

Czech Republic

**Law No. 237 of 1995 (of September 27, 1995)
on collective administration of copyright and rights similar to copyright
and on modification and amendment of some laws**

[Extracts]

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Part I

Collective Administration of Copyright and Neighboring Rights

Art. 1. For the purposes of this Law, collective administration means the representing of persons to whom copyright or neighboring rights under the Copyright Law belong (hereinafter referred to as "right holders"), the exercise of the right to authorize the use of works, performances, recordings of sounds or images or audiovisual recordings or the programs of radio and television organizations (hereinafter referred to as "copyright materials"), the right to remuneration for such uses and the exercise of the right to equitable remuneration.

Art. 2.—(1) Collective administration shall be exercised in respect to the following:

- (a) the collective performance of works by persons or by means of technical devices;
- (b) the public performance of recordings of sounds or images or of audiovisual recordings and of sequences by means of technical devices permitting the mechanical performance of their contents;
- (c) the broadcasting of works, of recorded performances and of recordings of sounds or images or of audiovisual recordings or sequences by means of radio or television or dissemination by means of other technical devices;
- (d) the public performance of works that have already been broadcast by radio or television;

* Czech title: Zákon ze dne 27. září 1995 o hromadné spřávné autorských práv a práv autorskému právu příbuzných a o změně a doplnění některých zákonů.

Entry into force: January 1, 1996.

Source: Communication from the Czech authorities.

Note: Translation by the International Bureau of WIPO on the basis of a translation supplied by

the Czech authorities. ** Added by the International Bureau of WIPO. ¹ Not reproduced here (Editor's note).

- (e) the rental, lending or other making available to the public of copies, including copies of recordings by performers, with the exception of works of architecture, works of applied art and works supplied for the execution of contractual copyright authorizations;
- (f) the making of recordings of sounds or images or of audiovisual recordings for personal use by transferring their contents to blank recording mediums ([Article 13\(2\) and \(3\) of the Copyright Law](#));
- (g) the making of copies pursuant to [Article 15\(2\)\(a\) of the Copyright Law](#) by means of reprographic equipment effected by third parties;
- (h) the remuneration of authors on subsequent sale of originals of their works ([Article 31 of Copyright Law](#));
- (i) the public showing of works, the reproduction and subsequent public use of such works or copies thereof.

(2) Collective administration shall be carried out, as a rule, for the literary, scientific, theatrical, musical, graphic and architecture branches of creative activity (hereinafter referred to as “branches”).

Art. 3. Collective administration may be carried out exclusively by legal entities which

- (a) have their registered offices in the Czech Republic,
- (b) were established or founded in accordance with Czech law,
- (c) have obtained authorization to carry out collective administration for a specific branch of the area concerned by this Law

(hereinafter referred to as “collecting societies”).

Art. 4.—(1) Authorization to carry out collective administration shall be granted by the Ministry of Culture of the Czech Republic (hereinafter referred to as “the Ministry”) on the basis of an application from a legal entity meeting the requirements of [Article 3\(a\)](#) and [\(b\)](#) (hereinafter referred to as “the applicant”). The application shall be in writing and shall contain:

- (a) the name, address, identification number (if given) and designation of the applicant’s statutory body, the forenames, surnames and addresses of its members and the manner in which they may act for the legal entity,
- (b) definition of the branch and area in which the applicant intends to carry out collective administration,
- (c) a declaration of the number of persons who have authorized the applicant by contract to represent them in the exercise of their rights under the Copyright Law or of the number of persons with whom it has concluded a contract under which it will carry out collective administration should it obtain authorization under [Article 5](#) of this Law.

- (2) The applicant should attach the following documents to the application under [paragraph \(1\)](#):
- (a) a document attesting to the fact the applicant has been established as a legal entity,
 - (b) the accounting rules, including the manner in which the remuneration and compensation is distributed to the right holders it represents, approved by the supreme organ of the applicant constituted by the members or partners of the applicant (hereinafter referred to as “the supreme organ”),
 - (c) a model of contracts for the representation of right holders under the collective administration.
- (3) The applicant alone may act in accordance with [paragraph \(1\)](#).

Art. 5.—(1) The Ministry shall give authorization for collective administration only to an applicant able to guarantee proper execution of such administration.

(2) In the areas referred to in [Article 2\(f\)](#) and [\(g\)](#), collective administration authorization shall not be granted to more than one applicant in each branch.

Art. 6.—(1) The Ministry shall keep records of the collecting societies, including the name and address of the society, its identification number (if given), its legal form, the designation of the statutory body and identification of the branches and areas in which it carries out collective administration. Any person so wishing may inspect the records.

(2) The particulars referred to in [paragraph \(1\)](#) shall be published by the Ministry in the Central Gazette.

Art. 7.—(1) In its relevant branch and area, each collecting society shall be required to:

- (a) represent all right holders who so request if they show that copyright material has been used and if not represented by another collecting society in the branch and area concerned, by concluding a representation contract for collective administration,
- (b) negotiate the amounts of remuneration and compensation for the use of copyright material, collect such remuneration and compensation, determine the manner of distribution to right holders and distribute and pay such remuneration and compensation to the right holders,
- (c) carry out collective administration in its branch and area for both Czech and foreign persons, in accordance with the international conventions and treaties to which the Czech Republic is party,
- (d) convene its supreme organ once a year at least and submit to it for approval a financial statement certified by an auditor,
- (e) provide a financial statement for the right holders it represents,
- (f) notify the Ministry of any changes in the particulars under [Article 4\(1\)\(a\)](#) within 30 days,
- (g) notify the Ministry of the termination of collective administration under this Law within 30 days

of the decision taken to terminate the carrying out of collective administration,

(h) keep records of the right holders it represents and records of their works or other copyright materials and supply such data to those societies with which it has concluded mutual representation contracts,

(i) conclude contracts with the users of copyright materials or with their representatives as to the manner in which and under what conditions the copyrighted materials may be used,

(j) keep records of the remuneration and compensation collected on behalf of the right holders it represents.

(2) The collecting society shall be entitled to verify whether the users of copyright materials satisfy correctly and in due time the obligations placed on them by the provisions of the Copyright Law or of the contract concluded with them. The costs of such verifications shall be borne by the collecting society. Users shall be required to facilitate such activity.

(3) The collecting society shall be required to pay to the right holders it does not represent only that remuneration and compensation which it has collected for them during the three years that have preceded the time at which the right holder has made a demand and has proved that matter protected by copyright has been used during that period.

Art. 8.—(1) The collecting society may deduct only those costs occasioned by the execution of collective administration from the remuneration and compensation it has collected. The amount shall be agreed by the collecting society and the right holders it represents.

(2) The sums to be deducted by the collecting society from the remuneration and compensation collected in accordance with [paragraph \(1\)](#) shall be determined on the basis of specific legislation.

(3) The collecting society shall be required to set up a special reserve fund to meet the justified rights and claims of the right holders.

Art. 9.—(1) Fulfillment of the obligations imposed by this Law shall be supervised by the Ministry. To that end, it shall be authorized to verify that the obligations imposed on collecting societies by this Law have been fulfilled. It shall be authorized to examine the relevant documents and to require information on the fulfillment of the obligations. Collecting societies shall be required to facilitate such verification and to provide the necessary assistance.

(2) If the Ministry establishes that a collecting society has failed to fulfill the obligations referred to in [Article 7\(1\)](#) and [\(3\)](#) and [Article 8\(3\)](#), it shall order the situation to be remedied within a set time limit. If the situation is not remedied within the prescribed time limit or if it is impossible to remedy it or if failure to fulfill the obligation is repeated, the Ministry may withdraw authorization to carry out collective administration from the collecting society.

(3) The party to action under [paragraph \(2\)](#) shall be the collecting society from which authorization is withdrawn.

(4) Withdrawal of authorization to carry out collective administration shall be published by the

Ministry in the Central Gazette.

Art. 10.—(1) The organizations that were granted exclusive authorization to represent authors and performers under special regulations prior to the entry into force of this Law shall be deemed collecting societies within the meaning of this Law for a period of six months after entry into force of this Law.

(2) Legal entities that represented right holders prior to the entry into force of this Law shall be deemed collecting societies within the meaning of this Law for a period of six months after the entry to force of this Law when exercising the right to authorize use and when collecting and distributing remuneration and compensation for the use of works, performances, recordings of sounds, or images or audiovisual recordings and when asserting rights to equitable remuneration.

Art. 11. Where not otherwise stipulated by this Law, the general rules of administrative procedure shall apply to procedures under this Law.

Parts II to VI

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² See footnote 1 (Editor's note).

Part VII Entry into Force

Art. 17. This Law shall enter into force on January 1, 1996.