner including electronic form, permanent or temporary, irrespective of its scope, purpose or significance (hereinafter referred to as “work”). A work shall be, without limitation, a literary work expressed by speech or in writing, a musical work, a dramatic work or musical dramatic work, a choreographic work and pantomimic work, a photographic work and a work produced by a process similar to photography, an audiovisual work such as a cinematographic work, a work of fine arts such as a painting, graphic or sculptural work, an work of architecture including an urban design work, a work of applied art, and a cartographic work.

(2) A computer program, a photograph or a creation expressed by a process similar to photography, which are original in the sense that they are the author's own intellectual creation, shall also be considered a work. A database which by the way of the selection or arrangement of its content is the author's own intellectual creation, and in which the individual parts are arranged in a systematic or methodical way and are individually accessible by electronic or other means, is a collection of works. No other criteria shall be applied to determine their eligibility for that protection.

(3) Copyright shall apply to the work in its entirety, to its individual developmental phases and to parts of the work, including its title and the names of its characters, if these comply with the conditions stipulated in paragraph 1 or in paragraph 2, provided that the items are subject to copyright as defined by that paragraph.

(4) A work which is the outcome of the creative adaptation of another work, including its translation into another language, shall also be subject to copyright. This shall be without prejudice to the rights of the author of the adapted or translated work.

(5) A collection like a journal, encyclopædia, anthology, exhibition, or any other collection of independent works or other elements that by reason of their selection and of the arrangement of the content meet the conditions set out in paragraph 1 above, is a collection of works.

(6) A work under this Act shall not include, in particular, a subject matter of the work as such, daily news or any other data as such, an idea, a procedure, a principle, a method, a discovery, a scientific theory, a mathematical and similar formula, a statistical diagram and similar item as such.

Section 3

Exemptions to Copyright in Public Interest

Copyright protection shall not apply to:

- a) an official work, such as a legal regulation, decision, general measure, public charter, publicly accessible register and collection of its documents, and also any official draft of an official work and other preparatory official documentation including the official translation of such work, Chamber of Deputies and Senate publications, a memorial chronicle of a municipality (municipal chronicles), a state symbol and symbol of a municipality, and any other such works where there is public interest in their exclusion from copyright protection,
- b) creations of traditional folk culture, unless the real name of the author is commonly known and the works are anonymous or pseudonymous (Section 7); such works may only be used in a way that shall not detract from their value.

Section 4

Making a Work Public and Publication of a Work

(1) A work is made public by its first authorised public recitation, performance, showing, exhibition, publishing or any other way of making available to the public.

- (2) The work is published by commencing an authorised public distribution of its reproductions.

VOLUME 2

Authorship

Section 5

Author

- (1) Author is the natural person who created the work.
- (2) Author of a collection of works is the natural person who selected and arranged works in a creative way; the rights of authors of works included in the collection shall not be affected thereby.

Section 6

Legal Presumption of Authorship

Author shall be the natural person whose real name is indicated in a usual manner on the work or is indicated with the work on the list of the subjects of protection administrated by the relevant collective management organisations, unless proven otherwise; this shall not apply in cases where such information is in conflict with other information so indicated. This provision shall also apply if such a name is a pseudonym, provided that the pseudonym used by the author evokes no doubt as to the author's identity.

Section 7

Anonym and Pseudonym

- (1) The identity of an author whose work has in accordance with their expressed will been made public without the indication of their name (anonymous work) or eventually under a pseudonym or under an artistic signature (pseudonymous work), may not be revealed without the consent of the author.
- (2) Until such time as the author of an anonymous or pseudonymous work publicly reveals their identity, the author shall be represented in the exercise and protection of copyright for their work by the person who has made the work public, under that person's name and on the account of the author, unless proven otherwise; the public declaration of the author shall not be necessary if their real name is commonly known.

Section 8

Joint Authors

- (1) The copyright to a work that, until the time of its completion, was created by the creative collaboration of two or more authors as a single work (work of joint authors), shall belong to all the joint authors jointly and severally. Creation of a work by joint authors shall not be prejudiced if the creative contributions to the work by the individual joint authors can be distinguished, unless such contributions are capable of being used independently.
- (2) A joint author shall not be a person who has contributed to the creation of the work merely by providing assistance or advice of a technical, administrative or expert nature or by providing documentation or technical material, or who merely gave the impulse to create the work.
- (3) All the joint authors shall be both authorised and obliged, jointly and severally, in respect of any legal acts related to their joint work.
- (4) Joint authors shall decide unanimously about the disposal of their joint work. Should one of the joint authors obstruct, without serious reason, the disposal of the work of joint authors, the remaining joint authors may seek the substitution of their consent in court. Copyright protection of joint authors' work against endangering or infringement may also be sought by an individual joint author independently.
- (5) Unless otherwise agreed between the joint authors, the share of each of the joint authors in the joint proceeds from the disposal of copyright in the work of joint authors shall be determined in proportion to the size of their

creative contributions; if it is not possible to distinguish these contributions, the shares in the joint proceeds shall be equal.

VOLUME 3

Origin and Content of Copyright

Division 1

General Provisions

Section 9

Origin of Copyright

(1) The copyright in a work shall arise at the moment when the work is expressed in any objectively perceivable form.

(2) Copyright in a work shall not become extinct by the destruction of the object through which the work is expressed.

(3) The acquisition of the ownership right or of any other right *in rem* to the object through which the work is expressed shall not imply authorisation to exercise the right to use the work, unless otherwise agreed or unless otherwise stipulated herein. The extension to another person of authorisation to exercise the right to use the work shall not affect the property right or other rights *in rem* to the object through which the work is expressed, unless otherwise agreed or stipulated by special legal regulation.

(4) The owner or any other user of the object through which the work is expressed shall not be obliged to maintain such an object and protect it from destruction, unless otherwise agreed or otherwise stipulated by special legislation or by this Act.

Section 10

Content of Copyright

Copyright shall include exclusive moral rights (Section 11) and exclusive economic rights (Section 12 et seq.).

Division 2

Moral Rights

Section 11

(1) The author shall have the right to decide about making their work public.

(2) The author shall have the right to claim authorship, including the right to decide whether and in what way their authorship is to be indicated when their work is made public and further used, provided that the indication of authorship is normal in such use.

(3) The author shall have the right to the inviolability of their work, in particular, the right to grant consent to any alteration of, or other intervention in their work, unless otherwise stipulated herein. Where the work is used by any other person, such use may not be executed in a way that detracts from the value of the work. The author shall have the right of supervision over such other person's compliance with this obligation (author's supervision), unless the nature of the work or its use implies otherwise, or unless it is not possible to fairly require the user to enable the author to exercise their right to supervision.

(4) The author may not waive their moral rights; these rights are non-transferable and shall become extinct on the death of the author. This shall be without prejudice to the provision of paragraph 5 below.

(5) After the death of the author no one may arrogate authorship of the work. The work may only be used in a way which shall not detract from the value of the work and, the name of the author must be indicated, provided that such shall be a normal practice and unless the work is an anonymous work. Protection may be claimed even if the protection of the economic rights expired by any of the author's kin, legal persons associating authors or by the relevant collective management organisation.

Division 3

Economic Rights

Subdivision 1

Right to Use the Work

Section 12

Right to Use the Work

(1) The author shall have the right to use their work in its initial form or in a form adapted by another person or otherwise modified, whether separately or in a collection or connection with any other work or elements, and to grant authorisation on a contractual basis to any other person to exercise that right; the other person may use the work without such authorisation only in the cases stipulated herein.

(2) This right of the author shall not become extinct with the granting of the authorisation under paragraph 1; the author only has, within the scope arising out of the contract, to suffer another person's intervention in their right to use the work.

(3) The author shall have the right to demand of the owner of the object through which the work is expressed to make such an object available to him where this is necessary for the exercise of copyright in accordance with this Act. This right may not be applied contrary to the legitimate interests of the owner; the owner shall not be obliged to render such an object to the author; the owner shall be obliged, however, to make a photograph or any other reproduction of the work at the request and expenses of the author and hand it over to the author.

(4) The right to use a work shall mean, in particular:

- a) The right to reproduce the work (Section 13),
- b) The right to distribute an original or a copy of the work (Section 14),
- c) The right to rent an original or a copy of the work (Section 15),
- d) The right to lend an original or a copy of the work (Section 16),
- e) The right to exhibit an original or a copy of the work (Section 17),
- f) The right to communicate a work to the public (Section 18), including, but not limited to:
 1. The right to perform a work live or from a fixation, and the right of transmitting the performance of the work (Sections 19 and 20),
 2. The right to broadcast a work (Section 21),
 3. The right to retransmit broadcasting of the work (Section 22),
 4. The right of performing broadcasting of the work (Section 23).

Section 13

Reproduction

(1) The reproduction of a work shall mean the making of temporary or permanent, direct or indirect reproductions of the work or any part thereof by whatever means and in whatever form.

(2) A work is reproduced, in particular, in the form of a print reproduction, photographic, audio, visual or audiovisual reproduction, by building of a work of architecture or in the form of any other three-dimensional reproduction, or in an electronic form, including both its analogue and digital expression.

Section 14

Distribution

(1) The distribution of the original or copies of a work shall mean making the work available in a tangible form by sale or other transfer of ownership of an original or to a copy of the work, including their offer for such purposes.

(2) The author's distribution right in the territory of the Member States of the European Union or the States of the European Economic Area to the original or copy of a work is exhausted by the first sale or any other first transfer of ownership to such an original or a copy of a work in a tangible form, performed by the author or with the author's consent in the territory of any Member State of the European Union or any of the States of the European Economic Area; rental right to the work and lending right to the work shall remain unaffected.

Section 15

Rental

The rental of the original or a copy of a work shall mean making the work available in tangible form for the purpose of direct or indirect economic or commercial gain by providing the original or a copy of the work for a limited period of time.

Section 16

Lending

The lending of the original or a copy of a work shall mean making the work available in tangible form through an establishment which is accessible to the public not for the purpose of direct or indirect economic or commercial gain by providing the original or a copy of the work for a limited period of time.

Section 17

Exhibition

The exhibition of the original or reproduction of a work shall mean making the work available in a tangible form by making it possible to view or perceive in any other way the original or reproduction in particular of a work of fine arts, a photographic work, a work of architecture including an urban design work, a work of applied art, or a cartographic work.

Communication to the Public

Section 18

General Provisions

(1) The communication of a work to the public shall mean making the work available in an intangible form, live or from a recording, by wire or wireless means.

(2) The communication of the work to the public pursuant to paragraph 1 shall also mean making the work available in such a way that members of the public may access it from a place and at a time individually chosen by them, especially by using a computer network or similar network. The communication of a work to the public shall also include the making a work available to the public by an online content-sharing service provider pursuant to Section 46 paragraph 1, where the work has been uploaded by a user of such a service.

(3) The communication of the work to the public shall not mean the mere operation of a facility enabling or ensuring such communication.

(4) The author's right to communicate the work to the public shall not be exhausted by communicating it to the public as specified in paragraphs 1 and 2.

Section 19

Live Performance of a Work and its Transmission

(1) The live performance of the work shall mean making available the work performed live by a performer, including, but not limited to, a live-recited literary work, live-performed musical work with or without words or of a dramatic or musical-dramatic, choreographic or pantomimic work performed live on stage.

(2) Transmission of the live performance of a work shall mean making simultaneously available the live performance of the work by means of a loudspeaker, screen or similar device located beyond the space of the live performance, with the exception of the uses of the work pursuant to Sections 21 to 23.

Section 20

Performance of a Work from Fixation and Transmission Thereof

(1) The right to perform a work from a fixation shall mean making the work available from an audio or audiovisual fixation by means of a technical device, with the exception of the uses of the work in accordance with Sections 21 to 23.

(2) Transmission of the performance of a work from a fixation shall mean making the work available simultaneously by means of a loudspeaker, screen or similar device located beyond the space of the performance.

Section 21

Broadcasting by radio or television

(1) Broadcasting of the work by radio or television shall mean making the work available by means of radio or television or any other means of making the work available designated to the communication the sounds or images and sounds or the representations thereof by wire or wireless means, including transmission by cable or by satellite, by the original broadcaster. Broadcasting of a work by radio or television shall also mean the supply of programme-carrying signals by the original broadcaster to the operator of retransmission services pursuant to Section 22, even if the programme-carrying signals are not accessible to the public during such supply. The use of a work referred to in the second sentence shall be deemed to be a single act of communication to the public in which the broadcaster and the operator of retransmission services pursuant to Section 22 participate, but not jointly and severally, and for which both must obtain a licence for their respective share of such communication to the public; the provisions of Section 97d paragraph 1 letter (a) points (1) and (2), Section 97d paragraph 1 letter (c), Section 97e paragraph 4 letters (c) and (n) and Section 98c paragraph 5 shall apply mutatis mutandis. Paragraphs 5 to 7 shall not apply to the operator of retransmission services.

(2) In this Act, satellite shall mean any satellite working on the frequency bands that are:

- a) reserved under specific legal regulations in the telecommunications area, for the transmission of signals to be received by the public; or
- b) reserved for closed communication from one point to another, provided that the circumstances of the individual reception of the signals are comparable to the circumstances referred to in letter (a) above.

(3) Broadcasting by satellite pursuant to paragraph 1 shall mean that sounds, or sounds and images, or their expressions intended for reception by the public, are put into an uninterrupted chain of communication leading to the satellite and down towards the earth under the control and responsibility of the broadcaster. Where the signals carrying signs, sounds or images are encoded, the broadcasting shall fall within the definition pursuant to paragraph 1 if the broadcaster has facilitated, or has given consent to the facilitation of public access to decrypting device.

(4) Broadcasting a work as specified in paragraph 1 above shall also mean making the work available through simultaneous, unabridged and unaltered broadcasting of the work by radio or television, if carried out by the same broadcaster.

(5) Broadcasting a work by satellite occurs in the territory of that Member State of the European Union or that of the States of the European Economic Area where, under the control and responsibility of the broadcaster, the signals carrying sounds, or sounds and images, or their expression intended for reception by the public, are put into an uninterrupted chain of communication leading to the satellite and down towards the earth.

(6) If satellite broadcasting is carried out in the territory of a state that does not provide a level of copyright protection comparable to or higher than that provided by this Act, such satellite broadcasting shall be considered to have occurred in the territory of that Member State of the European Union or that of the States of the European Economic Area where:

- a) the station from which the signal carrying sounds, or sounds and images, or their expression intended for reception by the public, are transmitted to the satellite; or
- b) the broadcaster has its registered office, unless the circumstances specified in letter (a) above exist.

The right in respect of satellite broadcasting can be applied in relation to the person operating the station in accordance with clause a) above or the broadcaster referred to in letter (b).

(7) If the signals carrying sounds, or sounds and images, or their expression intended for reception by the public, are put into an uninterrupted chain of communication leading to the satellite and down towards the earth in the territory of a state that does not provide a level of copyright protection comparable to or higher than that provided by this Act, and if at the same time the station from which the broadcasting is being executed is not located in the territory of any Member State of the European Union or any of the States of the European Economic Area, then the satellite broadcasting of the work shall be deemed to have occurred in the territory of that Member State of the European Union or that of the States of the European Economic Area where the headquarters of the broadcaster is located. The rights hereunder may then be applied in relation to such a broadcaster.

Section 21a

Ancillary online service of the broadcaster

(1) For the purposes of this Act, a broadcaster's ancillary online service means

- a) the transmission of a work over a computer or similar network by the same broadcaster at the same time as the transmission of the work by another technology, in unaltered form,
- b) the making available to the public of the broadcast work by the same broadcaster pursuant to Section 18 paragraph 2 for a specified period after the broadcast of the work, or
- c) the making available to the public of a work by the same broadcaster pursuant to Section 18 paragraph 2 where the work is part of material which is ancillary to its broadcast, such as previews of a broadcast programme and reviews of such a programme.

(2) Unless otherwise agreed, the use of the work referred to in paragraph 1 shall be deemed to take place in the territory of the Member State of the European Union or the State of the European Economic Area in which the headquarters of the broadcaster is located.

(3) Paragraph 2 shall apply to the use of the work

- a) by a radio broadcaster and
- b) by a TV broadcaster in a news or current affairs programme or in a programme produced exclusively by that broadcaster; this does not apply to the use of a work included in the broadcast of a sports event broadcasted by a TV broadcaster.

(4) Paragraph 2 shall also apply to reproduction of a work which is necessary for the provision of, access to or use of an ancillary online service.

(5) When negotiating the remuneration³⁰⁾ for the grant of the authorisation to exercise rights referred to in paragraphs 1 to 4, account shall be taken of the characteristics of the ancillary online service, in particular its nature, the duration of the availability of the work, the territorial scope of use, the number of listeners or viewers and the number of language versions. This is without prejudice to the possibility of calculating the amount of remuneration on the basis of the broadcaster's income from the ancillary online service.

Section 22

Retransmission of Radio or TV Broadcast

(1) The retransmission of the broadcast of a work shall mean making the work available by the simultaneous, unabridged and unaltered transmission of the radio or television broadcast of the work, wireless or by wire, if this is executed by an entity other than the original broadcaster of such broadcast, regardless of how that person obtains for such purposes signals carrying sounds or images and sounds or expressions thereof intended for reception by the public from the original broadcaster. The provisions of Section 21 paragraph 3 second sentence apply *mutatis mutandis*.

(2) Cable retransmission of the broadcast of a work shall mean making the work available in accordance with paragraph 1 if it is executed by cable or microwave system, regardless of how a person other than the broadcaster of such a broadcast obtains for such purposes signals carrying sounds or images and sounds or expressions thereof intended for reception by the public from the original broadcaster. The provisions of Section 21 paragraph 3, second sentence, shall apply *mutatis mutandis*.

Section 23

Performing Radio or TV Broadcast

The performing a radio or television broadcast of a work means the making available of a work broadcast by radio or television by means of a device technically capable of receiving radio or television broadcasts. The making available of a work to patients in the course of the provision of health care services in health care facilities shall not be deemed to be the operation of a radio or television broadcast pursuant to Section 18 paragraph 3. The making available of a work to a narrow circle of persons shall not be deemed to constitute the performing of radio and television broadcast under Section 18 paragraph 3 if such making available is incidental and independent of the wishes of the recipients and is not of a profit-making nature.

Subdivision 2

Other Economic Rights

Section 24

Resale Right (*Droit de suite*)

(1) Where the original work of art that has been transferred by its author to the ownership of another person is subsequently sold for a purchase price of EUR 1,500 or more, the author shall be entitled, in respect of any resale of the work, to royalty as set out in the Annex to this Act, provided that a gallery operator, auctioneer or any other person who consistently deals in works of art (hereinafter the “dealer”) takes part in such sale as a seller, purchaser or intermediary.

(2) The persons liable to pay the royalty under paragraph 1 to the relevant collective management organisation shall be the seller and the dealer jointly and severally. The collective management organisation shall allow the liable persons to inspect the list referred to in Section 97c paragraph 1.

(3) The original work of art as referred to in paragraph 1 shall mean any original work of art, including, but not limited to, a picture, a drawing, a painting, a collage, a sculpture, an engraving, a lithography or any other work of graphic art, a photograph, a tapestry ceramics, an item of glassware and author jewellery, provided that they were created by author themselves, or they are copies considered to be original works of art. Copies that are deemed to be original works of art are such copies as were made in limited numbers by the author themselves or under their authority and are numbered, signed or otherwise duly authorised by the author. The right to royalty as referred to in paragraph 1 above shall not apply to works of architecture in the form of a building, and works of applied art, unless they display the features of the original of a work of art, and to the manuscripts of composers and writers.

(4) The right to royalty as referred to in paragraph 1 shall not apply to the first resale if the seller obtained the original work of art directly from the author less than three years before that resale and if the purchase price of the original work, when resold, does not exceed EUR 10,000.

(5) For the purposes of exercising the right referred to in paragraph 1 and for the calculation of the appropriate royalty, the purchase price shall be understood as the price net of value added tax.

(6) The author and the collective management organisations are entitled to be provided by the dealer with any information that may be essential for securing the payment of the royalty under paragraph 1, including data used to

identify the seller, for a period of three years from the date of the sale. The collective management organisation may only request data used to identify the seller in justified cases, particularly in a case where the sale has been challenged, the purchase price is disputed or the remuneration paid to the trader, while it must also ensure the protection of the personal data provided. The dealer who takes part, as specified in paragraph 1, in the sale of the original work of art shall notify such sale to the relevant collective management organisation not later than by the end of January of the calendar year that follows the year in which the sale took place. The notification referred to in the preceding sentence shall contain specification of the originals of the works of art and information concerning the purchase price. The royalty, based on the collective management organisations settlement, shall fall due in a period which shall not be shorter than 30 days, unless otherwise agreed between the collective management organisation and the dealer.

Section 25

Right to Remuneration in Connection with Reproduction of a Work for Personal Use and for Legal Person's Own Internal Use

(1) For works that were made public and may be reproduced:

- a) for personal use by a natural person or for the own internal use by a legal person or a solo self-employed individual (Sections 30 and 30a), using a device for making printed reproductions on paper or another similar base; or
- b) for personal use by a natural person (Section 30) on the basis of an audio, audiovisual or any other fixation or radio or television broadcast by the transfer thereof by means of a device to blank record carriers,

the author is entitled to remuneration in connection with such reproduction of the work.

(2) The person liable to pay remuneration pursuant to paragraph 1 shall be:

- a) the producer of the devices for making reproductions of fixations, importer of such devices from third countries (hereinafter the “importer”) or consignee of such devices from any Member State of the European Union or any of the States of the European Economic Area (hereinafter the “consignee”);
- b) the producer, importer or consignee of technical devices for making printed reproductions;
- c) the producer, importer or consignee of blank record carriers;
- d) the carrier or forwarder *in lieu* of the liable person pursuant to letters (a) to (c), unless that person informed the relevant collective management organisation without undue delay upon written request about the details necessary for the identification of the importer, consignee or producer;
- e) the provider of paid reproduction services, in the case of printed reproductions; provider of paid reproduction services shall also mean the person who makes available, for a consideration, the device for making printed reproductions.

(3) Entitlement to remuneration to be paid by the persons defined in paragraph 2 letters (a) to (d) in connection with the reproduction of a work for individual use shall pertain to the author at the time of the import, receiving or first sale of:

- a) Device for making reproductions of fixations;
- b) Device for making printed reproductions;
- c) Blank record carriers.

(4) Entitlement to the remuneration to be paid by the persons defined in paragraph 2 letter (b) shall depend on the probable number of devices designated for making print reproductions of works under Section 30a. For the calculation of the amount of the remuneration in respect of the devices designated for making print reproductions, the probable number of these devices is set at 20%. The remuneration is calculated on the basis of the average price of the device exclusive of the value added tax.

(5) Entitlement to the remuneration to be paid by the persons defined in paragraph 2 letter (e) shall depend on the probable number of the print reproductions of works made in accordance with Section 30a. The rules set out in points 6 and 7 of Annex 1 hereto shall apply to the calculation of remuneration in respect of the print reproductions made.

(6) The persons referred to in paragraph 2 shall submit to the relevant collective management organisation – always in summary for half of the calendar year and not later than by the end of the following calendar month – information on the facts relevant for setting the amount of the remuneration, including, but not limited to,

information on the type and number of the sold, imported or received devices for making reproductions of fixations, devices for making printed reproductions, and the blank record carriers, and also on the total number of the printed reproductions made by the devices for providing paid reproduction services.

(7) The Ministry of Culture (hereinafter the “Ministry”) shall issue a Decree to define the types of devices to make print reproductions and the types of blank record carriers on which a remuneration is to be paid in accordance with paragraph 1 and also to define amount of the lump-sum remuneration depending on the type of device for making the printed reproductions and types of blank record carriers. This Decree shall also define types of devices for making reproductions of fixations on which remuneration is to be paid in accordance with paragraph 1; level of this remuneration is indicated in Annex 1 to this Act.

(8) Remuneration shall not be paid where the devices referred to in paragraph 3 letters (a) and (b) are exported or consigned for resale or where blank record carriers are exported or consigned for resale. Also, remuneration shall not be paid in the case of devices and blank record carriers if these are intended only to be used within the Czech Republic for the reproduction of works on the basis of licence agreements by persons who use them so in the course of their own activities.

Section 25a

Right to Remuneration in Connection with the Rental of an Original or a Reproduction of a Work

If the author grants a license for the rental of an original or a copy of the work embodied in a phonogram or an audio-visual fixation to the producer of the fixation, the author shall become entitled to equitable remuneration from the person who will be renting out the original or a copy of the work so recorded; the author cannot waive such right.

Section 25b

The right to an appropriate share of the revenues of the publisher of a press publication

The author of a work incorporated in a press publication shall be entitled to an appropriate share of the revenues of the publisher of the press publication accruing to that publisher from the exercise of the right under Section 87b.

Division 4

Common Provisions on Economic Rights

Section 26

(1) Economic rights may not be waived by the author; such rights are not transferable and are not subject to the execution of a decision; this provision shall not apply to claims arising from such economic rights.

(2) Economic rights are inheritable. Where the economic rights to the work are inherited by more than one heir, their mutual relations to the work shall be governed, *mutatis mutandis*, by Section 8 paragraphs 3 and 4. If such economic rights are inherited by the State or the economic rights escheat to the State, then such rights shall be exercised by the State Cultural Fund of the Czech Republic²⁾ in its own name, and, in the case of audiovisual works and works for audiovisual use, by the Czech Audiovisual Fund.³⁾ The income of the State from the exercise of the economic rights, as exercised by the mentioned state funds, shall be treated as the revenue of those state funds. The state funds referred to in the third sentence above manage an alphabetic list of authors whose property rights were inherited by the state, or accrued to it, and update it each calendar year and publish it on their websites by 31 January of the following calendar year.

(3) In the event of termination of the legal existence of a legal person that inherited the economic rights to a work, and there is no successor in title, such rights shall escheat to the State. Provisions of paragraph 2, second and third sentence, shall apply *mutatis mutandis*.

(4) The provisions of this Act concerning the author shall also apply to their heirs, or to the state, if the inheritance escheats to it according to paragraphs 2 and 3, unless nature of such provisions indicates otherwise.

Division 5

Duration of Economic Rights

Section 27

- (1) Unless stipulated otherwise, economic rights shall run for the life of the author and 70 years after their death.
- (2) If a work has been created as the work of joint authors, the period of duration of economic rights shall be calculated from the death of the last surviving author.
- (3) Economic rights to an anonymous and pseudonymous work shall run for 70 years from the time when the work was lawfully made public. Where the real name of the author of the anonymous or pseudonymous work is commonly known, or if the author declares their identity in public (Section 7 paragraph 2) during the course of the term pursuant to the first sentence, the duration of economic rights to such work shall be governed by paragraph 1, and in the case of joint authors also by paragraph 2. Provisions of this paragraph shall also apply to a collective work (Section 59), except in cases where the authors who created such a work are indicated as authors with the work or on the work when it is made accessible to the public; in such cases the duration of the economic rights in respect of a collective work is governed by the provisions of paragraph 1 or 2.50
- (4) In the case of a work where the death of the author is not decisive for the calculation of the period of duration of economic rights, and where the work has not been made public within 70 years from its creation, the economic rights shall expire at the end of this period.
- (5) The period of duration of economic rights to an audiovisual work shall be calculated from the death of the last surviving of the following persons: the director, author of screenplay, author of the dialogues and composer of the music specifically created for use in the audiovisual work.
- (6) The period of duration of economic rights to a musical work with text, where the two works were created to be used in conjunction with each other, ends, even if not co-authored (Section 8), 70 years after the death of the last surviving of the following persons: the author of the text, and the author of the musical work. The first sentence shall apply to a musical-dramatic work *mutatis mutandis*.
- (7) If the publication of a work is decisive for the start of the period of duration of economic rights, and the work is being published over a certain period of time in volumes, parts, instalments, issues or episodes, the period of duration of the economic rights shall run for each such item of the work separately.
- (8) The period of duration of economic rights shall be calculated always from the first day of the year following the year in which the event decisive for its calculation occurred.
- (9) In order to determine the duration of economic rights to an orphan work, the provisions of paragraphs 1 to 8 shall be applied *mutatis mutandis*; as regards a work whose author is not determined, paragraph 3 shall apply *mutatis mutandis*.

Division 6

Orphan Work and Out-of-Commerce Work

Section 27a

- (1) A work shall be considered an orphan work pursuant to Section 2 if its author is not identified, or, even if identified, the author is not located even after a diligent search carried out pursuant to Section 27b and recorded in the manner stipulated by this Act.
- (2) Where copyright to a work is vested in more than one author, and where not all of the authors are identified, and even if identified, not all of the authors are located even after a diligent search carried out pursuant to Section 27b and recorded in the manner stipulated by this Act, the work shall be considered an orphan work with regard to the rights of authors who are not identified or located. Section 12 shall apply to the rights of authors who are identified and located.
- (3) Where the conditions pursuant to paragraph 1 are satisfied, all the works of an author shall be considered orphan works, unless proven to the contrary.

(4) A work shall not be considered an orphan work where the conditions pursuant to paragraph 1 cease to apply. If an orphan work is used pursuant to Section 37a, the author shall terminate the orphan work status by written notification to the person who used the work in accordance with Section 37a paragraph 1. This person shall inform the appropriate collective management organisation in writing and without undue delay of the termination of the orphan work status. If this type of use does not take place, the author shall be entitled to terminate the orphan work status by notifying their authorship to the work to the collective management organisation, who maintains the relevant list of orphan works pursuant to this Act. As regards a work referred to in the first sentence of paragraph 2, the first through fourth sentences shall apply.

(5) Works referred to in Section 37a paragraphs 1 to 4, which are considered orphan works pursuant to paragraphs 1 to 4 in any of the Member States of the European Union or in any of the States of the European Economic Area, shall be considered orphan works and may be used pursuant to Section 37a in all the Member States of the European Union and all the States of the European Economic Area.

Section 27b

(1) A diligent search in order to determine whether a work is an orphan work shall be carried out prior to the use of the work by consulting appropriate information sources pertaining to the individual types of work, in order to determine or to find the author in that Member State of the European Union or that State of the European Economic Area where the work was first published or first broadcast. As regards a cinematographic work or an audiovisual work whose producer is domiciled or whose producer usually resides in any of the Member States of the European Union or in any of the States of the European Economic Area, such diligent search shall be conducted in that Member State of the European Union or that State of the European Economic Area where the producer is domiciled or where the producer usually resides. In cases pursuant to Section 37a paragraph 3, the diligent search shall be carried out in that Member State of the European Union or that State of the European Economic Area where the person who published the work resides.

(2) Where there is evidence to suggest that relevant information concerning the author might be found in states other than those referred to in paragraph 1, information sources available in those states shall also be used.

(3) A list of information sources for diligent search which must be consulted is provided in Annex 2 to this Act.

Section 27c

A work referred to in Section 2 shall be deemed to be an out-of-commerce work if, after reasonable efforts have been made to determine whether it is available to the public, it may be presumed in good faith that it is not available to the public through customary channels of commerce.

Division 7

Work in Public Domain

Section 28

A work for which the period of duration of economic rights has expired may be utilised by anybody without any further provision; this shall be without prejudice to the provisions of Section 11 paragraph 5 first sentence and Section 87a paragraph 1.

VOLUME 4

Exceptions and Limitations to Copyright

Division 1

General Provisions

Section 29

(1) Exemptions from and limitations on copyright shall only be applied in certain special cases specified by law and only if the use of a work in such special cases shall not conflict with the normal exploitation of the work and shall not unreasonably prejudice the legitimate interests of the author.

(2) Free uses and mandatory licences, except official and reporting licences (Section 34), licence for a school work (Section 35 paragraph 3), licence for the reproduction of works from own collections for archive and conservation means (Section 37 paragraph 1 letter (a)), licence for temporary reproductions (Section 38a), licence for photographic portrait (Section 38b) and licence for incidental use of a work (Section 38c), shall only apply to works that have been made public.

(3) Juridical acts excluding or limiting exceptions of and limitations to copyright shall be disregarded unless otherwise provided by law.

Division 2

Free Uses and Mandatory Licences

Section 30

Free Uses

(1) Not considered as exploitation of a work under this Act shall be its use for personal needs by a natural person without seeking to achieve direct or indirect economic benefit, unless otherwise specified herein.

(2) Copyright shall therefore not be infringed by anybody who for their own personal use makes a fixation, reproduction or imitation of a work.

(3) Unless otherwise stipulated herein, use under this Act shall also cover the cases where a computer program or an electronic database is used to serve a natural person to meet their personal needs or a legal person or solo self-employed individual for their own internal use, including the making of reproductions of such works for such needs and uses; use under this Act shall likewise cover the cases where a reproduction or imitation of a work of architecture is made in the form of a building also to serve a natural person for their personal use or a legal person or solo self-employed individual for their own internal use (Section 30a) and where a fixation of an audiovisual work is made while it is performed from a fixation or during its transmission (Section 20) also to meet the personal needs of a natural person.

(4) A reproduction or imitation of a work of fine arts made from a natural person's personal use in accordance with paragraph 1 shall always be visibly designated as such.

(5) A reproduction made for personal use by a natural person in accordance with paragraph 1 may not be used for any purpose other than indicated therein.

(6) The provision contained in paragraph 1 shall be without prejudice to the provisions of Sections 25, 43 and 44.

Section 30a

Reproduction on Paper or Other Similar Base

(1) Copyright is not infringed by:

- a) a natural person who for its own personal use,
- b) a legal person or a solo self-employed individual who for their own internal use,
- c) anybody, who upon order, for personal use by a natural person,
- d) anybody, who upon order, for a legal person's or a solo self-employed individual's own internal use

makes a printed reproduction of a work on paper or other similar base by the photographic technique or by any other process with similar effects, except where a printed reproduction is made of the musical notation of a musical work or musical – dramatic work and where, in cases under letters (c) and (d), the remuneration is paid in a regular and timely manner in accordance with Section 25.

(2) Provisions of Section 30 paragraphs 4 to 6 shall apply *mutatis mutandis*.

Section 30b

Demonstration or Repair of Equipment

Copyright is not infringed by anybody who uses a work to the necessary extent in connection with the demonstration or repair of equipment for a customer.

Section 31

Quotations

(1) Copyright is not infringed by anybody who:

- a) In their own work uses to a justified extent excerpts from works of other authors which were made public;
- b) Uses excerpts from a work, or small works in their entirety, for the purposes of critique or review related to such a work and for the purposes of scientific or technical work and such use being made to the extent complying with fair practices and required by the specific purpose;
- c) Uses the work while teaching for illustration purposes or during scientific research, without seeking to achieve direct or indirect economic or commercial gain and without exceeding the extent adequate to the given purpose;

however, if possible, the name of the author, unless the work is an anonymous work, or the name of the person under whose name the work is being introduced in public and the title of the work and source, shall always be indicated.

(2) Copyright shall likewise not be infringed by anybody who makes further use of excerpts from a work, or small works in their entirety, as referred to in paragraph 1 letter (a) or (b); provisions of paragraph 1 after the semicolon shall apply *mutatis mutandis*.

Section 31a

Licences for digital teaching

(1) A school, higher education institution or education or training facility³¹⁾ is not infringing copyright if it digitally uses a work under its own responsibility in teaching for illustrative purposes, not for direct or indirect economic or commercial gain, provided that it is done on the premises of the school or facility or in other places, or within a secure electronic environment accessible only to pupils or students and teachers of the school or facility, and provided that the name of the author, the title of the work and the source, where applicable, are indicated.

(2) The use of a work referred to in paragraph 1 shall be deemed to take place only in a Member State of the European Union or of the European Economic Area in which the school, higher education institution or education or training facility using the work is established or recognised by that State³²⁾.

(3) The provisions of paragraph 1 shall not apply to the use of a work primarily intended for educational purposes and to the use of a published sheet music of musical or musical-dramatic work. A work primarily intended for educational purposes means a work which has been granted an approval clause under the Education Act³³⁾ and other such textbooks or teaching texts³⁴⁾.

Section 32

Promotion of Exhibition of Works of Art and Sale Thereof

(1) Copyright shall not be infringed by anybody, who for the purposes of promoting an exhibition or sale of originals or reproductions of works of art, uses such works to the extent necessary for the promotion of such an event and shall not use them in any other way for direct or indirect economic or commercial gain. If usual, the name of the author, unless the work is an anonymous work, or the name of the person under whose name the work is being introduced in public, the title of the work and source shall always be indicated.

(2) In accordance with paragraph 1, the catalogue of the exhibited works may be used further.

Section 33

Use of a Work Located in Public Place

(1) Copyright is not infringed by anybody who records or expresses by drawing, painting, graphic art, photography or film a work permanently located on a square, in a street, in a park, on a public route or in any other public place; copyright shall likewise not be infringed by anybody who further uses a work so expressed, rendered or recorded. If possible, the name of the author (unless the work is an anonymous work) or the name of the person under whose name the work is being introduced in public, the title of the work and its location shall be indicated.

(2) The provisions of paragraph 1 shall not apply to making a reproduction or imitation of a work of architecture in the form of erecting a building and to the reproduction and distribution of a work in the form of a three-dimensional reproduction.

Section 34

Official and Reporting Licence

Copyright is not infringed by anybody who uses:

- a) to a justifiable extent a work on the basis of law for purposes of public security, for court or administrative proceedings or for any other official purpose, or for parliamentary procedures and for taking minutes thereof;
- b) a work within the course of reporting on current events to an extent adequate to the informative purpose;
- c) to a justifiable extent, a work in periodical press or in broadcasting or in any other mass media providing the reporting on current political, economic or religious matters that have already been published via any other mass communication media – or the translation thereof; a work so borrowed or the translation thereof may also be used otherwise; however, a work may not be so borrowed or further used if such borrowing or further use is explicitly forbidden;
- d) a political speech or passages of a public lecture or similar works, to an extent adequate to the informative purpose; this shall be without prejudice to the author's right to the use of such works in collection;

in cases under letters (b) to (d), the name of the author (unless the work is an anonymous work) or the name of the person under whose name the work is being introduced in public, shall always be indicated; the title of the work and the source shall also be indicated, unless this is impossible in cases under letters (b) and (d).

Section 35

Use of a Work as Part of Civil and Religious Ceremonies or as Part of Official Events Organised by Public Authorities or during School Performances, and Use of a School Work

(1) Copyright is not infringed by anybody who uses a work during civil or religious ceremonies or during official events organised by public authorities, provided that this is not done for the purpose of any direct or indirect economic or commercial gain.

(2) Copyright is not infringed by anybody who uses a work during school performances performed exclusively by the pupils, students or teachers of the school, higher education institution or of the school-related or educational establishment, provided that this is not done for the purpose of any direct or indirect economic or commercial gain.

(3) Copyright is not infringed by a school, higher education institution or school-related or educational establishment if they use for teaching purposes or to meet their own internal needs a work created by a pupil or student as a part of their school or educational assignments ensuing from their legal relationship to their school, higher education institution or the school-related or educational establishment (school work), provided that this is not done for the purpose of any direct or indirect economic or commercial gain.

(4) The provision of Section 31 paragraph 1 a part of the sentence following the semicolon shall apply *mutatis mutandis*, to paragraphs 2 and 3.

Section 36

Limitation to Copyright to a Collection of Works

Copyright to a collection of works, which is a database, is not infringed by the legitimate user of the collection of works if they use such work for the purposes of accessing its content and for the normal exploitation of its content.

Section 37

Library Licence

(1) Copyright is not infringed by a library, archive, museum, gallery, school, university and other non-profit school-related and educational establishment⁴⁾:

- a) if it makes a reproduction of a work for its own archiving and conservation purposes, and if such a reproduction does not serve any direct or indirect economic or commercial purpose; in numbers and formats necessary for the permanent preservation of works,
- b) if it makes a reproduction of a work whose reproduction has been damaged or lost, provided that it is possible to verify with the exertion of reasonable effort that it is not being offered for sale, or a print reproduction of a minor part of the work, if such part has been damaged or lost; it may also lend such a lawfully made reproduction in accordance with paragraph 2 below;
- c) if it makes available a work, including the making of a reproduction needed for such availability, which constitutes a part of its collections and the use thereof is not subject to purchase or licensing terms, except the communication of the work in the way specified in Section 18 paragraph 2, to members of the public by dedicated terminals located on its premises, such a work being so made available exclusively for the purposes of research or private study of such members of the public, provided that such members of the public are prevented from making reproductions of the work; this is without prejudice to the provisions of Section 30a paragraph 1 letters (c) and (d);
- d) if it lends the originals or reproductions of defended undergraduate degree theses, dissertations, doctoral and post-doctoral theses to on-the-spot reference use, provided that it shall do so exclusively for the purposes of research or private study, and also provided that the author did not exclude such use.

(2) Copyright is not infringed by a person referred to in paragraph 1 where such a person lends the originals or reproductions of published works, if the remuneration that is due to the authors from the person indicated in Annex 1 to this Act is paid in the amount also indicated in that Annex. The author shall not be entitled to the remuneration if the published works are lent hereunder to on-the-spot reference user if the originals or reproductions of the published works are lent by school libraries, libraries of higher education institutions and libraries of museums, galleries and archives.

(3) Paragraph 2 shall not be used for the reproductions of works recorded in audio, audiovisual, or other form, whose use is governed by sales or licencing conditions, unless such works are lent to on-the-spot reference use or there is a material reproduction of the record, which is an accessory of the material reproduction of the work. The person referred to in paragraph 1 shall in a case of on the spot lending prevent the possibility of making reproductions this type of work.

(4) Copyright is not infringed by a person referred to in paragraph 1 who, for the purpose of offering to lend and make available the content of its collections, uses a reproduction of a work or any part of it that was contained on the cover, also possibly including indication of the thematic content of the work in the catalogue of the collections; such a catalogue of collections may also be made available to the public, provided that the possibility of making reproductions of the work is prevented, where such a reproduction might be used for direct or indirect economic or commercial gain. The person referred to in paragraph 1 shall always indicate in the collection catalogue the name of the author, if possible, unless the work is an anonymous work, or the name of the person under whose name the work is being introduced in public.

(5) The person referred to in paragraph 1 shall upon request submit information on the number of loans to the relevant collective management organisation, if such a request may be fairly posed, as well as the information the collective management organisation may need to be able to allocate the remuneration, and shall always do so in a summarised manner for the entire year not later than by the end of the subsequent calendar month.

Section 37a

License to Certain Uses of an Orphan Work

(1) A person referred to in Section 37 paragraph 1 shall not infringe on copyright where such person, solely to attain objectives related to such person's public interest mission

- a) reproduces an orphan work in the form of a book, magazine, newspaper or other writing, or a cinematographic or audiovisual orphan work, for the purposes of digitization, making available in the manner referred to in Section 18 paragraph 2, indexing, cataloguing, preservation or restoration, where such work is a part of that person's collections or archives, or
- b) makes the work pursuant to letter (a) available to the public, in the manner referred to in Section 18 paragraph 2.

(2) A statutory broadcaster shall not infringe on copyright where the broadcaster, solely to attain objectives related to its public interest mission

- a) reproduces a cinematographic or audiovisual orphan work for the purposes of digitization, making available in the manner referred to in Section 18 paragraph 2, indexing, cataloguing, preservation or restoration, where such work is contained in the broadcaster's archives and was produced by the broadcaster or on the broadcaster's initiative prior to December 31, 2002, or
- b) makes the work pursuant to letter (a) available to the public, in the manner set forth in Section 18 paragraph 2.

(3) The provisions of paragraphs 1 and 2 shall apply to a work which was published for the first time, or, if not published, broadcast for the first time, in any of the Member States of the European Union or any of the States of the European Economic Area. Where such publication or broadcast did not take place, and the work was published by the person referred to in paragraph 1 or paragraph 2 with the author's consent, these provisions shall apply to the work where it can be reasonably presumed that the author would not oppose the use of the work pursuant to paragraphs 1 and 2.

(4) The provisions of paragraphs 1 and 2 shall further apply to works embedded or incorporated into an orphan work or constituting an integral part of an orphan work.

(5) In the course of use of an orphan work in the manner referred to in paragraph 1 or paragraph 2, revenues may be generated solely in order to cover the costs incurred in connection with the digitization of orphan work and making them available to the public.

(6) In order to determine whether a work is an orphan work, the person referred to paragraph 1 or paragraph 2 shall carry out a diligent search pursuant to Section 27b and shall keep records of the search.

(7) The person referred to paragraph 1 or paragraph 2 shall be obliged to indicate the name of the author of the work, if identified, every time the orphan work is used.

(8) The persons referred to in paragraph 1 and paragraph 2 shall be obliged to provide to the Ministry in written form and without undue delay

- a) the result of every diligent search they carried out, and on the basis of which they concluded that a particular work is considered an orphan work,
- b) information on use pursuant to paragraph 1 or paragraph 2,
- c) information on any change in the status of an orphan work used or being used by such persons pursuant to paragraph 1 or paragraph 2,
- d) their contact information.

(9) The Ministry shall deliver the outcome and information received pursuant to paragraph 8 to the Office of the European Union for Intellectual Property¹⁴⁾ without undue delay.

(10) An author who terminated the orphan work status pursuant to Section 27a paragraph 4 shall be entitled to remuneration from the person who used the work concerned pursuant to paragraph 1 or paragraph 2. When determining the amount of the remuneration, the purpose and circumstances of the use of the work, as well as the extent of damage caused to the author by the use, shall be taken into consideration.

(11) The right to remuneration pursuant to paragraph 10 shall be governed by the laws of the state where the person liable to pay the remuneration resides.

Licence for the use of an out-of-commerce work

(1) The copyright shall not be infringed by a library, archive, museum, gallery or institution for the preservation of film or sound or other cultural heritage³⁵⁾ (hereinafter referred to as "cultural heritage institution") which, not for direct or indirect economic or commercial gain, reproduces and makes available in the manner referred to in the first sentence of Section 18 paragraph 2 on its website established or operated not for direct or indirect economic or commercial gain, an out-of-commerce work which is permanently in its collections. However, the name of the author must always be indicated, if possible, unless the work is anonymous, or the name of the person under whose name the work is being made public, as well as the title of the work and the source.

(2) A use of an out-of-commerce work pursuant to paragraph 1 shall be deemed to take place only in a Member State of the European Union or of the European Economic Area in which the cultural heritage institution using the work is established or recognised by that State.

(3) The provisions of paragraphs 1 and 2 shall apply only to a work about which, at least 6 months before the use referred to in paragraph 1 takes place, information has been permanently published by the cultural heritage institution on the Portal of Out-of-Commerce Works established and maintained by the European Union Intellectual Property Office in accordance with the directly applicable regulation of the European Union governing the competence of the European Union Intellectual Property Office¹⁴⁾ and on the website of that institution

- a) identifying the work and the author,
- b) on the manner and extent of the use referred to in paragraph 1 and
- c) the author's right to exclude the use of the work pursuant to paragraph 1.

(4) The provisions of paragraphs 1 to 3 shall apply only to the work and the rights thereto, unless the exercise of the collective management of rights has been authorised pursuant to Section 97e paragraph 4 letter (m).

(5) The provisions of paragraphs 1 to 3 shall apply only to a work and the rights thereto whose author does not exclude such use either in specific cases or in general, even after the use referred to in paragraph 1 has taken place.

(6) The provisions of paragraphs 1 to 5 shall not apply to collections of out-of-commerce works if it has been established, after reasonable efforts have been made pursuant to Section 27c, that such collections consist mainly of

- a) works other than cinematographic or audiovisual, first published or, in the absence of publication, first broadcast in a third country;
- b) cinematographic or audiovisual works, of which the producers have their headquarters or habitual residence in a third country, or
- c) works created by nationals of third countries where it has not been possible, even after a reasonable effort, to identify a Member State of the European Union or of the European Economic Area or a third country pursuant to letters (a) and (b).

Section 38

Use of the Original Work or Reproduction of a Work of Fine Arts, Photography or a Work Expressed in Manner analogous to Photography by its Exhibition

Copyright is not infringed by the owner or by a person who borrows from him/her, the original or reproduction of a work of fine arts or of a photographic work or of a work produced by a process similar to photography, who exhibits such work or provides such work for exhibition free of charge, unless such use was banned by the author during the transfer of ownership to such an original or reproduction of the work, and the owner or borrower were aware of or must have been aware of the ban particularly because of the inscription of the ban in the list maintained for that purpose by the collective management organization.

Section 38a

Licence for Temporary Reproductions

(1) Copyright is not infringed by anybody who performs temporary acts of reproduction of works that are transient or incidental and represent an integral and essential part of a technological process which have no any independent economic significance, and whose sole purpose is to enable:

- a) Transmission of the work by an intermediary between third parties through a computer network or any other similar network; or
- b) lawful use of the work.

(2) If the author grants permission, on a contractual basis, for the broadcasting of their work, their copyright shall not be infringed by the radio or television broadcaster that makes an ephemeral recording, using its own facilities for their own broadcasting.

Section 38b

Licence for Photographic Portrait

Copyright is not infringed by anybody who makes a reproduction of a photographic work that is their own portrait and that they commissioned to be made for a consideration; a reproduction made in this way may also be used by the portrayed person for non-commercial purposes, unless such use is forbidden.

Section 38c

Incidental Use of a Work

Copyright is not infringed by anybody who uses a work incidentally, in connection with an intended primary use of another work or element.

Section 38d

Licence to Works of Applied Art and Works of Architecture

Copyright is not infringed by anybody who:

- a) leases, lends or exhibits the original or reproduction of a work of applied art expressed in its applied form or a work of architecture expressed in the form of erecting a building;
- b) uses an architectural work expressed in the form of a structure, drawing or plan for the purposes of maintenance work or a change in a completed construction, to the necessary extent and while preserving the value of the architectural work; if justified by the importance of the work of architecture and if such a request may fairly be posed, such a person shall notify their intention in advance to the author and shall upon request provide the author with the documentation of the building, including pictures that show the state before the changes.

Section 38e

License for Social Facilities

Copyright is not infringed by a health care provider or a social institution not founded or established for commercial purposes, particularly hospitals and prisons, which make reproductions of broadcasted works and perform such reproduced works to the persons located in such institutions to the extent adequate to the purpose of this license. This shall be without prejudice to the right to remuneration under Section 25.

Section 38f

License for Common House Aerials

Copyright is not infringed by anyone who enables the reception of simultaneous, unaltered and unabridged radio or TV broadcasting through receivers on one and the same building, or a complex of buildings forming a whole in terms of spatial arrangement or purpose, by means of common house aerials, provided that only the reception of terrestrial or satellite broadcasting is made possible, and the common reception is not used for any direct or indirect economic or commercial benefit.

Section 38g

License for caricature, parody or pastiche

Copyright is not infringed by anyone who uses a work for the purposes of caricature, parody or pastiche.

Section 39 Licence for Persons with Disabilities

(1) Copyright is not infringed by anybody, who:

- a) exclusively for the benefit of persons with disabilities, to the extent required by the specific disability and not for the purpose of direct or indirect economic or commercial gain, makes or has a reproduction made; a reproduction so made may also be distributed and communicated by him/her, unless this is done for the purpose of direct or indirect economic or commercial gain, or
- b) exclusively for the benefit of persons with visual or hearing impairment and not for the purpose of direct or indirect economic or commercial gain, provides a reproduction of an audiovisual fixation of an audiovisual work adding a verbal expression of the visual component or visual or textual aids necessary to make the work accessible to those persons; so supplemented audiovisual work may also be reproduced, distributed and communicated by him/her, unless this is done for the purpose of direct or indirect economic or commercial gain.

(2) Paragraph 1 above shall apply to an audiovisual work only in the case, that it has been published.

(3) Copyright is not infringed by anybody, who operates a television broadcasting service and, in compliance with the law, broadcasts a programme ²⁹⁾ supplemented by an audio description, that make the programme accessible to the persons with visual impairment, if such service is free of charge, or unless this is done for the purpose of direct or indirect economic or commercial gain.

(4) Copyright is neither infringed by the person referred to in Section 37 paragraph 1, if it lends originals or reproductions of published works to meet the needs of persons with disabilities in relation to their disability.

(5) Provisions of Section 30 paragraph 5 shall apply *mutatis mutandis*.

Section 39a

Licence for Certain Use of the Works for the Benefit of Persons who are Visually Impaired or Otherwise Print-disabled

(1) The beneficiary person for the purpose of this Section and Section 39b means a person, who

- a) is blind or has other visual impairment which cannot be compensated or improved by commonly available means so as to give the person visual function substantially equivalent to that of a person without such an impairment,
- b) has a perceptual or reading disability and is, as a result, unable to read printed works to substantially the same degree as a person without such disability, or
- c) is not, due to a physical disability, able to hold a book, journal, newspaper or other kind of writing or manipulate it or to focus or move their eyes to the extent that would be normally acceptable for reading.

(2) The accessible format reproduction for the purpose of this Section and Section 39b means a reproduction of original or reproduced work in the form of book, journal, newspaper, magazine or other kind of writing, including related illustrations, or sheet music, in any media, made in an alternative manner or form which allows a beneficiary person to read or otherwise perceive the work to the same or substantially same degree as a person without disability or such an impairment under the paragraph 1.

(3) The authorised entity for the purpose of this Section and Section 39b means anybody that provides as its primary activity or as a part of its public-interest mission, not for the purpose of direct or indirect economic or commercial gain, to the beneficiary persons education, instructional training, adaptive reading or information access.

(4) Copyright law is not infringed by

- a) a beneficiary person, or person acting in their interest, who makes an accessible format reproduction for the exclusive use of this beneficiary person,
- b) an authorised entity established or residing in the Czech Republic that makes, not for the purpose of direct or indirect economic or commercial gain, an accessible format reproduction and to meet exclusively the needs of the beneficiary person, distributes, lends or communicates this reproduction to the beneficiary person or to the other authorised entity established or residing in the Czech Republic.
- c) an authorised entity established or residing in the Czech Republic that makes, not for the purpose of direct or indirect economic or profit advantage, an accessible format reproduction and to meet exclusively the needs of the beneficiary person distributes, lends or communicates this reproduction to the beneficiary person or to the other authorised entity established or residing in other Member State of the European Union or in the third country under the directly applicable European Union legislation²⁸, or
- d) a beneficiary person or an authorised entity established or residing in the Czech Republic that, not for the purpose of direct or indirect economic or profit advantage, imports or otherwise obtains or accepts an accessible format reproduction distributed or communicated to beneficiary persons or authorised entities by authorised entity established or residing in Member State of the European Union or in the third country under the directly applicable European Union legislation.²⁸

Section 39b

Obligations of Authorised Entity

(1) An authorised entity established or residing in the Czech Republic that applies the mandatory licence pursuant to Section 39a paragraph 4 letters (c) or (d), is obliged to

- a) distribute, lend or communicate the accessible format reproduction only to a beneficiary person or the other authorised entity,
- b) take appropriate steps to discourage the unauthorised reproduction, distribution, lending or communicating of accessible format reproduction to the public,
- c) demonstrate due care in, and maintain records of, its handling of a work and its accessible format reproduction, and
- d) publish and update, on its website, or through other online or offline channels information on how it complies with the obligations laid down in letters (a) to (c).

(2) An authorised entity established or residing in the Czech Republic, that applies the mandatory licence pursuant Section 39a paragraph 4 letter (c) or (d), shall provide, on request, in an appropriate way, to a beneficiary person, other authorised entity or to the author

- a) the list of the works for which it has accessible format reproductions including the available formats and
- b) the names and the contact details of the authorised entities with which it has engaged in the exchange of accessible format reproductions.

Section 39c

License to reproduce a work for the purpose of automated text or data analysis

(1) The copyright shall not be infringed by a person who makes a reproduction of a work for the purpose of automated analysis of texts or data in digital form, carried out for the purpose of generating information including, inter alia, patterns, trends and correlations; they shall be entitled to retain the reproduction so made only for as long as necessary for the purposes of such automated text or data analysis.

(2) The provisions of paragraph 1 shall not apply to reproductions of a work the use of which has been expressly reserved by the author in accordance with paragraph 1 in an appropriate manner; in the case of a work made available pursuant to Section 18 paragraph 2 by machine-readable means.

(3) The provisions of paragraphs 1 and 2 are without prejudice to the provisions of Section 39d.

Section 39d

License to reproduce a work for the purpose of automated text or data analysis for scientific research

Copyright is not infringed

- a) by a higher education institution which carries out scientific research as part of its activities, or a legal person whose main purpose is to carry out scientific research or to carry out educational activities which also include scientific research, if the scientific research of that institution or legal person is carried out in such a way that access to its results is not given preferentially to the person exercising decisive influence over that higher education institution or legal person, and at the same time so that the research is carried out in the public interest or on a not-profit basis or so that all profits are reinvested in the scientific research of that higher education institution or legal person, or
- b) by a cultural heritage institution,

if it makes a reproduction of the work for the purposes of scientific research for the purpose of automated analysis of texts or data in digital form, carried out for the purpose of generating information including, inter alia, patterns, trends and correlations; it shall store the reproduction so made with an appropriate level of security and may keep it for the purposes of scientific research, including the verification of research results.

VOLUME 5

Copyright Protection

Section 40

(1) An author whose rights have been infringed or whose rights have been exposed to danger of infringement may claim, in particular:

- a) recognition of their authorship;
- b) prohibition of the exposure of their right, including impending repetition of exposure, or of the infringement of their right, including, but not limited to, the prohibition of the unauthorized production, unauthorized commercial sale, unauthorized import or export of the original or reproduction or imitation of their work, unauthorized communication of the work to the public, as well as its unauthorized promotion, including advertising and other forms of campaigns;
- c) disclosure of details concerning the way and extent of unauthorised use, the origin of the illicitly made reproduction or imitation of their work, the way and extent of the use thereof, the price thereof, the price of the service related to the unauthorised use of the work, and the identity of the persons involved in the unauthorised use, also including the persons for whom such reproductions or imitations were designated for the purpose of the provision thereof to a third party as well as information on facts relevant to the amount of remuneration pursuant to Sections 24 and 25; the author may claim their right to information under this provision from the person who infringed or exposed their right and also, in particular, from the person who:
 - 1. possesses or possessed an illicitly made reproduction or imitation of the author's work for the purpose of direct or indirect economic or commercial gain;
 - 2. makes or made use, for the purpose of direct or indirect economic or commercial gain, of any service that infringes or infringed the author's right, or that exposes or exposed it to danger;
 - 3. provides or provided, for the purpose of direct or indirect economic or commercial gain, a service used within activities that infringe or infringed the author's right, or that expose or exposed it to danger;
 - 4. has been identified by a person referred to under points 1, 2 or 3 above as a person involved in the obtaining, production or distribution of a reproduction or imitation of the work or as a person involved in the provision of services that infringe the author's right, or that expose it to danger; or
 - 5. Is a person liable pursuant to Section 24 paragraph 6 or Section 25 paragraph 2.
- d) remedying the consequences of the infringement of their right, including, but not limited to:
 - 1. recall of the illicitly made reproduction or imitation of the work, or the device, product or component referred to in Section 43 paragraph 2 from channels of commerce or any other use;
 - 2. definitive removal from channels of commerce, and destruction, of the illicitly made reproduction or imitation of the work, or the device, product or component referred to in Section 43 paragraph 2;

3. destruction of the illicitly made reproduction or imitation of the work, or the device, product or component referred to in Section 43 paragraph 2;
 4. destruction or removal of the materials and tools used exclusively or for the most part for producing the illicitly made reproduction or imitation of the work, or the device, product or component referred to in Section 43 paragraph 2;
- e) adequate satisfaction for the non-financial damage, in particular, in the form of:
1. an apology
 2. pecuniary satisfaction, if any other satisfaction proves unsatisfactory; the amount of the pecuniary satisfaction shall be determined by a court, which shall take into account, in particular, the gravity of the damage incurred and the circumstances in which the infringement of the right occurred; this shall not preclude an agreement to settle mutual obligations;
- f) a ban on the provision of the service used by third parties to infringe the author's right or expose it to danger.

(2) The measures under paragraph 1 letter (d) have to be proportionate to the gravity of the infringement of the right and shall be imposed with respect to the interests of third parties particularly consumers and persons acting in good faith.

(3) The court may recognise in its judgment the right of the author, whose claim has been acquitted, to publicize the decision at the expenses of the unsuccessful party and, depending on circumstances, also determine the scope, form and way of such publication.

(4) The claim for damages and for unjust enrichment pursuant to a special law shall remain unaffected; *in lieu* of the actual loss of profit, the author may claim compensation for the loss of profit in an amount that would have been normally paid for obtaining the respective licence at the time of unauthorised disposition of the work. The amount of unjust enrichment gained on the part of whoever unlawfully disposed of the work without being granted the necessary licence shall be deemed to be double the remuneration that would have been awarded under normal conditions at the time of unauthorised disposition of the work.

Section 41

Claims pursuant to Section 40 paragraph 1 letters (b) to (d) and paragraphs 3 and 4 may be sought in the place of the author by a person who has contracted exclusive authorisation to exercise the right to use the work or who enjoys the exercise of these rights on a statutory basis; this person's right to reasonable satisfaction for the payment of non-pecuniary damage may only be claimed for an infringement of copyright property rights. The entitlement of the author to claim the right to reasonable satisfaction in order to offset the non-pecuniary damage caused by the infringement of the author's personal rights, as well as a claim pursuant to Section 40 paragraph 3, shall remain unaffected.

Section 42

(1) The author may require the authorities of the Customs Administration of the Czech Republic to provide him with information on the content and extent of imports of goods that:

- a) is a reproduction of their work or an audio, audiovisual or any other fixation of such work;
- b) is intended to serve as a carrier for the making of such a reproduction (blank record carrier);
- c) is a device for making audio or audiovisual or other fixations or printed copies; or
- d) is a device, product or component defined in Section 43 paragraph 2;

and shall have access to the customs documents to the extent necessary to find out whether the import of such commodities for utilization in the entire territory of the Czech Republic is in compliance with this Act, or to learn details needed for the enforcement of rights ensuing from this Act.

(2) Provisions of paragraph 1 shall apply, *mutatis mutandis*, to the export of the goods.

(3) The information referred to in paragraphs 1 and 2 may also be requested by the relevant collective management organisation as well as by the legal person authorised to defend the interests of authors, or the persons entitled on a statutory basis to exercise the economic rights in respect of the work (Section 58) or enjoying exclusive authorisation on a contractual basis.

(4) The provision of such information shall not constitute a breach of confidentiality under the Tax Code.

Section 43

(1) Copyright is infringed by anybody who circumvents or otherwise obstructs effective technical measures that are in place to protect rights under this Act.

(2) Copyright is also infringed by anybody who manufactures, imports, receives, distributes, sells, rents, advertises for sale or rental, or possesses for commercial purposes any devices, products or components, or provides services, that:

- a) are promoted, advertised or marketed for the purpose of circumvention of effective technical measures;
- b) have only a limited commercially significant purpose or use other than the circumvention of the effective technical measures; or
- c) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of the effective technical measures.

(3) For the purposes of this Act, the expression effective technical measures means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works, which are not authorised by the author, if the author can control the use of a protected work through application of an access control or protection process, such as encryption, scrambling or other transformation of the work, or a copy control mechanism.

(4) Legal protection under paragraph 1 shall be without prejudice to the provisions of Section 30a, Section 31 paragraph 1 letter (b), Section 34 letter (a), Section 38a paragraph 2, Section 38e, Section 39 and Section 39a paragraph 4 to the extent necessary to benefit from the exception. An author who used technical measures under paragraph 3 in respect of their work shall make their work available to lawful users to the extent necessary to fulfil the purpose of the stated exploitation of the work. The author may make available their work, for which they used the technical measures referred to in paragraph 3, even in the case that a reproduction of their work for private use has already been made under Section 30; this shall not prevent the author from adopting adequate measures regarding the number of such reproductions.

(5) Provisions of Section 4 shall not apply to works made available by the author or with their consent in the manner referred to in Section 18 paragraph 2.

(6) The legal protection under paragraph 1 shall be without prejudice to the provisions of Sections 31a, 37 paragraph 1 letter (a) and (b) and 39d to the extent necessary to take advantage of the exemption. An author who has used technical means for their work pursuant to paragraph 3 shall be obliged to make the work available to authorised users to the extent necessary to fulfil the purpose of the use of the work.

(7) The technical measures designed to fulfil the obligations under paragraphs 4 and 6, taken by the author voluntarily or on a contractual basis, shall enjoy the protection provided for in paragraphs 1 to 3.

Section 44

(1) Copyright is also infringed by anybody who without the author's consent induces, enables, facilitates or conceals the infringement of copyright by:

- a) Removing or altering any electronic rights-management information; or
- b) Distributing, importing or receiving for distribution purposes, broadcasting or communicating to the public in the manner referred to in Section 18 paragraph 2 a work whose electronic rights-management information was without authority removed or altered.

(2) The rights-management information, as referred to in paragraph 1, is any information provided by the author to identify the work, the author or any other rightholder, or information concerning the ways and conditions of using the work, and any numbers or codes that represent such information. The same applies to the information which is associated with a reproduction of the work or appears in connection with the communication of the work to the public.

Section 45

Copyright is also infringed by anybody who uses for their own work the title or external design that has previously been lawfully used by another author for a work of the same kind, if this could lead to the danger of confusion of the two works, unless otherwise follows from the nature or designation of the work.

VOLUME 6

Use of a work by an online content-sharing service provider

Section 46

(1) For the purposes of this Act, an online content-sharing service provider shall mean an information society service³⁶⁾ provider of which the main purpose or one of the main purposes is to store and communicate to the public a large number of works uploaded by a user of such service and which competes or may compete with other online services making works available to the same target audience, where the provider of such service organises and promotes such works for profit-making purposes.

(2) An online content-sharing service provider shall not be considered to be a provider of such an information society service³⁶⁾, which is a not-for-profit online encyclopaedia, a not-for-profit educational and scientific repository, an open source software-developing and sharing platform, an electronic communications service³⁷⁾, an online marketplace and a business-to-business cloud service and a cloud service that allows users to upload content for their own use.

Section 47

(1) An online content-sharing service provider shall not be liable for the unauthorised communication of a work to the public pursuant to Section 18 paragraph 2 if

- a) they made best efforts to obtain an authorisation to exercise this right,
- b) in accordance with high industry standards of professional diligence, they made best efforts to prevent the uploading of a work about which the author has provided with relevant and necessary information; and
- c) immediately after receiving a sufficiently substantiated notice from the author, disabled access to the work or removed it from his website and made best efforts to prevent its future upload in accordance with letter (b).

(2) In determining whether an online content-sharing service provider has complied with his obligations under paragraph 1, account shall be taken, in light of the principle of proportionality, inter alia, of

- a) the type and scope of the service, its target audience and the type of work uploaded by the service user; and
- b) the availability of suitable and effective means to fulfil the obligations under paragraph 1 and their cost to the service provider.

(3) The use of automatic content recognition tools may only prevent the uploading of a work under paragraph 1 letter (b) and prevent the future upload of a work under paragraph 1 letter (c) where the online content-sharing service provider assesses the uploaded content as identical or equivalent to the work identified by the author under paragraph 1 letter (b) or (c). Identical content means identical content without additional elements or added value. Equivalent content means content that differs from the work identified by the author only by modifications that can be considered insignificant without the need for additional information to be provided by the author and without an independent assessment of the legitimacy of the use of the work with modifications under this Act.

(4) An online content-sharing services provider does not have a general monitoring obligation over the content stored by users of its service.

(5) The online content-sharing service provider cannot invoke the limitation of liability for storing the content of information provided by the user under the Act on Certain Information Society Services³⁶⁾.

Section 48

(1) An online content-sharing service provider whose service has been on the market in the territory of the Czech Republic or of a Member State of the European Union or of the European Economic Area for less than 3 years and which has an annual turnover below EUR 10 million calculated in accordance with the Commission

Recommendation concerning the definition of micro, small and medium-sized enterprises³⁸⁾, shall not be liable for the unauthorised communication of a work to the public pursuant to Section 18 paragraph 2 if

- a) they made best efforts to obtain an authorisation to exercise that right; the provisions of Section 47 paragraph 2 shall apply mutatis mutandis; and
- b) immediately after receiving a sufficiently substantiated notice from the author, disabled access to the work or removed it from his website.

(2) An online content-sharing service provider to which paragraph 1 applies, whose average monthly number of unique visitors to the service exceeds 5 million, calculated on the basis of the preceding calendar year, shall not be liable for unauthorised communication of the work to the public pursuant to Section 18 paragraph 2 if they also made best efforts to prevent the future upload of the work about which the author has provided him with relevant and necessary information. The provisions of Section 47 paragraph 2 apply mutatis mutandis.

(3) Section 47 paragraph 3 shall apply mutatis mutandis to the online content-sharing service provider under paragraphs 1 and 2.

Section 49

In fulfilling the obligations under Sections 47 paragraph 1 and 48 paragraphs 1 and 2, cooperation between online content-sharing service providers and rightholders shall not result in the prevention of the availability of a work made available in accordance with this Act by a user when using the service of an online content-sharing service provider.

Section 50

(1) An online content-sharing service provider is obliged to

- a) provide the author, at his request, with adequate information about the procedures under Sections 47 and 48 and, where such a service provider has been authorised to exercise the right of communication of the work to the public under Section 18 paragraph 2, shall provide the author, at his request, with information on the use of the work to which that authorisation relates,
- b) inform the users of his service in its terms and conditions about the possibilities to use the work in accordance with this Act.

(2) The information referred to in paragraph 1 letter (a) shall be provided by the online content-sharing service provider instead of the author to the person who has contractually acquired the exclusive right to exercise the right to use the work or to whom the exercise of that right is conferred by law.

Section 51

(1) An online content-sharing service provider is obliged to put in place an effective and expeditious complaint and redress mechanism that can be used by the user of his service in the event of disputes over the disabling of access to or removal of a work uploaded by the user. The submission and handling of complaints must be free of charge for the user.

(2) If the author insists on preventing access to or removing his work in the context of a complaint under paragraph 1, they are obliged to justify this.

(3) A complaint under paragraph 1 shall be processed without undue delay. The assessment of a complaint concerning the denial of access to an uploaded work or the removal of an uploaded work shall not be exclusively automated.

Section 52

Where an author grants an online content-sharing service provider an authorisation to exercise a right pursuant to Section 18 paragraph 1 or 2, that authorisation shall also apply to the acts referred to in Section 18 paragraphs 1 and 2 performed by a user of that service, unless that user performs those acts in the course of his business or in the independent exercise of his profession or unless those acts generate significant revenues.

VOLUME 7

Dispute Resolution Procedure

Section 53

Mediation and use of a mediator

For the purposes of this Act, mediation means the practice of a mediator based on providing assistance in negotiations, making proposals, finding solutions to disputed issues and other related activities carried out to facilitate the negotiation of licences for the use of an audiovisual work in the manner referred to in Section 18 paragraph 2, the settlement of disputes arising from Section 47 paragraph 1 letters (b) and (c), Section 48 paragraph 1 letter (b) and Section 49, the settlement of disputes arising from the author's right to claim proportionate and fair additional remuneration for the grant of a licence, the settlement of disputes arising from the performance of the licensee's or sub-licensee's obligation to provide the author regularly with up to date, relevant and comprehensive information on the use of the works³⁹⁾ and in the cases referred to in Section 101. Mediation may be used by rightholders, users pursuant to Section 95 paragraph 4 or their associations or collective management organisations pursuant to Section 95a paragraph 1. Those interested in mediation may use one or more mediators from the list of mediators maintained by the Ministry.

Section 54

List of mediators

(1) The Ministry shall maintain a list of mediators, which shall include the names of mediators and contact details in accordance with Section 56 paragraph 1. The list of mediators is a public administration information system and is published on the Ministry's website.

(2) The authorisation to act as a mediator shall be granted by the Ministry to a natural person who

- a) has full legal capacity;
- b) has no criminal record and
- c) is competent.

Section 54a

No criminal record

(1) Pursuant to Section 54 paragraph 2 letter (b) a person who has been finally convicted of a deliberate criminal offence shall not be deemed to have no criminal record unless they are treated as if they had not been convicted.

(2) Section 96b shall be used to prove no criminal record *mutatis mutandis*.

Section 54b

Competence

(1) A person shall be professionally qualified under Section 54 paragraph 2 letter (c) if

- a) they have obtained a higher education degree in a master's degree programme, and
- b) successfully passed the mediator's examination.

(2) The mediator's examination includes a test of the knowledge of copyright law necessary to act as a mediator and the basic knowledge and skills of out-of-court dispute resolution. The examination is oral and must not take more than 2 hours. The applicant takes the examination before a commission appointed by the Minister of Culture. The Commission shall consist of at least three members and shall be chaired by a civil servant assigned to the Ministry. The Commission shall have a quorum if all its members are present and shall act by a majority of its members. The examination is graded as "pass" or "fail". The Commission shall draw up a report on the result of the examination. An applicant who has failed the examination may reapply for the examination not earlier than 1 year from the date of the examination in which they failed.

Section 55

Visiting mediator

(1) A national of another Member State of the European Union or of the European Economic Area, who is entered by the Ministry in the list of mediators as a visiting mediator on the basis of their application, may also perform the activity of a mediator in the Czech Republic temporarily or occasionally as a visiting mediator. Section 56(1) shall apply *mutatis mutandis* to the submission of this application. The applicant shall attach to the application a copy of a document confirming that they are authorised to carry out an activity comparable to that of a mediator in accordance with the legislation of another Member State of the European Union or one of the States of the European Economic Area. The Ministry shall, without undue delay, enter them in the list of mediators once the above conditions have been met; however, a person who is not competent or of good character may not be entered in the list of mediators.

(2) The activities of a visiting mediator in the Czech Republic shall be governed by the law of the Czech Republic. A visiting mediator shall be entitled to carry out the activities of a mediator in the territory of the Czech Republic pursuant to this Act as from the date on which they are entered in the list of mediators.

Section 56

Entry in the list of mediators, changes to the data entered and removal from the list of mediators

(1) In the application for authorisation to act as a mediator, the applicant shall indicate, in addition to the general requisites of the filing set out in the Administrative Code, the identifier of their data mailbox or address for the delivery of documents in the Czech Republic, or an electronic address.

(2) The Ministry shall enter in the list of mediators the person to whom it has granted authorisation pursuant to Section 54 paragraph 2. Entry in the list of mediators shall be made by the Ministry on the date of the entry into force of the decision granting the authorisation.

(3) The mediator shall notify the Ministry without undue delay of changes to the data referred to in paragraph 1. The Ministry shall enter the notified changes in the list of mediators.

(4) The Ministry shall remove from the list of mediators a mediator who has died or been declared dead or absent.

(5) The Ministry shall revoke the authorisation to act as a mediator and remove the mediator from the list of mediators or remove the visiting mediator from the list if the mediator or visiting mediator

- a) their legal capacity has been limited,
- b) no longer meets the requirement of a no criminal record,
- c) requested the withdrawal of the authorisation to act as a mediator or, in the case of a visiting mediator, the cancellation of the entry in the list of mediators; or
- d) has violated the duty of a mediator established by this Act in a serious manner, or has violated it repeatedly during the last 2 years, despite a written warning from the Ministry.

(6) The Ministry shall remove a visiting mediator from the list of mediators if their authorisation to carry out an activity comparable to the activity of a mediator which they were authorised to carry out in accordance with the legislation of another Member State of the European Union or one of the States of the European Economic Area has ceased.

(7) The mediator or the visiting mediator shall notify the Ministry in writing of the facts which are grounds for withdrawal of the authorisation to act as a mediator or for removal from the list of mediators, no later than 15 days from the date on which they became aware of them.

Section 57

Procedure for using a mediator

(1) A request for mediation pursuant to Section 53 shall be made in writing to the mediator or to the visiting mediator by those interested in mediation. In the request, they shall state the current state of negotiations, attach their proposal and state the opinion of the other interested parties. A mediator or a visiting mediator shall be obliged

to refuse mediation if, having regard to their relationship to the case, to the person seeking mediation or to their representative, their impartiality may be doubted.

(2) If those interested in mediation do not agree on the person of the mediator or of the visiting mediator, the Ministry shall appoint the mediator or the visiting mediator at the request of those interested in mediation.

(3) If nobody of those interested in mediation expresses any objections to the draft agreement prepared by the mediator or the visiting mediator within 3 months of the submission of the draft agreement, they shall be deemed to have accepted it.

(4) If those interested in mediation do not agree with the mediator or the visiting mediator on the amount of their remuneration, the mediator or the visiting mediator shall be entitled to remuneration equal to the average wage in the national economy for the first to third quarters of the calendar year preceding the calendar year in which the mediation was provided, as announced under the law regulating employment.

(5) Section 4 paragraph 2, Section 5 paragraph 2, Sections 6 to 9, Section 10 paragraphs 1, 2 and 4 and 12 of the Mediation Act²¹⁾ shall apply *mutatis mutandis*.

VOLUME 8

Special Provisions on Certain Works

Section 58

Employee Work

(1) Unless otherwise agreed, the author's economic rights to a work created by the author in fulfilling their duties arising from the employment or civil service contract shall be exercised by the employer in their own name and on their own account. Such a work is an employee work. The employer may only assign the exercise of the right pursuant to the first sentence above to a third party with the author's consent, unless this occurs through the transfer of an undertaking. Such consent shall be deemed to be irrevocable and also applies to any further assignment. A third person, to whom the right of exercise has been assigned, shall be considered to be the employer for the purposes of this Act.

(2) In the event of the death or dissolution of the employer who has been authorised to exercise the economic rights to an employee work and who has no successor in title, the authorisation to exercise these rights shall be acquired by the author.

(3) Where the employer does not at all exercise the economic rights to an employee work, or exercises them inadequately, the author may request the employer to provide him the licence under normal conditions, unless there is a serious reason on the part of the employer to decline from doing so.

(4) The author's moral rights to an employee work shall remain unaffected. Where the employer exercises the economic rights to an employee work it shall be deemed that the author has given their consent to the work's being made public, altered, adapted (including translation), combined with another work, included into a collection of works and, unless agreed otherwise, also presented to the public under the employer's name.

(5) Unless otherwise agreed, it shall be deemed that the author has given the employer their consent to complete their unfinished employee work in the case that their employment contract expires sooner than the work is completed, as well as in the case of justified concerns that the employee will be unable to complete the work duly and timely in accordance with the employer's needs.

(6) Unless otherwise agreed, the author of an employee work is entitled to an equitable supplementary remuneration from the employer if the wage or any other compensation paid to the author by the employer is in evident disproportion to the profit from the utilisation of the rights to the employee work and to the importance of such work for the achievement of this profit; this provision shall not apply to works referred to in paragraph 7, irrespective of whether they are an actual employee works or are just considered as such, unless agreed otherwise.

(7) Computer programs and databases, as well as cartographic works that are not collective works, shall also be deemed employee works where they have been created by the author to order; the person who ordered them shall in such case be considered an employer. The provisions of Section 61 shall not apply to such works.

(8) The rights and obligations under paragraphs 1 to 6 shall remain unaffected upon the termination of the contractual relation referred to in paragraph 1 or paragraph 7.

(9) In the case of agency employment^{4d)}, the employer for whom the recruitment agency employee temporarily works under employment contract or contract for work shall be deemed to be the employer for the purposes of this provision, unless otherwise agreed between the recruitment agency and such an employer.

(10) Paragraphs 1 to 6 and paragraph 8 shall be used *mutatis mutandis*, to the works created to fulfil the obligations based on the relationships between a legal person and an author who themselves is a member of its statutory or any other elected or mandated body; in such a case, this legal person is considered to be the employer. Provisions of Section 61 shall not be used for works created in this way.

Section 59

Collective Work

(1) A collective work is a work that is created by more than one author on the initiative and under the management of a natural person or legal person, and is made public under that person's name, provided that the contributions involved in such work are not capable of independent use.

(2) Collective works shall be deemed employee works pursuant to Section 58 in the case that they have been created to order; the person who has made the order shall in such cases be considered the employer. The provision of Section 61 shall not apply to these works.

(3) An audiovisual work and works of audiovisual use are not collective works.

Section 60

School Work

(1) A school or a school-related or educational establishment shall have the right to conclude, under usual terms, a licence agreement on the utilisation of a school work (Section 35 paragraph 3). Where the author of such a work withholds their permission without stating a serious reason, such entities may claim compensation for the absence of manifestation of the author's will in court. This is without prejudice to the provisions of Section 35 paragraph 3.

(2) Unless otherwise agreed, the author of a school work may use their work or may grant the licence to any other party, unless this contravenes the legitimate interests of the school or school-related or educational establishment.

(3) The school or the school-related or educational establishment shall be entitled to claim an adequate contribution to be provided by the author of the school work from the income earned by him in connection with the exploitation of the work or with the granting of the licence pursuant to paragraph 2 to cover the cost incurred by them in creating the work. Depending on the circumstances, the contribution may be up to the full amount of such costs. The amount of the contribution shall be determined with respect to the proceeds earned by the school or the school-related or educational establishment from the utilisation of the school work pursuant to paragraph 1.

Section 61

Work Created to Order and Work Created for Competition

(1) If a work is created by the author on the basis of a contract for work (a work created to order), then, unless otherwise agreed, it shall be deemed that the author has granted a licence for the purpose following from the contract. Unless otherwise provided in this Act, the customer may only use the work beyond such a purpose on the basis of a licence agreement.

(2) Unless otherwise agreed, the author may themselves use the work made to order and may grant a licence also to another party, provided that this shall not contravene the legitimate interests of the customer.

(3) The provisions of paragraphs 1 and 2 shall apply *mutatis mutandis*, to the work created by the author as a competitor in a public competition (a work created for a competition).

Audiovisual Work

Section 62

General Provisions

(1) An audiovisual work shall mean a work created by the arrangement of works used audio-visually, adapted or unadapted, consisting of a number of recorded interlinked images evoking the impression of motion, either accompanied by sound or mute, perceivable by sight and, if accompanied by sound, also perceivable by hearing.

(2) A work may only be adapted and included into an audiovisual work with the author's consent.

Section 63

Author of Audiovisual Work

(1) The author of an audiovisual work is the director of that work. This is without prejudice to the rights of the authors of the works used audio-visually.

(2) The statement concerning the audiovisual work and the rights to such work, including the rights relating to its utilisation, which statement is registered in the register of audiovisual works maintained in compliance with the international convention, shall be deemed true, unless the contrary is proved; this shall not apply in cases where a statement cannot be valid according to this Act or where it is contradicted by another statement in such a register.

(3) If the author of an audiovisual work has granted the producer of the first fixation of the audiovisual work a written permission to make a first fixation of the work, then, unless otherwise agreed, it shall be understood that:

- a) they also granted that producer an exclusive and unlimited licence to use the audiovisual work in the original, dubbed and captioned versions as well as to use the photos created in connection with the making of the first fixation, including also the option of granting an authorisation, which is part of such a licence, in entirety or in part to a third party; and that
- b) they agreed with that producer on remuneration in an amount customary at the time of conclusion of the agreement for such type of work on analogous contractual terms.

(4) The provisions on withdrawal from the agreement due to change of author's convictions pursuant to the Civil Code¹³⁾ shall not apply to the relationship between the author of the audiovisual work and the producer of the first fixation of the audiovisual work, unless agreed otherwise; the provision of Section 58 paragraph 4 shall apply *mutatis mutandis*, and the provision of Section 58 paragraph 5 shall apply *mutatis mutandis*.

Section 64

Works of audiovisual use

(1) A work of audiovisual use is any work incorporated into an audiovisual work.

(2) If the author of a work of audiovisual use, with the exception of a musical work, has granted the producer of the first fixation of the audiovisual work a written permission to include the work in an audiovisual work, then, unless otherwise agreed, it shall be understood that they have:

- a) granted that producer an authorisation to include the work without alteration or after adaptation or other change into an audiovisual work, and also to make a first fixation of such an audiovisual work, and to dub it and add captions to it;
- b) also granted the producer the exclusive and unlimited licence to use the work within the utilisation of an audiovisual work, and also to use the photographs created in connection with the making of a first fixation, including also the option of granting an authorisation, which is part of such a licence, in entirety or in part to a third party; and
- c) agreed with the producer on a remuneration in an amount that is usual at the time of conclusion of the contract under contractual conditions similar to the content of this contract for this type of work.

(3) Unless otherwise agreed, the author of a work of audiovisual use pursuant to paragraph 1 may grant permission for the inclusion of their work in another audiovisual work, or may include it in such a work themselves, after expiry of a ten-year period from the granting of the permission pursuant to paragraph 1.

(4) Provisions of Section 63 paragraph 4 shall apply *mutatis mutandis*.

Computer Programs

Section 65

General Provisions

(1) A computer program, irrespective of the form in which it is expressed, including preparatory design material, shall be protected as a literary work, unless otherwise provided for in this Act.

(2) The ideas and principles which underlie any element of a computer program, including those which underlie its interfaces, are not protected under this Act.

Section 66

Limitation of Scope of Author's Rights to Computer Program

(1) Copyright is not infringed by a lawful user of a computer program reproduction, if they:

- a) reproduce, translate, adapt, arrange or otherwise alter the computer program if necessary for the utilisation of a lawfully acquired computer program, provided that they shall do so during the loading and operation of the computer program or while correcting computer program errors;
- b) otherwise reproduce, translate, adapt, arrange or alter in any other way a computer program if necessary for the utilisation of a lawfully acquired computer program in accordance with its purpose, unless otherwise agreed;
- c) make a back-up copy of the computer program, if necessary, for its exploitation;
- d) examine, study or test, by themselves or through another person on their behalf, the functionality of the program in order to identify the ideas and principles underlying any element of the program, provided that they shall do so while performing any of the acts of the program's loading, storing, displaying, running or transmitting, for which they are authorised;
- e) reproduce the code or translate its form during the reproduction of the computer program or during its translation or any other adaptation, adjustment or other alteration, for which they are authorized, doing so either by themselves or through another person on their behalf, if such reproduction or translation is necessary to obtain the information needed to achieve the interoperability of an independently created computer program with other programs, where the information needed for the achievement of interoperability is not otherwise easily and promptly available to such persons and such activity is restricted to those parts of the computer program that are necessary for the achievement of interoperability.

(2) The making of a reproduction needed for the loading and storage of the computer program into the memory of the computer, as well as for its display, running and transmission, shall also be deemed computer program reproduction in accordance with this act.

(3) Rental or lending of a computer program reproduction where the program itself is not a substantial object of the rental or lending shall not be considered as rental or lending hereunder.

(4) The information acquired during activities referred to in paragraph 1 letter (e) may not be disclosed to any third parties, unless such disclosure is necessary to achieve interoperability of an independently created computer program, nor be used for other purposes as to achieve the interoperability of an independently created computer program. Further, such information may not be used for the development, production or marketing of any computer program substantially similar in its expression, or for any other act which endangers or infringes the copyright.

(5) Provisions of Section 29 paragraph 1 shall apply to the copyright limitations in respect of computer programs, as referred to in paragraph 1.

(6) The lawful user of a computer program reproduction is any lawful acquirer of the computer program reproduction who has ownership or other right to the computer program reproduction for the purpose its use and not for the purpose of its further transfer; a lawful licensee or any other person authorised to use the computer program reproduction is also a lawful user of a computer program reproduction. Such a user may utilise the lawfully acquired computer program reproduction within the scope specified in paragraph 1 (the minimum scope), unless a wider scope is agreed on a contractual basis; the minimum scope may not narrowed down on a contractual basis, except in the case of the authorisation referred to in paragraph 1 letter (b).

(7) The provisions of Sections 30a to 31, Sections 32 and 33, Section 34 letters (b) to (d), Sections 35 and 36, Section 37 paragraph 1 letters (b) to (d), Section 37 paragraphs 2 to 5, Sections 37a, Section 38, Section 38a paragraph 1 letter (b), Section 38a paragraph 2, Sections 38b to 39, Section 39d, Section 43 paragraphs 1, 4, 5 and 7, and the provisions of the Civil Code on the right to proportionate and fair additional remuneration for the grant of a licence, on the right to information on the use of the work, on the right to withdraw from the contract or to

limit the licence due to the inaction of the licensee and on the right to withdraw from the contract due to a change in the belief of the author⁴⁰⁾ shall not apply to a computer programme.

(8) Legal protection of the technical measures referred to in Section 43 shall be without prejudice to the provisions of paragraph 1 letters (d) and (e) within the range essential for making use of such limitations. An author who used in respect of their work the technical measures referred to in Section 43 paragraph 3 shall make the computer program available to the lawful user within the scope specified in paragraph 1 and shall label the computer program protected by technical measures with indication of the name and address of the person whom the lawful user shall address for that purpose.

Chapter II

VOLUME 1

Rights of Performer to their Artistic Performance

Section 67

Artistic Performance and Performer

(1) An artistic performance is the performance of an actor, singer, musician, dancer, conductor, choirmaster, director or any other person who acts, sings, recites, presents or otherwise performs an artistic work, including works of traditional folk culture. The performance of an artiste, although they shall not perform an artistic work, shall also be deemed an artistic performance.

(2) A performer is the natural person who created the artistic performance.

Section 68

Joint Representative of Performers

(1) Performers shall be represented, on their behalf and on their account, in the exercise of rights to performances created jointly during the performance of the same work by more than one performer, e.g. by members of an orchestra, choir, dance troupe or other artistic corps, by the artistic leader of the ensemble as their joint representative. The artistic leader of the ensemble shall not be the joint representative where the majority of the members of the artistic ensemble designate another person as their joint representative; to become effective, the authorisation must be in writing and bear the signatures of the majority of the members of the artistic ensemble.

(2) Provision of paragraph 1 on the joint representative shall not apply to the following performers - soloist, conductor and director of theatrical performance; this shall be without prejudice to the right of such persons themselves to be joint representatives of performers.

Section 69

Content of Performer's Right

The right of the performer shall include exclusive moral rights (Section 70) and exclusive economic rights (Section 71).

Section 70

Moral Rights of Performer

(1) The performer shall have the right to decide about the making public of their artistic performance.

(2) The soloist, where they create the performance alone, the conductor, choirmaster, theatre director and soloist, where they create the performance together with the members of an artistic ensemble, shall have the right to decide whether and how their names are to be indicated when their performance is made public and further exploited. Performers as members of an artistic ensemble shall only enjoy the right pursuant to the preceding

sentence in respect of the joint name (joint pseudonym) under which they jointly create the performance; this shall be without prejudice to any agreement on the indication of their names pursuant to the preceding sentence.

(3) The performer shall, however, not be entitled to the right pursuant to paragraph 2 in cases justified by the way of the exploitation of the performance.

(4) The performer shall have the right to protection against any disfigurement, deformation or any other alteration of their performance, which may affect their reputation; performers as defined in Section 68 paragraph 1 shall be obliged to exercise appropriate mutual consideration.

Section 71

Economic Rights of Performer

(1) The performer shall have the right to use their artistic performance in its original version or in a version adapted or otherwise altered by any other person, and to grant by contract to another person the authorisation to exercise this right; another person may only use the artistic performance without such authorisation in the cases stipulated by this Act.

(2) The right to use an artistic performance shall be understood to mean:

- a) The right to broadcast and otherwise communicate the live performance to the public;
- b) The right to make a fixation of the live performance;
- c) The right to reproduce the fixed performance;
- d) The right to distribute reproductions of the fixed performance;
- e) The right to rent copies of the fixed performance;
- f) The right to lend copies of the fixed performance;
- g) The right to communicate the fixed performance to the public.

(3) The performer shall be entitled to remuneration in connection with the reproduction of their fixed performance for personal use, *mutatis mutandis*, pursuant to Section 25.

(4) A performer who granted a phonogram producer, by contract, an exclusive and unlimited license for the use of the performer's fixed performance for a non-recurring remuneration, shall be entitled to annual supplementary remuneration. Such remuneration shall be due to the performer for each full year immediately following the 50th year after the phonogram was lawfully published, or, if not published, lawfully communicated to the public. The performer cannot waive the right to the annual supplementary remuneration.

Section 72

Mandatory Licence against Payment

(1) The right of the performer shall not be infringed by anybody who uses the artistic performance fixed as a phonogram published for commercial purposes by radio or television broadcasting or by retransmitting the broadcast; the performer shall, however, be entitled to a remuneration for such use. This right may only be exercised by the performer through the relevant collective management organisation.

(2) As a phonogram published for commercial purposes shall be understood, for the purposes hereof, a phonogram whose reproductions are distributed by sale, or which is lawfully communicated to the public in accordance with Section 18 paragraph 2.

(3) The right of the performer shall, however, be infringed by anybody who does not, before the use in the manner referred to in paragraph 1, conclude an agreement with the relevant collective management organisation, setting the amount of the remuneration for such use and the terms of the payment thereof.

(4) Unless otherwise agreed, a user who has concluded an agreement with a collective management organisation pursuant to paragraph 3 above but who is in default of payment of the remuneration under this agreement and the remuneration is not paid within the additional thirty-day period granted by the collective management organisation is not entitled to use pursuant to paragraph 1 above, until such time as the due payment has been made or the liability expires in some other way.

Section 72a

Withdrawal from Agreement due to Inactivity of Producer

(1) If 50 years from the day when the phonogram of the performance was lawfully published, or, if not published, lawfully communicated to the public, the phonogram producer does not offer copies of the phonogram for sale in tangible form in sufficient quantity, or does not make the phonogram available to the public in the manner referred to in Section 18 paragraph 2, the performer may notify the phonogram producer in writing of their intent to withdraw from the agreement by which the performer granted the producer an exclusive and unlimited license to the use of their artistic performance so fixed. Such notification may not be made earlier than the first day of the calendar year following immediately after the year in which the period as per the first sentence elapsed. The right to withdraw from the agreement may only be asserted by the performer if the phonogram producer fails to use the phonogram in both ways referred to in the first sentence within 1 year from the day when notified by the performer of their intent to withdraw from the agreement; withdrawal from the agreement must be made in writing. The performer cannot waive this right.

(2) If the phonogram contains fixations of multiple performers, such performers may withdraw from the agreement pursuant to paragraph 1. The provision of Section 68 shall apply to withdrawals from the agreement by multiple performers *mutatis mutandis*.

Section 72b

Measures for Balanced Contractual Obligations

If the performer granted a phonogram producer, by contract, an exclusive and unlimited license for the use of the performer's fixed performance, and is entitled to periodical payments of their remuneration thereunder, the phonogram producer shall not withhold any formerly paid advances or withholdings agreed by contract from such payments to the performer starting from the first day of the calendar year following immediately after the year in which the period of 50 years from the lawful publication of the phonogram, or, if not published, from the lawful communication of the phonogram to the public.

Section 73

Duration of Performer's Economic Rights

The economic rights of the performer shall run for 50 years from the creation of the performance. However, where

- a) a fixation of the performance other than a phonogram was lawfully published or lawfully communicated to the public during that period, the rights of the performer shall expire 50 years from the date of the first such publication or the first such communication to the public, whichever is the earlier, or
- b) a phonogram of the performance was lawfully published or lawfully communicated to the public during that period, the rights of the performer shall expire 70 years from the date of the first such publication or the first such communication to the public, whichever is the earlier.

Section 74

Application of the Provisions of Chapter I

Provisions of Section 2 paragraph 3, Sections 4, 6, 7 and 9, Section 11 paragraphs 4 and 5, Section 12 paragraphs 2 and 3, Sections 13 to 16, Sections 18 to 23, Sections 25, 25a and 26, Section 27 paragraph 8, Sections 27a to 29, Section 30 paragraphs 1, 2, 5 and 6, Section 30b, Section 31, Section 31a, Section 34 letters (a) to (c), Section 35, Sections 37 to 37b, Section 38a, Section 38c, Sections 38e to 44, Sections 46 to 58, Section 62 paragraph 2 and Section 64 paragraphs 2 and 4 shall apply, *mutatis mutandis*, to the performer and their performances.

VOLUME 2

Right of Phonogram Producer to their Phonogram

Section 75

Phonogram and Its Producer

(1) A phonogram is exclusively by hearing perceivable fixation of the sounds of the performer's performance or of other sounds, or the expression thereof.

(2) A phonogram producer is a natural or legal person who, on their own responsibility, fixes for the first time the sounds of the performer's performance or other sounds, or their expression, or on who impulse such a fixation is made by a third party.

Section 76

Content of Phonogram Producer's Right

(1) The phonogram producer shall have the exclusive economic right to use their phonogram and to grant by contract the authorisation to the exercise of this right to any other person; this other person may only use the phonogram without such an authorisation in the cases provided for in this Act;

(2) The right to use a phonogram shall be:

- a) The right to reproduce the phonogram;
- b) The right to distribute the original or copies of the phonogram;
- c) The right to rent the original or copies of the phonogram;
- d) The right to lend the original or copies of the phonogram;
- e) The right to broadcast and otherwise communicate the phonogram to the public.

(3) The provisions of Section 72 shall apply, *mutatis mutandis*, to the phonogram producer.

(4) The phonogram producer shall be entitled to remuneration in connection with the reproduction of their phonogram for personal use, *mutatis mutandis*, pursuant to Section 25.

(5) The right of the phonogram producer is transferable.

Section 76a

Duties of Phonogram Producer in Connection with Annual Supplementary Remuneration

(1) For the purpose of payment of the annual supplementary remuneration pursuant to Section 71 paragraph 4, the phonogram producer shall be obliged to set aside 20% of the income obtained during the calendar year preceding the year in which such remuneration is to be paid through the reproduction, distribution and making available to the public of the phonogram in the manner referred to in Section 18 paragraph 2 following the elapse of 50 years from the day when the phonogram was first lawfully published, or, if not published, lawfully communicated to the public. Income pursuant to the first sentence shall be deemed to mean the income of the phonogram producer before deduction of cost.

(2) On request, the producer shall be obliged to provide the performer entitled to the annual supplementary remuneration, and the collective management organisation, with any and all information required for the payment of such remuneration.

(3) The producer shall be obliged to remit the amount set aside pursuant to paragraph 1 to the relevant collective management organisation who distributes the annual supplementary remuneration to the individual performers entitled thereto, no later than March 31st of the calendar year following after the year for which the remuneration is due.

(4) Income from payments made to the collective management organisation pursuant to paragraph 3, which are not distributed within 3 years from receipt despite reasonable effort, shall become the income of the State Fund of Culture of the Czech Republic.

Section 77

Duration of Phonogram Producer's Right

The right of the phonogram producer shall run for 50 years from the making of the phonogram. However, where a phonogram is lawfully made public during this period; the right of the producer shall not expire until 70 years from the date when such a phonogram was made public. If during the period referred to in the first sentence the work is not lawfully made public and the work is, during that period, lawfully communicated to the public, the right of the producer shall not expire until 70 years from the date of such communication to the public.

Section 77a

If withdrawal from agreement pursuant to Section 72a occurred, the right of the phonogram producer to the phonogram shall be extinguished.

Section 78

Application of the Provisions of Chapter I

Provisions of Section 2 paragraph 3, Sections 4 and 6, Section 9 paragraphs 2 to 4, Section 12 paragraphs 2 and 3, Sections 13 to 16, Sections 18 to 23, Sections 25 and 25a, Section 27 paragraph 8, Sections 27a to 29, Section 30 paragraphs 1, 2, 5 and 6, Section 30b, Section 31, Section 31a, Section 34 letters (a) to (c), Section 35, Sections 37 to 37b, Section 38a, Section 38c, Sections 38e to 44, Sections 46 to 57 and Section 62 paragraph 2 shall apply, *mutatis mutandis*, to the phonogram producer and their phonogram.

VOLUME 3

Right of Audiovisual Fixation Producer to its First Fixation

Section 79

Audiovisual Fixation and Its Producer

(1) Audiovisual fixation is the fixation of an audiovisual work or a fixation of any other series of fixed and interconnected images evoking the impression of motion, either accompanied by sound or mute, perceivable by sight and, if accompanied by sound, perceivable also by hearing.

(2) The producer of an audiovisual fixation is a natural or legal person who, on their own responsibility, has made for the first time the audiovisual fixation, or on whose impulse is such a fixation made by a third party.

Section 80

Content of Audiovisual Fixation Producer's Right

(1) The producer of an audiovisual fixation shall have the exclusive economic right to use their audiovisual fixation and to transfer by contract the authorisation to exercise this right to another person; this other person may use the audiovisual fixation without such an authorisation only in the cases provided for in this Act.

(2) The right to use an audiovisual fixation shall be:

- a) The right to reproduce the audiovisual fixation;
- b) The right to distribute the original or copies of the audiovisual fixation;
- c) The right to rent the original or copies of the audiovisual fixation;
- d) The right to lend the original or copies of the audiovisual fixation;
- e) The right to broadcast and otherwise communicate the audiovisual fixation to the public.

(3) The producer of the audiovisual fixation shall be entitled to remuneration in connection with the reproduction of their fixation for personal use, *mutatis mutandis*, pursuant to Section 25.

(4) The right of the producer of the audiovisual fixation is transferable.

Section 81

Duration of Audiovisual Fixation Producer's Right

The right of the producer of an audiovisual fixation shall run for 50 years from its first fixation. However, where the audiovisual fixation has been lawfully made public during this period, the right of the producer of the audiovisual fixation shall not expire until after 50 years after the date when the audiovisual fixation was so made public.

Section 82

Application of the Provisions of Chapter I

Provisions of Section 2 paragraph 3, Sections 4 and 6, Section 9 paragraphs 2 to 4, Section 12 paragraphs 2 and 3, Sections 13 to 16, Sections 18 to 23, Sections 25 and 25a, Section 27 paragraph 8, Sections 27a to 29, Section 30 paragraphs 1, 2, 5 and 6, Section 30b, Section 31, Section 31a, Section 34 letters (a) to (c), Section 35, Sections 37 to 37b, Section 38a, Section 38c, Sections 38e to 44, Sections 46 to 57 and Section 62 paragraph 2 shall apply, *mutatis mutandis*, to the producer of audiovisual fixation and to their fixation.

VOLUME 4

Right of Radio and Television Broadcaster to their Broadcast

Section 83

Broadcast and Broadcaster

(1) Broadcast shall mean the result of the dissemination of sounds, or images and sounds, or the dissemination of their expression by means of radio or television for reception by the public.

(2) The broadcaster shall be a natural or legal person who, on their own responsibility, performs the broadcasting of sounds, or of images and sounds, or of their expression by radio or television, or a natural or legal person on whose impulse is the broadcast executed by a third party.

Section 84

Content of the Right of Broadcaster

(1) The broadcaster shall have the exclusive economic right to use their broadcast and to grant by contract the authorisation to exercise this right to another person; the other person may use the broadcast without such authorisation only in the cases stipulated in this Act.

(2) The right to use the broadcast shall be understood to mean:

- a) The right to make a fixation of the broadcast;
- b) The right to reproduce the fixed broadcast;
- c) The right to distribute the copies of the fixed broadcast;
- d) The right to communicate the broadcast to the public.

(3) The right of the broadcaster pursuant to paragraph (1) is transferable.

Section 85

Duration of Right of Broadcaster

The right of the broadcaster shall run for 50 years from the first broadcast.

Section 86

Application of the Provisions of Chapter I

Provisions of Section 2 paragraph 3, Sections 4 and 6. Section 9 paragraphs 2 to 4, Section 12 paragraphs 2 and 3, Sections 13 and 14, Section 18, Sections 20 to 22, Section 27 paragraph 8, Sections 27b to 29, Section 30 paragraphs 1, 2, 5 and 6, Section 30b, Section 31, Section 31a, Section 34 letters (a) to (c), Section 35 paragraphs 1, 2 and 4, Section 37 paragraphs 1 and 4, Section 37b, Section 38a, Section 38c, Sections 38e to 38g, Section 39 paragraph 1 letter (a), Sections 39a to 44, Sections 46 to 57 and Section 62 paragraph 2 shall apply, *mutatis mutandis*, to the broadcaster and their broadcast. Provisions of Section 23 shall apply, *mutatis mutandis*, to the broadcaster and their broadcast if such communication of broadcast is made in places accessible to the public against payment of an entrance fee.

VOLUME 5

Publisher's Rights

Section 87

(1) The publisher has the right to remuneration in connection with the making of a reproduction of a work published by him for personal use and the internal needs of a legal person or solo self-employed individual.

(2) The publisher shall be entitled to remuneration in connection with the lending of a copy of a work published by him if the person referred to in Section 37 paragraph 1 lends the copy. The publisher shall not be entitled to remuneration under the first sentence in the case of on-site lending or when school libraries, higher education institutions' libraries and the libraries of museums, galleries and archives lend copies of works published by him.

(3) The publisher's rights under paragraphs 1 and 2 shall continue 50 years from the publication of the work. The provision of Section 27 paragraph 8 shall be used *mutatis mutandis*.

(4) The publisher's rights under paragraphs 1 and 2 shall be transferable.

VOLUME 6

Right of First Publication

Section 87a

(1) The person who first publishes a work that has previously never been published, for which the term of the economic rights has elapsed, shall obtain exclusive economic rights to this published work in the scope they would have accrued to the author of the work, if their economic rights to the work still existed.

(2) The right pursuant to paragraph 1 is transferable and lasts for 25 years from publication of the work. The provisions of Section 27 paragraph 8 shall be used *mutatis mutandis* to calculate the duration of the right under paragraph 1.

VOLUME 7

The right of a publisher of a press publication

Section 87b

(1) For the purposes of this Act, a press publication means a collection composed mainly of literary works of a journalistic nature, but which can also include other works or other subject matter, and which

- a) constitutes an individual item within a periodical or regularly updated publication under a single title, such as a newspaper or a magazine,
- b) contains information from the news or other areas; and
- c) is published by the publisher, under its editorial responsibility and control.

(2) A press publication referred to in paragraph 1 shall not be deemed to be a press publication when it was published for scientific or academic purposes.

(3) The publisher of a press publication established in a Member State of the European Union or in a State of the European Economic Area shall have the exclusive economic right to use its press publication and to grant the information society service provider³⁶⁾ the authorisation to exercise this right; without such authorisation, the press publication may be used only in cases provided for by this Act.

(4) The right to use a press publication is the right to

- a) reproduction of a press publication for online use,
- b) making a press publication available to the public in the manner referred to in Section 18 paragraph 2.

(5) The right of the publisher of a press publication is transferable.

(6) The right of the publisher of a press publication lasts for 2 years from the press publication is published.

(7) Section 2 paragraph 3, Sections 4, 6, 7 and 9, Section 12 paragraphs 2 and 3, Sections 13 and 14, 18 paragraph 2, 27 paragraph 8, 27a to 29, Section 31 paragraph 1 letter (b) and paragraph 2, Sections 31a, 34 letters (a) to (c), 37 paragraph 1 letters (a) and (b), Sections 37a and 37b, 38a paragraph 1, 39 to 41, 43 and 44 and Sections 53 to 57 shall apply mutatis mutandis to the right of the publisher of a press publication.

(8) The right to use a press publication under paragraphs 3 and 4 shall not apply to the use of individual words or very short extracts of a press publication and to acts of hyperlinking.

(9) When negotiating the granting of the authorisation to exercise the right to use a press publication pursuant to paragraph 3, the information society service provider³⁶⁾ shall be obliged to maintain a fair, equal and non-discriminatory approach towards the publisher of the press publication and to pay the publisher a proportionate remuneration for the granting of the authorisation to exercise the right to use the press publication.

(10) When negotiating the remuneration³⁰⁾ for the granting of the authorisation to exercise the right to use a press publication pursuant to paragraph 3, account shall be taken in particular of the extent of the use of the press publication in the exercise of the right pursuant to paragraph 4, the territorial scope of the use, the impact of the press publication in relation to the public, the effort made by the publisher in acquiring the content of the press publication and the economic benefit accruing to the information society service provider³⁶⁾ from the use of the press publication, including advertising revenues.

(11) If no agreement on the amount of the remuneration is reached between the information society service provider³⁶⁾ and the publisher of the press publication within 60 days from the date of commencement of negotiations on the granting of the authorisation to exercise the right to use the press publication pursuant to paragraph 3, either of the negotiating parties shall be entitled to apply to the Ministry for the determination of the amount of the remuneration pursuant to paragraph 10. The application shall include a proposal for the amount of the remuneration or the method of determining it. The Ministry shall invite the other party to give a statement on the request within a period of time which shall not be less than 14 days. The information society service provider³⁶⁾ and the publisher of the press publication are obliged to provide the Ministry, upon request, free of charge, with all data necessary for determining the amount of the remuneration or the method of determining it, within a maximum period of 30 days from the date of receipt of the request.

(12) The Ministry shall, within 60 days of receipt of the application, the statement on the application or the information necessary to determine the amount of the remuneration, whichever is later, determine the amount of the remuneration in accordance with paragraph 10. The provisions of Part Five of the Code of Civil Procedure shall apply to the review of the decision.

(13) Either party shall be entitled to apply for the determination of the amount of the remuneration under paragraphs 11 and 12 no earlier than 3 years after the decision under paragraph 12 has entered into force. This shall not apply if the circumstances in which the amount of the remuneration was determined changed substantially.

(14) The information society service provider is obliged to refrain from acting in a way that circumvents the publisher's right to its press publication, in particular by:

- a) refusing to negotiate in good faith for the grant of an authorisation to exercise the right to use a press publication, including payment of a proportionate remuneration for such use,
- b) arbitrarily restricting or regulating an information society service in a discriminatory manner so as to exclude the necessity of obtaining authorisation to exercise the right to use a press publication from a particular publisher, without having a fair reason for such restriction or regulation; this provision shall apply only where the information society service provider has a dominant position on the market in the service which it has restricted or regulated pursuant to the preceding sentence,
- c) abusing its dominant market position in order to obtain the authorisation to exercise the right to use a press publication on terms that were unreasonably disadvantageous to the publisher.

(15) The provisions of paragraphs 10 to 14 shall apply only if the information society service provider is an entrepreneur and only in relation to the granting of an authorisation to exercise the right to use a press publication

for the reproduction and making available to the public of a press publication by the information society service provider in the manner referred to in Section 18 paragraph 2 for the purpose of making search results available through an internet search engine or through a social network. The provisions of paragraph 11 shall not apply if the publisher expressly refuses to grant the authorisation to exercise the right to use the press publication.

(16) Paragraphs 10 to 13 shall not apply where the contract is concluded by a collective management organisation.

Chapter III

SUI GENERIS RIGHT OF MAKER OF DATABASE

Section 88

Definition

For the purposes of this Act a database shall mean a collection of independent works, data, or other items arranged in a systematic or methodical manner and individually accessible by electronic or other means, irrespective of the form of the expression thereof.

Section 88a

(1) *Sui generis* rights to a database (Section 90) belong to the maker of the database, provided that the obtaining, verification or presentation of the content of the database represents a contribution, which is substantial in terms of quality or quantity, irrespective of whether the database or the contents thereof are subject to copyright protection or any other type of protection.

(2) Any new contribution to a database, substantial in terms of quality or quantity, consisting in the supplementing, abbreviating or otherwise adjusting the database, shall result in a new run of the duration of rights pursuant to Section 93.

Section 89

Maker of Database

The maker of the database is the natural or legal person who, on their own responsibility, has obtained the database, or on who impulse is the database obtained by another person.

Section 90

Content of the *sui generis* right of a maker of a database

(1) The maker of the database has the right to use the entire content of the database or a qualitatively or quantitatively substantial part of it and the right to grant another the authorisation to exercise this right.

(2) The use of the entire contents of the database or its qualitatively or quantitatively substantial part means

- a) making a permanent or temporary direct or indirect reproduction of all or a substantial part of the contents of the database by any means or in any manner,
- b) making all or a substantial part of the contents of the database available to the public in tangible form by sale or other transfer of ownership of the original or a reproduction of the database, by rental or any online connection or other means of transmission, including offering them for that purpose.

(3) The lending of the original or a reproduction of the database shall not constitute a use under paragraph 2.

(4) Repeated and systematic use of insubstantial parts of the contents of the database and other act that is not normal, reasonable and is detrimental to the legitimate interests of the database maker is not permitted.

(5) The right of the maker of the database is transferable.

Section 91

Limitation to *Sui Generis* Right of Database Maker

The right of the maker of a database that has been made available in any way to the public is not infringed by the lawful user who uses qualitatively or quantitatively insubstantial segments of the content of the database or any part thereof, doing so for whatever purpose, on condition that such a user uses the database in a normal and appropriate manner, not systematically or repeatedly, and without damaging the legitimate interests of the maker of the database, and that they shall not cause damage to the author or the rightholder of rights related to the copyright to the works or other protected items contained in the database.

Section 92

Gratuitous Mandatory Licence

The right of the maker of the database made available by him is not infringed by the lawful user who uses a substantial part of the content of the database:

- a) for their personal use; this is without prejudice to the provision of Section 30 paragraph 1;
- b) for scientific or educational purposes, if they indicate the source, within the scope justified by the pursued non-profit purpose; and
- c) for the purposes of public security or an administrative or judicial procedure.

Section 93

Duration of Database Maker's *Sui Generis* Right

The right *sui generis* of the maker of the database shall run for 15 years from the making of the database. However, if the database is made available during that period, the right *sui generis* of the maker of the database shall expire 15 years from the date when the database is thus made available.

Section 94

Application of the Provisions of Chapter I

Provisions of Section 3 letter (a), Section 4 and 6, Section 9 paragraphs 2 to 4, Section 12 paragraph 2, Sections 13 to 15, Section 18 paragraph 2 first sentence, Section 18 paragraph 4, Sections 27a to 29, Section 30 paragraphs 1 and 3, Section 31a, Section 37 paragraph 1 letter (a), Section 37b, Sections 39a to 44 and Sections 46 to 57 shall apply *mutatis mutandis* to the maker of the database.

Chapter IV

COLLECTIVE MANAGEMENT

VOLUME 1

General Provisions

Section 95

Collective Management

(1) Collective management means the full management of economic rights subject to copyright or rights related to copyright of rightholders to their works, published or offered for publication, artistic performance, audio or audiovisual fixations (hereinafter referred to as the “protected subject matter”), which is exercised for their common benefit. Mediation of licencing or concluding any other agreement is not deemed to be collective management, nor is any occasional or short-term full management of any rights other than those subject to mandatory collective management.

(2) The purpose of the collective management is collective exercising and collective protection of economic rights subject to copyright and of the economic rights related to copyright as well as enabling making subjects of those rights available to the public.

(3) The rightholder is understood to be a person entitled to hold:

- a) an economic right subject to copyright or an economic right related to copyright,
- b) a statutory authorization to exercise under this Act economic rights to a work or
- c) a contractual exclusive authorisation to exercise a collectively managed right for the entire duration of the economic rights and combined with the right, at least for the territory of the Czech Republic, to grant a sub-licence.

(4) For the purposes of collective management, a user is understood to be a person who uses the protected subject matter or who is required to pay remuneration under this Act.

Section 95a

Collective Management Organisation

(1) A collective manager is a legal person constituted by rightholders which, on the basis of a granted authorization to collective management, exercises collective management for these rightholders as a sole or primary purpose of its activity and which is not established for the purpose of conducting business or any other profit-making activity or which is managed by its members.

(2) An authorization to collective management is not required for multi-territorial licencing online rights in musical works relating to the territory of more than one of the European Union Member States or the States of the European Economic Area, if these are provided by a person based on the territory of another European Union Member State, or one of the States of the European Economic Area, who grants such a license in accordance with the legal regulations of the state on whose territory it is based.

VOLUME 2

Authorization to Collective Management

Section 96

Application for Authorization

(1) The Ministry shall decide whether to grant authorization on the basis of a written application.

(2) In addition to the general requirements stipulated in the Rules of Administrative Procedure, the application shall contain:

- a) a designation of the applicant's statutory body, the name, surname and residence of the person who is the statutory body or of the persons who are its members, and the way in which they act on behalf of the applicant, if this information cannot be obtained from public administration information systems,
- b) scope of the rights which are to be managed collectively, and
- c) a definition of the subjects of rights referred to under letter (b), and in the case of works, also a definition of their type.

(3) The application shall attach the following:

- a) a specimen draft contract with the rightholder as the basis for exercising collective management,
- b) a draft allocation schedule, including the method of distribution and rules for the payment of the remuneration collected, which excludes any arbitrary action during the distribution and respects the principle of support

for culturally significant works and performances,

- c) a list of names of rightholders who have expressed their interest in the collective management of their rights by the applicant, including their domicile or, in the case of foreign nationals, their residence and nationality, and also their published subjects of protection to the extent corresponding to the purpose of the proceedings and with the signatures of these rightholders,
- d) a list of names of the applicant's members who are holders of the rights which are to be collectively managed, including their domicile or, in the case of foreign nationals, their residence and nationality and also their published subjects of protection to the extent corresponding to the purpose of the proceedings and with the signatures of these rightholders,
- e) an estimate of the anticipated proceeds gained from the collectively managed rights and of the costs of the exercise of the collective management,
- f) a proposed remuneration tariffs for the individual modes of use of the subjects of protection,
- g) a document proving integrity pursuant to Section 96b paragraphs 2 and 3,
- h) statutes or a similar document (hereinafter referred to as "Statutes"),
- i) a document proving the conclusion of or a promise to conclude reciprocal contracts with at least two foreign collective management organisations,
- j) membership terms and conditions and terms and conditions for termination of the authorization to exercise collective management, unless these are contained in the Statutes,
- k) a specimen licensing agreements,
- l) general rules for determining the amount of deduction from the rights revenue and from the income arising from investment of rights revenue for purposes other than to cover the costs of rights management, including deductions to cover the costs of providing social, cultural and educational services, and
- m) complaints handling procedures.

(4) In the case of an applicant is established on the territory of another Member State of the European Union or in one of the States of the European Economic Area, which exercises collective management on the territory of another Member State of the European Union or in one of the States of the European Economic Area in accordance with the legal regulations of that given state, it shall simply attach a document certifying that it exercises collective management according to the laws of that state to the application.

Section 96a

Decision to Grant Authorization

(1) The Ministry shall decide on the application for collective management authorisation within 90 days from the date of submission of the application.

(2) The Ministry shall grant an authorization for collective management to an applicant established on the territory of another Member State of the European Union or in one of the States of the European Economic Area, which executes collective management on the territory of another Member State of the European Union or one of the States of the European Economic Area in accordance with the legal regulations of that state, provided

- a) the application for the grant of authorization meets the requirements set out in Section 96 paragraphs 2 and 4,
- b) it has applied for authorization for the collective management of rights that can be collectively exercised in an effective manner, and
- c) where no other collective management organisation has acquired authorization for the exercise of the same rights in respect of the same protected subject matter and, in the case of a work for the exercise of the same rights in respect of the same type of work.

(3) The Ministry shall grant an authorization for collective management to an applicant who is not an applicant under Section 96 paragraph 4, provided

- a) the applicant has the legal form of an association,
- b) the application for the grant of authorization meets the particulars set out in Section 96 paragraphs 2 and 3,

- c) it applies for authorization for the collective management of rights that can be collectively exercised in an effective manner,
- d) where no other collective management organisation has acquired authorization for the exercise of the same rights in respect of the same protected subject matter and, in the case of a work for the exercise of the same rights in respect of the same type of work,
- e) it meets the prerequisites for ensuring the orderly and effective execution of collective management,
- f) it meets the requirements set out in Section 96d to 96h,
- g) is a legal person of integrity, where a legal person that has been convicted of an intentional criminal offense is not considered to be a person of integrity, unless this is perceived as if it has not been convicted,
- h) members of its statutory body are of integrity, where a person who has been convicted of a criminal offence against property or an economic criminal offence is not considered to be a person of integrity, unless this is perceived as if they have not been convicted, and
- i) the number of rightholders who have expressed an interest in the collective management of their rights by the applicant is sufficiently representative in terms of the type and number of protected subject matter and, in the case of works, the types of works whose use will be the subject of contracts concluded by the collective management organisation.

(4) The Ministry may only grant an authorization for collective management consisting in the collection of remuneration pursuant to Section 25 and Section 37 paragraph 2 for all authors or for all holders of rights relating to copyright to one applicant, who best meets the requirements for ensuring the orderly and effective execution of collective management; in such a case, the authorization granted to another collective management organisation may only cover the distribution of remuneration obtained in this way to authors or holders of rights relating to copyright for which it executes collective management of their rights.

(5) The Ministry shall publish the decision on the grant of authorization and the date of its legal effect on its website within 30 days of the effective date of this decision.

Section 96b

Demonstrating Integrity

(1) In order to demonstrate the integrity of a legal person established on the territory of the Czech Republic, or the integrity of a member of a statutory body, who is a citizen of the Czech Republic, the Ministry shall require a statement of criminal records, pursuant to the Act on the Criminal Records¹⁶⁾.

(2) In order to demonstrate integrity of a legal person established outside the territory of the Czech Republic, the applicant shall attach the following to the application

- a) a statement of criminal records, or an equivalent document issued by the state in which the legal person is established, or
- b) a declaration of integrity, made out before a notary or other competent body of the state in which the legal person is established, if this state does not issue the relevant statement of criminal records or an equivalent document.

(3) In order to demonstrate the integrity of a member of a statutory body, who is a foreign citizen, the applicant shall attach to the application

- a) a statement of criminal records or an equivalent document issued by the state of which the member of the statutory body is a citizen, or, in the case of a member of a statutory body who is a citizen of another European Union Member State, a statement of criminal records with an annex pursuant to the Act on Criminal Records¹⁶⁾ containing the information entered in the Criminal Records of this state, or
- b) an affirmation made out before a notary or other competent body of the state of which the member of a statutory body is a citizen, if this state does not issue the relevant statement of criminal records or another equivalent document.

(4) A document presented for the purpose of demonstrating integrity may not be more than 3 months old.

Section 96c

Revocation of Authorisation

- (1) The Ministry shall revoke the authorisation, in its entirety or in part, if
- a) the collective management organisation fails to meet the requirements for the granting of the authorisation, and if this cannot be remedied within a reasonable period of time prescribed by the Ministry, or if no such remedy can be agreed,
 - b) if the collective management organisation has, repeatedly over the past two years or seriously, violated the obligation stipulated in this Act, or
 - c) if the collective management organisation so requests.
- (2) The Ministry shall revoke the authorisation, in its entirety or in part if the collective management organisation if the collective management organisation fails to meet their obligations set out in this Act and fails also to remedy this within a reasonable period of time prescribed by the Ministry. This is without prejudice to paragraph 1 letter (b).
- (3) An authorisation shall terminate on the date set out in the decision to revoke the authorization; the expiration of the authorization must be set so that the authorization expires on the last day of the calendar year, while the period between the finality of the decision and the date of the termination set out in the decision may not be shorter than six months.
- (4) Provisions of Section 96a paragraphs 1 and 4 shall apply *mutatis mutandis*.

VOLUME 3

Membership and Organizational Structure of the Collective Management Organisation

Section 96d

Membership

- (1) Only a rightholder, a person representing a rightholder, another collective management organisation or a legal person associating rightholders that meet the conditions for membership in a collective management organisation as contained in the Statutes thereof may be a member of a collective management organisation. Should a collective management organisation reject an application for membership, it shall provide reasons for this.
- (2) Membership requirements must be based on objective, transparent and non-discriminatory criteria, such as the amount of remuneration paid or payable to the rightholder over a given accounting period, the period for which the collective management organisation has exercised collective management of their rights on the basis of a contract, or an entry in the records held by the collective management organisation.
- (3) The Statutes shall provide an effective mechanism for members of the collective management organisation to participate in decision-making via bodies of the collective management organisation. Members representation by different categories of creative activities in the participation in this decision-making must be fair and balanced.
- (4) The Statutes shall allow the option for members to communicate with the collective management organisation by electronic means, including for the purposes of exercising member's rights.
- (5) The collective management organisation shall maintain a list of its members and update it regularly.

Section 96e

Bodies of the Collective Management Organisation

The bodies of the collective management organisations are, at least, a statutory body, a supreme body and a supervisory committee.

Section 96f

Supreme Body

- (1) The supreme body of the collective management organisation is a body in which all members of the collective management organisation participate and in which they exercise their voting rights, unless otherwise stipulated below. Meetings of the supreme body may not be held in a form of partial sessions and an assembly of

delegates may not take over the scope of powers of the supreme body.

(2) The supreme body decides on amendments to the Statutes of the collective management organisation.

(3) The supreme body decides on the appointment or removal of a member or members of the management of the collective management organisation, monitors performance of their obligations during the exercise of their functions and approves their remuneration and other benefits, such as monetary and non-monetary benefits, entitlement to other payments and rights to severance pay. The Statutes may specify that the authority to adopt decisions regarding members of the management of the collective management organisation pursuant to Section 96g paragraph 1 shall be entrusted to the supervisory committee.

(4) The supreme body shall also decide on, in particular,

a) distribution rules

1. on income collected by the collective management organisation for rightholders on the basis of an exclusive right or a right to remuneration under this Act, including income from an award of damages and restitution of unjust enrichment (hereinafter referred to as “income from the exercise of rights”), and
2. income from the investment of rights revenues,

b) rules for treatment of income referred to in Section 99c paragraph 3,

c) the proposal of investment strategy as regards income from the exercise of rights and any income from the investment of income from the exercise of rights,

d) strategies relating to deductions from rights revenue and from income arising from the investment of rights revenue,

e) the use of the income referred to in Section 99c paragraph 7,

f) investment risk management procedures,

g) approval of any acquisition, transfer or mortgaging of real estate property,

h) approval of a merger, the establishment of a person in which the collective management organisation has a majority shareholding or which it controls directly or indirectly, in whole or in part, the establishment of another entity and the acquisition of shares or rights in other entities,

i) the approval of taking out or granting credit or a loan, or for providing security for credit or a loan.

(5) The supreme body designates and recalls the auditor, in accordance with the Act on Auditors ¹⁷⁾ and approves the annual report.

(6) The supreme body may, by its decision or by amendments of the Statutes, delegate the decision-making pursuant to paragraph 4 letters (f) to (i) to the competence of the supervisory committee.

(7) The Statutes may restrict the rights of the members of a collective management organisation to participate in and to exercise voting rights at meetings of the supreme body, based on the duration of their membership or the amount of remuneration received over a specific accounting period, paid or accounted to the member, provided that such criteria shall be determined and applied in a manner that is fair and proportionate.

(8) The Statutes may restrict the number of members who may be represented by only one person at meetings of the supreme body and voting at such meetings, on the basis of an authorization. Each authorization shall apply for one meeting of the supreme body.

Section 96g

Member of the Management of a Collective Management Organisation

(1) A member of the management of a collective management organisation is a member of a statutory body or an employee of the collective management organisation who manages or participates in the management of the collective management organisation.

(2) A member of the management of a collective management organisation is also a member of the supervisory committee.

(3) A member of the management of a collective management organisation referred to in paragraph 1 manages the activities of the collective management organisation with due managerial care.

(4) The collective management organisation shall establish and enforce procedures to prevent a conflict of interest between the personal interests of a member of the management of the collective management organisation and the interests of the collective management organisation. Where conflicts of interest cannot be prevented, the collective management organisation shall be obliged to identify, solve, monitor and publish possible conflicts of interest in order to prevent them to adversely affect the collective interests of rightholders for whom the collective management is exercised.

(5) A member of the management of the collective management organisation shall submit a declaration on conflicts of interest to the supreme body once a year for the previous calendar year, which shall contain

- a) information on all its interests within the framework of the collective management organisation,
- b) information on all remuneration amounts and on any other benefits accepted from the collective management organisation during the previous accounting period,
- c) information on the amount of any income from the exercise of rights they received as a rightholder from the collective management organisation during the previous accounting period,
- d) a declaration of an actual or potential conflict between their personal interests and the interests of the collective management organisation or between their obligations to the collective management organisation and their obligations towards another natural or legal person.

Section 96h

Supervisory Committee

(1) The Supervisory Committee shall meet at least once during each accounting period, unless the Statutes stipulate that it should be convened more frequently.

(2) The Supervisory Committee's responsibilities include in particular

- a) systematic supervision of the activities of and checking of compliance with responsibilities by the members of the management of the collective management organisation, including implementing the decisions of the supreme body, in particular decisions referred to in Section 96f paragraph 4 letters (a) to (d), and
- b) other areas of responsibility entrusted to it by the Statutes or by the supreme body's decision.

(3) The Supervisory Committee shall submit a report to the supreme body on the performance of its responsibilities once a year for the previous calendar year.

(4) Individual categories of members of the collective management organisation by creative activity must be represented in the Supervisory Committee in a fair and balanced manner.

VOLUME 4

Exercise of Collective Management

Division 1

General Provisions

Section 97

(1) A collective management organisation shall exercise collective management for rightholders on the basis of a written contract or, if stipulated in this Act, also without concluding such a contract.

(2) Unless otherwise provided in this Act or arises from the nature or purpose of the collective management, the exercise of collective management shall be governed by the provisions of the Civil Code concerning the administration of property of others¹⁸⁾.

(3) Collective management is exercised in a systematic manner, on its own behalf and at the sole responsibility of the collective management organisation and on behalf of the rightholder. In relations to third parties, the rightholder is not bound, either together with the collective management organisation or alone. The collective

management organisation does not act as a representative of rightholders.

(4) The exercise of collective management is not an entrepreneurship.

(5) In order to achieve greater efficiency in collective management, the collective management organisation may perform certain activities, for example issuing invoices or distribution of amounts due to rightholders, through a person in which it has a major shareholding, or which the collective management organisation controls directly or indirectly, in its entirety or in part, alone or together with other collective management organisations. Chapter IV, with the exception of parts 2 and 3, shall apply *mutatis mutandis* to this person; the collective management organisation, or the collective management organisation, which have established this entity, are responsible for its exercise of collective management.

Section 97a

Obligations between the Collective Management Organisation and the Rightholder

(1) The collective management organisation shall be obliged, within the scope of the granted authorization

- a) to exercise for each rightholder the collective management of their economic rights, which it collectively manages pursuant to this Act,
- b) to accept, under common conditions and to the extent agreed, the exercise of collective management of the rights of each rightholder who so requests and demonstrates that an appropriate use of a protected subject matter was involved and provided it is not already exercising collective management of the same rights in respect of the same protected subject matter for it and, in the case of a work, the same rights in respect of the same type of work, a foreign person pursuant to Section 97g paragraph 1 letter (a), and
- c) to exercise collective management for rightholders under equal conditions.

(2) A collective management organisation shall be obliged to act in the best interest of rightholders whose rights it manages and not to impose on them any obligations that are not essential for the protection of their rights and interests, or for the effective management of their rights.

(3) A rightholder may entrust to a collective management organisation the exercise of collective management of their rights, categories of rights or types of work and other items of protection for the territory of their choice, regardless of where the collective management organisation is established and, with respect to the rightholder, regardless of their nationality, domicile or place of establishment.

(4) The rightholder shall designate in the contract each right or category of rights or type of work and other protected subject matter, whose exercise and management are being entrusted to the collective management organisation under this contract. The consignment of each managed right or category of rights or type of work and other protected subject matter to the exercise of the collective management organisation must be documented by the collective management organisation in paper form for the term of this contract.

(5) The rightholder may grant an authorization to exercise rights, categories of rights or types of work and other items of protection for a type of use that does not bring any direct or indirect economic or commercial benefit, even in a case where the full management of the relevant right, category of rights, types of work or other items of protection have been entrusted to a collective management organisation. The granting of such an authorization shall be notified in advance to the relevant collective management organisation. This is without prejudice to Sections 97d and 97e.

(6) The rightholder may revoke, wholly or partly, the authorization to exercise collective management to some or all of the collective management organisation to which they have entrusted, under this Act, rights, categories of rights or types of work and other items of protection for a territory of their choice, by written notice, with a notice period not exceeding 6 months. The Statutes may stipulate that this notice shall only take effect at the end of the accounting period during which the notice was issued. Should the rightholder revoke the authorization to exercise collective management for rights subject to mandatory collective management pursuant to Section 97d, they will not be able to exercise their management themselves and may only entrust it to a collective management organisation.

(7) Until such time as all the rightholder's claims from the exercise of collective management have been settled, following the termination of the mandate pursuant to paragraph 6 above, their rights under Sections 97b, 99a to 99e, 99j, 100b and 101h shall remain unaffected.

(8) A collective management organisation may not restrict the exercise of the rights set forth in paragraphs 6 and 7 above by requiring that the exercise of the collective management of rights or categories of rights or types

of work and other items of protection, within the scope of the mandate terminated under paragraph 6 above, be entrusted to another collective management organisation. This is without prejudice to the third sentence of paragraph 6 above.

(9) A collective management organisation shall be obliged also to allow rightholders who are not its members to communicate with it by electronic means.

(10) The rules set out in paragraphs 3 to 9 above must be specified in the Statutes. The Statutes shall also specify the rights, categories of rights or types of works and other items of protection under paragraph 3 above, the conditions for the exercise of the right under paragraph 5 and the conditions for the exercise of the right under paragraph 6. A collective management organisation shall be obliged to inform the rightholder of these rules before concluding a contract pursuant to paragraph 4.

Section 97b

Information Provided to Rightholders

(1) A collective management organisation shall be obliged to provide to each rightholder, at least once a year, information from the previous calendar year concerning

- a) any contact details communicated by the rightholder to the collective management organisation for the purpose of their identification and location,
- b) the total amount of the rights revenue attributed to the rightholder,
- c) deductions made in respect of management fees,
- d) deductions made for any purpose other than in respect of management fees, including deductions for the provision of social, cultural or educational services,
- e) the rights revenue paid to the rightholder per category of rights managed and per type of the use,
- f) the period during which the use took place for which rights revenues were invoiced and paid to the rightholder, unless objective reasons relating to reporting by any user prevent the collective management organisation from providing this information, and
- g) any rights revenue attributed to the rightholder which has been outstanding yet.

(2) If the member of the collective management organisation is a person responsible for the distribution and payment of rights revenue to the rightholder, the collective management organisation will provide to that person with the information set out in paragraph 1. The obligations set out in paragraph 1 shall apply *mutatis mutandis* to this person in relation to rightholders for whom they distributes and pays income from the exercise of rights.

Section 97c

Lists held by the Collective Management Organisation

(1) The collective management organisation shall maintain a list of rightholders

- a) for whom it exercises collective management on the basis of a contract,
- b) registered in the records and
- c) to orphan subject-matter, where such rightholders are known to it.

2) The collective management organisation shall maintain a list of

- a) subject-matter for which it collectively manages the rights, where such subject-matters are known to it, and
- b) orphan subject-matter for which it manages the rights, where these items are known to it.

(3) Lists pursuant to paragraphs 1 and 2 may only contain information necessary for the exercise of collective management.

(4) The relevant collective management organisation shall regularly update lists of rightholders and shall maintain them for the term of validity of the authorization to exercise collective management.

Division 2

Rights Subject to Collective Management

Section 97d

Mandatory Collective Management

(1) Rights subject to mandatory collective management are the following:

a) The right to remuneration for:

1. the use of an artistic performance fixed on a phonogram published for commercial purposes by (radio or television) broadcasting or by retransmission of the (radio or television) broadcast;
 2. the use of a phonogram published for commercial purposes by (radio or television) broadcasting or by retransmission of the (radio or television) broadcast;
 3. the making of a reproduction for personal use on the basis of an audio or audiovisual fixation or any other fixation by the transfer of its content by means of a technical device to a blank record carrier of such fixation;
 4. the making of a reproduction for a natural person's personal use or for a legal person's or solo self-employed individual's own internal use by means of a technical device for making printed reproductions on paper or any other carrier material, also through a third party;
 5. resale of the original of a work of art;
 6. the lending of the original or reproduction of a published work in accordance with Section 37 paragraph 2 and Section 87 paragraph 2;
- b) the right to an equitable remuneration for the rental of the original or a copy of the work, or of a performer's performance fixed in an audio or audiovisual fixation;
- c) the right of use by retransmission of radio or television broadcast of works, live broadcast of artistic performances and artistic performances recorded on a phonogram or an audiovisual recording, except such performances the phonogram of which has been released for commercial purposes, and the right of use by broadcast of phonograms other than those released for commercial purposes and audiovisual recordings; and further except where
1. the right of retransmission is exercised by the broadcaster in connection with its own broadcast, regardless of whether the rights are its own rights or rights exercised under a contract with the rightholder,
 2. the broadcasting by the original broadcaster is made exclusively through an internet access service and the retransmission is not made in a managed environment; for the purposes of this Act, a managed environment means an environment in which secure retransmission of a broadcast is provided to authorised users,
- d) the right to annual supplementary remuneration pursuant to Section 71 paragraph 4.

(2) The relevant collective management organisation shall exercise for the rightholder collective management of their rights pursuant to paragraph 1 above, and shall claim on their behalf for damages and for the restitution of any unjust enrichment from the unauthorized exercise of such collectively managed rights.

Section 97e

Extended Collective Management

(1) If a collective management organisation provides an authorization to exercise rights to use a protected subject matter in the manner set out in paragraph 4 through a cumulative agreement pursuant to Section 98a paragraph 2, this authorization is then granted in relation to the relevant items of protection not only to rightholders for whom it exercises collective management on the basis of the agreement, but also to all those who consider themselves rightholders for whom it exercises collective management under this Act.

(2) Paragraph 1 shall not apply to audiovisual works or works of audiovisual use, with the exception of musical works of audiovisual use, in respect of the uses referred to in paragraph 4 letter (c) and (e), or to a rightholder for whom collective management is exercised pursuant to paragraph 1 not on the basis of a contract and who excludes the effects of a collective agreement in respect of a particular use and a particular user or in respect of the collective

management organisation in respect of all cases of a particular use; the provisions of Section 104a paragraphs 2 and 3 shall apply mutatis mutandis. If the rightholder excludes the effects of a collective agreement, the use of the subject matter under the previously concluded collective agreement shall be terminated within a reasonable time after the user becomes aware of the exclusion of the effects of the collective agreement. The collective management organisation shall inform the user within a reasonable period of time in an appropriate manner of the exclusion of the effects of the collective agreement by the rightholder.

(3) Should a rightholder, for whom collective management is exercised pursuant to paragraph 1 not by contract, express a wish to exclude the effects of a cumulative agreement pursuant to paragraph 2 while granting authorization to exercise rights free of charge, the effects of the cumulative agreement within the scope of the authorization granted are excluded from the collective management organisation at the moment the collective management organisation learns of the grant of such authorization.

(4) Paragraphs 1 to 3 shall apply to an authorization to exercise a right to

- a) perform an artistic performance from a phonogram published for commercial purposes or for performing these recordings as such,
- b) non-theatrical performance of a musical work with or without text from a phonogram published for commercial purposes,
- c) the use of the work by radio or television broadcasting or in the provision of an ancillary online service pursuant to Section 21a paragraph 1 letter (a),
- d) perform radio or television broadcasting of a work, an artistic performance, a phonogram or audiovisual recording,
- e) lending the original or a reproduction of a work, or lending a work or performance by a performer recorded on a sound or audiovisual recording and lending such recordings; this provision shall not apply to computer programs,
- f) making a work available in intangible form, including making the reproduction needed for it to be available, through a library pursuant to the Library Act¹⁹⁾ to individuals from the general public through technical equipment designed for that purpose located in its premises pursuant to Section 37 paragraph 1 letter (c), in the case of a work that is not part of its collection; this provision shall not apply to computer programs,
- g) live non-theatrical performance of a work, provided such a performance does not aim at producing direct or indirect economic or commercial benefit,
- h) making a published work available on request pursuant to Section 18 paragraph 2, including making the reproduction needed for it to be available, through a library pursuant to the Library Act¹⁹⁾ to individuals from the general public, exclusively for the purposes of research or private study; this provision shall not apply to computer programs, to works or artistic performances recorded on sound or audiovisual recordings, to published sheets music of musical or musical-dramatic works or to works whose availability is the subject of another licensing agreement,
- i) making a reproduction of a work included in the list of Out-of-commerce Works under the Section 97f and distributing or communicating such a reproduction of the work to the public pursuant to Section 18 paragraph 2 by a library pursuant to the Library Act¹⁹⁾ to individuals from the general public for a period not exceeding 5 calendar years, even repeatedly,
- j) producing a printed reproduction of a published sheet music of a musical work or a musical-dramatic work through a person described in Section 37 paragraph 1 for their own internal needs, or in response to an order for the personal needs of a natural person or for use in teaching or scientific research, provided the creation of this reproduction does not aim to produce direct or indirect economic or commercial gain,
- k) producing a printed reproduction of a work beyond the scope of Sections 29 and 30a paragraph 1 and the distribution of such reproductions to schools, educational establishments or universities, and so exclusively for the purpose of education and not to produce direct or indirect economic or commercial gain,
- l) making a published work available on demand in accordance with § 18, paragraph 2, including the making of its reproduction necessary for such making available, by a library in accordance with the Library Act during the period when the library is closed for more than 2 months, to library users, exclusively for the purposes of education or research; this provision does not apply to computer programs, to works or artistic performances recorded on an audio or audio-visual recording, to published sheet music of a musical or musical dramatic work and to works whose making available by this library is the subject of other license agreements,

- m) the making of a reproduction of a work and the distribution or communication to the public of a reproduction of an out-of-commerce work not referred to in subparagraph (i) and of another out-of-commerce subject matter in the collections of a cultural heritage institution in the manner referred to in Section 37b paragraph 1,
 - n) the rights of use by the retransmission of radio or television broadcasts of works, live broadcasts of artistic performances and artistic performances recorded on a phonogram or an audiovisual recording, except such performances the phonogram of which has been released for commercial purposes, and the rights of use in the retransmission of phonograms other than those released for commercial purposes and audiovisual recordings; and, furthermore, except where the right of retransmission is exercised by the broadcaster for its own broadcast, whether the rights are its own or are exercised under a licence agreement with the rightholder, where
 1. the original broadcast is made via an internet access service, or
 2. the retransmission of the broadcast takes place via an internet access service in an unmanaged environment.
- (3) Paragraphs 1 to 4 shall also apply to collective claims for damages and the restitution of unjust enrichment.
- (4) The collective management organisation shall inform about the functioning of the mechanism referred to in paragraphs 1 to 5 on its website.

Section 97ea

(1) Where a collective management organisation grants, by a collective agreement pursuant to Section 98a paragraph 2, an authorisation to exercise the rights of use of the subject matter of protection referred to in Section 97e paragraph 4 letter (i) or (m), unless otherwise agreed, the authorisation so granted shall extend to the territory of all Member States of the European Union and the States of the European Economic Area.

(2) The authorisation to exercise the rights to use the subject matter of protection pursuant to Section 97e paragraph 4 letter (i) or (m) under the conditions referred to in paragraphs 1, 3 and 4 shall be granted to a cultural heritage institution established in the territory of the Czech Republic by a collective management organisation which has obtained an authorisation to exercise collective rights management pursuant to this Act.

(3) The provisions of paragraph 1 shall apply only to a work, artistic performance or phonogram or audiovisual recording, a database protected by a sui generis right of the maker of the database or a press publication if information identifying the subject matter and the rightholder and the manner and extent of use referred to in paragraph 1 and information on the possibility for the rightholder to exclude the effects of a collective agreement pursuant to Section 97e paragraph 2 has been published in a permanent manner on the Portal of Out-of-commerce Works established and maintained by the European Union Intellectual Property Office¹⁴⁾ and on the website of that institution at least 6 months before they have been used by the cultural heritage institution pursuant to paragraphs 1 and 2 and Section 97e paragraph 4 letter (i) or (m).

(4) Section 97e paragraph 4 letter (m) shall not apply to collections of out-of-commerce works and other subject matter if it has been established, after reasonable efforts have been made, that such collections predominantly consist of

- a) works other than cinematographic or audiovisual which have been first published or, in the absence of publication, first broadcast in a third country,
- b) cinematographic or audiovisual works, of which the producers have their headquarters or habitual residence in a third country, or
- c) works or other subject matter of third country nationals, where it has not been possible, even after reasonable efforts have been made, to identify a Member State of the European Union or of the European Economic Area or a third country in accordance with letters (a) and (b).

(5) The provisions of paragraph 4 shall not apply where the number of rightholders who are nationals of third countries or who have their headquarters or habitual residence in a third country, whose rights are managed by the collective management organisation under a contract pursuant to Section 97g, is sufficiently representative in terms of the type and number of registered subject matter and, in the case of works, the types of works.

Section 97f

List of Out-of-commerce Works

(1) The National Library of the Czech Republic (hereinafter referred to as “the National Library”) maintains a list of out-of-commerce works, which it publishes on its website. Only literary works, including works included in them, or incorporated in them or forming an integral part of them are included in the list.

(2) A proposal to include a work in the list must be submitted by a rightholder, a library pursuant to the Library Act¹⁹⁾ or the relevant collective management organisation. The National Library shall publish a proposal to include a work in the list on its website without undue delay.

(3) The National Library shall include a work in the list, provided

- a) it was not possible to find the work in the same or similar form, which is in particular the subsequent publication of the work or publication in electronic form, within a period of 6 months of receipt of the proposal pursuant to paragraph 2 above, when exercising reasonable effort and under normal conditions, for remuneration through normal commercial network
- b) the year of publication of the work precedes by at least 20 years the year in which the proposal for inclusion of the work in the list was made; and
- c) its use is clearly not subject to sales or licensing conditions, which would exclude it from inclusion in the list.

(4) The National Library may include in the list periodicals published in the Czech Republic 10 years ago and more, provided they are clearly not subject to licensing conditions, which would exclude them from inclusion in the list. In this case, a work contained in a single issue of a periodical should be considered as being included in the list only as part of this issue.

(5) A rightholder or a publisher is authorized to apply to the National Library in writing to request that their work be removed from the list. The National Library shall remove the work from the list at the latest on the last day of the calendar month following that in which the request was received. The removal of a work from the list shall not affect the validity of the authorization to exercise the right for use pursuant to Section 97e paragraph 4 letter (i), which were granted prior to the date of removal.

Division 3

Obligations between Collective Management Organisations

Section 97g

Mutual Authorisation of Collective Management Organisations in the Execution of Collective Management

(1) A collective management organisation may only entrust the execution of collective management of rights collectively managed by itself to another collective management organisation by contract just in the case of

- a) a foreign person, who, under the law of another state, is entitled to execute collective management on the territory of that state for the same rights and, in the case of a work, for the same kind, for the execution of collective management in that state, or
- b) a domestic collective management organisation, which is authorized to execute collective management for the same rights, if this results in a more efficient execution of collective management.

(2) The contract pursuant to paragraph 1 must be concluded in writing.

(3) A collective management organisation mandated under paragraph 1 shall act in its own name when exercising collective management and on behalf of the collective management organisation who mandated it; this is without prejudice to the obligation of such a collective management organisation to transfer the gained rights revenue to the rightholders for whom it exercise collective management.

Section 97h

Joint Representative of Collective Management Organisation

(1) In the event contracts are concluded for the granting of authorization for the exercise of the right to use a subject-matters and this right is collectively managed by at least 2 collective right managers, the user is entitled to address any of them in writing to request that the competent collective management organisation appoint a joint representative by concluding a single contract; the collective management organisation who received the request

to appoint a joint representative shall immediately inform the other competent collective management organisation of this request. The justification for appointing a joint representative of the collective management organisation under this provision is that this aims to achieve a more effective exercise of collective management.

(2) The competent collective management organisation shall be obliged to appoint a joint representative pursuant to paragraph 1 above within a period of 2 months from receipt of the request to the competent collective management organisation. This obligation applies to the exercise of collective management of the right to use the performance of a work and an artistic performance from a sound or audiovisual recording, the performance of such a recording and the transmission of such a performance, the right to transmit a radio or television broadcast and the right to remuneration in connection with the reproduction of a work for a personal need and an own internal need.

(3) The competent collective management organisation shall inform the Ministry of the appointment of the joint representative without undue delay and shall publish it on its website.

(4) Paragraphs 1 and 2 shall apply *mutatis mutandis* to the conclusion of collective agreements pursuant to Section 98a paragraph 3 and, in the event the participating collective management organisations agree, also to claims for damages or for the restitution of unjust enrichment, provided an action for such a claim has not already been brought before a court.

Division 4

Concluding Contracts with Users

Section 98

(1) A collective management organisation shall be obliged to conclude contracts with users, with persons authorized to protect the interests of users associated with them, or with persons representing users in accordance with the Library Act¹⁹⁾, who use items of protection in the same or a similar manner, on equal terms and on the basis of objective facts, by which, for the users

- a) it grants authorization to exercise the right to use subject-matters, for which it collectively manages this type of right,
- b) it negotiates the amount of and method of payment of remuneration pursuant to Section 97d paragraph 1 letter (a) points 1 and 2 and letter (b) and monitors compliance therewith, and
- c) negotiates the method of payment of remuneration stipulated by this Act.

(2) Collective management organisation and the persons referred to in paragraph 1 are obliged, during negotiations intended to conclude contracts pursuant to paragraph 1, mutually and without undue delay, to provide any necessary information, including criteria for determining rates pursuant to Section 98e and the necessary assistance. The collective management organisation shall submit, without undue delay after receipt of the necessary information, a draft contract to the person referred to in paragraph 1, or shall inform this person of the reasons for failing to submit this.

(3) All contracts between the collective management organisation and users must be negotiated in writing.

(4) The collective management organisation shall not be subject to the obligation set out in paragraph 1 above,

- a) if conclusion of the contract would be contrary to the legitimate common interests of the rightholders,
- b) if conclusion of the contract would be contrary to the legitimate interests of the rightholder to the subject-matter in the case of a proposal to conclude a contract which would grant an authorization relating to an protected subject matter individually designated, or
- c) if it would be unfair to require that a collective agreement be concluded with a legal person associating users because of the negligible number of users associated with this entity.

(5) When concluding a licensing agreement for a new type of online service, which has been offered to the public in the European Union or the European Economic Area for a period shorter than 3 years, the collective management organisation is entitled to apply different licensing terms and conditions to those applied to a different online service.

(6) The collective management organisation shall enable those persons referred to in paragraph 1 above to communicate with it by electronic means.

(7) The user is entitled to appoint a representative to represent him at meetings with the collective management organisation. The collective management organisation shall be obliged to engage in all dealings with the user through their representative provided the user has informed the collective management organisation in advance in writing that they will be represented during all negotiations. The collective management organisation shall not be under such an obligation if the representative is unable to receive written matter in the Czech Republic or if the representative avoids attending meetings or prevents or impedes the exercise of the rights of the collective management organisation towards the user in some other way.

(8) The provisions of the Civil Code on the right to a proportionate and fair additional remuneration for the grant of a licence and on the obligation of the licensee or sub-licensee to provide the author with regular, up-to-date, relevant and complete information on the use of the work³⁹⁾ shall not apply to the contracts referred to in paragraph 1.

Section 98a

(1) The collective management organisation shall provide the user with a licensing agreement for the non-exclusive authorization to exercise the right to use the subject-matter designated, either individually or collectively.

(2) For the purposes of this Act, a cumulative agreement is understood to mean a licensing agreement concluded between the collective management organisation and the user, by which the collective management organisation grants an authorization to exercise rights covering all the subject-matters for which it manages rights (hereinafter referred to as the “repertoire”), or to part of its repertoire. It applies that the subject of the authorization granted is sufficiently clearly designated in relation to each subject-matter for which the collective manager manages the rights and that the subject-matters do not need to be determined individually.

(3) For the purposes of this Act, a collective agreement means a contract pursuant to Section 98 paragraph 1, concluded between a collective management organisation and a legal person associating users or with a person representing users in accordance with the Library Act¹⁹⁾. Rights and obligations for individual users arise from the collective agreement with regard to the collective management organisation; this is without prejudice to the fact that the collective management organisation acts on behalf of the rightholders.

Section 98b

A user who has concluded a licensing agreement with a collective management organisation, but who is in default of payment of the remuneration and has also not paid the remuneration within the additional thirty-day period provided by the collective management organisation, is not authorized to use the protected subject matter under this agreement until such time as the remuneration owed has been paid or the obligation lapses otherwise.

Section 98c

Obligations of Users and Other Persons in Connection With the Conclusion of Contracts

(1) Users are obliged to enable the collective management organisation to exercise collective management properly and to provide it with information on the use of its repertoire necessary for the exercise of collective management, and in particular for the collection of income from the exercise of rights and its distribution and payment to the relevant rightholders. Users may not refuse to provide this information without good reason.

(2) Unless otherwise agreed, the scope and technical format of the information and the period of time within which the user must provide this information to the collective management organisation shall be determined by the collective management organisation. When deciding on the technical format for providing this information, the collective management organisation and the user shall, as far as possible, take account of voluntary sectoral rules developed at international level or at the level of the European Union or the European Economic Area (hereinafter referred to as “sectoral rules”).

(3) A user, or other party to contracts concluded during the exercise of collective management, is obliged to demonstrate to the collective management organisation proper and timely performance of such contracts concluded with this collective management organisation, at its request. The collective management organisation may not use information obtained in this way for any purpose other than the exercise of collective management.

(4) The organizer of a public live music performance is obliged to appraise the relevant collective management organisation of such a performance 15 days prior to the performance. The provider of a public live music performance is obliged to submit to the organizer of a public live production a program of the production, listing

the names of the authors and the titles of the works performed without undue delay, after the end of the production. The organizer is obliged to notify this program to the relevant collective management organisation at the latest within 15 days after the production, unless otherwise agreed in the contract between the organizer and the collective management organisation. The provisions of the first, second and third sentences shall not apply to the organizer of live public production and suppliers of live public production if there will be or have been performed only traditional culture expressions of a musical nature within the meaning of Section 3 letter (b), where the true name of the author is not generally known, or where all the rightholders of the work are suppliers of the production in question and at the same time do not have a contract with the collective management organisation for the management of the right of the live performance of the work, or only works in public domain will be performed.

(5) A user, who obtains an authorization to retransmit broadcasting pursuant to a law on Radio and Television Broadcasting²⁰⁾, is obliged to report to the relevant collective management organisation of such fact within 15 days of the start of such authorization.

Section 98d

Limitation of User Responsibility

(1) A collective management organisation, or a rightholder for whom it provides collective management, may not claim a right of deferment or a claim for damages or the restitution of unjust enrichment under this Act or any other contractual or statutory sanction because this is an unauthorized intervention into collectively managed rights or a threat against such a right, unless the user or a person authorized to defend the interests of users associated with it, properly and without undue delay conducts legal negotiations with the relevant collective management organisation, in connection with such an intervention or threat against rights, with the aim of concluding a contract required under this Act or agreeing a tariff pursuant to this Act or if it agrees in this regard to the use of a mediator pursuant to Section 101 or a mediator pursuant to the Act on mediation²¹⁾ or if at least one of the relevant collective management organisation has received a written request to authorize a joint representative pursuant to Section 97h, for the period until such a representative is authorized. Should the circumstances referred to in the first sentence persist, any intervention into collectively managed rights or threats against such rights shall not be deemed to be an offense or an administrative offense under this or any other Act.

(2) Paragraph 1 is without prejudice to a claim for the restitution of unjust enrichment in the amount of the usual remuneration.

(3) No barrier to the exercise of a right of deferment pursuant to paragraph 1 shall arise, or shall be waived, if the non-exercise of the right of deferment is contrary to the legitimate common interests of rightholders, particularly because it was clear from the behaviour of the user or the person authorized to defend the interests of users associated with it that they did not intend to conclude the contract referred to in paragraph 1 or compliance with the claim for the restitution of unjust enrichment would be at risk.

Division 5

Rates of Remuneration

Section 98e

General Provisions

(1) If the rates of remuneration obtained by collective management organisation are not set by this Act, they shall be set by the collective management organisation tariff (hereinafter referred to as the “tariff”) and are always shown net of VAT.

(2) The rates of remuneration set by the tariff must be based on objective and non-discriminatory criteria and be proportionate in relation to those criteria.

(3) When setting the rates of remuneration in the tariff, account shall be taken of the purpose, method, scope and circumstances of the use of the protected subject matter, in particular

- a) as to whether the use of the protected subject matter occurs during the course of business or other profit-making activity,
- b) to the direct or indirect economic or commercial gain the user receives from the use or in connection to the use of the protected subject matter,

- c) to the nature and characteristics of the place or the area in which the protected subject matter is used,
- d) to the frequency of use of the residential premises in which the protected subject matter is used,
- e) to the number of rightholders for whom the collective management organisation exercises collective management, including the number of rightholders for whom it acts on the basis of contracts pursuant to Section 97g paragraph 1 letter (a),
- f) to the number of persons to whom the work was communicated in a manner referred to in Section 19, and
- g) to the economic value of the services provided by the collective management organisation.

(4) Unless the work is not being made available to patients pursuant to the second sentence of Section 23, the rate of remuneration for the organization of a radio or television broadcast by a health services provider amounts to a maximum of 25% of the lowest rate of remuneration set by the tariff for the organization of a radio or television broadcast, unless otherwise agreed.

(5) The Ministry shall publish the applicable tariff on its website.

Section 98f

Procedure for Negotiating Certain Tariffs

(1) A collective management organisation is obliged to publish a draft tariff, together with a justification, on its website by 31 August each calendar year. By this deadline, the collective management organisation shall submit a draft tariff to legal persons associating the relevant users of items of protection, provided these entities have applied to the collective management organisation for this purpose and have proved that they associate more than a negligible number of users, and to persons representing users in accordance with the Library Act ¹⁹⁾ and to users in accordance with special legal regulations^{19b)} or to persons representing them, and invite them to comment on this draft by the end of the month following the month in which the draft tariff was submitted. The collective management organisation is required to send the draft tariff, together with the justification, to the ministry by electronic means by the same deadline. If any of the persons invited to comment, or a user who has concluded a contract with the relevant collective management organisation pursuant to Section 98 paragraph 1 letter (a) or (b) for the given manner of use of the protected subject matter or who intends concluding this type of contract, files an objection in writing by the aforementioned deadline against this draft, the collective management organisation is obliged to discuss the reasons for this objection with them within 2 months. This is without prejudice to the possibility of using mediator's tariffs for negotiation, pursuant to Section 53 et seq. and 101. Should this person fail to submit a request for mediation pursuant to Section 57 paragraph 1 within 1 month of discussions the comments, neither this person, nor the users associated with it will be able to rely on the legal effects of a limitation of liability pursuant to Section 98d paragraph 1.

(2) Should the collective management organisation decide to raise the rate of remuneration by more than the rate of inflation in the year preceding the year in which the new rate of remuneration is intended to come into effect compared to its current amount, the collective management organisation is required to obtain the prior consent of the Ministry of Culture (hereinafter referred to as the "ministry") in order to proceed according to paragraph 1. The collective management organisation and persons pursuant to paragraph 1 who raised objections to the increase in the rate of remuneration within the deadline are parties to the consent proceedings. The Ministry will not give its consent if the increase in the rate of remuneration is not based on objective and non-discriminatory criteria, or if it is not proportionate to these criteria. When assessing compliance with the criteria pursuant to the previous sentence, the Ministry shall take into account, in particular, the criteria set out in Section 98e paragraph 3. If the collective management organisation fails to obtain the required consent of the Ministry, it may only raise the rate of remuneration, while complying with the conditions set out in Section 98e paragraph 3 to the limit set out in the first sentence. The rate of inflation in the year referred to in the first sentence is the increase in the average annual consumer price index of consumer goods and services, expressed as a percentage change in the average price level over the last 12 months, compared to the average of the previous 12 months, published every calendar year by the CSO for the previous year ^{19a)}.

(3) If any of the persons referred to in paragraph 1 filed a written objection to the draft tariff in time (hereinafter referred to as a "dissenting person"), the draft tariff is considered to be not approved in relation to that person; this applies *mutatis mutandis* with regard to users associated with or represented by this dissenting person. With regard to the other users, the draft tariff is considered to have been approved, provided it meets the conditions laid out in paragraph 2. If the tariff is not negotiated using the procedure set out in paragraph 1, the dissenting person or the collective management organisation are entitled to submit an application to the court for a decision on the dispute on determining the rate of remuneration set out in the draft tariff.

Division 6

Management of Rights Revenue and Income Arising from the Investment of Rights Revenue

Section 99

General Provisions

(1) A collective management organisation is obliged

- a) to collect rights revenue for rightholders,
- b) to claim, in its own name and on behalf of the rightholders, the right to compensation, the right to the restitution of unjust enrichment from the unauthorized exercise of collectively managed rights and the right to refrain from the unauthorized exercise of collectively managed rights, unless the rightholder, if authorized, can claim such a right themselves or if it is uneconomic,
- c) to distribute and pay the relevant rightholders rights revenue and income arising from investment of rights revenue, in accordance with the rules of distribution,
- d) if it provides social, cultural or educational services financed from income from the exercise of rights or income from investing the income from the exercise of rights, to provide them on the basis of fair and transparent criteria, guaranteeing equal access to such services and the scope in which such services are provided, and
- e) to create rules of distribution and create a reserve fund in accordance with this from income collected for the exercise of rights.

(2) The collective management organisation shall keep separate accounts in the books for

- a) rights revenue of rights and income arising from investment of rights revenue, and
- b) own assets and income coming from these assets, from reimbursement of the costs for managing rights or from other activities.

(3) A collective management organisation may not use rights revenue or income from investment of rights revenue for anything other than their distribution and payment to rightholders, with the exception of their use to cover the costs of managing rights in accordance with a decision made by the supreme body pursuant to Section 96f paragraph 4.

Section 99a

Rules for Investing Income

If a collective management organisation invests rights revenue or income arising from investment of rights revenue, it shall do so in the best interests of the rightholders for whom it exercises collective management, in accordance with the investment strategy and with procedures for the allocation of investment risks and having regard to those rules and

- a) in the event of a potential conflict of interests the collective management organisation shall ensure that the investment has been made solely in the interest of the rightholders for whom it exercises collective management,
- b) it invests assets in order to ensure the security, quality, liquidity and profitability of the portfolio as a whole, and
- c) when investing assets, it allocates the risk in order to prevent over-reliance on any specific asset and the accumulation of risks throughout the portfolio.

Section 99b

Deductions from Income

(1) A collective management organisation is authorized to deduct or offset the reimbursement of reasonable and documented expenditure on the exercise of collective management from rights revenue or from income arising

from investment of rights revenue. The amount of the reimbursement must be proportionate, determined on the basis of objective criteria, and must correspond to the services provided by the collective management organisation to the rightholders. The first and second sentences apply *mutatis mutandis* to the reimbursement of costs for social, cultural and educational services provided by the collective management organisation in accordance with Section 99 paragraph 1 letter (d).

(2) A collective management organisation may not pay deductions from rights revenue or income arising from investment of rights revenue managed on the basis of a contract pursuant to Section 97g, other than to reimburse the costs of exercising collective management, unless the collective management organisation, who is a party to such a contract, expressly approves other deductions.

Distribution and Payment of Income

Section 99c

(1) When distributing and paying rights revenue and income arising from investment of rights revenue, which were collected during the exercise of mandatory collective management or extended collective management, the collective management organisation shall only take into account those rightholders whose rights to the same items of protection, or possibly to the same types of work, it collectively manages on the basis of a contract, or who have registered with it for that purpose; it shall not take into account items of protection that have not yet been published. When distributing and paying remuneration collected pursuant to Section 25 paragraph 3 letters (a) and (c), the collective management organisation shall take account of the use and effectiveness of technical protection devices pursuant to Section 43. It shall call on rightholders for whom it exercises collective management under this Act, for whom it has collected remuneration, who are known to it, but are not in the list of rightholders entered in the records to register themselves in the records.

(2) A collective management organisation is obliged to distribute and pay rights revenue and income arising from investment of rights revenue to rightholders in according with the rules of distribution without undue delay, at the latest within 9 months from the end of the accounting period in which this income was collected, unless objective reasons, relating in particular to reporting by the user, defining rights, designating the rightholder or allocating information on works and other items of protection to rightholders, prevent the collective management organisation from meeting this deadline. This obligation shall apply *mutatis mutandis* to a person who is a member of a collective management organisation and is responsible for the distribution and payment of rights revenue to rightholders.

(3) A collective management organisation is obliged to create rules for using income from the exercise of rights and income from investing the income from the exercise of rights which cannot be distributed or paid by the deadline pursuant to paragraph 2 because the rightholder cannot be identified or found; the collective management organisation shall enter this income separately in its accounting.

(4) A collective management organisation shall take all the necessary measures to identify or find rightholders referred to in paragraph 3, and in particular shall verify records of its members and other available records. Within 3 months of expiry of the deadline referred to in paragraph 2, the collective management organisation shall make available, in a suitable manner, information on works and other items of protection, for which one or more rightholders have not been identified or found to rightholders for whom it exercises collective management and to collective management organisations for which it manages rights on the basis of a contract pursuant to Section 97g.

(5) The information referred to in paragraph 4 includes, provided they are available, the following data

- a) the name of the work or other protected subject matter,
- b) the name of the rightholder,
- c) information on the person who used the relevant work or other item or protection referred to in paragraph 3, and
- d) any additional information which might help to identify or find the rightholder.

(6) If the rightholder has still not been identified or found even after implementing the measures referred to in paragraphs 4 and 5, the collective management organisation shall publish the available information on this rightholder in a suitable manner, at the latest within 1 year of expiry of the deadline pursuant to paragraph 4.

(7) If it was not possible to distribute or pay the rights revenue referred to in paragraph 3 within 3 years of the end of the accounting period during which the collective management organisation received this income on the basis of a contract pursuant to Section 97g, and assuming that all the essential measures set out in paragraphs 4

and 5 have been adopted, the general assembly shall decide on how to use this income.

Section 99d

(1) The first sentence of Section 99c paragraph 2 shall apply *mutatis mutandis* to the distribution and payment of income from the exercise of rights and income from investing the income from the exercise of rights collected by a collective management organisation for another collective management organisation on the basis of an authorization granted pursuant to Section 96a or a contract pursuant to Section 97g.

(2) A collective management organisation is obliged to distribute and pay income from the exercise of rights and income from investing the income from the exercise of rights to rightholders which it received from another collective management organisation pursuant to paragraph 1 without undue delay, at the latest within 6 months or receipt of such income, unless objective reasons, relating in particular to reporting by the user, defining rights, designating the rightholder or allocating information on works and other items of protection to rightholders, prevent the collective management organisation from meeting this deadline.

Section 99e

(1) The remuneration collected pursuant to Section 25 paragraph 3 letters (a) and (c) appertains to

- a) In the case of equipment for phonograms and blank record carriers, 50% to the authors and 50% to the performers and producers of phonograms, who should split the same share, and
- b) In the case of equipment for audiovisual recordings and blank record carriers of these recordings, 60% to the authors, in particular directors of audiovisual works, authors of literary, theatrical and musical dramatic works, authors of musical works with or without text cinematographers, architects, stage designers, costume designers, applied artists and authors of choreographical and pantomime works, 25% to producers of audiovisual recordings and 15% to performers.

(2) From remuneration collected pursuant to Section 25 paragraph 3 letters (a) and (c), except for remuneration under paragraph 1, and from remuneration collected pursuant to Section 25 paragraph 3 letter (b) and paragraph 4, 45% appertains to authors of literary works, including scientific and cartographic works, 15% to authors of works of art and 40% to publishers of published works.

(3) From remuneration collected pursuant to Section 37 paragraph 2 and Section 87 paragraph 2, 45% appertains to authors of literary works, including scientific and cartographic works, 15% to authors of works of art and 40% to publishers of published works.

Division 7

Transparency of Collective Management

Section 99f

Information Provided to the Public

(1) A collective management organisation is obliged to publish, in particular

- a) its statutes,
- b) its conditions for membership and conditions for terminating the authorization to exercise collective management,
- c) its standard licensing agreements,
- d) its standard tariffs,
- e) list of members of the management of the collective management organisation, showing their names and positions,
- f) its general policy on distribution of amounts due to right-holders,
- g) its rules for determining the average amount of deductions to reimburse costs for the management of rights, provided these rules are not included in the rules for distribution,

- h) its rules for determining the amount of deductions from rights revenue and income arising from investment of rights revenue for a purpose other than to reimburse costs for the management of rights,
- i) a list of contracts pursuant to Section 97g, concluded with other collective management organisations and agreements on the exercise of collective management by an entity in which the collective management organisation holds a share or which it directly or indirectly, in whole or in part, controls,
- j) its rules for using rights revenue pursuant to Section 99c paragraph 3,
- k) disputes resolution and complaints handling procedures pursuant to Sections 101 and 101h,
- l) list of orphan subject-matters pursuant to Section 97c paragraph 2 letter (b),
- m) list of collective agreements in force pursuant to Section 98a paragraph 3,
- n) information on the authorization of a joint representative pursuant to Section 97h.

(2) The collective management organisation shall publish the information listed in paragraph 1 on its website and continuously keep up to date without undue delay.

Section 99g

Annual Transparency Report

(1) A collective management organisation is required to draw up and make public an annual transparency report by 30 June each year for the previous year in accordance with the Act on Accountancy ²²).

(2) The annual transparency report must also contain the information set out in Annex no. 3 to this Act.

(3) A collective management organisation is required to have the financial statements and the annual report certified by an auditor, in accordance with the Act on Auditors ¹⁷).

(4) A collective management organisation is required to publish the annual report on its website without undue delay after its verification and approval by the general assembly, at the latest by 31 August of the given year, and to leave it there for a period of 5 years.

Section 99h

Information Provided to other Collective Management Organization

A collective management organisation is obliged, once a year for the previous calendar year, to provide to another collective management organisation for which it manages rights, in electronic form, information on

- a) the total amount of rights revenue collected on the basis of a contract pursuant to Section 97g and on the amounts paid to the relevant collective management organization on the basis of this contract, broken down by category of rights and method of use,
- b) the total amount of income under letter (a) that has not yet been paid to the relevant collective management organization,
- c) deductions made in respect of management fees,
- d) all other deductions made, indicating their purpose,
- e) the number of all authorizations to exercise rights broken down by category of right managed, it provided or refused to provide with regard to the repertoire covered by a contract under Section 97g,
- f) resolutions adopted by the general assembly, where these relate to the management of rights on the basis of a contract pursuant to Section 97g.

Section 99i

Information Provided to the Ministry

A collective management organisation is obliged

- a) to inform the Ministry without undue delay about all changes of information pursuant to Section 96 paragraph 2 letter (a),

- b) to provide the Ministry with a copy
 - 1. of a collective agreement concluded with a collective management organisation within 15 days of the date of its conclusion,
 - 2. of an agreement concluded with a collective management organisation pursuant to Section 97g paragraph 1 within 15 days of the date of its conclusion,
 - 3. of an agreement concluded between collective management organisation pursuant to Section 103 paragraph 2 within 15 days of the date of its conclusion,
- c) to inform the Ministry without undue delay of the submission of a request for mediation pursuant to Section 101,
- d) to inform the Ministry of decisions taken by courts or administrative bodies in proceedings to which the collective management organisation was a party and which are fundamentally important for its activities and to provide the Ministry with a copy of such a decision on request,
- e) to send the Ministry a tariff by electronic means with 15 days of its entry into effect,
- f) to send, on request, to the Ministry by electronic means
 - 1. a list of its members,
 - 2. lists maintained in accordance with Section 97c.

Section 99j

Information Provided on Request

(1) A collective management organisation is obliged, in response to a justified request, to provide by electronic means to a collective management organisation, for which it manages rights in accordance with an agreement pursuant to Section 97g, information for a rightholder or a user without undue delay

- a) on the repertoire it manages, and if, given their number, it is unable to identify items of protection individually, to identify these items by type,
- b) on the rights it manages, either directly or under an agreement pursuant to Section 97g, and on the territory to which that management relates, and
- c) whether and to what extent it exercises collective management for a specific rightholder.

(2) In connection with the provision of information, the collective management organisation is entitled to a reimbursement in an amount that must not exceed the costs associated with making copies, purchasing technical data carriers and sending information to requestors. A collective management organisation is also entitled to reimbursement for the costs of an extraordinarily extensive information search.

(3) In the event the collective management organisation intends to claim a reimbursement, it must notify this fact, together with the amount of the reimbursement required to the applicant before providing the information. The notification must make clear on the basis of what facts and in what way was the amount of the reimbursement to the collective management organisation calculated.

(4) Should the collective management organisation fail to comply with its notification obligations pursuant to paragraph 3, it will lose its claim to reimbursement of costs.

Division 8

Multi-territorial Licensing of Online Rights to Use in Musical Works

Section 100

A multi-territorial licensing of online rights in musical works is a license that grants authorization to exercise the rights of an author of a musical work and, in the case of a musical work with text, also the rights of the author of the text, to use the work by reproduction pursuant to Section 13 and communication to the public pursuant to Section 18, which is essential for providing an online service and applies to the territory of more than one of the European Union Member States or States of the European Economic Area.

Section 100a

Eligibility for Granting a License

A collective management organisation may grant a license pursuant to Section 100, provided

- a) it has obtained authorization to exercise collective management of the relevant rights to musical works, unless stated otherwise,
- b) it is able to identify the musical work for which the collective management organisation is authorised to represent,
- c) it is able to identify, wholly or in part, with respect to each relevant territory, the rights and their corresponding rightholders for each musical work or share therein which the collective management organisation is authorised to represent,
- d) it uses unique identifiers in order to identify right-holders and musical works taking into account, as far as possible, industry standards, and
- e) it uses means in order to identify and resolve inconsistencies in data held by other collective management organisations granting licences pursuant to Section 100 in a timely and effective manner.

Section 100b

Agreement between Collective Management Organisation for licencing

(1) An agreement, by which a collective management organisation mandates another collective management organisation to grant a license pursuant to Section 100 to musical works in its own repertoire, may only be concluded on a non-exclusive nature. The authorized collective management organisation is authorized to manage the repertoire entrusted to it in a non-discriminatory basis and under the same conditions as its own repertoire.

(2) The agreement pursuant to paragraph 1 shall specify the conditions under which a license pursuant to Section 100 will be provided, addressing in particular the method of use, licensing fees, the duration and territorial extent of the license and settlement dates.

(3) The collective management organisation shall provide the rightholder for whom it exercises collective management, with information on the terms and conditions of the agreement it concluded pursuant to paragraph 1, including its duration and the costs of the services provided under this agreement.

Section 100c

Obligation to Conclude a Licensing Agreement on Request

(1) If a collective management organisation, which does not offer or grant licenses pursuant to Section 100 to musical works from its own repertoire, submits a written request to another collective management organisation to conclude an agreement pursuant to Section 100, this collective management organisation is obliged to conclude such an agreement if one or more other collective management organisation already provide or offer these licenses from the repertoire. In the event it cannot conclude such an agreement, it must inform the collective management organisation who requested the conclusion of this agreement without undue delay.

(2) A collective management organisation, authorized pursuant to paragraph 1, shall include the repertoire it has been entrusted with from the requesting collective management organization in all offers it makes to online service providers.

(3) A collective management organisation who requested the conclusion of an agreement pursuant to paragraph 1 from another collective management organisation shall provide this collective management organisation with information relating to its repertoire that it needs to grant a license pursuant to Section 100. In the event this information is insufficient or in a form that does not allow the authorized collective management organisation to meet the requirements set out in this division, this collective management organisation is entitled to

- a) exclude works to which this information relates, or
- b) reimbursement of any reasonable costs it incurred in obtaining the necessary information.

Section 100d

Information Obligations

(1) A collective management organisation, which grants a license pursuant to Section 100, shall provide rightholders whose rights it manages, online service providers and other collective management organisation, in electronic form and in response to a properly justified request, information enabling the identification of the online musical repertoire it manages. This information includes data on

- a) the musical works, for which it is authorised to represent,
- b) the rights managed, and
- c) the territories of those states for which the license is granted.

(2) At the request of a rightholder, another collective management organisation or a provider of online services containing evidence of inaccuracies in the data or information pursuant to paragraph 1 and Section 100a letters (b) to (d), the collective management organisation shall correct these data or this information without undue delay.

(3) A collective management organisation shall provide a holder of rights to musical works which form part of its own musical repertoire and a rightholder who entrusted it with the management of their rights to grant licenses pursuant to Section 100, with information in electronic form relating to their musical works, the rights relating to these works and that territory of the states for which these holders are entrusting their rights to this collective management organisation. Sectoral rules are used as far as possible to identify the abovementioned data.

(4) A collective management organisation may refuse to provide information in order to protect personal data or commercial secrets.

Section 100e

Provision of Information on Usage and Invoicing

(1) A collective management organisation is obliged to monitor the online use of musical works by an online service provider which has been granted a license pursuant to Section 100.

(2) An online service provider is obliged to provide information on the online use of the musical works to the relevant collective management organisation at least once a year for the previous calendar year. The collective management organisation is obliged to enable him to submit this report in electronic form and to propose at least one method that would take into account industry standards for the electronic exchange of such data. The collective management organisation may refuse reporting by the online service provider in a proprietary format.

(3) A collective management organisation is obliged, without undue delay after receiving information pursuant to paragraph 2, to issue an online invoice for the service provider, except where this is not possible for reasons attributable to the online service provider. The collective management organisation issues an invoice by electronic means, using a technical format which takes account of industry standards. The invoice must contain data that corresponds to the information provided. The online service provider may not reject the invoice because of its technical format if the collective management organisation uses industry standards.

(4) A collective management organisation must have a procedure in place to enable the provider of an online service to challenge the accuracy of the invoice, including when such provider receives invoices from one or more collective management organisations for the same online rights in the same musical work.

Section 100f

Payment of Rights Revenues

(1) A collective management organisation, which grants a license pursuant to Section 100, is obliged to distribute rights revenue accurately and without undue delay upon receipt of information on the use of the musical work online and upon payment of the relevant invoice by the online service provider.

(2) Along with each payment made, the collective management organisation shall provide the rightholder with information on

- a) the period during which the work was used, for which the rightholder is receiving this income, and the territory of the state in which the work was used,
- b) rights revenue, deductions made and amounts distributed by the collective management organisation for each

musical work for which it is authorised to represent, on the basis of an agreement with the rightholder, with the identity of the relevant online service provider.

(3) If the collective management organisation grants a license pursuant to Section 100 on the basis of an agreement pursuant to Section 100b, the obligations set out in paragraphs 1 and 2 shall apply *mutatis mutandis* to them in relation to the collective management organisation who granted it. The collective management organisation is responsible for the subsequent distribution of income and provision of information, which it received from the authorized collective management organisation, to the rightholders, unless the collective management organisations agreed otherwise.

Section 100g

Derogation for Radio and Television Broadcasters

The requirements set out in the provisions of this division do not apply to a collective management organisation if, in accordance with the rules of economic competition, it grants a license pursuant to Section 100 to a radio or television broadcaster to include musical works in its broadcasting²³⁾, which is communicated to the public pursuant to Section 21 paragraph 4 or made available within the context of related audiovisual media services on request²⁴⁾, or included in any material created by it or for it, including trailers, which are complementary to the program²⁵⁾ of this broadcast.

Division 9

Procedures for Resolving Disputes in the Exercise of Collective Management

Section 101

Use of a Mediator in Collective Management

Interested parties may use one or more mediators from the list of mediators to mediate the negotiation of a collective agreement, a collective contract, an agreement under Section 97g, the negotiation of a tariff or the settlement of disputes arising in the exercise of collective management.

Section 101g

Settling Complaints by the Collective Management Organisation

(1) The Statutes regulate the procedure for dealing with written complaints by members and other rightholders, as well as the collective management organisations, particularly in connection with the authorization to exercise collective management, the termination of such authorization, the termination of the agreement on the exercise of collective management or the withdrawal of only certain rights from management, terms and conditions of membership, collecting remuneration on behalf of rightholders, deductions and the distribution of rights revenue.

(2) The collective management organisation shall settle the complaints referred to in paragraph 1 in writing without undue delay. If it rejects the complaint, it will give reasons.

VOLUME 5

Supervision of Collective Management Organisations

Section 102

(1) The Ministry exercises supervision over collective management and observance of the duties of collective management organisations under this Act.

(2) When exercising supervision pursuant to paragraph 1, in addition to the performance of general supervisory powers in accordance with the Inspection Code²⁶⁾, the Ministry is entitled

- a) to participate in meetings of the supreme body of the collective management organisation,
- b) to impose an obligation to provide remedy when discovering breaches of this Act and to set a reasonable

deadline for its performance.

(3) Supervision by the Ministry shall not affect the supervisory activities by the Office for the Protection of Competition pursuant to the Act on Protection of Competition²⁷⁾ to the extent that the Copyright Act does not apply to its dealings.

Section 102a

Cross-border Cooperation between Supervisory Bodies

(1) The Ministry is authorized to request that the competent body supervising collective management in another European Union Member State or some of the States of the European Economic Area (hereinafter referred to as the “supervisory body”) provide all the information relating to the activities of a collective management organisation established in the Czech Republic and carrying out collective management on the territory of another European Union Member State or some of the States of the European Economic Area.

(2) The Ministry will provide to the competent supervisory body, at its justified request and without undue delay, a request for information relating to the activities of a collective management organisation established in another European Union Member State or in one of the States of the European Economic Area, if such activity is carried out on the territory of the Czech Republic.

(3) Should the Ministry believe that a collective management organisation established in another European Union Member State or in one of the States of the European Economic Area and carrying out collective management on the territory of the Czech Republic is failing to comply with the legislation of the given state, it is entitled to hand over all relevant data to the competent supervisory body of the given state and to request that it adopt suitable measures, within the scope of its authority.

(4) The Ministry will respond within a period of 3 months at the request of the supervisory body on the adoption of suitable measures relating to the collective management organisation the supervisory had reason to believe was in breach of the obligations laid down by this Act and is a collective management organisation established in the Czech Republic and carrying out collective management activities on the territory of a relevant European Union Member State or a State of the European Economic Area.

VOLUME 6

Granting Authorization to Exercise Rights to Use Orphan Works and Other Orphan subject-matter

Section 103

(1) On the basis of the grant of an authorization to perform collective management of works or types of works, a collective management organisation carries out collective management for holders of rights to orphan works in its own name and on behalf of and in the exercise of these economic rights, which are not really compulsorily managed collectively or even managed within the context of extended collective management. During the performance of collective management for holders of rights to orphan works, it is assumed that a holder of rights to an orphan work has consented to its publication and to the orphan work being presented to the public without naming the author of the orphan work, unless specified.

(2) If more than one collective management organisation carries out collective management of the same type of works and these collective management organisations do not agree otherwise in writing, even to use the procedure pursuant to Section 101, the Ministry shall issue a decision to determine which of these collective managers will carry out collective management for holders of rights to this type of orphan works. When issuing the decision referred to in the first sentence, the Ministry will particularly take account of what rights the collective manager is managing on the basis of an authorization to carry out collective management and whether they meet requirements for proper compliance with procedures pursuant to paragraphs 1, 3 and 4.

(3) The competent collective management organisation will conclude a licensing agreement for use of the orphan work with a user can prove that, even after a thorough search, no holder of the rights to this work has been identified. This agreement may only be used to grant authorization to exercise the right to use an orphan work for a period not exceeding 5 years and only for the territory of the Czech Republic. This agreement can be concluded repeatedly.

(4) Remuneration and any income from restitution of unjust enrichment obtained in connection with the use of an orphan work will be entered separately in the accounts by the collective management organisation for a period

of 3 years from their collection. Should the status of the relevant orphan work be terminated during this period, the collective management organisation is obliged to pay this remuneration and income to the rightholder.

(5) The remuneration and income referred to in paragraph 3 above, which could not be paid pursuant to this provision, shall become the income of the State Fund of Culture of the Czech Republic on expiry of the term set out above, and, in the case of an audiovisual orphan work and an orphan work of audiovisual use, the Czech Audiovisual Fund; the collective management organisation shall transfer these financial amounts to the account of the relevant state fund within 15 days of expiry of the period referred to in paragraph 4 above.

(6) The identification or location of a rightholder for the orphan work shall not affect the validity of an agreement concluded under paragraph 3.

(7) Chapter IV shall apply *mutatis mutandis* to the exercise of collective management for a holder of rights to an orphan work.

(8) Paragraphs 1 to 7 shall not apply to computer programs. Paragraphs 1 to 7 shall apply *mutatis mutandis* to recorded artistic performances, phonograms and audiovisual recordings.

VOLUME 7

Independent Management Entity

Section 104

An independent management entity is a legal person whose principal activity is business or another profit-making activity, which is authorized, on the basis of a contract, to manage copyright or rights related thereto on behalf of more than one rightholder for their mutual benefit as the sole or main purpose of its activities and in which the rightholders, whose rights it manages have no ownership interest or control over.

Section 104a

(1) The provisions of Section 97b, Section 98 paragraph 2, Section 98a, Section 99f paragraph 1 letters (a) to (c) and (f) to (h), Section 99j, Section 102 and Section 102a shall apply *mutatis mutandis* to an independent management entity.

(2) Within 15 days from the date of receipt of the information on the registration number assigned pursuant to Section 104b(3), the independent management entity shall provide a list of rightholders and subject matter and demonstrate the management of those rights to the collective management organisation which performs collective management of the same rights in relation to the same subject matter and, in the case of a work, to the same type of work. The provision of the list and the demonstration of the rights managed under the first sentence shall be upon receipt by the respective collective management organisation deemed to be an expression of the will of all rightholders whose rights are managed by the independent management entity to exclude the effects of a collective contract under Section 97e. The provisions of paragraph 3, second and last sentence, shall apply *mutatis mutandis*.

(3) The independent management entity shall be obliged to notify in writing to the collective management organisation which exercises collective management of the same rights in relation to the same subject matter and, in the case of a work, to the same type of work, any changes to the list provided to the collective management organisation pursuant to paragraph 2. Unless otherwise agreed between the collective management organisation and the independent management entity, the scope and technical format of the information and the time period for which the independent management entity has to provide the information referred to in the first sentence to the collective management organisation shall be determined by the collective management organisation. When deciding on the technical format for the provision of this information, the collective management organisation and the independent management entity shall take industry rules into account, as far as possible.

Section 104b

List of Independent Management Entities

(1) The Ministry shall maintain a list of independent management entities.

(2) A legal person, wishing to carry out the activity of an independent management entity, is required to register and, to this end, to deliver to the Ministry, at the latest 30 days prior to the start of this activity, a written notification, which must contain the general particulars laid down by the Administrative Code, and also

- a) the name and address of the domicile or head office of each member of the statutory body, together with a description of the way in which this body represents the legal person, unless this information can be obtained from public administration information systems,
- b) a designation of the rights to be managed by the independent management entity,
- c) a designation of the subject matter of the rights pursuant to letter (b) and, in the case of works, also a definition of the type thereof.

(3) The Ministry shall enter the entity referred to in paragraph 1 above in a list of independent management entities and, within 15 days of the date of receipt of notification of the required data, shall inform the entity who made the notification of the registration number assigned to it.

(4) An independent management entity is required to notify the Ministry in writing of any change to the registered information, or the suspension or termination of the activities of the independent management entity at the latest within 15 days of the date on which the registered information was changed, or the activities of the independent management entity were suspended or terminated.

(5) Everyone has the right to inspect the list of independent management entities and to obtain extracts or copies thereof.

Chapter V

CONCURRENT PROTECTION

Section 105

Copyright shall not be prejudiced by rights relating to copyright or by the database maker's right to the database made by him. Protection of works under copyright shall not exclude the protection stipulated by *lege speciales*.

Chapter VI

ADMINISTRATIVE OFFENCES

Section 105a

Offences of Natural Persons

(1) A natural person shall commit an offense:

- a) if they make unauthorised use of an author's work, artistic performance, phonogram or audiovisual fixation, radio or television broadcast, a press publication, or database;
- b) if they infringe copyright in the manner specified in Section 43 paragraph 1 or 2, or in Section 44 paragraph 1; or
- c) if they, as a trader involved in the sale of an original of a work of art, fail to fulfil the notification duty under Section 24 paragraph 6.

(2) A fine of up to CZK 150,000 shall be imposed for an offense under paragraph 1 letter (a); and a fine of up to CZK 100,000 shall be imposed for an offense under paragraph 1 letter (b) or (c).

Section 105b

Administrative Offences by Legal Persons and Solo Self-employed Persons

(1) A legal person or a solo self-employed person shall commit an administrative offense:

- a) if they make unauthorised use of an author's work, artistic performance, phonogram or audiovisual fixation, radio or television broadcast, a press publication, or database;
- b) if they infringe copyright in the manner specified in Section 43 paragraph 1 or 2, or in Section 44 paragraph 1;

- c) if they, as a trader involved in the sale of an original of a work of art, fail to fulfil the notification duty under Section 24 paragraph 6;
- d) if they exercise collective management, without having been granted an authorization pursuant to Section 96a;
- e) if they fail to notify the Ministry of facts pursuant to Section 56 paragraph 3;
- f) if they, as a person who intends to carry out or carries out the activities of an independent management entity, have not registered pursuant to Section 104b paragraph 2;
- g) if they, as an information society service provider³⁶⁾, fail to conduct negotiations regarding the grant of an authorisation to exercise the right to use a press publication in accordance with Section 87b paragraph 9 or if they breach the obligation set out in Section 87b paragraph 14; or
- h) if they, as an information society service provider³⁶⁾ or as a publisher of a press publication, fail to provide data pursuant to Section 87b paragraph 11.

(2) A fine of up to CZK 500,000 or up to 1% of the total annual worldwide turnover in the previous financial year of the person who committed the offence, whichever is higher, shall be imposed for an administrative offence under paragraph 1 letter (g) or (h), a fine of up to CZK 500,000 shall be imposed for an administrative offence under paragraph 1 letter (d), a fine of up to CZK 150,000 shall be imposed for an administrative offense under paragraph 1 letter (a) or (f), a fine of up to CZK 100,000 shall be imposed for an administrative offense under paragraph 1 letter (b) or (c), and a fine of up to CZK 50,000 shall be imposed for an administrative offense under paragraph 1 letter (e).

Section 105ba

Administrative Offences by Collective Management Organisations

(1) A collective management organisation shall commit an administrative offense:

- a) if they fail to fulfil any of their obligations to rightholders pursuant to Section 97a,
- b) if they fail to fulfil the information obligation pursuant to Sections 97b, 99f, 99h, 99i, 99j or Section 100d,
- c) if they fail to notify the joint representative in violation of Section 97h paragraph 2,
- d) if they fail to follow the procedure for concluding a contract with a user pursuant to Section 98,
- e) if they fail to follow the procedure for negotiating tariffs pursuant to Section 98f,
- f) if they fail to fulfil any of their obligations when managing rights revenue or income arising from investment of rights revenue pursuant to Sections 99 to 99e,
- g) if they fail to prepare an annual report in violation of Section 99g paragraph 1,
- h) if they fail to ensure that the annual report contains the information required pursuant to Section 99g paragraph 2,
- i) if they fail to ensure that the annual report has been audited in violation of Section 99g paragraph 3,
- j) if they fail to ensure publication of the annual report in the manner and for the period prescribed pursuant to Section 99g paragraph 4,
- k) if they refuse to conclude an agreement to grant a license in violation of Section 100c paragraph 1,
- l) if they fail to fulfil any of the requirements for providing information on usage and invoicing pursuant to Section 100e,
- m) if they fail to distribute income from the exercise of rights in violation of Section 100f paragraph 1,
- n) if they fail to fulfil the obligation imposed by a decision on remedial measures issued pursuant to Section 102 paragraph 2 letter (b) within the specified deadline, or
- o) if they exercise collective management in violation of the authorization granted.

(2) For an administrative offence under paragraph 1, a fine shall be imposed of up to

- a) CZK 100,000, for an offence under letters (b) or (g) to (j),
- b) CZK 250,000, for an offence under letters (c) to (e), (k) to (m) or (o),
- c) CZK 500,000, for an offence under letters (a), (f) or (n).

Section 105bb

Administrative Offenses by Independent Management Entities

- (1) An independent management entity shall commit an administrative offence:
- a) if they fail to fulfil the information obligation pursuant to Section 104a paragraph 2 or 3 or Section 104b paragraph 4;
 - b) if they fail to fulfil the information obligation pursuant to Section 97b, Section 99f paragraph 1 letters (a) to (d) or (f) to (h) or Section 99j; or
 - c) if they fail to fulfil the obligation imposed by a decision on remedial measures issued pursuant to Section 102 paragraph 2 letter (b) within the specified deadline.
- (2) A fine of up to CZK 100,000 shall be imposed for an administrative offence under paragraph 1 letter (a) or (b) and a fine of up to CZK 500,000 shall be imposed for an administrative offence under paragraph 1 letter (c).

Section 105c

Joint Provisions on Administrative Offences

- (1) The offences under this Act shall be heard:
- a) under transferred authority, by the municipality with extended authority in the territory of which the administrative offence was committed, in the case of administrative offences under Section 105a paragraph 1 and Section 105b paragraph 1 letters (a) to (c) and (g);
 - b) by the Ministry in the case of administrative offences under Section 105b paragraph 1 letters (d) to (f), Section 105ba paragraph 1 and Section 105 bb paragraph 1.
- 2) Fines imposed by the Ministry are revenue for State Fund of Culture of the Czech Republic.

Section 105d

The Ministry shall publish on its website a decision issued pursuant to Section 102 paragraph 2 letter (b), Section 105b paragraph 1 letter (f), Section 105ba and Section 105bb within 1 month of the decision becoming final and binding and shall keep it published for a period of 3 years. The published decision may not contain any information that identifies a person other than the offender.

Chapter VII

TRANSITORY AND FINAL PROVISIONS

Section 106

Transitory Provisions

- (1) This Act shall govern the legal relations established as of the date on which this Act comes into effect. Legal relations in effect hitherto, and the rights and obligations arising from such legal relations, as well as the rights arising from liability for breach of contracts concluded before the date on which this Act comes into effect, shall be governed by provisions in effect before that date.
- (2) All the terms that have started running before the date on which this Act comes into effect shall be treated on the basis of the provisions effective before the date on which this Act comes into effect, and so shall the terms that are set for claiming the rights, which are governed, pursuant to paragraph 1, by the provisions hitherto in force even where such terms start running after the date of the entry into effect hereof.
- (3) The period of duration of economic rights shall be governed by this Act also where the term has started before the entry into effect of this Act. Where the term of duration of those rights has expired before the date of entry into effect hereof, and would have continued hereunder, the term shall be renewed as from the date on which this Act comes into effect for the remaining period. Reproductions of items of protection for which the term of

duration of economic rights is being renewed, which were lawfully acquired before the date of entry into effect hereof, may however continue to be freely disseminated for another two years after the entry into effect hereof.

(4) Pursuant to this Act, protection shall also be provided to copyright-protected items that have not been hitherto protected according to existing provisions [Section 1 letter (b) points 3, 5 and 6 and Section 2 paragraph 2], or whose protection content is different from that defined in this Act. The National Film Archive⁹⁾ shall be deemed to be the producer of any Czech audio-visual recording of a work made public in the period between 1 January 1950 and 31 December 1964. The Czech Audiovisual Fund which, in compliance with *lege speciales*¹⁰⁾, exercises the copyright to audio-visual recordings of audio-visual works made public in the period between 1 January 1965 and 31 December 1991, shall be deemed to be the producer of such works.

(5) The provision of paragraph 4 shall be without prejudice to the right of the National Film Archive to manage the original record carriers for audio-visual works.

(6) The provision of paragraph 4, first sentence, shall be applied *mutatis mutandis* where the works are databases pursuant to the provisions of Section 88, but only if they were made not earlier than 15 years before the entry into effect of this Act.

(7) Authorisations to execute collective management, granted in compliance with legal provisions in effect hitherto, shall be considered authorisations to execute collective management of rights in accordance with this Act. The content and scope of such authorisations shall be brought into compliance with this Act by the Ministry, which will issue, within 90 days from the date of entry into effect hereof, new authorisations to the relevant persons.

(8) Administrative proceedings commenced before the entry into effect of this Act shall be brought to conclusion in compliance with this Act.

Section 107

Final Provisions

(1) The provisions of this Act shall apply to the works of authors and artistic performances of performers who are citizens of the Czech Republic, irrespective of the place where such works or performances are created or made public.

(2) The provisions of this Act shall apply to the works and performances of foreign nationals and persons without nationality in accordance with the international treaties binding on the Czech Republic and promulgated in the Collection of Laws and International Treaties or in a previous similar collection, or, in the absence of such a treaty, where reciprocity is assured.

(3) Where none of the conditions stipulated by paragraph 2 are satisfied, this Act shall apply to the works of authors and performances of performers who are not Czech nationals if their works and performances were first made public in the Czech Republic or if the author or performer resides in the Czech Republic.

(4) Copyright in the works of foreign nationals shall not subsist for longer than copyright in the state of origin of the work.¹¹⁾

(5) The provisions of this Act shall apply to the phonograms of the producers of phonograms domiciled or resident in the territory of the Czech Republic; they shall also apply to the phonograms of foreign producers of phonograms, provided that the provisions of paragraphs 2 and 3 are applied *mutatis mutandis*.

(6) The provision of paragraph 5 shall apply, *mutatis mutandis*, to audiovisual fixations, radio and television broadcasts, works in the public domain published pursuant to Section 28 paragraph 2, works published by a publisher pursuant to the provisions of Section 87, and databases pursuant to the provisions of Section 88.

PART TWO

Amendment to Act on Property Valuation

Section 108

Act No. 151/1997 Coll., on Property Valuation and Amendments to Certain Acts (the Property Valuation Act), shall be amended as follows:

1. In the heading of Section 17, a comma shall be inserted after the word "findings", and the words "certain economic rights related to copyright and the rights of a database maker" added.

2. In Section 17 paragraph 1, a comma shall be inserted after the word "(know-how)", and the words (including footnote^{17a)} "economic rights subject to rights related to copyright, save for the rights of performers, and economic rights of a database maker, ^{17a)}

17a) Act No. 121/2000 Coll., on Copyright and Rights Related to Copyright and on Amendment to Certain Acts (the Copyright Act).".

3. In Section 17 (3)(a), the words "(c) or (d)," shall be added at the end after the words "Clause (b),".

4. In 17 (3), the full stop at the end shall be replaced with a comma and Clauses (c) and (d) inserted, to read as follows:

"c) in case of relevant rights related to copyright, it shall be such number of years as is left until the end of the fifty-year duration of such rights where the number cannot be established pursuant to Clause (a), and

d) in case of rights of a database maker, it shall be such number of years as is left until the end of the fifteen-year duration of such rights where the number cannot be established pursuant to Clause (a).".

5. In Section 17, paragraph 5 shall be inserted, to read as follows:

"(5) Being non-transferable, economic rights of authors and economic rights of performers shall not be valued.".

PART THREE

abrogated

Section 109

abrogated

PART FOUR

abrogated

Section 110

abrogated

PART FIVE

Amendment to the Trade Licensing Act

Section 111

In Section 3 paragraph 1 of Act No. 455/1991 Coll., on Trade Licensing (the Trade Licensing Act), as amended by Act No. 591/1992 Coll., Act no. 600/1992 coll., Act No. 273/1993 Coll., Act No. 303/1993 Coll., Act No. 200/1994 Coll., Act No. 237/1995 Coll., Act No. 286/1995 Coll. and Act No. 356/1999 Coll. Subparagraphs (b) and (c) and footnotes 2 and 2a shall read:

“b) the use of the results of intellectual creative activities, protected by special laws, their originators or authors

2)

- c) the exercise of collective management of copyright and rights relating to copyright under a special legal regulation,^{2a)}

2) Act No. 527/1990, on inventions, industrial designs and rationalization proposals, as amended by Act No. 519/1991 Coll.

Act No. 121/2000 Coll., on copyright and rights related to copyright and on amendments to certain Acts (the Copyright Act). Act No. 529/1991 Coll., on the protection of topographies of semiconductor products, as amended by Act No. 116/2000 Coll. Act No. 478/1992 Coll., on utility models, as amended by Act No. 116/2000 Coll.”

2a) Act no. 121/2000 Coll.”

PART SIX

Amendment to Income Tax Act

Section 112

In Section 4 (1) of Act No. 586/1992 Coll., on Income Tax, as amended by Act No. 96/1993 Coll., Act No. 157/1993 Coll., Act No. 196/1993 Coll., Act No. 323/1993 Coll., Act No. 259/1994 Coll., Act No. 118/1995 Coll., Act No. 149/1995 Coll., Act No. 316/1996 Coll., Act No. 209/1997 Coll., Act No. 210/1997 Coll., Act No. 111/1998 Coll., Act No. 149/1998 Coll., Act No. 168/1998 Coll., Act No. 333/1998 Coll., Act No. 63/1999 Coll., Act No. 144/1999 Coll., Act No. 225/1999 Coll., ruling of the Constitutional Court No. 3/2000 Coll. and Act No. 103/2000 Coll., the full stop after Clause zd) shall be replaced with a comma, and Clause ze) inserted, to read including footnote 64a) as follows:

"ze) income derived from legal deposit pursuant to a *lex specialis*^{64a)} and in the form of an author's copy, in the customary number, received in connection with an item protected by copyright or rights related to copyright.

64a) Act No. 37/1995 Coll., on Non-periodical Publications. Act No. 53/1959 Coll., on the Single Library System, as amended by Act No. 425/1990 Coll.

Act No. 121/2000 Coll., on Copyright and Rights Related to Copyright and on Amendment to Certain Acts (the Copyright Act).

PART SEVEN

abrogated

Section 113

abrogated

PART EIGHT

Amendment to the Act on Collective Management of Copyright and Rights Related to Copyright

Section 114

Part I of Act No. 237/1995 Coll., on Collective Management of Copyright and Rights Related to Copyright, and Amendments to Certain Acts, shall be abrogated.

PART NINE

abrogated

Section 115

abrogated

PART TEN

Amendment to Act on Radio and Television Broadcasting

Section 116

In Act No. 468/1991 Coll., on Radio and Television Broadcasting, as amended by Act No. 597/1992 Coll., Act No. 36/1993 Coll., Act No. 253/1994 Coll., Act No. 40/1995 Coll., Act No. 237/1995 Coll., Act No. 301/1995 Coll., Act No. 135/1997 Coll. and Act No. 46/2000 Coll., Section 26 shall be abrogated.

PART ELEVEN

ABROGATORY PROVISIONS

Section 117

This is to abrogate:

1. Act No. 35/1965 Coll., on Works of Literature, Science and Art (Copyright Act).
2. Act No. 89/1990 Coll., amending Act No. 35/1965 Coll., on Works of Literature, Science and Art (Copyright Act).
3. Act No. 86/1996 Coll., amending Act No. 35/1965 Coll., on Works of Literature, Science and Art (Copyright Act), as amended by Act No. 89/1990 Coll., Act No. 468/1991 Coll., Act No. 318/1993 Coll. and Act No. 237/1995 Coll.

PART TWELVE

EFFECT

Section 118

This Act shall come into effect on 1 December 2000.

Klaus (signed)
Havel (signed)
Zeman (signed)

	Amendment	Entry into force
1	Act No. 81/2005 Coll.	23.02.2005
2	Act No. 61/2006 Coll.	23.03.2006
3	Act No. 216/2006 Coll.	22.05.2006
4	Act No. 186/2006 Coll.	01.01.2007
5	Act No. 168/2008 Coll.	19.05.2008
6	Act No. 41/2009 Coll.	01.01.2010
7	Act No. 227/2009 Coll.	01.07.2010
8	Act No. 153/2010 Coll.	01.07.2010
9	Act No. 424/2010 Coll.	30.12.2010
10	Act No. 420/2011 Coll.	01.01.2012
11	Act No. 375/2011 Coll.	01.04.2012
12	Act No. 18/2012 Coll.	01.01.2013
13	Act No. 496/2012 Coll.	01.01.2013

Act No. 121/2000 Coll, as amended as of 1st of July 2025 (unofficial translation - Ministry of Culture)

14	Act No. 156/2013 Coll.	01.07.2013
15	Act No. 303/2013 Coll.	01.01.2014
16	Act No. 64/2014 Coll.	01.05.2014
17	Act No. 228/2014 Coll.	07.11.2014
18	Act No. 355/2014 Coll.	01.01.2015
19	Act No. 356/2014 Coll.	01.01.2015
20	Act No. 298/2016 Coll.	01.01.2017
21	Act No. 102/2017 Coll.	20.04.2017
22	Act No. 250/2016 Coll.	01.07.2017
23	Act No. 183/2017 Coll.	01.07.2017
24	Act No. 50/2019 Coll.	15.02.2019
25	Act No. 94/2021 Coll.	27.02.2021
26	Act No. 429/2022 Coll.	05.01.2023
27	Act No. 277/2019 Coll.	01.01.2024
28	Act No. 480/2024 Coll.	01.01.2025
29	Act No. 218/2025 Coll.	01.07.2025

Annex 1

Tariffs of Remuneration for the Re-sale of an Original of a Work of Art and Tariffs Relating to the Reproduction of Works for Personal Use and to the Lending of Works

1. On the resale of an original of an artistic work in the territory of the Czech Republic, the persons referred to in Section 24 paragraph 6 shall pay remuneration to the relevant collective management organisation, who was granted authorisation to execute collective management within a scope that includes the collection of remuneration from such persons. The remuneration shall be:

- a) 4% of the part of purchase price up to EUR 50,000,
- b) 3% of the part of purchase price from EUR 50,000 to EUR 200,000,
- c) 1% of the part of purchase price from EUR 200,000 to EUR 350,000,
- d) 0.5% of the part of purchase price from EUR 350,000 to EUR 500,000,
- e) 0.25% of the part of purchase price above EUR 500,000.

However, the total amount of remuneration must not exceed EUR 12,500.

2. Persons referred to in Section 25 paragraph 2 letter (a) or letter (d), who are domiciled or permanently resident or, as the case may be, resident for not less than 183 days in the relevant calendar year, either continuously or in several periodical stays, in the territory of the Czech Republic, are obliged to pay remuneration twice annually to the relevant collective management organisation who is authorised pursuant to this Act to execute collective management within a scope that includes the collection of remuneration from such persons.

3. Non-recurring remuneration due on the import or acceptance or first sale of technical devices designated for the making of reproductions of sound or audiovisual fixations shall be 3% of the selling price of the devices being sold, irrespective of whether such devices serve for the recording of merely sound, or merely image, or simultaneously sound and image, or any other recording. In the case of radio and television sets enabling to make a record of a broadcast, the remuneration shall be 1.5% of the selling price of the sets being sold.

4. Persons referred to in Section 25 paragraph 2 letter (b), or letter (d), who are domiciled or permanently resident or, as the case may be, resident for at least 183 days in the calendar year, either continuously or in several periodical stays, in the territory of the Czech Republic, shall be obliged to pay remuneration twice annually to the relevant collective management organisation who is authorised pursuant to this Act to execute collective management within a scope that includes the collection of remuneration from such persons.

5. Persons referred to in Section 25 paragraph 2 letter (e) shall be obliged to pay remuneration pursuant to Section 25 paragraph 5 once a year to the relevant collective management organisation who is authorised in accordance with this Act to execute collective management within a scope including the collection of remuneration from such persons.

6. The remuneration for one print reproduction shall be:

- a) for a black-and-white reproduction CZK 0.20 per page
- b) for a coloured reproduction CZK 0.40 per page

7. The probable number of the print reproductions of works made by reproduction service providers shall be as follows:

- a) when made in the premises of libraries, museums, galleries, schools and other educational facilities: 70% of the total number of print reproductions made by the provider of paid reproduction services;
- b) when made in the premises of archives, government offices and offices of territorial self-governing units and in the premises of other reproduction service providers: 20% of the total number of print reproductions made by the provider of paid reproduction services

8. Persons referred to in Section 25 paragraph 2 letter (c) or letter (d), who have their registered office or place of business, or are domiciled, or permanently resident or, as the case may be, are resident for not less than 183 days in the relevant calendar year, either continuously or in several periodical stays, in the territory of the Czech Republic, shall be obliged to pay remuneration twice annually to the relevant collective management organisation who is authorised pursuant to this Act to execute collective management within a scope that includes the collection of remuneration from such persons.

9. For the persons referred to in Section 37 paragraph 1 and in Section 87 paragraph 2, the remuneration under Section 37 paragraph 2 shall be paid by the government once annually to the relevant collective management organisation.

10. Remuneration for lending shall be CZK 1.70 per loan.

Annex 2

List of Information Sources for Diligent Search, to be Carried Out in Order to Establish the Identity of an Author or Other Rightholder in an Orphan Work, or the Rightholder in Other Protected Orphan subject matter, or Their Residential Address or Abode

Information sources pursuant to Section 27b paragraph 3 shall be deemed to be

1. in case of published non-periodical publications

- a) catalogues of the National Library, the National Archive and foreign libraries or institutions of comparable standing,
- b) sources of associations of publishers and authors in the respective country,
- c) existing databases and registers, WATCH (Writers, Artists and Their Copyright Holders), the ISBN (International Standard Book Number) and databases listing books in print,
- d) the databases of relevant collective management organisations, in particular reproduction rights organizations,
- e) sources integrating multiple databases and registers, including VIAF (Virtual International Authority Files) and ARROW (Accessible Registries of Rights Information and Orphan Works),
- f) list of authors whose economic rights were inherited by the state or whose economic rights transferred to the state, maintained by the State Fund of Culture of the Czech Republic,
- g) credits and other information indicated in published non-periodical publications,
- h) legal deposits;

2. in case of periodical publications

- a) catalogues of the National Library, the National Archive and foreign libraries or institutions of comparable standing,
- b) the ISSN (International Standard Serial Number) for periodical publications,
- c) sources of associations of publishers, authors and journalists in the respective country,
- d) the databases of relevant collective management organisations, including reproduction rights organizations,
- e) list of authors whose economic rights were inherited by the state or whose economic rights transferred to the state, maintained by the State Fund of Culture of the Czech Republic,
- f) credits and other information indicated in periodical publications,
- g) legal deposits;

3. in case of works of fine arts, including photography, works of applied arts, architecture and other such works contained in books, journals, newspapers and other periodicals or other works

- a) sources referred to in paragraphs 1 and 2,
- b) the databases of relevant collective management organisations, in particular organizations managing rights of authors of works of fine arts, including reproduction rights organizations,
- c) databases of picture agencies,
- d) list of authors whose economic rights were inherited by the state or whose economic rights transferred to the state, maintained by the State Fund of Culture of the Czech Republic,
- e) credits and other information appearing on the work's packaging;

4. in case of audiovisual works, works of audiovisual use and phonograms
- a) catalogues and legal deposits of the National Film Archive, the National Archive and foreign institutions of comparable standing,
 - b) sources of associations of producers of audiovisual works and phonograms domiciled in the respective country,
 - c) databases of institutions taking care of film or audio heritage, and national libraries,
 - d) databases with the relevant standards and identifiers, such as ISAN (International Standard Audiovisual Number) for audiovisual materials, ISWC (International Standard Music Work Code) for musical works, and ISRC (International Standard Recording Code) for phonograms,
 - e) the databases of the relevant collective management organisations, in particular collective management organisations representing authors, performers, phonogram producers and audiovisual producers,
 - f) databases of other important associations representing a specific category of rightholders,
 - g) list of rightholders whose economic rights were inherited by the state or whose economic rights transferred to the state, maintained by the State Fund of Culture of the Czech Republic or the Czech Audiovisual Fund,
 - h) credits and other information appearing on the work's packaging.

Annex 3

Information Required in the Annual Report Pursuant to Section 99g paragraph 2

1. Basic information:

- a) financial statements pursuant to the Act on Accounting and a Cash Flow Statement,
- b) activity report for the accounting period,
- c) information on cases of refusal to grant a license pursuant to Section 98 paragraph 1,
- d) description of the legal form and management system of the collective management organisation,
- e) information on all entities in which the collective management organisation has a shareholding or controls, directly or indirectly, in whole or in part,
- f) information on the total amount of remuneration paid to persons exercising a control function and to persons who manage the collective management organisation and on any other benefits granted to them during the previous year,
- g) the information set out in point 2 herein,
- h) a special report on the use of sums deducted to provide social, cultural and educational services, containing the information set out in point 3 herein.

2. Financial information:

- a) information on the total amount of rights revenue, broken down by category of managed rights and the method of use, including information on income from invested rights revenue and on the use of this income;
- b) information on the total costs for managing rights and other services provided by the collective management organisation to rightholders, with a description of at least these points:
 - 1. operating and financial costs broken down by category of managed rights and, in the event these are indirect costs, which cannot be attributed to one or more categories, an explanation of the method used to allocate these indirect costs,
 - 2. operating and financial costs broken down by category of managed rights and, in the event these are indirect costs, which cannot be attributed to one or more categories, an explanation of the method used to allocate these indirect costs, where they only concern rights management, including reimbursement of the costs of managing rights, which is deducted or offset from the rights revenue or from the income from investing the income from the exercise of rights,
 - 3. operating and financial costs relating to services other than rights management, but including deductions for the costs of providing social, cultural and educational services,
 - 4. resources used to reimburse costs for rights management,
 - 5. deductions from rights revenue, broken down by category of managed rights, the method of use and the purpose of the deduction,
 - 6. the percentage amount of the costs for rights management and other services provided by the collective management organisation to the rightholders, compared with the percentage amount of income from the percentage amount of income from the exercise of rights during the relevant accounting period, broken down by category of managed rights and, in the event these are indirect costs, which cannot be attributed to one or more categories, an explanation of the method used to allocate these indirect costs;
- c) financial information on the amounts due to rightholders with a full description of at least the following points:
 - 1. the total amount allocated to rightholders, broken down by category of managed rights and manner of use,
 - 2. the total amount paid to rightholders, broken down by category of managed rights and manner of use,
 - 3. the frequency of payment, broken down by category of managed rights and manner of use,

4. total amount of rights revenue prior to its distribution to the relevant rightholders, broken down by category of managed rights and manner of use and stating the accounting period during which these amounts were collected,
 5. the total allocated amount, which has not yet been distributed to rightholders, broken down by category of managed rights and manner of use and stating the accounting period during which these amounts were collected,
 6. reasons for the delay, if the collective management organisation did not make the distribution and payments by the deadline set out in Section 99c paragraph 2,
 7. total amount of unallocated money, together with an explanation of the use of these amounts;
- d) information on relations with other collective management organisations, with a description of at least the following points:
1. amounts received from other collective management organisations and amounts paid to other collective management organisation, broken down by category of rights and collective management organisation,
 2. reimbursement of the costs of rights management and other deductions from rights revenue paid to other collective management organisation, broken down by category of rights and collective management organisation,
 3. reimbursement of the costs of rights management and other deductions from amounts paid to other collective management organisation, broken down by category of rights and collective management organisations,
 4. amounts distributed directly to rightholders coming from other collective management organisations, broken down by category of rights and collective managers.

3. Other information:

- a) the amount of the sums deducted to cover the cost of providing social, cultural and educational services in a given accounting period, broken down by purpose and, for each purpose, broken down by category of managed right,
- b) information on the use of the amounts set out in letter (a), broken down by the purpose for which they were used.

¹⁾ Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission.

Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases.

Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society.

Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art.

Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights.

Act No. 121/2000 Coll, as amended as of 1st of July 2025 (unofficial translation - Ministry of Culture)

Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property.

Directive 2006/116/EC of the European Parliament and of the Council of 12 December 2006 on the term of protection of copyright and certain related rights.

Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs.

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.

Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works.

Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market.

Directive (EU) 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 harmonisation of certain aspects of copyright and related rights in the information society.

Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes and amending Council Directive 93/83/EEC.

Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC.

²⁾ Act No. 239/1992 Coll., on the State Cultural Fund of the Czech Republic.

³⁾ Act No. 496/2012 Coll., on audiovision, as amended.

⁴⁾ Act No. 257/2001 Coll., on libraries and terms of operating public library and information services (Library Act), as amended.

Act No. 122/2000 Coll., on the protection of museum collections and on amendment to certain other Acts, as amended.

Act No. 499/2004 Coll., on archiving and filing services and on amendment to certain Acts, as amended.

Act No. 561/2004 Coll., on pre-school, primary, secondary, tertiary technical and other education (Education Act), as amended.

Act No. 111/1998 Coll., on higher education institutions and on amendment and supplements to certain Acts (Higher Education Act), as amended.

^{4d)} Labour Code.

⁵⁾ Act No. 468/1991 Coll., on radio and television broadcasting, as amended.

⁶⁾ Act No. 71/1967 Coll., on administrative procedure (the Administrative Procedure Code), as amended by Act No. 29/2000 Coll.

^{6a)} Act No. 257/2001 Coll., as amended.

^{6b)} Section 451 et seq. of Act No. 40/1964 Coll., the Civil Code, as amended.

⁷⁾ Section 2 paragraph 1 letter (b) of Government Regulation No. 303/1995 Coll., on the minimum wage, as amended.

⁸⁾ Act No. 143/2001 Coll., on the protection of competition and on amendment to certain Acts (Act on the Protection of Competition), as amended.

⁹⁾ Section 6 of Act No. 273/1993 Coll., on certain conditions of the production, dissemination and archiving of audiovisual works, on the amendment and addition of certain Acts and certain other regulations.

¹⁰⁾ Act No. 241/1992 Coll., as amended by Act No. 273/1993 Coll. Section 14 of Act No. 273/1993 Coll.

¹¹⁾ Article 5 paragraph 4 of the Berne Convention for the Protection of Literary and Artistic Works of 9 September 1886, supplemented in Paris on 4 May 1896, revised in Berlin on 13 November 1908, supplemented in Bern on 20 March 1914 and revised in Rome on 2 June 1928, in Brussels on 26 June 1948, in Stockholm on 14 July 1967 and in Paris on 24 July 1971 (Decree no.133/1980 Coll.).

¹²⁾ Act No. 269/1994 Coll., on the criminal records, as amended.

¹³⁾ Section 2382 of the Civil Code.

¹⁴⁾ Regulation (EU) No 386/1012 of the European Parliament and of the Council of 19 April 2012, on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights.

¹⁶⁾ Act No. 269/1994 Coll., on the criminal records, as amended.

¹⁷⁾ Act No. 93/2009 Coll., on auditors and on amendment to certain Acts (Act on Auditors), as amended.

¹⁸⁾ Section 1400 et seq. of the Civil Code.

¹⁹⁾ Act No. 257/2001 Coll., on libraries and terms of operating public library and information services (Library Act), as amended.

^{19a)} Section 18 of Act No. 89/1995 Coll. on the state statistical service.

^{19b)} Act No. 483/1991 Coll., on Czech Television, as amended.

Act No. 484/1991 Coll., on Czech Radio, as amended.

²⁰⁾ Section 26 et seq. of Act No. 231/2001 Coll., on the operation of radio and television broadcasting and on amendment to certain Acts, as amended.

²¹⁾ Act No. 202/2012 Coll., on mediation and on amendment to certain Acts (Mediation Act).

²²⁾ Section 21 of Act No. 563/1991 Coll., on accounting, as amended.

²³⁾ Section 12 paragraph 3 letter (c) of Act No. 231/2001 Coll., as amended by Act No. 132/2010 Coll.

²⁴⁾ Section 2 paragraph 1 letter (a) of Act No. 132/2010 Coll., on on-demand audiovisual media services and on amendment to certain Acts (Act on on-demand audiovisual media services).

²⁵⁾ Section 2 paragraph 1 letter (j) of Act No. 231/2001 Coll., as amended.

²⁶⁾ Act No. 255/2012 Coll., on inspection (Inspection Code).

²⁷⁾ Act No. 143/2001 Coll., on the protection of competition and on amendment to certain Acts (Act on the Protection of Competition), as amended.

²⁸⁾ Regulation (EU) 2017/1563 of the European Parliament and of the Council of 13 September 2017 on the cross-border exchange between the Union and third countries of accessible format copies 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

²⁹⁾ Section 2 paragraph 1 letter (l) of Act No 231/2001 Coll., on the operation of radio and television broadcasting and on amendments to other acts, as amended.

³⁰⁾ Section 2366 of the Civil Code.

³¹⁾ For example, Act No. 561/2004 Coll., on pre-school, primary, secondary, tertiary technical and other education (Education Act), as amended, Act No. 111/1998 Coll., on higher education institutions and on amendments and supplements to some other acts (Higher Education Act), as amended, Act No. 563/2004 Coll., on educational staff and on amendments to certain acts, as amended, Act No. 108/2006 Coll., on social services, as amended, Act No. 312/2002 Coll., on officials of territorial self-government units and on amendments to certain acts, as amended, Decree No. 74/2005 Coll., on extracurricular education, as amended, Decree No. 71/2005 Coll., on basic artistic

education, as amended, Decree No. 33/2005 Coll., on language schools with the right to the state language examination and state language examinations, as amended.

³²⁾ Section 38 paragraph 1 letter (c) of Act No. 561/2004 Coll., Section 93f of Act No. 111/1998 Coll.

³³⁾ Section 27 paragraph 1 of Act No. 561/2004 Coll.

³⁴⁾ Section 27 paragraph 2 of Act No. 561/2004 Coll.

³⁵⁾ For example Act No. 257/2001 Coll., on Libraries and Conditions for the Operation of Public Library and Information Services (Library Act), as amended, Act No. 122/2000 Coll., on the Protection of Museum Collections and on Amendments to Certain Other Acts, as amended, Act No. 499/2004 Coll., on Archives and Records Management and on Amendments to Certain Acts, as amended, Act No. 496/2012 Coll., on Audiovisual Works and Support for Cinematography and on Amendment to Certain Acts (the Audiovision Act), as amended.

³⁶⁾ Act No. 480/2004 Coll., on certain services provided by information companies and on amendments to certain acts (the Act on Services Provided by Information Companies), as amended.

³⁷⁾ Act No. 127/2005 Coll., on electronic communications and on amendment to certain related acts (the Electronic Communications Act), as amended.

³⁸⁾ Commission Recommendation of 6 May 2003 on the definition of micro, small and medium-sized enterprises (OJ 2003 L 124, 20. 5. 2003, p. 36).

³⁹⁾ Section 2374 paragraphs 2 and 3 and Section 2374a of the Civil Code.

⁴⁰⁾ Sections 2374 paragraphs 2 and 3, 2374a, 2378, 2379 and 2382 of the Civil Code.

Transitional Provisions implemented by the Act No. 429/2022 Coll., Art. II

1. Legal relations established before the date of entry into force of this Act and the rights and obligations arising therefrom, as well as rights arising from liability for breach of contracts concluded before the date of entry into force of this Act, shall be governed by the existing legal provisions.

2. The provisions of Section 21a of Act No. 121/2000 Coll., as in force from the date of entry into force of this Act, shall apply to contracts in force on 7 June 2021, which grant a licence to use the subject matter in the ways referred to in Section 21a paragraph 1, as from 7 June 2023 if they expire after that date.

3. The right provided for in Section 87b of Act No. 121/2000 Coll., as amended as of the effective date of this Act, shall not apply to a press publication first published before 6 June 2019.

4. The provisions of Section 97d paragraph 1 letter (c) and Section 97evparagraph 4 letter (c) of Act No. 121/2000 Coll., as in force from the date of entry into force of this Act, shall apply to contracts in force on 7 June 2021 granting a licence for the use of the subject matter by radio or television broadcasting or its retransmission, in the case where the broadcaster supplies programme signals to the retransmission operator in the manner referred to in the second sentence of Section 21 paragraph 1 of Act No. 121/2000 Coll., in the version being in force from the date of entry into force of this Act, as of 7 June 2025, provided that they do not expire after that date.

5. Mediators registered by the Ministry of Culture in the list of mediators pursuant to Section 101a of Act No. 121/2000 Coll., as in force before the date of entry into force of this Act, shall be deemed to be mediators registered in the list of mediators pursuant to Section 54 of Act No. 121/2000 Coll., as in force from the date of entry into force of this Act.