

**WORLD TRADE ORGANIZATION**

**ORGANISATION MONDIALE DU COMMERCE**

**ORGANIZACIÓN MUNDIAL DEL COMERCIO**

**IP/N/1/CZE/C/2**

20 March 1996

(96-1016)

**Council for Trade-Related Aspects  
of Intellectual Property Rights**

Original: English/anglais/inglés

**MAIN DEDICATED INTELLECTUAL PROPERTY LAWS AND REGULATIONS  
NOTIFIED UNDER ARTICLE 63.2 OF THE AGREEMENT**

**Czech Republic**

The present document reproduces<sup>1</sup> the text of the Act on Collective Administration of Copyright and Rights Similar to Copyright and on Modification and Amendment of Some Laws, as notified by the Czech Republic under Article 63.2 of the Agreement (see document IP/N/1/CZE/1).

**Conseil des aspects des droits de propriété  
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET REGLEMENTATIONS CONSACREES A LA  
PROPRIETE INTELLECTUELLE NOTIFIEES AU TITRE  
DE L'ARTICLE 63:2 DE L'ACCORD**

**République tchèque**

Le présent document contient le texte<sup>1</sup> de la Loi sur l'administration collective du droit d'auteur et des droits analogues et sur la modification et l'amendement de certaines lois, notifiée par la République tchèque au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/CZE/1).

**Consejo de los Aspectos de los Derechos de Propiedad  
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA  
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD  
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

**República Checa**

El presente documento reproduce el texto<sup>1</sup> de la Ley de Administración Colectiva de los derechos de autor y derechos similares a los derechos de autor y de modificación y enmienda de algunas leyes según lo notificado por la República Checa de conformidad con el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/CZE/1).

---

<sup>1</sup>In English only./Anglais seulement./En inglés solamente.

Act ~~No. 237~~  
of 1995  
on collective administration  
of copyright and rights similar to copyright  
and on modification and amendment of some laws

The Parliament passed the following Act of the Czech Republic:

P A R T I

Collective administration of copyright and rights similar to copyright

Section 1

Collective administration pursuant to this Act is representation of persons, whom belong copyright or right similar to copyrights following from the Copyright Act<sup>1</sup> (hereinafter referred to only as "copyright holder"), at enforcement of right to granting of permissions for use of works, performances of performing artists, sound, image or audiovisual recordings or own programmes of radio and television organizations (hereinafter referred to only as "subjects of protection pursuant to the Copyright Act"), right to remuneration for such use and at enforcement of right to fair settlement<sup>2</sup>.

Section 2

(1) Collective administration shall be executed in the following spheres:

- a) collective performance of works by individuals or through technical equipment,
- b) public performance of sound, image or audiovisual recordings and shots through technical equipment serving for mechanical interpretation or presentation of their contents,
- c) broadcasting of works, recorded performances of performing artists and sound, image or audiovisual recordings or shots by radio, television or their propagation by other technical means,

---

<sup>1</sup>Act No. 35/1965 Coll., on literary, scientific and artistic works (Copyright Act), in wording of the Act No. 89/1990 Coll., Act. No. 468/1991 Coll., and the Act No. 318/1993 Coll.

<sup>2</sup>Section 31 of the Copyright Act.

- d) public performance or presentation of works already broadcasted by radio or television,
- e) lease, lending or other making public available of reproductions, or possibly reproductions of recordings of their performance by performing artists, except for architectonic works, works of applied arts and works provided for the purpose of realization of contractual authorizations following from copyright,
- f) making of sound, image or audiovisual recordings for own personal use with transferring of their contents to blank supports of such recordings (Section 13 par. 2 and 3 of the Copyright Act),
- g) making of reproductions pursuant to Section 15 par. 2 lit. a) of the Copyright Act with reprographic (photocopying) equipment through third parties,
- h) financial settlement of authors upon further sale of originals of their works (Section 31 of the Copyright Act),
- i) public exhibitions of works, making of their reproductions and further public use of such works or their reproductions.

(2) Collective administration is carried out as a rule for literary, scientific, theatrical, musical, graphic and architectural branch of creative activity (hereinafter referred to only as "branch").

### Section 3

Collective administration may be executed by legal entities only, which

- a) have their registered office in the territory of the Czech Republic,
- b) were established or founded pursuant to Czech laws<sup>3</sup>,
- c) gained authorization for execution of collective administration for the defined branch in the respective sphere pursuant to this Act (hereinafter referred to only as "protection organizations").

### Section 4

(1) The granting of authorization to execution of collective administration shall be decided by the Ministry of Culture of the Czech Republic (hereinafter referred to only as "Ministry") on the basis of an application of a legal entity meeting the conditions pursuant to Article 3 lit. a) and b) (hereinafter only the "applicant". The written

---

<sup>3</sup>For example

Section 105 et seq., Section 154 et seq., Section 221 et seq. of the Commercial Code,  
Section 2 of the Act No. 83/1990 Coll., on associating of citizens, in wording of the Act No. 300/1990 Coll., Act No. 513/1991 Coll., and the Act No. 68/1993 Coll.

application must comprise:

- a) name, address, identification number (if assigned), and designation of the applicant's statutory body, first names, surnames, addresses of its members and the way of their acting for legal entity,
- b) definition of the branch and sphere, in which the applicant intends to execute collective administration,
- c) declaration of the number of persons, which authorized the applicant contractually to their representation in enforcement of their rights pursuant to the Copyright Act, or declaration of the number of persons, with whom it has concluded a contract, pursuant to which it will execute collective administration in case it is granted authorization pursuant to Section 5 of this Act.

(2) The applicant shall attach the following documents to the application pursuant to par. 1:

- a) document certifying the applicant was established as a legal entity,
- b) the accounting rules, containing the way of division of collected remunerations and compensations to the represented copyright holders, approved by the applicant's supreme body constituted by the applicant's members or partners (hereinafter referred to only as the "supreme body"),
- c) model draft of contracts on representation of copyright holders during execution of collective administration.

(3) The party to the action pursuant to paragraph 1 shall be only the applicant.

## Section 5

(1) The Ministry may authorize to execution of collective administration only an applicant able to ensure proper execution of such administration,

(2) In the spheres pursuant to Section 2 lit. f) and g) the authorization to execution of collective administration may be granted only to one applicant in the same branch.

## Section 6

(1) The Ministry shall keep records of protection organizations containing the name and address of protection organization, identification number (if assigned), legal form, designation of the statutory body and definition of branches and spheres, in which it executes collective administration. Any person requiring it may examine such records.

(2) The data mentioned under par. 1 shall be published by the Ministry in the Central Gazette.

## Section 7

(1) In the respective branch and sphere the protection organization shall be obliged to:

- a) represent all copyright holders, who will require it, if they prove the subjects of protection pursuant to the Copyright Act have been used, should they not be represented by another protection organization in the given branch and sphere, if they conclude a contract with it on representation at execution of collective administration,
- b) negotiate the sum of remunerations and compensations for the use of subjects of protection pursuant to the Copyright Act, collect such remunerations and compensations, set down the way of their division to copyright holders and divide and pay out such remunerations and compensations to copyright holders,
- c) execute collective administration in the given branch and sphere for Czech and foreign persons equally, in compliance with international conventions and treaties, which the Czech Republic is bound with,
- d) convene its supreme body once a year at least and submit its financial statements approved by an auditor for its approval,
- e) make financial statements available for represented copyright holders,
- f) notify the Ministry of changes in data pursuant to Section 4 par. 1 lit. a) within thirty days,
- g) notify the Ministry of termination of execution of collective administration pursuant to this Act within thirty days after adoption of the resolution on termination of execution of collective administration,
- h) keep records of copyright holders represented by it as well as records of their works, or other subjects of protection pursuant to the Copyright Act, and provide with such data organizations abroad, with which it has concluded contracts on mutual representation,
- i) conclude contracts with users of subjects of protection pursuant to the Copyright Act, or with their representatives, on the way and terms and conditions, under which it will be possible to use such subjects of protection pursuant to the Copyright Act,
- j) keep records<sup>4</sup> of remunerations and compensations collected for copyright holders represented by it.

---

<sup>4</sup>The Act No. 563/1991 Coll., on accounting, in wording of the Act No. 117/1994 Coll.

(2) The protection organization is entitled to establish, if users of subjects of protection pursuant to the Copyright Act meet properly and in time obligations imposed on them by the regulations of the Copyright Act or the contract it concluded with them. Costs connected with this establishment shall be covered by the protection organization. The users are obliged to make this activity possible.

(3) The protection organization is obliged to pay only such remunerations and compensations to non-represented copyright holders, which it collected for them for three years retroactively from the moment, when the copyright holder required it and proved that the subjects of protection pursuant to the Copyright Act had been used in this period.

## Section 8

(1) The protection organization shall deduct only the sum of costs connected with execution of collective administration from the collected remunerations and compensations. This amount shall be agreed by the protection organization and the copyright holders represented.

(2) The sums to be deducted by the protection organization from the collected remunerations and compensations pursuant to par. 1 shall be prices pursuant to a special act<sup>5</sup>.

(3) The protection organization is obliged to create a special reserve fund for solution of copyright holders' justified rights or claims.

## Section 9

(1) The fulfilment of obligations imposed by this Act shall be supervised by the Ministry; for this purpose it is authorized to control fulfilment of obligations imposed on protection organizations by this Act. It is authorized to examine the respective documents and require information on fulfilment of such obligations. Protection organizations are obliged to make this control possible and to give the necessary assistance.

(2) Should the Ministry establish that a protective organization breached obligations mentioned under Section 7 par. 1 and 3 and under Section 8 par. 3, it shall order it to remedy the breach within the set term. Should the breach not be remedied within the set term or should it be impossible to remedy it or should this

---

<sup>5</sup>The Act No. 526/1990 Coll., on prices, in wording of the Act No. 135/1994 Coll.

be a repeated breach of an obligation, the Ministry may withdraw the protective organization the authorization to execution of collective administration.

(3) The party to the action pursuant to par. 2 shall be the protection organization, to which the authorization shall be withdrawn.

(4) The withdrawal of authorization to execution of collective administration shall be published by the Ministry in the Central Gazette.

## Section 10

(1) The organizations, which were granted an exclusive authorization to representation of authors or performing artists pursuant to a special regulation<sup>6</sup> before force of this Act, shall be considered as protection organizations pursuant to this Act for the period of six months from the force of this Act.

(2) Legal entities representing copyright holders before force of this Act, when enforcing rights to granting of permission to use and collection and division of remunerations and compensations for the use of works, performances of performing artists, sound, image or audiovisual recordings and enforcing the right to fair settlement<sup>2)</sup> shall be considered as protection organizations pursuant to this Act for the period of six months from force of this Act.

## Section 11

Should not be set down otherwise in this Act, general regulations on administrative procedure<sup>7</sup> shall apply to procedures pursuant to this Act.

# P A R T II

Modification and amendment of the Act No. 35/1965 Coll., on literary  
works, scientific and artistic works (the Copyright Act),  
in wording of later regulations

---

<sup>6</sup>The Decree of the Ministry of Culture of the Czech Republic No. 241/1991 Coll., on exclusive authorization of some organizations representing authors or performing artists.

<sup>7</sup>The Act No. 71/1967 Coll., on administrative procedure (administrative regulations).

## Section 12

The Act No. 35/1965 Coll., on literary, scientific and artistic works (the Copyright Act), in wording of the Act No. 89/1990 Coll., the Act No. 468/1991 Coll., and the Act No. 318/1993 Coll. shall be modified and amended as follows:

1. Section 13 par. 2 shall read:

"(2) The authors own works which, according to their character, can be reproduced for own personal use (Section 15, par. 2 lit. a)) on the basis of  
a) radio or television broadcasting, or  
b) sound, image or audiovisual recording made and published by its producer (Section 45)  
transferred with the help of technical means to blank recording support, are entitled to remuneration from producers of supports, or from their importers. The right to remuneration cannot be claimed in case of blank recording supports for export or operational use of individuals or legal entities."

2. Under Section 13 the new par. 3 shall be inserted, which shall read as follows including footnote No. 1:

(3) Authors of works, which can be reproduced for personal use due to their nature (Section 15 par. 2 lit. a)) on the basis of printed materials<sup>1</sup> or their reproductions by transfer with help of technical equipment on other material support, have the right to remuneration from producers of such equipment, of their importers, as the case may be.

3. Under Section 13 the hitherto par. 3 shall be numbered as par. 4, which shall read:

"(4) The rates of remunerations and compensations pursuant to par. 2 and 3, the way of their payment as well as their division among individual groups of entitled persons may be set down by the Ministry of the Culture of the Czech Republic (hereinafter referred to as the "Ministry of Culture" only) with a decree."

4. Under Section 39 par. 1 the text "Section 13 par. 2 and 3" shall be replaced by the text "Section 13 par. 2 to 4" and the text "Section 16 par. 2 and 3" shall be replaced by the text "Section 16".

5. Section 44 shall be left out.

---

<sup>1</sup> Section 1 of the Act of the Czech National Council No. 106/1991 Coll., on non-periodical publications, in wording of the Act of the Czech National Council No. 281/1991 Coll."



## P A R T   I I I

The modification and amendment of the Act No. 468/1991 Coll., on radio and television broadcasting, in wording of later regulations

### Section 13

The Act No. 468/1991 Coll., on radio and television broadcasting, in wording of the Act No. 597/1992 Coll., the Act of the Czech National Council No. 36/1993 Coll., the Act No. 253/1994 Coll., and the Act No. 40/1995 Coll. shall be modified and amended as follows:

1. Under Section 5 lit. f) the words "who were granted the exclusive authorization to represent authors or performing artists in enforcement of rights.<sup>2)</sup>" shall be replaced by the words "who were granted authorization to execution of collective administration of copyright and rights similar to copyright<sup>2)</sup>".

2. Under Section 5 lit. f) the footnote No. 2 shall read:

"2) Section 2 of the Act No. ..../199. Coll., on collective administration of copyright and rights similar to copyright, conditions of execution of collective administration and amendment of some acts."

3. Under Section 15 par. 1 after lit. d) the new lit. e) shall be inserted, which shall read:

"e) the licensee did not meet its obligation pursuant to Section 5 lit. f)."

## P A R T   I V

The modification and amendment of the Act No. 455/1991 Coll., on commercial activity (the Trade Act), in wording of later regulations

### Section 14

The Act No. 455/1991 Coll., on commercial activity (the Trade Act), in wording of the Act No. 231/1992 Coll., the Act No. 591/1992 Coll., the Act No. 600/1992 Coll., the

Act No. 273/1993 Coll., Act No. 303/1993 Coll., the Act No. 38/1994 Coll., the Act No. 42/1994 Coll., the Act No. 136/1994 Coll., and the Act No. 200/1994 shall be amended as follows:

1. Under Section 3 par. 1 after lit. a) new lit. b) shall be inserted, which including footnote No. 1a) shall read:

"b) execution of collective administration of copyright and rights similar to copyright pursuant to special regulation<sup>1a)</sup>,

---

1a) The Act No. .../199. Coll., on collective administration of copyright and rights similar to copyright, conditions of execution of collective administration and modification and amendment of some regulations."

2. Under Section 3 par. 1 lit. b) and c) shall be marked as lit. c) and d).

## P A R T V

Amendment of the Act of the Czech National Council No. 200/1990 Coll.,  
on offences, in wording of later regulations

### Section 15

The Act of the Czech National Council No. 200/1990 Coll., on offences, in wording of the Act of the Czech National Council No. 337/1992 Coll., the Act of the Czech National Council No. 344/1992 Coll., the Act of the Czech National Council No. 359/1992, the Act No. 67/1993 Coll., the Act No. 290/1993 Coll., and the Act No. 134/1994 Coll., shall be amended as follows:

Under Section 32 par. 1 lit. a) shall be left out and lit. b), c) and d) shall be marked as lit. a), b) and c).

## P A R T V I

Abrogation provisions

## Section 16

The following regulations shall be abrogated:

1. the Act No. 81/1957 Coll., on musical and other concert activity, in wording of the Act of the Czech National Council No. 127/1990 Coll., and the Act of the Czech National Council No. 165/1992 Coll.,
2. the Act No. 82/1957 Coll., on variety shows, performances of circus artistry and folk entertainment, in wording of the Act of the Czech National Council No. 127/1990 Coll., and the Act of the Czech National Council No. 165/1992 Coll.,
3. the Act of the Czech National Council No. 33/1978 Coll., on theatrical activity (the Theatre Act), in wording of the Act of the Czech National Council No. 122/1989 Coll., the Act of the Czech National Council No. 127/1990 Coll., the Act of the Czech National Council No. 425/1990 Coll. and the Act of the Czech National Council No. 165/1992 Coll.,
4. the Decree of the Ministry of Culture of the Czech Socialist Republic No. 196/1954 No. 1, on rates of fees for public non-theatrical performances of musical works, in wording of the Decree of the Ministry of Culture and Information No. 183/1968 Coll.,
5. the Decree of the Ministry of Culture of the Czech Republic No. 116/1991 Coll., with which the rates of remunerations of performing artists and compensations for producers of sound and audiovisual recordings on public performances with help of technical equipment are regulated,
6. the Decree of the Ministry of Culture of the Czech Republic No. 117/1991 Coll., on organizing of public performances,
7. the Decree of the Ministry of Culture of the Czech Republic No. 241/1991 Coll., on exclusive authorization of some organizations representing authors or performing artists.

## P A R T   V I I

### Force

## Section 17

This Act shall become effective as of July 1, 1995.