

**Law No. 121/2000 Coll. of 7 April 2000  
on Copyright, Rights Related to  
Copyright and on the Amendment of Certain Laws  
(Copyright Act)**

The Parliament has adopted the following law of the Czech Republic:

**PART ONE**

**COPYRIGHT AND RELATED RIGHTS**

**Article 1  
Subject matter**

This Act stipulates

- a) rights of the author to his work,
- b) rights related to copyright
  - 1. the rights of the performer to his artistic performance,
  - 2. the right of the producer of a phonogram to his phonogram,
  - 3. the right of the producer of an audiovisual fixation to his fixation,
  - 4. the right of the radio or television broadcaster to his original broadcast,
  - 5. the right of the person who, after the expiry of copyright protection, for the first time publishes a previously unpublished work,
  - 6. the right of the publisher to a remuneration in connection with the making for personal use of a copy of the work published by him,
- c) right sui generis of the maker of a database to such database,
- d) protection of rights in accordance with this Act,
- e) collective administration of copyright and of rights related to copyright.

**Title I  
Copyright**

**Section 1  
Subject of copyright**

**Article 2  
The Work**

(1) The subject of copyright shall be a literary work or other work of art or a scientific work which are the unique outcome of the creative activity of the author and are expressed in any objectively perceivable manner including electronic form, permanent or temporary, irrespective of their scope, purpose or significance (henceforth referred to as "work"). A work

shall be namely a literary work expressed by speech or in writing, a musical work, a dramatic work or dramatico-musical work, a choreographic work and pantomimic work, a photographic work and a work produced by a process similar to photography, an audiovisual work like a cinematographic work, a work of fine arts like a painting, graphic or sculptural work, an architectonic work including a town-planning work, a work of applied art, and a cartographic work.

(2) A computer program shall also be considered a work if it is original in the sense of being the author's own intellectual creation; a database shall be considered a work if due to the manner of its selection or arrangement of its content it is the author's own intellectual creation; a photograph which is original in the sense of the first clause shall be protected as a photographic work.

(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 if the items are subjects of 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 the subject of copyright. This shall not prejudice the rights of the author of the adapted or translated work.

(5) A collection like a journal, encyclopaedia, anthology, broadcast programme, exhibition, or other database (Art. 88), which is a collection of independent works or other elements that by reason of their selection and of the arrangement of the content constitute a unique outcome of the creative activity of the author, is a work of collection.

(6) For the purpose of this Act a work shall not mean, namely, the subject of the work as such, the news of the day and any other fact as such, an idea, procedure, principle, method, discovery, scientific theory, mathematical and similar formula, statistical diagram and similar item as such.

### **Article 3**

#### **Exceptions from copyright protection in the public interest**

Protection pursuant to this Act shall not apply to

- a) an official work, such as a legal regulation, decision, public charter, publicly accessible register and the collection of its records, and also an 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 chronicle), a state symbol and symbol of a regional self-governing unit, and other such works where there is public interest in their exclusion from copyright protection,
- b) creations of traditional folk culture, if the real name of the author is not commonly known and if they are not anonymous or pseudonymous works (Art. 7); such works may be used only in a manner which does not depreciate their value,

- c) a political speech and address presented during official proceedings; the author's right to use such works in a collection remains unaffected.

#### **Article 4**

### **The making public and publication of a work**

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

(2) A work is published by the start of authorised public distribution of its reproductions.

#### **Section 2**

### **Authorship**

#### **Article 5**

### **The author**

(1) The author is the natural person who has created the work.

(2) The author of a collection in its entirety is the natural person who has selected the components or arranged them in a creative manner; this shall not prejudice the rights of the authors of the works included into the collection.

#### **Article 6**

### **Legal presumption of authorship**

The author shall be the natural person whose real name is indicated in the habitual manner on the work or is indicated next to the work in the register maintained by the relevant collective administrator, unless proven otherwise; this shall not apply in cases where the data is in conflict with another data indicated in this manner. This provision shall also apply if such name is a pseudonym, if the pseudonym adopted by the author evokes no doubt as to the author's identity.

#### **Article 7**

### **Anonym and pseudonym**

(1) The identity of the author whose work has in accordance with the expression of his will been made public without the indication of his name (anonymous work) or under a code name or under an artistic signature (pseudonymous work), as the case may be, may not be revealed without the consent of the author.

(2) Until such time when the author of an anonymous or pseudonymous work publicly reveals his identity, the author shall be represented in the exercise and protection of copyright to his 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 his real name is commonly known.

#### **Article 8**

## **Joint authors**

(1) The copyright to a work which has been produced until the time of the completion of the work as a single work by the creative activity of two or more authors (work by joint authors) shall belong to all the joint authors jointly and inseparably. The establishment 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 establishment 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 has merely given the impulse to the generation of the work.

(3) All the joint authors shall be jointly and inseparably authorised to perform, and liable for legal acts pertaining to their joint work.

(4) Joint authors shall decide unanimously about the disposal of their joint work. Should an individual author obstruct, without serious reason, the disposal of the work of joint authors, the remaining joint authors may seek compensation for the absent manifestation of his will in court. Protection of copyright to the work of joint authors against threat or infringement may be sought also by an individual joint author independently.

(5) Unless agreed otherwise by the joint authors, the share of the individual joint authors in the joint proceeds from the disposal of copyright to 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.

## **Section 3 Inception and content of copyright**

### **Subsection 1 General provisions**

#### **Article 9 Inception of copyright**

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

(2) The destruction of the object through which the work is expressed shall not imply the extinction of the copyright for the work.

(3) The acquisition of the ownership right or of another 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 agreed otherwise or unless stipulated otherwise by this Act. 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 agreed or stipulated otherwise by special legislation.

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

(5) The owner or other user of a construction which is the expression of an architectonic work shall be authorised to perform, without the consent of the author, reasonable alterations of such work, within the necessary scope, and preserving at the same time the value of the work; where such alterations are necessary for the implementation of the technical or operational designation of the construction which cannot be attained otherwise, the person who intends to make such alterations shall be obliged, if this may be fairly requested of him, to inform the author in advance of his intention and to make available to the author the documentation of the construction, including pictures reflecting the state before the start of the reconstruction.

## **Article 10**

### **Content of copyright**

Copyright shall include exclusive moral rights (Art. 11) and exclusive economic rights (Art.12 and following).

## **Subsection 2**

### **Moral rights**

## **Article 11**

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

(2) The author shall have the right to claim authorship, including the right to decide whether and in what manner his authorship should be indicated during the making public of his work.

(3) The author shall have the right to the inviolability of his work, especially the right to grant consent to any alteration of, or other intervention into his work, unless stipulated otherwise by this Act. Where the work is utilized by another person, the utilization may not be executed in a manner that depreciates the value of the work. The author shall have the right of supervision over compliance with this obligation by the other person (author's supervision), unless ensuing otherwise from the nature of the work or of its utilisation, or unless it is not possible to fairly require of the user to allow the author the exercise of the right to author's supervision.

(4) The author may not waive his personal rights; these rights are non-transferable and become extinct on death of the author. The provision of paragraph (5) shall not be affected.

(5) After the death of the author no other person may claim authorship of the work; the work may be used only in a manner which does not depreciate its value and, unless the work is an anonymous work, the name of the author, if known, must be indicated. Protection may be claimed by any of the author's kin <sup>1)</sup>; they shall maintain this authorisation even after the passage of the term of economic rights to copyright. Such protection may at any time be claimed also by the legal entity associating authors or by the relevant collective administrator of rights in accordance with this Act (Art. 97).

### **Subsection 3 Economic rights**

#### **Article 12 The right to use the work**

(1) The author shall have the right to use his work and to grant by contract authorisation to another person to exercise this right; the other person may use the work without such consent only in the cases stipulated by this Act.

(2) The right of the author does not expire by the extension of the authorisation pursuant to paragraph (1); the obligation merely arises for the author to tolerate the intervention into the right to use the work by another person within the scope stipulated by a contract.

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

(4) The right to use a work shall mean

- a) right of reproduction of the work (Art. 13),
- b) right of distribution of the original or a copy of the work (Art. 14),
- c) right of rental of the original or a copy of the work (Art. 15),
- d) right of lending of the original or a copy of the work (Art. 16),
- e) right of exhibition of the original or a copy of the work (Art. 17),
- f) right of communication of the work to the public (Art. 18), namely

- 1. the right of performing live or from a fixation, and the right of transmitting the performance of the work (Art. 19 and 20),
- 2. the right of broadcasting the work (Art. 21),
- 3. the right of rebroadcasting and retransmitting of the broadcast of the work (Art. 22),
- 4. the right of performing of the broadcast of the work (Art. 23).

(5) The means of use of the work pursuant to paragraph (4) are defined, for the purposes of this Act, by the provisions of Articles 13 to 23.

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1) Article 116 of the Civil Code

#### **Article 13 Reproduction**

(1) The reproduction of the work shall mean the making of permanent or temporary, direct or indirect reproductions of the work, and that by any means and in any form, for the purpose of making the work available by means of such reproductions.

(2) The work is reproduced especially in the form of a printed, photographic, audio, visual or audiovisual reproduction, of an erection of an architectonic work or in the form of another three-dimensional reproduction, or in an electronic form including its analogue and digital expression.

#### **Article 14 Distribution**

(1) The right to distribute the original or copies of the work shall mean making the work available in a tangible form by sale or other transfer of property right to the original or to the copies of the work, including their offer for such purpose.

(2) The first sale or other transfer of property right to the original or a copy of the work, by which the work is distributed lawfully on the territory of the Czech Republic, shall exhaust the author's right to distribute such original or a copy of the work on the territory of the Czech Republic; the right of rental and the right of lending of the work shall remain unaffected.

#### **Article 15 Rental**

The rental of the original or a copy of the work shall mean making the work available for the purpose of direct or indirect economic or commercial advantage by providing the original or a copy of the work for a limited period of time for personal use.

#### **Article 16 Lending**

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

#### **Article 17 Exhibition**

The exhibition of the original or reproduction of the work shall mean making the work available in a tangible form by the facilitation of the possibility to view or perceive in any other manner the original or reproduction of, especially, a work of fine arts, of a photographic work, of an architectonic work including a town-planning work, of a work of applied art, or of a cartographic work. Exhibition shall not mean making the work available in accordance with Art. 18 paragraph (2).

### **Communication to the public**

#### **Article 18 Definition**

(1) The communication of the 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 mean also making the work available in such a way that members of the public may access to the work from a place and at a time individually chosen by them, especially by using a computer or similar network.

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

## **Article 19**

### **Live performance of the work and its transmission**

(1) The live performance of the work shall mean making available the work performed live by a performer, especially of live recited literary work, live performed musical work with or without words or of a dramatic or dramatico-musical, choreographic or pantomimic work performed live on stage.

(2) The transmission of the live performance of a work shall mean making simultaneously available the live performance of the work by the 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 Articles 21 to 23.

## **Article 20**

### **Performance of the work from a recording and its transmission**

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

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

## **Article 21**

### **Broadcasting**

(1) Broadcasting the work shall mean making the work available by means of radio or television and other making of the work available by any other means designated for the communication by wire or over the air of sounds, or of sounds and images, or their expression by wire or wireless means including communication by cable or broadcasting by satellite, by the original broadcaster.

(2) Broadcasting by satellite pursuant to paragraph (1) shall mean the introduction, under the control and responsibility of the broadcasting organization, of sounds, or of sounds and images, or of their expressions intended for reception by the public into an uninterrupted chain of communication leading to the satellite and down towards the earth.



(3) Where the signals carrying signs, sounds or images are encrypted, 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 devices.

(4) Simultaneous, unabridged and unaltered cable retransmission of the broadcast executed by the same broadcaster shall also be regarded as broadcasting of the work in accordance with paragraph (1).

(5) Broadcasting the work by satellite occurs on the territory of the Czech Republic if the signals carrying sounds, or sounds and images, or their expression intended for reception by the public are introduced under the control and responsibility of the broadcaster into an uninterrupted chain of communication leading to the satellite and down towards the earth.

(6) Broadcasting the work by satellite shall be deemed to have occurred in the Czech Republic if the signals carrying sounds, or sounds and images, or their expression intended for reception by the public are introduced under the control and responsibility of the broadcaster into an uninterrupted chain of communication leading to the satellite and down towards the earth on the territory of a state which does not provide a level of copyright protection comparable or higher than that provided by this Act, where the transmission is executed by an uplink station situated in the Czech Republic. In such case, rights provided for under this Act shall be exercisable against the person operating the uplink station.

(7) Broadcasting the work by satellite shall be deemed to have occurred in the Czech Republic also in the case when the signals carrying sounds, or sounds and images, or their expression intended for reception by the public are introduced into an uninterrupted chain of communication leading to the satellite and down towards the earth on the territory of a state which does not provide a level of copyright protection comparable or higher than that provided by this Act, when commissioned by a broadcaster whose governing bodies have their principal establishment in the Czech Republic, when such comparable protection is not already provided on the territory of the state where the uplink station from which the transmission is being executed, is located. Rights ensuing from this Act shall be exercisable in such case against the broadcaster.

## **Article 22**

### **Rebroadcasting and retransmitting of the broadcast**

(1) The rebroadcasting and retransmitting of the broadcast of the work shall mean making the work available by the simultaneous, unabridged and unaltered transmission of the broadcast of the work by radio or television, over the earth or by wire, if this is executed by a different entity than the original broadcaster of such broadcast.

(2) Cable retransmission of the broadcast of the work shall mean the radio or television broadcasting of the work in accordance with paragraph (1) if it is executed by cable or microwave system, executed by a different entity than the original broadcaster of such broadcast. The provision of Article 21 paragraph (3) shall apply analogously.

## **Article 23**

### **Performing of the broadcast**

The performing of the radio or television broadcast of the work shall mean making such broadcast work available by means of a device technically capable of receiving the broadcasting.

#### **Subsection 4 Other economic rights**

#### **Article 24 Right to remuneration on the resale of the original of a work of art**

(1) Where the original of a work of art which has been transferred by its author into the ownership of another person is subsequently sold, the author shall be entitled to the remuneration stipulated by the rate schedule attached in the annex to this Act, if the sale is being executed by a gallery operator, auctioneer or other person in the course of their business activities (henceforth “the seller”), irrespective of whether such persons are acting on their own behalf or on the behalf of the owner.

(2) The person liable to pay the remuneration pursuant to paragraph (1) shall be the seller.

(3) For the purposes of the application of the right stipulated by paragraph (1), the original of a work of art shall mean, namely, an original picture, drawing, painting, collage, tapestry, engraving, lithography or other graphics, sculpture, ceramics, jewellery work, photograph or author’s reproduction commonly deemed to be an original. The right to a remuneration shall not apply to architectonic works, works of applied art and to the manuscripts of writers and composers.

(4) The seller who is obliged to provide the remuneration to the author pursuant to paragraph (1) shall notify, by the end of January of the calendar year following the year in which the sale took place, the relevant collective administrator of rights of the sale. The liability to notify shall imply itemization of the originals being sold and details on the actual selling price; it shall also include the duty to allow the relevant collective administrator of rights the necessary degree of access to the seller’s ledger and other documents.

#### **Article 25 Right to remuneration in connection with the reproduction of the work for personal use**

(1) In the case of works made public which can be reproduced for personal use on the basis of

- a) an audio or audiovisual fixation,
- b) a broadcast, or
- c) a print or other graphic expression

by their transfer by means of a technical device to empty record carriers, or by means of a technical device for making printed reproductions on paper or other similar base, the author shall be entitled to a remuneration in connection with the reproduction of the work for personal use.

(2) The person liable for the payment of the remuneration pursuant to paragraph (1) shall be

- a) the producer or importer of the technical device for the making of the reproductions of audio or audiovisual fixation,
- b) the producer or importer of technical devices for making printed reproductions,
- c) the producer or importer of empty carriers of audio and audiovisual fixations,
- d) the transporter or forwarder instead of the liable person pursuant to clauses a) to c), unless that person has informed, without undue delay, the relevant collective administrator of the details necessary for the identification of the importer 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 charge, the device for the making of printed reproductions.

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

- a) the technical device for the making of the reproductions of audio or audiovisual fixations,
- b) the technical device for the making of printed reproductions,
- c) empty carriers of audio or audiovisual fixations.

(4) Entitlement to the remuneration to be paid by the person defined in paragraph (2) e) shall arise in dependance on the number of printed reproductions made.

(5) The persons referred to in paragraph (2) shall be obliged to submit to the relevant collective administrator of rights, always summarily for half of the calendar year not later than by the end of the following calendar month, information on the facts relevant for the stipulation of the amount of the remuneration, i.e. especially on the type and number of sold or imported technical devices for the making of the reproductions of audio or audiovisual fixations, of the technical devices for the making of printed reproductions, and of empty carriers of audio and audiovisual fixations, and also on the number of the printed reproductions made by the devices for providing paid reproduction services.

(6) The amount of the remuneration shall be stipulated by the rate schedule attached in the annex.

(7) Remuneration shall not be paid in the case of export of the technical devices referred to in paragraph (3) a) and b) or of export of empty carriers of audio or audiovisual fixations for the purpose of their further sale. Remuneration shall also not be paid in the case of devices and empty carriers if these are intended to be used within the country only for operational purposes by persons in their own undertaking.

## **Subsection 5**

### **Common provisions for economic rights**

## **Article 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 ruling; 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 by Article 8 paragraphs (3) and (4) analogously. If the inheritance escheats to the state, the economic rights shall be exercised by the State Fund of Culture of the Czech Republic<sup>2)</sup> in its own name, and, in the case of audiovisual works, by the State Fund of the Czech Republic for Promotion and Development of Czech Cinematography<sup>3)</sup> The incomes of the state from the exercise of the

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

3) Law No.241/1992 Coll., on the State Fund of the Czech Republic for Promotion and Development of Czech Cinematography, as amended by law No.273/1993 Coll.

economic rights exercised by the mentioned state funds shall be the revenue of these state funds.

(3) The provisions of this Act concerning the author, shall also apply to his heirs, unless their nature indicates otherwise; or to the state, if the inheritance, which has acquired no heir, escheats to it.

## **Subsection 6**

### **Duration of economic rights**

#### **Article 27**

(1) Unless stipulated otherwise, economic rights shall run for the life of the author and for 70 years after his death.

(2) If the 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 his identity in public (Art. 7 paragraph (2)) during the course of the term pursuant to the first clause, 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).

(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, economic rights shall expire at the end of this period. Economic rights to a collective work (Art. 59) shall run for 70 years from the time when it was made public.

(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, the

author of screenplay, the author of the dialogue and the composer of the music specifically created for use in the audiovisual work.

(6) 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 economic rights shall run for each such item of the work separately.

(7) 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.

## **Subsection 7**

### **Work in public domain and an unpublished work made public for the first time after the expiry of copyright protection**

## **Article 28**

(1) A work for which the period of duration of economic rights has expired may be utilized by anybody without any further provision; this shall not however prejudice the provisions of paragraph (2) and of Article 11 paragraph (5) first clause.

(2) Whoever first makes public a work to which the period of protection of economic rights has already expired shall be entitled to exclusive economic rights to the work thus made public as would have been enjoyed by the author of the work if the economic rights to the work were still in effect.

(3) The right pursuant to paragraph (2) shall run for 25 years from the making public of the work. The provisions of Article 27 paragraph (7) shall apply analogously.

## **Section 4**

### **Restriction of copyright**

## **Subsection 1**

### **General provision**

## **Article 29**

(1) Copyright may be restricted only in certain special cases provided for by this Act; these may not however be interpreted in a manner that would conflict with a normal exercise of copyright and would unreasonably prejudice the legitimate interests of the author.

(2) A reproduction made pursuant to the provisions of Article 31 a) and b), Articles 32 to 34, and Article 37 paragraph (2) b) and c) may also be distributed non-gainfully within the scope justified by the purpose of the lawfully made reproduction.

## **Subsection 2**

### **Free use**

### **Article 30**

(1) The use of the work pursuant to this Act shall not mean its use for personal need; this shall not apply to the making of a reproduction of a computer program or electronic database or of a reproduction or imitation of an architectonic work by the construction.

(2) Copyright shall therefore not be infringed by whoever

- a) for his own personal use makes a recording, reproduction or imitation of a work; a reproduction or imitation of a work of fine arts must be clearly labelled as such,
- b) during the sale of the original or reproductions of works, of technical devices for their reproduction or for their communication to the public, of radio and television sets and computers, distributes or makes an temporary reproduction of the work within the scope necessary for the demonstration of the goods to a customer.

(3) Copyright shall also not be infringed by whoever makes at the order of and for the personal use of the customer a print reproduction of the work on paper or other similar base using photography technique or other procedure with similar effect, on condition that the work is not a published musical work in score and that such person is paying in an orderly and timely manner the remuneration in accordance with Article 25.

(4) A reproduction made for personal use may not be used for any other purpose.

(5) The provisions of Articles 43 to 45 shall not be prejudiced by the provisions of paragraphs (1) and (3).

### **Subsection 3 Gratuituous legal licences**

#### **Article 31 Quotation**

Copyright shall not be infringed by whoever

- a) quotes, to a justified degree, in his own work, excerpts from the published works of other authors,
- b) includes into his independent scientific, critical or technical work, or into a work designated for teaching purposes, for the clarification of its content, small published works in their entirety,
- c) uses a published work in a lecture exclusively for scientific, teaching or other instructive or educational purposes;

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 must however always be indicated; the title of the work and source must also be indicated.

#### **Article 32 Catalogue licence**

Copyright shall not be infringed by whoever includes into a catalogue of an exhibition, auction, fair or other similar event organised by him a picture of the work exhibited on such occasion; the author's consent shall not be needed also for the utilization of the depiction of this work by reproduction and dissemination of the catalogue. It shall however always be necessary to indicate 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 must also be indicated.

### **Article 33**

#### **Utilization of a work located in a public area**

(1) Copyright shall not be infringed by whoever records or expresses by drawing, painting, graphic art, photography or film a work located on a square, in a street, in a park, on a public route or in any other public place; the author's consent shall not be needed also for the reproduction, dissemination and communication to the public of the work recorded or expressed by such means. The provision of Article 31 of the clause following the semicolon shall apply appropriately.

(2) The provisions of paragraph (1) shall not apply to the reproduction and distribution of the work by means of a three-dimensional reproduction.

### **Article 34**

#### **Official and reporting licence**

- (1) Copyright shall not be infringed by whoever uses, to a justifiable degree, the work
- a) for official purposes in compliance with the law,
  - b) within the course of reporting on a current event during which such work is being performed, exhibited or otherwise used,
  - c) borrows in the periodical press or other mass communication medium articles with a content of topical importance on political, economic or religious matters, which have already been published in another mass communication medium, or their translations; such borrowing shall not be admissible if it is explicitly forbidden.

(2) The provision of Article 31 of the clause following the semicolon shall apply appropriately.

### **Article 35**

#### **Utilization of the work as a part of civil and religious ceremonies, as a part of school performances and the utilisation of a school work**

(1) Copyright shall not be infringed by whoever utilizes a work for non commercial purposes during civil and religious ceremonies.

(2) Copyright shall not be infringed by whoever utilizes a work for non commercial purposes during school performances performed exclusively by the pupils, students or teachers of the school or of the school or educational establishment.

(3) Copyright shall also not be infringed by the school or school or educational establishment if they use for non commercial purposes for 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 with the school or school or educational establishment (school work).

(4) The provision of Article 31 of the clause following the semicolon shall apply for paragraphs (2) and (3) appropriately.

### **Article 36**

#### **Restriction of copyright to a collection**

Copyright to a collection shall not be infringed by the legitimate user of the collection work if he uses such work for the purposes of accessing its content and for the normal utilisation of its content.

### **Article 37**

#### **Use of the work by reproduction and distribution of reproductions**

(1) Copyright shall not be infringed by the library, archive and other non commercial school, educational and cultural establishment <sup>4)</sup> which makes a reproduction of the work for their archival and conservation purposes.

(2) Copyright shall not be infringed by whoever

- a) makes, during the use of the work, a transient and incidental reproduction of the work in electronic form, which on its own has no economic significance, and the purpose of which is the facilitation of the use of the work, and whose making is an inseparable and indivisible part of the technological process of making the work available, including such reproduction which allows the effective functioning of the transmission system,
- b) makes a reproduction of a photographic work which is his own portrait and which has been commissioned for a charge,
- c) for the benefit of people with a disability, makes a reproduction or has a reproduction made, non commercially, of a published work to the extent required by the specific disability.

(3) The provisions of Article 30 paragraphs (4) to (5) shall apply appropriately.

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4) Law No. 53/1959 Coll. on the Unified System of Libraries (Library Law) and other laws concerning the libraries.

### **Article 38**

#### **Use of the work by lending and rental of the original or a copy**

(1) Copyright shall not be infringed by the entity referred to in Article 37 paragraph (1) which lends the originals or copies of published works.

(2) The provision of paragraph (1) shall not apply to computer programs and to copiests of audio or audiovisual fixations, unless the lending occurs for exclusive use by persons with health disabilities in connection with their disability.



(3) Copyright shall not be infringed by whoever rents or lends the original or a copy of the work of applied art expressed in the form of a utility object, or of the architectonic work expressed in the form of a construction.

### **Article 39**

#### **Use of the original or reproduction of a work of fine arts or of a photographic work by exhibiting**

Copyright shall not be infringed by the owner of the original or reproduction of a work of fine arts, or of a photographic work, who exhibits such work or provides such work for exhibition free of charge, unless such use was excluded by the author during the transfer of ownership to such original or such reproduction of the work.

### **Section 5**

#### **Copyright protection**

### **Article 40**

(1) The author whose rights have been infringed or whose rights have been exposed to infringement may claim, namely

- a) recognition of his authorship,
- b) prohibition of the exposure of his right, including impending repetition of exposure, or of the infringement of his right, especially the prohibition of the unauthorized production, unauthorized commercial sale, unauthorized import or export of the original or reproduction or imitation of his 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 of the origin of the illicitly made reproduction or imitation of his work, of the manner and scope of its utilization, and of the identity of the persons who have participated in the unauthorized making of the reproduction or of its unauthorized distribution, as the case may be,
- d) remedy of the consequences of the infringement of his right, namely by:
  - 1. seizure of the illicitly made reproduction or imitation of the work or of the aid pursuant to Article 43 from sale or other utilization,
  - 2. the destruction of the illicitly made reproduction or imitation of the work or of the aid pursuant to Article 43,
- e) provision of appropriate satisfaction for the nonfinancial damage caused, namely in the form of
  - 1. apology
  - 2. payment of a financial amount where the acknowledgement of a different kind of satisfaction would prove inadequate; the amount of the financial satisfaction shall be determined by a court which will take into account, especially, the gravity of the damage incurred and the circumstances under which the infringement of the right occurred; this shall not preclude an amicable settlement,

(2) The court may recognise in its judgement the right of the author whose claim has been acquitted to publish the decision at the cost of the party who lost the action and, depending on circumstances, also determine the scope, form and manner of publication.

(3) The entitlement to compensation of damage and to the surrender of unjust enrichment pursuant to a special law shall remain unaffected; the amount of unjust enrichment incurred on the part of whoever uses the work unlawfully without having been granted the necessary licence shall be double the remuneration that would have been awarded under habitual conditions at the time of unauthorised use of the work.

#### **Article 41**

Where the author grants another person exclusive authorisation to exercise the right to use the work, or where the exercise of economic rights to the work is entrusted to such person by statute, the right to claim damages in accordance with Article 40 paragraph (1) b) to d), and paragraphs (2) and (3) shall be extended only to such person whose exclusive authorisation acquired thus by contract or by statute has been exposed or infringed; the entitlement of the author to make the remaining claims, as well as in this context the claim pursuant to Article 40 paragraph (2) shall remain unaffected.

#### **Article 42**

(1) The author may also require from customs authorities information on the content and scope of imports of a commodity which,

- a) is a reproduction of his work or an audio or audiovisual fixation of such work,
- b) is intended to serve as a carrier for the making of such a reproduction (empty carrier),
- c) is a device for making audio or audiovisual fixations or printed copies, or
- d) which falls under the definition of aids pursuant to Art. 43,

and have access to customs documentation to know whether the import of such commodities for use on the territory of the Czech Republic is in compliance with this Act, or to learn details necessary for the enforcement of rights ensuing from this Act.

(2) The provision of paragraph (1) shall apply analogously also for export.

(3) The information referred to in paragraphs (1) and (2) may be requested also by the relevant collective administrator as well as by the legal entity authorised to defend the interests of authors.

#### **Article 43**

(1) Copyright shall also be infringed by whoever, for the purpose of achieving economic gain, develops, produces, offers for sale, rental or lending, imports, disseminates or utilizes, as a part of the provision of services or for any other purpose, aids designed for the removal, deactivation, or limitation of the function of technical devices or of other means applied for the protection of rights.

(2) Other means pursuant to paragraph (1) shall mean any procedure, product or component integrated into a procedure, device or product designed to avoid or prevent

infringement of copyright to a work which is made available only by application of a code or of another method enabling decoding.

#### **Article 44**

(1) Unauthorised intervention into copyright shall also mean:

- a) removal or alteration of any electronic data identifying rights,
- b) distribution of reproductions of the work, including their import, as well as communication to the public of works whose electronic data identifying the rights to the work have been removed or altered

without the author's consent.

(2) Data identifying rights to a work pursuant to paragraph (1) shall mean data expressed in figures, codes or in any other manner, which by decision of the author accompany the work to identify the work and the rights relating to it.

#### **Article 45**

Copyright shall also be infringed by whoever uses for his work a title or external design that has been legitimately used earlier by another author for a work of the same kind if this could lead to the danger of confusion of the two works, unless ensuing otherwise from the nature of the work or from its designation.

### **Section 6 Types of contract**

#### **Subsection 1 Licence agreement**

#### **Article 46 Basic provisions**

(1) The author shall grant by means of a licence agreement to the licensee authorisation to exercise the right to use the work (licence) in individual manners or in all manners of use within a restricted or unrestricted scope, and, unless agreed otherwise pursuant to Article 49 paragraph (2) b), the licensee shall undertake to remunerate the licensor.

(2) The author may not grant authorisation to exercise the right to use the work in a manner which has not been known at the time of the conclusion of the agreement.

(3) The licensee shall be obliged to utilize the licence, unless stipulated otherwise in the agreement. The provision of Article 53 shall remain unaffected.

(4) If the licence is granted as an exclusive licence, the agreement must be in writing.

#### **Article 47 Exclusive or non-exclusive licence**

(1) A licence may be granted as an exclusive licence or as a non-exclusive licence. Unless stipulated otherwise by the agreement, it shall be deemed that the licence is non-exclusive.

(2) In the case of an exclusive licence, the author may not grant the licence to a third party and shall be obliged, unless agreed otherwise, to refrain from the exercise of the right in the same manner of utilisation to which he had granted the licence.

(3) In the case of a non-exclusive licence, the author shall continue to be authorised to exercise the right to use the work in the manner to which he had granted the licence as well as to grant the licence to third parties.

(4) A non-exclusive licence acquired by the licensee before the subsequent granting of an exclusive licence to a third party shall be retained, unless agreed otherwise by the author and the licensee of such a non-exclusive licence.

(5) The agreement by which the author has granted a licence to a third party while the exclusive licence of the licensee to the same manner of utilization is still in effect shall be invalid, unless the licensee of the exclusive licence has given his consent to the conclusion of such an agreement.

#### **Article 48** **Granting of authorisation to a third party**

(1) Where the agreement thus stipulates, the licensee may grant in full or in part the authorisation which is a part of the licence to a third party (sub-licence). The provision of Article 46 paragraph (3) shall apply analogously.

(2) The licensee may pass the licence to a third party only with the author's written consent; the licensee must inform the author without undue delay about the passing of the licence and the name of the person to whom it had been passed. The author's consent shall not be required, unless agreed otherwise, for the sale of the undertaking of which the licence is a part, or of such part of the undertaking which comprises its independent organisational unit.

#### **Article 49** **Remuneration**

(1) Unless stipulated otherwise hereinafter, the agreement shall stipulate the amount of the remuneration or at least the manner of its determination.

(2) Where the amount of the remuneration or at least the manner of its stipulation is not provided for by the agreement, the agreement shall be invalid, with the exception of cases when

- a) the will of the parties to conclude an agreement implying remuneration without stipulating the amount of the remuneration ensues from the negotiations between the parties on the conclusion of the agreement; in such case the licensee shall be obliged to pay remuneration

to the author in an amount habitual at the time of the conclusion of the agreement under contractual terms similar in their content to this agreement for such type of work, or

b) the parties to the agreement agree to grant the licence without remuneration.

(3) The author who grants a licence for the rental of an original or a copy of the work fixed as an audio or audiovisual fixation to the producer of such fixation shall be entitled to a reasonable remuneration from the person who rents the original or a copy of the work fixed in such manner; the author may not waive this right.

(4) Where the amount of the remuneration has been agreed in dependence on the proceeds from the utilization of the licence, the licensee shall be obliged to facilitate to the author an audit of the relevant accounting or other documentation to establish the real amount of the remuneration. Where the licensee thus provides the author with information marked by the licensee as confidential, the author may not divulge such information to a third party nor use it for his own need in contravention of the purpose for which it has been made available to him.

(5) The licensee shall be obliged to submit to the author, at agreed time intervals, regular statements of settlement of the remuneration referred to in paragraph (4); unless stipulated otherwise, he shall be obliged to do not less than once a year.

(6) Where the remuneration has not been derived from the proceeds of the utilization of the work and where it is so low that it is in obvious disproportion to the profit from the utilization of the licence and to the importance of the work for the achievement of such profit, the author shall be entitled to an appropriate supplementary remuneration, unless agreed otherwise.

## **Article 50**

### **Restriction of licence**

(1) A licence may be restricted to individual manners of utilization of the work; the manners of the utilization of the work may be restricted in scope, especially in amount, location or time.

(2) Where the agreement does not stipulate the individual manners of utilization of the work or the scope of utilization for which the licence is being granted, it shall be deemed that the licence has been granted for such manners of utilization and within such scope as would be necessary for the implementation of the purpose of the agreement.

(3) Unless stipulated otherwise by the agreement, or unless ensuing otherwise from its purpose, it shall be deemed that

- a) the territorial scope of the licence is restricted to the territory of the Czech Republic,
- b) the time scope of the licence is restricted to the habitual time for the given type of work and manner of utilization, not longer however than one year from the date of the granting of the licence; where the work ought to be delivered only after the granting of the licence, the term shall be one year from the date of delivery,
- c) the quantity scope of the licence is limited to the habitual quantity for the given type of work and manner of utilization.

(4) Unless stipulated otherwise by agreement, the licence to reproduce a work shall imply the authorisation to make direct and indirect reproductions, permanent and temporary reproductions, in whole or in part, by any means and in any form; in the case of reproductions in electronic form this shall include both on-line and off-line reproductions.

(5) Unless stipulated otherwise by the agreement, the licence to reproduce a work shall imply the licence to distribute the reproductions thus made.

(6) Unless stipulated otherwise by the agreement or unless arising otherwise from its purpose, the licence to the broadcast of a work shall imply also the authorisation to make an ephemeral fixation of the work by the broadcaster by means of his own facilities and for his own single broadcast.

### **Article 51**

#### **Restriction of the licensee**

The licensee may not adapt or otherwise alter a work, its title or indication of the author, unless agreed otherwise or unless the adaptation or other alteration of the work or of its title is of such a kind where it is possible to reasonably expect that the author would, in view of the circumstances of its utilization, give his consent; even in the latter case, however, the licensee may not alter the work or its title if the author has reserved his consent even for such alterations and the licensee has been notified of such reservation. The same shall apply in the case of the joining of the work with another work or of the inclusion of the work into a collection.

### **Article 52**

#### **Complimentary reproduction**

Where it may be fairly required of the licensee, and if this is a habitual custom, the licensee shall be obliged, at his own cost, to make available to the author at least one reproduction of the author's works from the reproductions acquired by the licensee on the basis of the relevant licence.

### **Article 53**

#### **Withdrawal from agreement due to inactivity of licensee**

(1) Where the licensee of an exclusive licence does not utilize it at all or utilizes it inadequately, and where this has a considerably unfavourable effect on the legitimate interests of the author, the author may withdraw from the agreement. This shall not apply in the case where the non utilization or inadequate utilization of the licence has been caused by circumstances resting mainly on the part of the author.

(2) The author may withdraw from the agreement for reasons referred to in paragraph (1) only after challenging the licensee to utilize the licence adequately within a reasonable period after being challenged and failing to utilize the licence adequately in spite of such challenge. In his challenge the author shall notify the licensee of the possibility of his withdrawal subsequently to the fruitless passage of the appropriate period. The challenge shall not be necessary if the utilization of the licence by the licensee is not possible or if the licensee has declared that he would not utilize the licence.

(3) Unless stipulated otherwise by the agreement, the author may not apply the right to withdraw from the agreement pursuant to paragraph (1) earlier than two years from the granting of the licence; where the work is to be delivered only after the granting of the licence the term shall be counted from the date of granting of the licence; in the case of contributions for daily periodicals this term shall be three months, in the case of other periodicals one year. Where it is necessary to challenge pursuant to paragraph (2) before withdrawal from the agreement, it shall not even be possible to challenge the licensee before the passage of the stipulated term.

(4) The agreement shall expire on delivery of the withdrawal to the licensee.

(5) Where reasons worthy of special consideration exist, the author shall be obliged to compensate the licensee for the damage incurred by his withdrawal from the agreement. The reasons for which the licensee has not utilised the licence adequately shall, especially, be taken into account.

(6) Where the licence has not been utilized at all, the author shall be obliged to return to the licensee the remuneration which he had received from him on the basis of the agreement from which he is withdrawing; where the licence has been utilized only inadequately, the author shall be obliged to return the remuneration reduced by the amount which, with regard to the proportion of the implemented scope of the utilization of the licence and the scope of utilization stipulated by the agreement, would relate to the implemented utilization.

(7) Where the licensee has been obliged to use the licence and has infringed on this obligation, the author's entitlement to the remuneration shall remain unaffected by his withdrawal from the agreement pursuant to paragraph (1); where the amount of the remuneration has been agreed in dependence on the proceeds from the use of the work, it shall be deemed that an entitlement to the remuneration has arisen for the author in the amount equal to that which would have arisen if the licensee had adequately utilized the licence during the period preceding the author's withdrawal from the agreement.

#### **Article 54**

##### **Withdrawal from the agreement due to change of author's conviction**

(1) The author may withdraw in writing from the agreement if his work, which has not yet been made public, no longer corresponds with his conviction and where the making public of the work would have a significantly unfavourable effect on his legitimate personal interests. The agreement shall expire on the day of the delivery to the licensee of the written withdrawal from the agreement.

(2) The author shall be obliged to compensate the licensee for the damage incurred by his withdrawal from the agreement.

(3) Where after the withdrawal from the agreement pursuant to paragraph (1) the author expresses repeated interest in the utilization of the work, he shall be obliged to offer preferentially the licence to the licensee, and that on conditions comparable with those agreed originally.

(4) The provision of Article 53 paragraph (7) shall apply analogously.

## **Article 55**

### **Termination of the licence**

(1) In the event of the dissolution of the legal entity which has been granted the licence, the rights and duties ensuing from the licence agreement shall pass on the legal successor of such entity. The licence agreement may eliminate such passage of rights and duties on the legal successor.

(2) In the event of the death of the natural person who has been granted the licence, the rights and duties ensuing from the licence agreement shall pass on the heirs, if the licence agreement permits it.

## **Subsection 2**

### **Special provisions for a publisher's licence agreement**

## **Article 56**

(1) The licence agreement by which the author has granted the licensee a licence to reproduce and disseminate a literary work, musico-dramatical or musical work, a work of fine arts, a photographic work or a work expressed in a manner analogous to photography, unless the work is utilised in a performance by performing artists, shall be a publisher's licence agreement.

(2) Unless ensuing otherwise from the agreement, it shall be deemed that the licence has been granted exclusively; this shall not apply in the case of reproduction and dissemination of the work in a periodical publication.

(3) Unless stipulated otherwise by the agreement, the author shall be entitled to make, before the publication of the work and within a reasonable period granted by the licensee, small creative alterations of the work if these do not evoke on the part of the licensee the necessity of incurring unreasonable cost, or if they do not change the character of the work (author's corrections).

(4) Where the licensee does not make it possible for the author to make author's corrections the author may withdraw from the agreement if the consequence would be the utilisation of the work in a manner derogating its value.

(5) Where the quantity scope of the licence has been restricted to a certain number of reproductions, and such reproductions have gone out of print before the passage of the term for which the licence had been granted, the licence shall expire, unless the parties to the agreement agree on the increase of the quantity scope within six months from the day on which the author challenged the licensee to execute such a change in the agreement.

## **Subsection 3**

### **Sub-licence agreement**

## **Article 57**



The provisions of Articles 46 to 56 shall apply analogously to a sub-licence agreement.

## **Section 7**

### **Special provisions on certain works**

#### **Article 58**

##### **Employee work**

(1) Unless agreed otherwise, the author's economic rights to a work created by the author in fulfilling his duties arising from the employment or civil service contract to the employer or from an employment relationship between a cooperative and its member (henceforth referred to as employee work) shall be exercised exclusively by the employer in his own name and on his own account. The employer may assign the exercise of the right pursuant to this paragraph to a third person only with the author's consent, unless this occurs during the sale of the undertaking or of its part.

(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 legal successor, the authorisation to the exercise of these rights shall fall to the author.

(3) Where the employer does not at all utilize the economic rights to an employee work, or utilizes them inadequately, the author shall have the right to ask the employer to grant him the licence under habitual conditions, unless there is a serious reason on the part of the employer to refuse it.

(4) The author's personal rights to an employee work shall remain unaffected. Where the employer exercises the economic rights to an employee work it shall be deemed, however, that the author has given his consent to the work being made public, altered, adapted including translation, joined with another work, included into a collective work and, unless agreed otherwise, also being introduced in public under the employer's name.

(5) Unless agreed otherwise, it shall be deemed that the author has given the employer his consent to complete his unfinished employee work in the case where it has not been finished in spite of a challenge by the employer to complete the employee work within an extended period, or when the employee's obligation to complete such work has expired due to his death or due to the impossibility to meet this obligation.

(6) Unless agreed otherwise, the author of the employee work is entitled to an appropriate supplementary remuneration from the employer if the wages paid to the author by the employer are in evident disproportion to the profit from the utilisation of 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), be they employee works or considered as such, unless agreed otherwise

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

(8) The provisions of paragraphs (1) to (6) shall remain unaffected by the termination of the legal relationship pursuant to paragraph (1) or, respectively, paragraph (7).

### **Article 59**

#### **Collective work**

(1) A collective work shall mean a work created with the participation of more authors, and which is being created at the initiative and under the management of a natural person or legal entity and made available to the public under that person's or entity's name under the condition that the contributions involved in such work shall not be capable of independent use.

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

(3) An audiovisual work and works used audiovisually are not collective work.

### **Article 60**

#### **School Work**

(1) A school or school or educational establishment shall have the right to conclude, under habitual terms, a licence agreement on the utilization of a school work (Article 35 paragraph (3)). Where the author of such work has refused to grant his permission without stating a serious reason, such entities may claim compensation for the absence of manifestation of will in court. The provision of Article 35 paragraph (3) shall remain unaffected.

(2) Unless agreed otherwise, the author of a school work may use his work or grant the licence to another party if this is not in contravention of the legitimate interests of the school or school or educational establishment.

(3) The school or school or educational establishment shall be entitled to claim from the author of the school work, from the income earned by him in connection with the utilization of the work or granting of the licence pursuant to paragraph (2), an appropriate contribution to the reimbursement of the cost incurred by them due to the creation of the work, and that, depending on the circumstances, up to the full amount of this cost; the determination of the amount shall take into account the proceeds from the utilisation of the school work pursuant to paragraph (1) received by the school or school or educational establishment.

### **Article 61**

#### **A work created to order and a work created for a competition**

(1) A work created on the basis of a contract for work (a work created to order) may be used by the person who ordered it only for the purpose defined by the contract. Unless stipulated otherwise by this Act, the customer shall be authorised to use the work in extension of such purpose only on the basis of a licence agreement.

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

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

## **Audiovisual work**

### **Article 62**

#### **Definition**

(1) An audiovisual work shall mean a work created by the arrangement of works used audiovisually, adapted or unadapted, constituted of a number of recorded interlinked images evoking the impression of movement, accompanied by sound or mute, perceivable by sight and, if accompanied by sound, perceivable by hearing.

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

### **Article 63**

#### **The author of the audiovisual work**

(1) It shall be deemed that the author of the audiovisual work is the director of the work. This shall not prejudice the rights of authors of works used audiovisually.

(2) It shall be deemed that the statement concerning the audiovisual work and the rights to such work, including the rights relating to its utilization, recorded in the register of audiovisual works kept in compliance with the international convention is true, unless there is proof to the contrary; this shall not apply in cases when a statement cannot be valid according to this Act or when it is contradicted by another statement recorded in such register.

(3) Unless agreed otherwise, in the case when the author of the audiovisual work has granted the producer of the first fixation of the audiovisual work his written permission to fix the first fixation of the work, it shall mean that

- a) he has also granted such producer the exclusive and unrestricted licence, with the exception of uses pursuant to Article 13, as far as making copies for the purpose of their distribution is concerned, Articles 14 and 18 paragraph (2), to use the audiovisual work in its original version as well as in the dubbed and subtitled versions, and also to use the photographs created in connection with the making of the primary fixation, including the option of granting authorisation which is part of such license in entirety or part to a third party, and that
- b) together with such producer he has agreed on a remuneration in the amount habitual in the sense of the provision of Article 49, paragraph (2) a).

(4) The provisions of Article 54 shall not apply to the relation between the author of the audiovisual work and the producer of the first fixation of the audiovisual work, unless

agreed otherwise; the provision of Article 58 paragraph (4) shall apply appropriately, and the provision of Article 58 paragraph (5) shall apply analogously.

## **Article 64**

### **Works utilized audiovisually**

(1) Where the author of a work utilized audiovisually, with the exception of a musical work, has granted the producer of the first fixation of the audiovisual work written permission to include the work into an audiovisual work, it shall mean that he has granted, unless agreed otherwise, such producer

- a) authorisation to include the work without alteration or after adaptation or other alteration into an audiovisual work, and also to fix the first fixation of such audiovisual work, as well as to dub it and provide it with subtitles, and that
- b) he has also extended to him the exclusive and unrestricted licence, with the exception of uses pursuant to Articles 13, as far as making copies for the purpose of their distribution is concerned, Articles 14 and 18 paragraph (2), to use the work during the utilisation of the audiovisual work, and also to use the photographs created in connection with the making of the primary fixation, including the option of granting authorisation which is part of such license in entirety or part to a third party, and that
- c) they have agreed on a remuneration in the amount habitual in the sense of the provision of Article 49 paragraph (2) a).

(2) Unless stipulated otherwise, the author of the work utilised audiovisually pursuant to paragraph (1) may grant permission for the inclusion of such work into another audiovisual work, or include it into such a work himself after the passage of ten years from the granting of the permission pursuant to paragraph (1).

(3) The provision of Article 63 paragraph (4) shall apply analogously.

## **Computer programs**

### **Article 65**

#### **General provision**

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

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

## **Article 66**

### **Restriction of the scope of the author's rights to a computer program**

(1) The legitimate user of a reproduction of a computer program shall not infringe copyright if

- a) unless agreed otherwise, he reproduces, translates, adapts, arranges or otherwise alters the computer program if this is necessary for the utilisation of the computer program in compliance with its purpose, including the correction of program errors,

- b) he makes a back-up copy of the computer program, if this is necessary for its utilization,
- c) he observes, studies or tests, by himself or through another person on his behalf, the functioning of the program in order to determine the ideas and principles underlying any element of the program, if he does so while performing any of the acts of loading, displaying, running, transmitting or storing the program,
- d) he reproduces the code or translates its form during the reproduction of the computer program, or during its translation or other adaptation, adjustment or other alteration either by himself or through another person on his 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 available to these persons and such activity is restricted to those parts of the computer program which 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, run and transmission, shall also be deemed the reproduction of the computer program.

(3) The information acquired during the activity pursuant to paragraph (1) d) may not be given to third parties or used for purposes other than to achieve the interoperability of the independently created computer program. In addition, this information may not be used for the development, production or marketing of a computer program substantially similar in its expression, or for any other act which infringes copyright.

(4) The provisions of paragraph (1) d) and paragraph (2) may not be interpreted in such a way as to allow its application to be used in a manner which unreasonably prejudices the legitimate interests of the author or conflict with a normal exploitation of the computer program.

(5) Unless agreed otherwise, the provision of Article 54 shall not apply to computer programs.

## **Title II**

### **Rights related to copyright**

#### **Section 1**

#### **The rights of the performer to his artistic performance**

#### **Article 67**

#### **Artistic performance and the performer**

(1) An artistic performance is the performance of an actor, singer, musician, dancer, conductor, choirmaster, director or 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 he does not perform an artistic work, shall also be deemed an artistic performance.

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

#### **Article 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 head of the artistic ensemble as their joint representative. The head of the artistic ensemble shall not be the joint representative where the majority of the members of the artistic ensemble assign 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) The provision of paragraph (1) on the joint representative shall not apply to the following performers - soloist, conductor and director of a theatre performance; this shall not prejudice the right of such persons to be the joint representatives of performers.

### **Article 69**

#### **Content of the right of the performer**

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

### **Article 70**

#### **Moral rights of the performer**

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

(2) The soloist, where he creates 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 name should be indicated when their performance is being made public. Performers as members of an artistic ensemble shall enjoy the right pursuant to the preceding clause only in relation to the joint name (joint pseudonym) under which they jointly create the performance; this shall not prejudice an agreement on the indication of their name pursuant to the preceding clause.

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

(4) The performer shall have the right for his artistic performance not to be utilised, if used by another person, in a manner depreciating the value of the performance; performer artists as defined in Article 68 paragraph (1) shall be obliged to exercise appropriate mutual consideration.

### **Article 71**

#### **Economic rights of the performer**

(1) The performer shall have the right to use his artistic performance and to grant by contract to another person the authorisation to exercise this right; an other person may use the artistic performance without such authorisation only in the cases stipulated by this Act.

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

- a) right of broadcasting and other communication of the live performance to the public,
- b) right of fixation of the live performance,
- c) right of reproduction of the fixed performance,
- d) right of distribution of the reproductions of the fixed performance,
- e) right of rental of copies of the fixed performance,
- f) right of lending of copies of the fixed performance,
- g) right of communication of the fixed performance to the public.

(3) The performer shall be entitled to a remuneration in connection with the reproduction of his fixed performance for personal use analogously pursuant to Article 25.

## **Article 72**

### **Statutory licence subject to payment**

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

(2) A phonogram published for commercial purposes shall mean a phonogram whose reproductions are distributed by sale.

(3) The right of the performer shall however be infringed by whoever does not, before the use in the manner referred to in paragraph (1), conclude an agreement with the relevant collective administrator, stipulating the amount of the remuneration for such use and the manner of its payment.

(4) The right of the performer shall also be infringed by whoever has been forbidden by the relevant collective administrator to utilise further the performance in the manner referred to in paragraph (1) for being in arrears with the payment to the collective administrator of the remuneration for such manner of use, and for not paying the remuneration even during the additional thirty day period extended by the collective administrator for this purpose. Unless the collective administrator limits such ban to a shorter period, the ban shall be in effect until such time when the liability to pay the remuneration is met or expires in any other manner; however, should the ban be violated, the duration of the ban shall not be ended without the consent of the collective administrator before the settlement of, also, the claims arising from such violation.

## **Article 73**

### **Duration of economic rights of the performer**

The economic rights of the performer shall run for 50 years from the creation of the performance. Where however a fixation of such performance is made public during this period, the rights of the performer shall not expire until 50 years from the time when such fixation was made public.

## **Article 74**

## **Application of the provisions of Title I**

The provisions of Article 2 paragraph (3), Articles 4, 6, and 7, Article 9 paragraphs (1) to (4), Article 11 paragraphs (4) and (5), Article 12 paragraphs (2) and (3), Articles 13 to 16, Articles 18 to 23, Articles 25 and 26, Article 27 paragraph (7), Article 28 paragraph (1), Article 29, Article 30 paragraphs (1), (2), (4) and (5), Article 31, Article 34 paragraph (1) a) and b), Article 35, Article 37 paragraph (1), Article 38 paragraphs (1) and (2), Articles 40 to 44, Articles 46 to 48, Article 49 paragraphs (1) to (5), Articles 50, 51, 53 to 55, 57 and Article 64 paragraphs (1) and (3), shall apply appropriately also to performer and his performances.

### **Section 2**

#### **The right of the phonogram producer to his phonogram**

##### **Article 75**

##### **The phonogram and its producer**

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

(2) The phonogram producer is the natural person or legal entity who, on his own responsibility, has fixed for the first time the sounds of the performance of the performer, or other sounds, or their expression, or who has had such fixation made by a third party.

##### **Article 76**

##### **Content of the right of the phonogram producer**

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

(2) The right to use the phonogram means

- a) the right of reproduction of the phonogram,
- b) the right of distribution of the original or copies of the phonogram,
- c) the right of rental of the original or copies of the phonogram,
- d) the right of lending of the original or copies of the phonogram,
- e) the right of broadcasting and other communication of the phonogram to the public.

(3) The provisions of Article 72 shall apply analogously to the phonogram producer.

(4) The phonogram producer shall be entitled to a remuneration in connection with the reproduction of his phonogram for personal use analogously to Article 25.

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

##### **Article 77**

##### **Duration of the right of the phonogram producer**



The right of the phonogram producer shall run for 50 years from the making of the phonogram. Where however a phonogram is lawfully made public during this period, the right of the producer shall not expire until 50 years from the date when such phonogram was made public.

#### **Article 78**

#### **Application of the provisions of Title I**

The provisions of Article 2 paragraph (3), Article 4, Article 6, Article 9 paragraphs (2) to (4), Article 12 paragraphs (2) and (3), Articles 13 to 16, Articles 18 to 23, Article 25, Article 27 paragraph (7), Article 28 paragraph (1), Article 29, Article 30 paragraphs (1), (2), (4) and (5), Article 31, Article 34 paragraph (1) a) and b), Article 35 paragraphs (1) and (4), Article 37 paragraph (1), Article 38 paragraphs (1) and (2), Articles 40 to 44, Articles 46 to 48, Article 49 paragraphs (1) to (5), Articles 50, 51, 55 and 57 shall apply analogously to the phonogram producer and his phonogram.

#### **Section 3**

#### **The right of the producer of the audiovisual fixation to his first fixation**

#### **Article 79**

#### **Audiovisual fixation and its producer**

(1) Audiovisual fixation is the fixation of an audiovisual work or a fixation of another series of fixed and connected images evoking the impression of movement, both accompanied by sound and mute, perceivable by sight and, if accompanied by sound, perceivable also by hearing.

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

#### **Article 80**

#### **Content of the right of the producer of the audiovisual fixation**

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

(2) The right to use an audiovisual fixation means

- a) the right of reproduction of the audiovisual fixation,
- b) the right of distribution of the original or copies of the audiovisual fixation,
- c) the right of rental of the original or copies of the audiovisual fixation,
- d) the right of lending of the original or copies of the audiovisual fixation,
- e) the right of broadcasting and other communication of the audiovisual fixation to the public.

(3) The producer of the audiovisual fixation shall be entitled to a remuneration in connection with the reproduction of his fixation for personal use analogously to Article 25.

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

### **Article 81**

#### **Duration of the right of the producer of the audiovisual fixation**

The right of the producer of the audiovisual fixation shall run for 50 years from its first fixation. Where however 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 from the date when the audiovisual fixation was made public.

### **Article 82**

#### **Application of the provisions of Title I**

The provisions of Article 2 paragraph 3, Article 4, Article 6, Article 9 paragraphs (2) to (4), Article 12 paragraphs (2) and (3), Articles 13 to 16, Articles 18 to 23, Article 25, Article 27 paragraph (7), Article 28 paragraph (1), Article 29, Article 30 paragraphs (1), (2), (4) and (5), Article 31, Article 34 paragraph (1) a) and b), Article 35 paragraphs (1) and (4), Article 37 paragraph (1), Article 38 paragraphs (1) and (2), Articles 40 to 44, Articles 46 to 48, Article 49 paragraphs (1) to (5), Articles 50, 51, 55, and 57 shall apply analogously also to the producer of the audiovisual fixation and his fixation.

### **Section 4**

#### **The right of the radio and television broadcaster**

### **Article 83**

#### **Broadcasting and the broadcaster**

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

(2) The broadcaster shall be the natural person or legal entity who, on his own responsibility, executes the broadcasting of sounds, or of images and sounds, or of their expression by radio or television, or who has had a third party to execute the broadcasting.

### **Article 84**

#### **The content of the right of the broadcaster**

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

(2) The right to use the broadcast shall mean

- a) the right of fixation of the broadcast,
- b) the right of reproduction of the broadcast fixation,
- c) the right of distribution of copies of the fixed broadcast,
- d) the right of communication of the broadcast to the public.

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

#### **Article 85**

##### **Duration of the right of the broadcaster**

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

#### **Article 86**

##### **Application of the provisions of Title I**

The provisions of Article 2 paragraph (3), Article 4, Article 6, Article 9 paragraphs (2) to (4), Article 12 paragraphs (2) and (3), Articles 13 to 16, Articles 18 to 23, Article 25, Article 27 paragraph (7), Article 28 paragraph (1), Article 29, Article 30 paragraphs (1), (2), (4) and (5), Article 31, Article 34 paragraph (1) a) and b), Article 35 paragraphs (1) and (4), Article 37 paragraph (1), Article 38 paragraphs (1) and (2), Articles 40 to 44, Articles 46 to 48, Article 49 paragraphs (1) to (5), Articles 50, 51, 55 and 57 shall apply analogously also to the broadcaster and his broadcast.

#### **Section 5**

##### **The right of the publisher**

#### **§ 87**

The publisher has the right to a remuneration in connection with the making of a reproduction for the private use of a work published by him. The duration of this right is 50 years from the publication of the work. The provision of Article 27 paragraph (7) shall apply analogously.

#### **Title III**

##### **The right sui generis of the maker of the database**

#### **Article 88**

##### **Definition**

(1) For the purposes of this Act a database shall be a collection of independent works, data, or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means, irrespective of the form of their expression. Rights sui generis to a database shall be due to the maker of a database which is a qualitatively or quantitatively substantial contribution to the acquisition, verification or presentation of its content, irrespective of whether the database or its content are the subject of copyright or of other protection.

(2) Any new qualitatively or quantitatively substantial contribution to a database, consisting of supplementation, abbreviation or other adjustments, shall result in the start of a new run of duration of rights pursuant to Article 93.

#### **Article 89**

##### **The maker of the database**

The maker of the database is the natural person or legal entity who, on his own responsibility, has compiled the database, or who has had a database compiled by another person or entity.

## **Article 90**

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

(1) The maker of the database shall have the right to extraction or re-utilisation of the whole content of the database or of its qualitatively or quantitatively substantial part, and the right to grant to another person the authorisation to execute such right.

(2) The extraction pursuant to paragraph (1) means the permanent or temporary transfer of all or substantial part of the content of a database to another medium by any means or in any form.

(3) The re-utilization pursuant to paragraph (1) shall mean any form of making available to the public all or a substantial part of the content of a database by the distribution of copies, by rental, by on-line or other forms of transmission.

(4) Lending of the original or a copy (Article 16) of a database shall not mean extraction pursuant to paragraph (2) or re-utilization pursuant to paragraph (3).

(5) The repeated and systematic extraction or re-utilization of insubstantial parts of the content of the database implying acts which is not habitual, is inappropriate and which unreasonably prejudices the legitimate interests of the maker of the database, shall not be permitted.

(6) The right of the maker of a database is transferable.

## **Article 91**

### **Restriction of the right sui generis of the maker of the database**

The right of the maker of the database which has been made available in any way to the public shall not be infringed by the legitimate user who extracts or re-utilises qualitatively or quantitatively insubstantial parts of the content of the database or of its part, and that for whatever purpose, on condition that such user uses the database in a habitual and appropriate manner, not systematically or repeatedly, and without damaging the legitimate interests of the maker of the database, and that he does not cause damage to the author or the rightholder of rights related to the copyright to works or other protected items contained in the database.

## **Article 92**

### **Statutory licences**

The right of the maker of the database made available by him shall not be infringed by the legitimate user who extracts or re-utilises a substantial part of the content of the database:

- a) for his personal use; the provision of Article 30 paragraph (1) of the clause following the semicolon shall remain unaffected,
- b) for scientific or educational purposes if he indicates the source, within the scope justified by the desired non-gainful purpose, and

c) for the purposes of public security or an administrative or judicial procedure.

### **Article 93**

#### **Duration of the right sui generis of the maker to the database**

The right sui generis of the maker of the database shall run for 15 years from the making of the database. If however the database is made available during such period, the special right of the maker of the database shall expire 15 years from the date when the database has thus been made available.

### **Article 94**

#### **Application of the provisions of Title I**

The provisions of Article 3 clause a), Article 4 and Article 6, Article 9 paragraphs (2) to (4), Article 12 paragraph (2), Articles 13 to 15, Article 18 paragraph (2), Article 27 paragraph (7), Article 28 paragraph (1), Article 29, Article 30 paragraph (1), Articles 40 to 44, Articles 46 to 48, Article 49 paragraphs (1) to (5), Articles 50, 51, 55 and 57 shall apply appropriately also to the provider of the database.

## **Title IV**

### **Collective administration of rights**

### **Article 95**

(1) The purpose of collective administration of rights pursuant to this Act (henceforth referred to as "collective administration") is the collective enforcement and collective protection of economic rights of authors and of economic rights related to copyright and the making available of the items of these rights to the public.

(2) Collective administration is the representation of a larger number of persons who are entitled to hold

- a) economic right of the author or economic right related to copyright,
- b) statutory authorisation to exercise economic rights to a work (Article 58), or
- c) contractual exclusive authorisation to exercise a collectively administered right for the whole duration of economic rights and, at least on the territory of the Czech Republic, combined with the right to extend a sub-licence

(henceforth referred to as "right holders") for their joint benefit, and that during the exercise of their economic rights to works made public or offered to be made public, to artistic performances, sound and audiovisual recordings (henceforth referred to as "items of protection"), unless any other than collective execution of these rights is not permitted (Article 96) or is pointless; item of protection offered to be made public shall mean such protected item which has been notified in writing by the right holder to the relevant collective administrator for the purpose of including such item into the register of items of protection.

(3) The facilitation of the signing of a licence or other agreement is not an exercise of collective administration. The exercise of collective administration is also not occasional or short-term agency of other than rights subject to mandatory collective administration.

**Article 96**  
**Rights subject to mandatory collective administration**

(1) Rights subject to mandatory collective administration 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 broadcasting or by rebroadcasting and by retransmission of the broadcast (Article 72 paragraph (1)),
2. the use of a phonogram published for commercial purposes by broadcasting or by rebroadcasting and by retransmission of the broadcast (Article 76 paragraph (3)),
3. the making of a reproduction for personal use on the basis of a sound or audiovisual fixation by the transfer of its content by means of a technical device to an empty carrier of such fixation (Article 25 paragraph (1) a) and b), Article 28 paragraph (2), Article 71 paragraph (3), Article 76 paragraph (4), and Article 80 paragraph (3)),
4. the making of a reproduction for personal use on the basis of a graphic expression by its transfer by means of a technical device for making printed reproductions to another material support, and that also through the facilitation of a third party (Article 25 paragraph (1) c), Article 28 paragraph (2), Article 87),
5. resale of the original of a work of art (Article 24),

b) the right to the appropriate remuneration for the rental of the original or a copy of the work, or of a performance by a performer fixed in an audio or audiovisual fixation,

c) the right to use by cable retransmission of works, the live performances and performances fixed on phonogram, with the exception of such performances whose phonogram has been published for commercial purposes [clause a) item 1] and, further, the right to the use by cable retransmission of audiovisual fixations and phonograms other than those published for commercial purposes [clause a) item 2].

(2) The rightholders shall thus be represented in the exercise of their rights pursuant to paragraph (1), and also in their claims for entitlement to the submission of any unjust enrichment from the unauthorized exercise of such collectively administered right, by the relevant statutory collective administrator.

(3) During the distribution and payment of remuneration or proceeds from the disbursed unjust enrichment which he had collected during the execution of mandatory collective administration the relevant collective administrator shall take into consideration only such holders of rights whose rights to the same protected items or, as the case may be, to the same types of works are administered by him collectively on a contractual basis, or who have registered with him for such purpose.

(4) If an authorisation to a cable retransmission according to special legal provisions<sup>5)</sup> arises for a certain person, that person shall be obliged to notify the relevant collective administrator of such fact not later than 15 days from the day of the origination of such authorisation.

## **Article 97**

### **Collective administrator**

(1) Collective administrator shall mean the entity which has acquired the authorisation to execute collective administration.

(2) A collective administrator may only be a legal entity resident in the Czech Republic and associating, directly or indirectly, rightholders whom he represents by collective administration.

(3) Collective administration shall be executed consistently, under its own name and liability. Collective administration is not a business enterprise.

(4) Collective administration shall be executed by the collective administrator as the main subject of his activity.

(5) The collective administrator may authorise another person with the exercise of the rights collectively administered by him only in the case of

- a) a foreign person, who, pursuant to the law of another state, executes on the territory of that state collective administration of the same rights, and in the case of a work, also of the same type of work, if the matter at issue is the execution of collective administration in such state,
- b) a local collective administrator who is also authorised to execute collective administration, if the objective is efficient execution of collective administration.

(6) To be effective, the agreement pursuant to paragraph (5) must be in writing.

(7) The person authorised pursuant to paragraph (5) shall act during the representation under his own name and on the account of the collective administrator who had given the authorisation; this shall not prejudice the duty of such collective administrator to transfer the acquired proceeds to the represented rightholders.

(8) Neither agreements on the association of rightholders in the person of the collective administrator, nor agreements pursuant to paragraph (5) shall be deemed agreements infringing economic competition according to special regulations.

## **Article 98**

### **Authorisation to execute collective administration**

(1) The decision on the granting of authorisation to execute collective administration (henceforth referred to as "authorisation") shall be made by the Ministry of Culture (henceforth "Ministry") on the basis of a written application.

(2) The application must contain

- a) the name, seat, identification number, if allotted, and the designation of the statutory body of the applicant, the name, surname and residence of the person who is the statutory body, or of the persons who are its members, and the manner of acting for the applicant,
- b) the delimitation of the rights which are to be administered collectively,
- c) the delimitation of the subjects of rights referred to in b), and in the case of works, also the definition of their type.

(3) The applicant shall attach to the application pursuant to paragraph (2) the following

- a) documentation of the facts required pursuant to paragraph (2) a) and to Article 97 paragraph (2),
- b) specimen draft contract with right holders for representation in the execution of collective administration,
- c) draft accounting schedule containing the method of division and rules for the disbursement of collected remuneration, and excluding wilful process during its division, and having regard to the application of the principle of support of culturally significant works and performances,
- d) list of names of right holders who have expressed interest in the collective administration of their rights by the applicant, including their addresses and nationality and the signatures of such right holders,
- e) estimate of the anticipated proceeds from the collectively administered rights and of the costs of execution of collective administration.

(4) The participant in the proceedings for the extension of authorisation shall be the person applying for the authorisation.

(5) The application for the extension of authorisation shall be decided by the Ministry within 90 days of the submission of the application. During the proceedings on the extension of authorisation the Ministry shall take into account, especially, indications of the applicant's competency in orderly and effective execution of collective administration.

(6) The Ministry shall grant the authorisation to the applicant

- a) whose application for the granting of the authorisation meets the requirements stipulated in paragraph (2),
- b) who has applied for authorisation to represent in the exercise of such rights where collective execution is effective,
- c) where no other person has already acquired the authorisation for the same subject of rights, and in the case of works for the same type of works, or
- d) who has the prerequisites for ensuring the orderly execution of collective administration.

(7) The decision by which the authorisation has been granted, with the attached information on the date of its coming into force, shall be published by the Ministry in the Commercial Bulletin without delay, not later however than 30 days from its coming into force.

(8) Unless stipulated otherwise by this Act, the decision on the granting of the authorisation shall be governed by general administrative proceedings regulations<sup>6)</sup>.



6) Law No. 71/1967 Coll., on the Administrative Proceedings, as amended (Administrative Regulations Code).

## **Article 99**

### **Withdrawal of authorisation**

(1) The Ministry shall revoke the authorisation

- a) if it learns at a later point that at the time of the granting of the authorisation the applicant had not met the requirements for the granting of the authorisation, or that these were not met after the granting of the authorisation, and if there has been no remedy of such shortcoming during a reasonable term extended by the Ministry, or where remedy has not been possible,
- b) at the request of the collective administrator.

(2) The Ministry may revoke the authorisation if the collective administrator infringes on his duty as stipulated by this Act and fails to remedy this fact within a reasonable term extended for this purpose by the Ministry.

(3) The collective administrator whose authorisation is to be revoked by administrative proceedings shall be a participant in the proceedings.

(4) The authorisation revoked pursuant to paragraph (1) a) shall terminate on the day on which the decision comes into force, unless the decision stipulates a later date; the period between the day on which the decision comes into force and the date of the termination stipulated in the decision may not be longer than six months. The authorisation revoked pursuant to paragraph (1) b) shall terminate on the last day of the calendar year in which the six months from the date of the delivery of such application to the Ministry expire.

(5) The provision of Article 98 paragraphs (7) and (8) shall apply analogously.

## **Article 100**

### **Relation of the collective administrator to the represented rightholders and to the users of items of protection**

(1) The collective administrator shall be obliged to apply the principle of due diligence and to expertly and within the scope of the granted authorisation

- a) represent each right holder in the exercise of his rights which the collective administrator administers collectively on the basis of the law,
- b) assume on habitual terms the representation of any right holder in the exercise of his rights if the latter requests him to do so and proves that the item of protection has been used in the relevant manner, and if that rightholder is not represented in the exercise of the same right relating to the same item of protection, and in the case of works in the exercise of the same right to the same type of work, by a foreign person pursuant to the provision of Article 97 paragraph (5) a),
- c) represent each rightholder in the exercise of his rights within the scope agreed with him,
- d) represent rightholders on equal terms,

- e) keep a register of contractually represented right holders; the register may contain only such data as are necessary for the execution of collective administration,
- f) keep a register of the items of protection for which the rights are being collectively administered, if such items are known to the collective administrator; the register may contain only such data as are necessary for the execution of collective administration,
- g) inform whoever requests such information whether he represents the holder of rights to a certain item of protection in the exercise of a certain right, and to issue a written certificate of such fact at the request and cost of the applicant,
- h) to conclude, on reasonable and equal terms, with the users of items of protection, or with bodies authorised to protect the interests of users associated in such bodies who use the items of protection in the same or similar manner, or with persons obliged to pay remuneration in compliance with this Act, agreements by which :
  - 1. the user is granted authorisation to exercise the right to use the item of protection for which the collective administrator administers such right collectively,
  - 2. the amount and manner of payment of remuneration is set for the user pursuant to Article 96 paragraph (1) a) items 1 and 2, and clause b) and its disbursement monitored,
  - 3. the manner of payment of remuneration by the user, provided for by this Act, is determined,
- i) present under his own name and on the account of the represented rightholders claims for the surrender of unjust enrichment from the unauthorised exercise of a collectively administered right, and claims for abstention from the unauthorised exercise of a collectively administered right, unless the rightholder, if authorised to do so, presents such claims himself, or unless such procedure is wasteful,
- j) collect on behalf of the rightholders, in compliance with the law and with the agreements pursuant to h), remuneration and eventual revenue from the surrender of unjust enrichment, to divide it and disburse it in compliance with the accounting schedule,
- k) keep a register of collected remuneration and revenue from surrendered unjust enrichment and to allow the rightholder control of the correctness of the amount of remuneration or eventual revenue from the surrender of unjust enrichment paid out to him,
- l) create a reserve fund from the collected remuneration and eventual revenue from unjust enrichment,
- m) perform double-entry accounting, have annual closing accounts audited, and submit the closing accounts together with the auditor's report to the Ministry, without undue delay, after its verification and approval by the managing body of the collective administrator,
- n) draft, as of 30<sup>th</sup> June of each year, an annual report on the activities and economic management (henceforth "annual report") in the preceding calendar year, comprising also the annual profit and loss account and auditor's report; the annual report shall contain a full and fair description of all decisive facts and shall be made available to the represented right holders,
- o) publish, without undue delay, the annual closing accounts including the auditor's report in the Commercial Bulletin,
- p) inform the Ministry of all changes in the data presented in the application for the extension of authorisation pursuant to Article 98 paragraph (2) a) including changes of the person who is the statutory body of the collective administrator or member of such body, and to document such changes, and that without delay, not later however than 15 days from such change,
- r) provide the Ministry with a copy of:
  - 1. changes of documents attached to the application for the granting of authorisation pursuant to Article 98 paragraph 3 a) to c) within 15 days from any such change,

2. the collective agreement concluded by the collective administrator, within 15 days from the date on which the Ministry requested it,
  3. the agreement pursuant to Article 97 paragraph (5), concluded by the collective administrator, within 15 days from the date on which the Ministry requested it,
  4. the verdict of the court or other relevant body, if the collective administrator is a participant in the proceedings, within 15 days from the date on which the Ministry requested it,
- s) publish in a suitable manner the remuneration tariff rates,
- t) inform the Ministry on verdicts by courts or other relevant bodies in proceedings in which the collective administrator is a participant, and which have a fundamental impact on his activity.

(2) The obligations pursuant to paragraph (1) a) and b) shall apply only to right holders who are citizens of the Czech Republic, or who are resident, or have their domicile in the Czech Republic.

(3) The collective administrator shall represent the rightholder on the latter's account and under the collective administrator's name. The collective administrator shall execute collective administration on a non-profit basis. The collective administrator shall however be entitled to claim compensation of effectively expended costs.

(4) Users of items of protection as well as persons liable to pay special remuneration shall be obliged to allow the collective administrator to perform the orderly execution of collective administration and may not, without serious reason, refuse the provision to the collective administrator of the information needed for that purpose. The collective administrator may not use the information acquired during control activity for any other purpose than the execution of collective administration. The collective administrator shall be authorised to monitor the orderly and timely fulfilment of agreements concluded by him in the execution of collective administration; users of items of protection as well as persons liable to pay special remuneration, or other parties to such agreements, shall be obliged to allow the collective administrator the execution of such activity.

(5) Producer of a non-theatrical performance of a musical work with or without text or of an artistic performance (henceforth "public musical performance") shall mean the owner or tenant of the facility or other space if he has provided such facility or other space for the performance without informing the relevant collective administrator of the data necessary for the identification of the producer of the said musical performance.

(6) The producer of a live public musical performance shall be obliged to always inform the relevant collective administrator of the programme of the performance, listing the names of the authors and titles of works that are to be produced, and that not later than 10 days before the event. Where such notification is not made by the producer, it shall be deemed that the performance contains only works of authors whose rights to the live performance of musical works are being administered by the collective administrator.

## **Article 101**

### **Collective and cumulative agreements**

(1) The collective administrator shall provide by means of the agreements pursuant to Article 100 paragraph (1) h) 1 authorisation to exercise the right to use the items of protection

defined either individually or cumulatively - i.e. including all items of protection for which he collectively administers such right. Where the collective administrator grants the authorisation to exercise rights to items of protection defined cumulatively (the term used for the purposes of this Act is "cumulative agreement"), and where user data on the use of concrete items of protection are needed for the distribution of collected remuneration, the collective administrator shall be entitled to require such data from the user. The cumulative agreement must be set out in writing. The provision of the preceding sentence shall apply appropriately also to agreements pursuant to Article 100 paragraph (1) clause h) items 2 and 3.

(2) The collective administrator may not impose restrictions on the users of the items of protection that exceed the framework of protection provided for by this Act.

(3) The collective administrator shall be free of the obligation pursuant to Article 100 paragraph (1) h) if the conclusion of the agreement would be in contravention of the legitimate common interests of the rightholders, or if the proposed agreement is intended to grant authorisation relating to an individually defined item of protection, or if the conclusion of the agreement would be in contravention of the legitimate interests of the rightholders to such item of protection.

(4) The collective administrator shall be also free of the obligation to conclude, pursuant to Article 100 paragraph (1) h), an agreement with a legal entity associating users (the term used for the purposes of this Act is "collective agreement") in the event when it is not possible to fairly require of him the conclusion of such an agreement due to the negligible number of users associated by such entity.

(5) The collective agreement shall be set out in writing and the rights and obligations of the associated users towards the collective administrator shall be derived directly from the agreement; this shall not prejudice the provision that the collective administrator shall act on the account of the right holders.

(6) The collective administrator shall be entitled to prohibit temporarily a user who is in arrears on the payment of remuneration to him, and who does not pay such remuneration even within an additional thirty-day term extended for this purpose by the collective administrator for the period during which the user is in arrears, the use of the items of protection to which the user would otherwise be entitled on the basis of the agreement concluded with collective administrator.

(7) The collective administrator shall also be authorised to issue the prohibition pursuant to Article 72 paragraph (4) and Article 76 paragraph (4); he may apply this authorisation both in relation to individual or all artistic performances and phonograms rights to which he administers collectively.

(8) The collective administrator shall be authorised to provide authorisation to the user to exercise the right to use the item of protection only as a non-exclusive and non-transferable right.

(9) Where, on the basis of a cumulative agreement pursuant to paragraph (1), the relevant collective administrator grants a licence

- a) for the performing of artistic performances from a phonogram published for commercial purposes, or for the performing of such phonogram
- b) for the non-theatrical performance of musical works with or without text from a phonogram published for commercial purposes,
- c) for the broadcasting of a certain type of works,
- d) for the performing of the broadcasting of a certain type of works, artistic performances, phonograms and audiovisual fixations,

it shall be deemed that such licence has been granted not only to apply to the relevant items of protection, and in the case of works to the relevant types of works of rightholders represented on the basis of the agreement, but also to all others, who thus consider themselves represented on the basis of the law. This shall not apply to audiovisual works or to works used audiovisually, in the case of a licence pursuant to clause c), or to any such rightholder not represented on the basis of the agreement, who, in relation to the user and to the relevant collective administrator, has excluded the effect of the cumulative agreement for a specific case or for all cases; he may not however exclude the effect of the cumulative agreement in the case of a licence pursuant to clause d).

(10) During the disbursement and payment of remuneration which he has collected on the basis of the cumulative agreement pursuant to paragraph (9) for rightholders not represented on the basis of the agreement, the relevant collective administrator of rights shall take into account those rightholders who have applied for registration with the collective administrator for such purpose.

## **Article 102**

### **Mediators of collective and cumulative agreements**

(1) To provide assistance with the negotiation of collective agreements, or of cumulative agreements (Article 100 paragraph (1) h), as the case may be, the parties to the agreement may use one or more mediators appointed for this purpose by the Ministry from the ranks of independent experts. For the purposes of this Act, the appointee must be of age and sound in body and mind, and willing to perform this activity. The list of mediators shall be available to the public and be in the keeping of the Ministry taking into account the nominations made by collective administrators and users, or by their associations.

(2) Where the parties to the agreement do not agree on a mediator within 30 days from the submission of the proposal by any of the parties to negotiate a mediated collective agreement pursuant to paragraph (1), the mediator shall be designated by the Ministry within 14 days from the submission of the application.

(3) The application for the negotiation shall be submitted in written form to the mediator by any of the parties to the agreement. In the application the party shall indicate the current state of the negotiations and attach its own proposal and the statement of the other party to the agreement. The parties to the agreement shall be obliged to coordinate their steps during the negotiation.

(4) The mediators shall be obliged to assist the parties to the agreement during the negotiation as well as to submit, if necessary, to the parties their own proposals within 30 days from the submission of the application.

(5) Unless any of the parties submit, within 30 days from the submission of the proposal of the mediator pursuant to paragraph (1), an objection to the proposal, it shall be deemed that the proposal has been accepted by the parties.

(6) The mediator shall be entitled to a contractual fee agreed by the parties to the agreement, and to compensation of unavoidable incurred costs. Unless the parties to the agreement agree on the fee for his activity in the negotiation of the collective or cumulative agreement, the fee of the mediator shall be double the amount of the minimum wage applying to employees paid on a monthly basis.<sup>7)</sup> The fee of the mediator and the cost incurred by him in connection with this activity shall be borne in equal proportion by the parties to the agreement.

### **Article 103**

#### **Supervision by the Ministry**

(1) The Ministry shall be entitled to

- a) require from the collective administrator information and the submission of documentation necessary for the execution of supervision,
- b) investigate whether any breach of duties imposed by this Part of the Act has occurred,
- c) impose, in the event of establishing defects in the compliance with this Part of the Act, the duty to remedy such defect, and to extend a reasonable term for the implementation of such remedy.

(2) Where the Ministry finds out on the part of the collective administrator a breach of duty ensuing from this Part of the Act, it may impose a fine on the collective administrator up to the amount of CZK 50 000. The fine may be imposed repeatedly. The fine may be imposed not later than one year from the date on which the Ministry finds out that a breach of duty has occurred, not later however than three years from the day on which the duty has been breached. When stipulating the amount of the fine, the Ministry shall take into account the severity of the breach of duty and its consequences. The fines shall become a revenue of the State Fund of Culture of the Czech Republic; the Ministry shall enforce them pursuant to special legal regulations<sup>8)</sup>.

### **Article 104**

#### **Rules for the distribution of remuneration collected by the collective administrator**

(1) Of the remuneration collected pursuant to Article 25 paragraph (3) a) and c) the following is due

- a) in the case of technical devices for the fixation of sound recordings and in the case of empty carriers of sound recordings, 50 % to the authors, and equal proportions from 50% to the performing artists and producers of sound recordings,
- b) in the case of technical devices for the fixation of audio-visual recordings, and in the case of empty carriers of such recordings, 60 % to the authors (of this amount 15 % to the authors of literary, dramatical and dramatico-musical works, 14 % to directors, 11 % to camera operators, 11 % to authors of musical works with or without text, 9% to architects, scenographers and designers of audio-visual works) and 40% to performing artists and

producers of audio-visual recordings of works (of this amount 25 % to producers of audio-visual recordings of works, and 15 % to performing artists and authors of choreographic and pantomimic works).

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7) Art. 2 paragraph 1 b) of Govt. Decree No. 303/1995 Coll., on the minimum wage, as amended.

8) Law No. 337/19992 Coll., on the administration of taxes and duty, as amended.

(2) Of the remuneration collected pursuant to Article 25 paragraph (3) b) and paragraph (4), 60 % shall be due to the authors (of this amount 45 % to authors of literary works including scientific and cartographic works, and 15 % to authors of graphic and plastic art), and 40 % to the publishers of published works.

## **Title V**

### **Concurrent protection**

#### **Article 105**

Copyright shall not be prejudiced by rights relating to copyright or by the right of the maker of a database to the database made by him. Protection of works in accordance with copyright shall not exclude the protection stipulated by special legislation.

## **Title VI**

### **Transitional and final provisions**

#### **Article 106**

##### **Transitional provisions**

(1) This Act shall govern legal relations established as of the date on which this Act comes into force. 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) Provisions in effect before the date on which this Act comes into effect shall be applied in the judgement of all terms which have started running before the date on which this Act came into effect, as well as of terms for the application of rights which, pursuant to paragraph (1), shall be governed by provisions in force hitherto, even where such terms start running after the date of the coming into force of this Act.

(3) The period of duration of economic rights shall be governed by this Act also where the term started before this Act came into effect. Where the term of duration of these rights has expired before the date on which this Act comes into effect, 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, lawfully acquired before the date of the coming into effect of this Act, may however continue to be freely disseminated for a further two years after this Act comes into effect.

(4) In accordance with this Act, protection shall be extended also to items protected by copyright which have not been hitherto protected according to existing provisions (Article 1 b) items 3, 5 and 6 and Article 2 paragraph (2)), or whose content of protection is different than that defined by this Act. The National Film Archive <sup>9)</sup> shall be deemed to be the producer of any Czech audio-visual recording of a work made public in the period between January 1, 1950 and December 31, 1964. The State Fund of the Czech Republic for the Promotion and Development of Czech Cinematography which, in compliance with special legal provisions <sup>10)</sup> exercises the copyright to audio-visual recordings of audio-visual works made public in the period between January 1, 1965 and December 31, 1991, shall be deemed to be the producer of such works.

(5) The provision of paragraph (4) shall not prejudice the right of the National Film Archive to manage the original carrier of the recording of an audio-visual work.

(6) The provision of paragraph (4) first clause shall be applied appropriately where the works are databases pursuant to the provisions of Article 88, but only if they had been made not earlier than 15 years before the coming into effect of this Act.

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

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

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9) Article 6 of Law No.273/1993 Coll., on certain terms of production, dissemination and archiving of audio-visual works, on the amendment and supplementation of certain laws and other legal provisions, as amended by law No.40/1995 Coll.

10) Law No. 241/1992 Coll., as amended by law No.273/1993 Coll.  
Article 14 of Law No. 273/1993 Coll.

## **Article 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 have been created or made public.

(2) The provisions of this Act shall apply to the works and performances of foreign nationals and people without nationality in accordance with the international treaties binding on the Czech Republic or, in the absence of such treaty, where reciprocity is assured.

(3) If none of the conditions stipulated by paragraph (2) are satisfied, this Act shall apply to 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 country of origin of the work.<sup>11)</sup>

(5) The provisions of this Act shall apply to the phonograms of the producers of phonograms domiciled or resident on the territory of the Czech Republic; to the phonograms of the foreign producers of phonograms they shall apply by the appropriate application of the provisions of paragraphs (2) and (3).

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

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11) Article 5 para 4 of the Berne Convention for the Protection of Literary and Artistic Works of September 8, 1886, completed at Paris on May 4, 1896, revised in Berlin on November 13, 1908, completed at Berne on March 20, 1914, revised at Rome on June 2, 1928, at Brussels on June 26, 1948, at Stockholm on July 14, 1967, and at Paris on July 24, 1971 (Ministry of Foreign Affairs Regulation No. 133/1980 Coll.)

## **PART TWO**

### **Amendment of the Property Evaluation Act**

#### **Article 108**

Law No. 151/1997 Coll., on the evaluation of property and on the amendment of certain laws (Property Evaluation Act), shall be amended as follows:

1. In the title of Article 17, to the word "findings" shall be added a comma and the words "of certain economic rights related to copyright and the rights of maker of database".
2. In Article 17 paragraph (1) the word "(know-how)" shall be followed by a comma and the following words, including footnote 17a), shall be added: "economic rights which are the content of rights related to copyright, with the exception of rights of performing artists and the economic rights of maker of database<sup>17a)</sup>".

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17a) Law No. 121/2000 Coll., on Copyright, rights related to copyright and on the amendment of certain laws (Copyright Act).

3. In Article 17 paragraph (3) a) after the words "clause b)" shall be added "c) and d)".
4. In Article 17 paragraph (3) the full stop at the end shall be substituted by a comma and new clauses c) and d) added:

"c) shall be in the case of the relevant rights related to copyright such a number of years as remain until the end of the fifty year duration of such rights in the case when it shall not be possible to ascertain the number of years pursuant to a), and

d) shall be in the case of the maker of a database such a number of years as remain until the end of the fifteen year duration of such rights in the case when it shall not be possible to ascertain the number of years pursuant to a)".

5. To Article 17 shall added the following paragraph (5):

”(5) Economic rights of authors and the economic rights of performers, as untransferable rights, are not evaluated.”

### **PART THREE**

#### **Amendment of the Penal Code**

##### **Article 109**

Law No. 140/1961 Coll., the Penal Code, as amended by law No. 120/1962 Coll., law No. 53/1963 Coll., law No. 56/1965 Coll., law No. 81/1966 Coll., law No. 148/1969 Coll., law No. 45/1973 Coll., law No. 43/1980 Coll., law No. 159/1989 Coll., law No. 47/1990 Coll., law No. 175/1990 Coll., law No. 457/1990 Coll., law No. 545/1990 Coll., law No. 490/1991 Coll., law No. 557/1991 Coll., Constitutional Court Verdict of September 4, 1992 published in volume No. 93/1992 Coll., law No. 290/1993 Coll., law No. 38/1994 Coll., Constitutional Court Verdict No. 91/1994, law No. 152/1995 Coll., law No. 19/1997 Coll., Constitutional Court Verdict No. 103/1997 Coll., law No. 253/1997 Coll., law No. 92/1998 Coll., law No. 112/1998 Coll., law No. 148/1998 Coll., law No. 167/1998 Coll., and law No. 96/1999 Coll., law No. 191/1999 Coll., and law No. 223/1999 Coll., shall be amended as follows:

1. In the title of the subsection four of Part Two, Title Two, the word ”rights” shall be followed by a comma and the words ”and against rights related to copyright and against rights to a database” added.

2. In the title of Article 152 the word ”rights” shall be followed by a comma and the words ”and against rights related to copyright and rights to a database”.

3. Article 152 paragraph (1) shall read:

”(1) Whoever without authorisation infringes the rights to a work protected by copyright, artistic performance, sound or audio-visual recording, radio or television broadcast or database shall be punished by imprisonment for a period of a maximum of two years, or by a financial penalty, or by forfeiture of the object.”

### **PART FOUR**

#### **Amendment of the Offences Act**

##### **Article 110**

Law No. 200/1990 Coll., on offences, as amended by law No. 337/1992 Coll., law No. 344/1992 Coll., law No. 359/1992 Coll., law No. 67/1993 Coll., law No. 290/1993 Coll., law No. 134/1994 Coll., law No. 82/1995 Coll., law No. 237/1995 Coll., law No. 279/1995 Coll., law No. 289/1995 Coll., law No. 112/1998 Coll., and law No. 168/1999 Coll., shall be amended as follows:

1. Article 32 paragraph (1) a) shall read:

”a) uses without authorisation a work protected by copyright, an artistic performance, sound or audio-visual recording, radio or television broadcast or database”.

2. Article 32 paragraph (2) shall read:

”(2) An offence pursuant to paragraph (1) a) may be punished by a financial penalty of up to 15,000 crowns. An offence pursuant to paragraph (1) b) and c) may be punished by a financial penalty of up to 5,000 crowns”.

## **PART FIVE**

### **Amendment of the Trade Act**

#### **Article 111**

Article 3 paragraph (1) of law No. 455/1991 Coll., on trade enterprise (Trade Act), as amended by law No. 286/1995 Coll., clauses b) and c), including footnotes 2 and 2a), shall read:

”b) utilisation of the results of intellectual creative activity, protected by special laws, by their originators or authors <sup>2)</sup>,

c) execution of collective administration of copyright and rights related to copyright according to a special regulation, <sup>2a)</sup>”.

2) Law No. 527/1990 Coll., on inventions, industrial designs and innovations, as amended by law No. 519/1991 Coll.

Law No. ... Coll., on copyright, rights related to copyright and on amendments to certain laws (Copyright Act).

Law No. 529/1991 Coll., on the protection of the lay-out designs (topographies) of semiconductor integrated circuits.

Law No. 478/1992 Coll., on utility models.

2a) Law No. .... Coll., on copyright, on rights related to copyright and on the amendment of certain laws (Copyright Act).”.

## **PART SIX**

### **Amendment of the Income Tax Act**

#### **Article 112**

In Article 4 paragraph (1) of law No. 586/1992 Coll., on income tax, as amended by law No. 96/1993 Coll., law No. 157/1993 Coll., law No. 323/1993 Coll., law No. 259/1994 Coll., law No. 118/1995 coll., law No. 149/1995 Coll., law No. 316/1996 Coll., law No. 209/1997 Coll., law No. 210/1997 Coll., law No. 111/1998 Coll., law No. 149/1998 Coll., law No. 168/1998 Coll., law No. 333/1998 Coll., law No. 63/1999 Coll., law no. 144/1999 Coll., the full stop after the clause zd) shall be substituted by a comma and the clause ze) shall be added which, including the footnote 64a), shall read:

”ze) income in the form of a free copy pursuant to special legislation <sup>64a)</sup> and in the form of an author’s reproduction, in habitual amounts, received in connection with the utilisation of the object of copyright or of rights related to copyright.

64a) Law No. 37/1995 Coll., on non-periodical publications.

Law No.53/1959 Coll., on the unified system of libraries.

Law No. ... Coll., on copyright, on rights related to copyright, and on the amendment of certain laws (Copyright Act).

## **PART SEVEN**

### **Amendment of the law on certain conditions of the production, dissemination and archiving of audio-visual works**

#### **Article 113**

Article 1 paragraph (2) of law No. 273/1993 Coll., on certain conditions of the production, dissemination and archiving of audio-visual works, on the amendment and supplementation of certain laws and several other regulations, clause a) shall read:

”a) the producer of the audiovisual work is the person who has initiated and who is responsible for the first provision of the audiovisual work,”.

## **PART EIGHT**

### **Amendment of the law on collective administration of copyright and of rights related to copyright**

#### **Article 114**

Part I of the law No. 237/1995 Coll., on the collective administration of copyright and of rights related to copyright and on the amendment and supplementation of certain laws, is repealed.

## **PART NINE**

### **Amendment of the law on provisions applying to the import, export, and re-export of goods infringing certain intellectual property rights**

#### **Article 115**

Part Two of law No. 191/1999 Coll., on provisions applying to the import, export, and re-export of goods infringing certain intellectual property rights, and on the amendment of certain other laws, is repealed.

## **PART TEN**

### **Amendment of the Radio and Television Broadcasting Act**

#### **Article 116**

Article 26 of law No. 468/1991 Coll., on operating radio and television broadcasting, is repealed.

## **PART ELEVEN**

## **REPEAL PROVISIONS**

### **Article 117**

The following are repealed:

1. Law No. 35/1965 Coll., on literary, scientific and artistic works (Copyright Act)
2. Law No. 89/1990 Coll., amending and supplementing law No.35/1965 Coll., on literary, scientific and artistic works (Copyright Act)
3. Law No. 86/1996 Coll., amending and supplementing law No.35/1965 Coll., on literary, scientific and artistic works (Copyright Act), as amended by law No.89/1990 Coll., law No.468/1991 Coll., law No.318/1993 Coll., and law No.237/1995 Coll.

## **PART TWELVE**

### **Effect**

### **Article 118**

This Act shall come into effect on 1<sup>st</sup> December 2000.

**Annex to law No. 121/2000 Coll.**

**Tariffs of remuneration for the re-sale of an original of an artistic work or and tariffs relating to the reproduction of the work for personal use**

1. Persons referred to in Article 24 paragraph (2) shall be obliged to pay the relevant collective administrator who had been granted authorisation to execute collective administration within a scope that includes the collection of remuneration from such persons, on the resale of an original of an artistic work on the territory of the Czech Republic, a remuneration in the amount of :

<b>a) 5% of a sales price over</b>	<b>CZK 30 000 to CZK 150 000</b>
<b>b) 4% of a sales price over</b>	<b>CZK 150 000 to CZK 1 500 000</b>
<b>c) 3% of a sales price over</b>	<b>CZK 1 500 000 to CZK 7 500 000</b>
<b>d) 2% of a sales price over</b>	<b>CZK 7 500 000.</b>

2. Persons referred to in Article 25 paragraph 2 a) or, as the case may be, 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, and that continuously or in several periodical stays, on the territory of the Czech Republic, shall be obliged to pay remuneration twice annually to the relevant collective administrator who has been authorised pursuant to this Act to execute collective administration within a scope that includes the collection of remuneration from such persons.

Lump sum remuneration due on the import or first sale of technical devices designated for the making of reproductions of a sound or audio-visual recording shall be 3 % of the sales price of sold devices, irrespective of whether such devices serve for the recording of merely sound, or merely image, or simultaneously sound and image. In the case of radio and television sets enabling the making of a record of a broadcast, the remuneration shall be 1.5 % of the sales price of sold sets.

3. Persons referred to in Article 25 paragraph (2) b) who are domiciled or permanently resident or, as the case may be, resident for at least 183 days in the calendar year, and that continuously or in several periodical stays, on the territory of the Czech Republic, shall be obliged to pay remuneration twice annually to the relevant collective administrator who

has been authorised pursuant to this Act to execute collective administration within a scope that includes the collection of remuneration from such persons:

Lump sum remuneration due on the import or first sale of devices designated for the making of printed reproductions shall be:

devices with an output of 4 to 12 reproductions per minute	<b>CZK 650</b>
devices with an output of 13 to 35 reproductions per minute	<b>CZK 1 300</b>
devices with an output of 36 to 70 reproductions per minute	<b>CZK 1 600</b>
devices with an output of more than 70 reproductions per minute	<b>CZK 12 000.</b>

4. Persons referred to in Article 25 paragraph 2 e) shall be obliged to pay the appropriate remuneration pursuant to Article 25 paragraph (4) once a year to the relevant collective administrator who has been authorised in accordance with this Act to execute collective administration within a scope including the collection of remuneration from such persons.

Remuneration for one print reproduction shall be:

- |                                       |                  |
|---------------------------------------|------------------|
| a) for a black-and-white reproduction | <b>CZK 0,10</b>  |
| b) for a coloured reproduction        | <b>CZK 0,20.</b> |

5. Persons referred to in Article 25 paragraph 2 c) who have their seat, 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, and that continuously or in several periodical stays, on the territory of the Czech Republic, shall be obliged to pay remuneration twice annually to the relevant collective administrator who has been authorised pursuant to this Act to execute collective administration within a scope that includes the collection of remuneration from such persons.

Remuneration for the making of reproductions of sound or audio-visual recordings shall be 4% of the sales price of empty sound and audio-visual carriers designated for the making of reproductions for personal use.