

Act No. 496/2012 Coll. on Audiovision

The Parliament passed the following Act of the Czech Republic

PART ONE

AUDIOVISION

TITLE I

INTRODUCTORY PROVISIONS

Section 1

Subject Matter

(1) This Act shall govern:

- a) obligations relating to the production and release of cinematographic and other audiovisual works;
- b) the status and activities of the National Film Archive, and
- c) the status and activities of the Czech Audiovisual Fund, its financing, provision of support to audiovisual projects (hereinafter referred to as the “selective support”) and provision of incentives to the film industry (hereinafter referred to as “production incentives”).

(2) The provisions of Sections 3 and 6 to 8 and the provision regulating the selective support and production incentives shall not apply to:

- a) video recordings⁵³⁾, video clips or programs based on them;
- b) works containing pornography, brutal self-serving violence, works offending human dignity and instigating crime; and
- c) news programs, publicist programs, recordings of cultural or sports events, entertainment programs and competitions.

Section 2

Basic Terms

(1) For the purposes of this Act, the following terms shall have the following meanings:

- a) cinematographic performance shall mean public theatrical presentation, or other similar form of release, of an audiovisual work¹⁾,
- b) cinematographic work shall mean an audiovisual work intended for public performances; audiovisual works having the nature of advertising shall not be considered cinematographic works²⁾,
- c) television work shall mean an audiovisual work intended for release in a television broadcast or through an on-demand audiovisual media service; audiovisual works having the nature of advertising shall not be considered television works²⁾;
- d) audiovisual infrastructure shall mean a set of associated procedures and activities enabling the use of an audiovisual work or a part thereof; for the purpose of provision of selective

support, audiovisual infrastructure includes projects from the areas defined in Section 31(1)(c) to (j) below;

- e) animated audiovisual work shall mean an audiovisual work that uses animation procedures and does not contain at the same time a continuous record of a live action;
- f) videogame shall mean an interactive work containing audiovisual elements, consisting in a game or simulation which uses digital technologies, is capable of being published through an electronic or physical medium, is controlled by a computer program enabling the player playing the game to interact with the dynamic of the game or simulation and contains in its digital form at least two of the following elements:
 - (1) text;
 - (2) sound;
 - (3) a static image; or
 - (4) animated shots.

Videogames are considered audiovisual works for the purposes of this Act;

- g) producer shall mean a person that is the holder, or one of the holders, of an authorisation to exercise the right to use³⁾ an audiovisual work, including any author's works and artistic performances used audiovisually in it, and who possesses at the same time the audio/video recording producer's rights⁴⁾ in relation to the recording of the audiovisual work, or a share in such rights;
- h) co-producer shall mean any producer, if there are more than one producer of an audiovisual work;
- i) Czech audiovisual work shall mean an audiovisual work
 - 1. produced with a contribution of a producer or co-producer having his registered office or permanent residence in the Czech Republic, such contribution covering at least 10% of the total production costs; or
 - 2. produced with a contribution of a co-producer having his registered office or permanent residence in the Czech Republic, combined with the contribution of a co-producer not having his registered office or permanent residence in the Czech Republic, provided that such an audiovisual work meets the conditions of the European Convention on Cinematographic Co-production (hereinafter referred to as the "Convention")⁵⁾, the revised Council of Europe Convention on Cinematographic Co-production (hereinafter the "Revised Convention") or of any other international agreement on film co-production that is binding on the Czech Republic (hereinafter referred to as the "international film co-production agreement"), irrespective of how such a co-producer contributed to the financing of the production costs;
- j) distributor shall mean a person that, as a part of performance of its business activities and to the extent of the authorisation granted by holders of rights to use the audiovisual work and its recording (with the exception of videogames),
 - 1. makes copies, or has copies made, for the purpose of distribution, leasing or lending thereof⁶⁾, and distributes, leases or lends such copies in the Czech Republic;
 - 2. provides an authorisation to third parties to use an audiovisual work in the territory of the Czech Republic through cinematographic performances, through an on-demand audiovisual media service⁷⁾ or television broadcasting⁸⁾, and as a rule also provides a recording of the audiovisual work for this purpose to the beneficiary of the authorisation;
- k) cinematographic performance organiser shall mean a person that organises at its own cost and his own responsibility a cinematographic performance;

1) producer of a videogame shall mean a person that is the holder or one of the holders of the authorization for the exercise of the right to use a videogame or a part thereof in accordance with the Copyright Act³⁾, including author's rights, computer programs, artistic performances and audiovisual elements used in the videogame, or of a share in such rights.

(2) If the activities referred to in Subsection 1(j) are carried out by the producer or one of the co-producers of a Czech audiovisual work, such a producer or co-producer shall be considered distributor for the purpose of performance of the obligations under this Act.

Section 3

Captions for Hearing Impaired Viewers

(1) Captions for hearing impaired viewers shall be understood to mean a visually recorded and optionally adjustable text in the Czech language, which is synchronised with the sound track of the audiovisual work and which transcribes or describes spoken words and other sounds contained in the audiovisual work, doing so in a manner enabling the hearing impaired viewers to follow the dialogue and the action in the audiovisual work.

(2) The distributor of a Czech audiovisual work (with the exception of a videogame) shall provide copies of such a work, distributed to the public in the Czech Republic, with captions for the hearing impaired viewers as referred to in Subsection 1 above and shall ensure that the inscription "Captioned for the Hearing Impaired" is printed on the packages of such reproductions.

Section 4

Classification of Cinematographic Works

(1) Before the first presentation in the territory of the Czech Republic, each cinematographic work must be labelled to indicate its classification as to the suitability of its content for minors. The purpose of the classification is to restrict access to cinematographic works whose content may affect physical, mental or moral development of minors.

(2) From the viewpoint of content suitability for minors, cinematographic works shall be classified as follows:

- a) unrestricted;
- b) unsuitable for minors under 12 years of age;
- c) unsuitable for minors under 15 years of age; or
- d) restricted for minors under 18 years of age.

Section 5

Obligations in the Classification of Cinematographic Works

(1) A producer or co-producer who has his registered office or permanent residence in the Czech Republic shall classify Czech cinematographic works and shall notify their distributors of such classification.

(2) As to cinematographic works other than Czech cinematographic works, the distributor shall classify any such work distributed by him in the territory of the Czech Republic.

(3) The distributor shall inform each cinematographic performance organiser, on-demand audiovisual media service provider⁹⁾ and any other persons to which the distributor grants the right to use the work in the territory of the Czech Republic about the classification under Subsections 1 and 2 above .

(4) The distributor defined in Section 2(1)(j)(1) above shall provide the packages of the copies of a cinematographic work with a classification label. Should such a copy contain more than one cinematographic work, the classification of the cinematographic work with the strictest restriction as indicated in Section 4(2) above shall be used for the labelling of such copies.

(5) The cinematographic performance organiser shall ensure that the cinematographic work classification indicated by the distributor is made public together with the announcement of the cinematographic performance. During the cinematographic performance, the organiser shall ensure that the presence of persons to whom the restriction, if any, of access to the work applies in accordance with Section 4(2)(d) above is excluded.

(6) Any person that sells, leases¹⁰⁾ or lends¹¹⁾ copies of a cinematographic work classified and labelled in accordance with Section 4(2)(d) shall not sell, lease or lend such copies to any person to whom the restriction of access to such a work applies in accordance with the classification.

(7) The distributor is obliged to classify under Section 4 any audiovisual trailers or other forms of advertising of the cinematographic work distributed by him which is intended for cinematographic performances if they meet the conditions for classification under Section 4(2)(d) as regards suitability of their contents for minors, and is obliged to notify the cinematographic performance organiser of such classification. The distributor of a cinematographic work that has already been classified as indicated in Section 4(2)(d) above shall ensure that the audiovisual trailers or other forms of advertising of such cinematographic work contain the designation of the classification of such cinematographic work if such classification is stricter than the classification of the audiovisual trailer or of another form of related advertising which was determined under the first sentence.

(8) Before, during and immediately after a cinematographic performance, the cinematographic performance organiser may not present to the public any of the trailers referred to in Subsection 7 above if they have a stricter restriction label than the cinematographic work shown as the main feature of the cinematographic performance.

Section 6

Offer Obligation Relating to Czech Cinematographic Works

(1) The producer of a Czech cinematographic work, or its co-producer with his registered office or permanent residence in the Czech Republic, shall offer to the National Film Archive in the form of a proposed contract

- a) 2 copies of the work at the quality required for a copy intended for cinematographic performances;
- b) a copy of such work at the quality suitable for production of copies intended for release to the public through cinematographic performances;
- c) digital copies of final basic materials created as a part of the literary preparation of such work; and
- d) digital copies of all kinds of promotional materials in the quality required for their production.

(2) If there are more than one type of copies that differ as to technology, edition, language or otherwise which are used for cinematographic presentation of the relevant work, all these types shall be indicated in the written offer referred to in Subsection 1 above.

(3) The time limit for the acceptance of the contract proposal referred to in Subsection 1 shall be 6 months after the date of delivery of the proposal.

(4) The producer or co-producer referred to in Subsection 1 above shall deliver to the National Film Archive copies of a Czech cinematographic work that constitute the object of the contract within 6 months after the conclusion of the contract; digital copies may not be encrypted. Within the same time limit, the producer or co-producer shall also deliver to the National Film Archive the other items that constitute the object of the contract.

(5) A producer or co-producer referred to in Subsection 1 above, who is at the same time a recipient of the selective support in accordance with Section 31(1)(b), shall present to the National Film Archive in the form of a proposed contract within 60 days after the date of release of the supported work a written offer of all copies referred to in Subsection 1 and 2, which shall be provided free of charge. Subsections 3 and 4 shall apply *mutatis mutandis* to the time limit for the acceptance of such an offer to conclude the contract and to the delivery of the items after the acceptance of such offer.

(5) Subsection 5 shall not apply to a copy of the work at the quality fit for production of copies intended for public release through cinematographic performances, which is not made in the digital form. This shall not affect the obligation of the producer of a Czech cinematographic work or of its co-producer with his registered office or permanent residence in the Czech Republic to offer such copy in writing in the form of a contract proposal to the National Film Archive pursuant to Subsection 1(b).

Section 6a

Offer Obligation Relating to Czech Television Works

(1) The producer of a Czech television work, or its co-producer with his registered office or permanent residence in the Czech Republic, who is at the same time a recipient of the selective support in accordance with Section 31(1)(b), shall be obliged to present to the National Film Archive in writing in the form of a proposed contract within 60 days after the date of release of the supported work a free offer of

- a) 2 copies of such work at the quality of a copy intended for public release through television broadcasting on an on demand audiovisual media service,
- b) a copy of such work at the quality suitable for the production of copies intended for public release through television broadcasting or an on-demand audiovisual media service;
- c) a digital copy of final basic materials created as a part of the literary preparation of the work; and
- d) digital copies of all kinds of promotional materials relating to such work at the quality intended for production thereof;

(2) If there are more than one type of copies that differ as to technology, edition, language or otherwise which are used for the release of a Czech television work via television broadcasting or an on-demand audiovisual media service, all these types shall be indicated in the written offer referred to in Subsection 1.

(3) The time limit for the acceptance of the contract proposal referred to in Subsection 1 shall be 6 months after the date of delivery of the proposal.

(4) The producer or co-producer referred to in Subsection 1 above shall deliver to the National Film Archive copies of a Czech television work that constitute the object of the contract within 6 months after the conclusion of the contract; digital copies may not be encrypted. Within the same time limit, the producer or co-producer shall also deliver to the National Film Archive the other items that constitute the object of the contract.

Section 6b

Joint Provisions Relating to the Offer Obligation

Once the item has been delivered in accordance with Subsections 6 or 6a above, such an item shall become the property of the Czech Republic to be administered by the National Film Archive¹²⁾. The transfer of the ownership of the copies of Czech cinematographic works, Czech television works and other materials according to Subsections 6 or 6a does not grant the National Film Archive the right to use such Czech cinematographic works, Czech television works and any other materials in any manner whatsoever, unless it obtains an authorisation to do so from the holders of the copyright or rights related to copyright, unless specified otherwise by a special law¹⁾.

Section 7

Listing of Audiovisual Works

(1) The producer of a Czech audiovisual work, unless it is a videogame, or its co-producer with his registered office or permanent residence in the Czech Republic, shall inform the National Film Archive about such work not later than by 31 January following the calendar year in which the work was released to the public in the Czech Republic.

(2) The producer of a an audiovisual work that is a videogame, who has his registered office or permanently resides in the Czech Republic and is at the same time a recipient of the selective support under Section 31(1)(b) below, shall notify the National Film Archive of such work not later than by 31 January following the calendar year in which the work was released to the public in the Czech Republic.

(3) The distributor shall notify the National Film Archive of every cinematographic work and every television work presented within his distribution to the public in the Czech Republic through cinematographic performances, television broadcasting or an on-demand audiovisual media service and shall do so not later than by 31 January following the calendar year in which the work was released to the public in the Czech Republic.

(4) A notification referred to in Subsections 1 to 3 shall contain:

- a) the name of the audiovisual work or, in the case of an audiovisual work other than a Czech work, its name in the original language version as well as the name under which the audiovisual work is released to the public in the Czech Republic, if it differs from the name in the original language version;
- b) with the exception of the notification of a videogame, the first name(s) and last name(s) of the author(s) of the audiovisual work and authors of the main works used audiovisually¹³⁾, if known and unless the author expressed his wish to make his work public without indicating his name¹⁴⁾; if the author expressed his wish to be designated by a pseudonym, such a pseudonym shall be indicated instead of the author's first and last name;
- c) with the exception of the notification of a videogame, the first name(s) and last name(s), or pseudonym(s) used instead of the names, of the performing artists in leading roles, if known and unless the performing artist expressed his wish to make his performance public without indicating his name¹⁴⁾;
- d) in case of a Czech audiovisual work: the company name or the first name(s) and last name(s), registered office or address of the permanent residence of the producer or of all co-producers,
- e) the year of public release of the audiovisual work,
- f) in case of a cinematographic work, classification of the cinematographic work in accordance with Section 4,
- g) information about the original language version of the audiovisual work,
- h) with the exception of notification of a videogame, the length of the audiovisual work in metres or, in case of a digital work, its length in minutes,
- i) in case of a Czech audiovisual work produced with the participation of foreign co-producers: the percentage contribution of the co-producer, or jointly of all co-producers who have their registered office or permanent residence in the Czech Republic, to the financing of the costs of production of such Czech audiovisual work, and the percentage contribution of the co-producer, or of all co-producers having their registered office or principal place of business in the territory of any other state, to the financing of the costs of the production of such Czech audiovisual work;
- j) with the exception of notification of a videogame, information about all types of copies of the audiovisual work used for the release of the work to the public in the Czech Republic, and information about the visual and sound format of such types of copies;
- k) with the exception of notification of a videogame, information about all versions of the audiovisual work if the audiovisual work is released to the public in the Czech Republic in more than one technological, edited or other version;
- l) in case of a videogame, information about all hardware platforms on which it has been released in the Czech Republic, about all additions to the content that have been issued

in the Czech Republic, all types of carriers and distribution that have been used in the Czech Republic;

- m) information as to whether the audiovisual work is released to the public in the Czech Republic in its original language, dubbed or subtitled, and in case of a dubbed or subtitled audiovisual work information about the translator and the entity that has produced the relevant language version; in case of a videogame, this applies to both sound and text parts of the game;
- n) in case of audiovisual works released to the public in the Czech Republic in more than one technological, edited or other version, information about the language version of the audiovisual work referred to under clause m) above in relation to each such different technological, edited or other version; and
- o) in case of a videogame, a brief verbal description of the game.

(5) The obligation referred to in Subsections 1 and 3 above shall not apply to television broadcasting operators by law. The obligation referred to in Subsection 3 shall not apply to a cinematographic work presented to the public in the Czech Republic in the calendar year through not more than 10 cinematographic performances.

(6) The Ministry of Culture (hereinafter referred to as the “Ministry”) shall make public in a manner allowing for remote access a specimen notification form for the purpose of compliance with the obligations referred to in Subsections 1 to 3 above.

(7) If a notification referred to in Subsections 1, 2 or 3 above does not contain the complete information specified in Subsection 4 above, the National Film Archive shall call the obliged person to complement the notification within 15 days after the date of delivery of the call. Should the obliged person fail to do so within 15 days from the date of delivery of the call, the obligation referred to in Subsections 1, 2 or 3 shall be deemed not fulfilled.

(8) If the National Film Archive learns that any person has breached his obligations referred to in Subsections 1, 2 or 3 above, the National Film Archive shall forthwith report such person in writing to the relevant regional authority. The notification shall contain information about who, when and how has breached the obligation.

(9) Following the compliance with the obligations specified in Subsection 1 above, the National Film Archive shall issue to the producer of the work a certificate of origin, certifying that the work complies with the conditions specified in Section 2(1)(i). Such certificate shall be issued in the English language.

(10) The National Film Archive shall allow making the notification under Subsection 4 to the producer of a Czech audiovisual work that is a videogame who has his registered office or permanent residence in the Czech Republic and who decides to make a voluntary notification of a videogame that has been released to the public in the Czech Republic.

TITLE III

NATIONAL FILM ARCHIVE

Section 8

(1) The National Film Archive, having its registered office in Prague, established by the Ministry as an organisation partly financed from public budgets¹⁵⁾, is a specialised archive for audiovisual archival materials. In the selection, listing and care for audiovisual archival

materials, the National Film Archive proceeds in accordance with the law regulating archival activities and the record-keeping service.

(2) The mission of the National Film Archive is to develop, protect, restore, scientifically process, make accessible and use the Collection of the National Film Archive. The Collection of the National Film Archive consists of audiovisual works, including videogames, sound recordings, photographs, documents or books, information relating to them and their tangible rendering, including digital and other materials and information associated with their creation, distribution and public release. The mission of the National Film Archive further includes cooperation with Czech and foreign audiovisual and cultural institutions in the development and dissemination of audiovisual culture, including by means of new technologies, publication of specialised literature and research and pedagogical cooperation with elementary, secondary and post-secondary vocational schools and universities involved in the audiovisual sphere and with other educational institutions involved in audiovisual education.

(3) Beside the register of archival materials kept in accordance with the law regulating archival activities and the record-keeping service, the National Film Archive also keeps a separate register of audiovisual works and their tangible rendering, including digital, which form part of the Collection of the National Film Archive. This register is not governed by the provisions of the Act on Accounting that regulate the maintenance of records of assets.

(4) Recordings of the audiovisual works shall be provided by the National Film Archive for educational purposes to elementary, secondary and post-secondary vocational film schools¹⁸⁾, to film universities¹⁹⁾, and to associations²⁰⁾, institutes⁴⁶⁾ or public benefit organisations²¹⁾ organising cinematographic performances, provided that the National Film Archive or the applicant has obtained the consent of holders of the relevant rights. The National Film Archive may only require reimbursement for the costs reasonably incurred in this context. If such reimbursement is requested by the National Film Archive, it shall be paid by the person who has applied for the provision of an audiovisual work recording.

(5) The audio/video recordings of Czech audiovisual works produced by the state in the period between 28 August 1945 and 31 December 1991, whose audiovisual recording producer's rights expire on or after the effective date of this Act, may only be used on the basis of their original carriers, if they are owned by the state and administered by the National Film Archive, or with the written consent of the National Film Archive. This shall be without prejudice to the rights of the authors of the audiovisual or the audiovisually used works. In providing the original carriers to persons interested in using the audiovisual works, the National Film Archive shall ensure that no legal barrier is created that impedes the provision of the carriers to other applicants. Any arrangement to the contrary executed with an applicant shall be void.

(6) The National Film Archive shall not assign the rights of ownership of audiovisual works which form parts of the Collection of the National Film Archive or of any parts thereof to any third party, and shall not encumber them with any third party rights, with the exception of copies of audiovisual works or audiovisual archival materials made by the National Film Archive upon an order of third parties to be used for those parties' purposes and with the exception of copies of publications and recordings made by the National Film Archive for publishing purposes²²⁾. This shall not prejudice the right of the National Film Archive to grant licences to the use of work which the National Film Archive is entitled to manage¹²⁾, as well as the rights of the producer of the audiovisual recording which belong to the National Film Institute under the Copyright Act¹⁷⁾, and the rights to the objects of intellectual property rights or the rights of use thereof by the National Film Archive, acquired under a contract and exercised by the National Film Archive.

(7) Any legal act undertaken in contravention of the provisions of Subsection 5 above shall be void.

(8) Licences to use audiovisual recordings of Czech audiovisual works shall be granted by the National Film Archive under equal conditions to interested applicants within the scope of the rights pertaining to the National Film Archive under other legal regulations or under agreements with the holders of the rights; transcripts of audiovisual works or parts thereof, or documentation materials, shall be provided by the National Film Archive together with the consent to use them in accordance with Subsection 5 above, unless the intended use contravenes good morals or the law or serves to support or promote illegal activities. Proceeds from contracts involving a consideration under this Subsection shall be used for the financing of the National Film Archive's activities.

(9) Furthermore, the National Film Archive shall maintain listings of audiovisual works in accordance with Section 7 and make such listings accessible to the public by a method allowing for remote access. The National Film Archive shall include an audiovisual work in its listings not later than within 1 year after receipt of a complete notification in accordance with Section 7.

TITLE IV

THE CZECH AUDIOVISUAL FUND AND PROVISION OF SELECTIVE SUPPORT AND OF PRODUCTION INCENTIVES

Part 1

Czech Audiovisual Fund

Division 1

Status of the Czech Audiovisual Fund

Section 9

(1) The Czech Audiovisual Fund (hereinafter referred to as the "Fund") is hereby established with its registered seat in Prague.

(2) The Fund is a state-owned fund²³⁾ which is entitled to administer the property of the Czech Republic.

(3) Details of the Fund's activities, its internal organisation and financial management, the provision of selective support and of production incentives shall be defined in the Fund's Statute. A draft version of the Fund's Statute or amendments thereto shall be submitted by the Fund's Director to the Minister of Culture (hereinafter referred to as the "Minister"), once it has been discussed with the Supervisory Committee (hereinafter referred to as the "Supervisory Committee") and approved by the Fund's Board of Representatives. The Fund's Statute and any amendments thereto shall be approved by the government.

(4) The Fund falls within the competence of the Ministry. The Ministry shall be the Fund's supervisory administrative authority.

Division 2
Activities of the Fund

Section 10
Responsibilities and Activities of the Fund

(1) The Fund shall, in particular:

- a) administer audiovisual levies and in accordance with this Act;
- b) administer administrative fees the proceeds whereof constitute the Fund's income;
- c) provide selective support in 4 categories: support of cinematography, support of television works, support of animated audiovisual works and videogames and support of the audiovisual infrastructure;
- d) exercise proprietary rights, including copyright and proprietary rights of performing artists which shall pass to the state under another law²⁶⁾;
- e) exercise the rights of producers of audiovisual works that have passed to its legal predecessor in accordance with another law²⁷⁾ and the rights of producers of audio/video recordings pertaining to it in accordance with another law¹⁷⁾;
- f) grant the co-producer status in accordance with the Convention, the Revised Convention or under any other international agreement on film co-production;
- g) provide production incentives;
- h) carry out methodological activities;
- i) collect, process and analyse data generated by the Fund's own activities and in the field of audiovision and carry on the related analytical and conceptual activity;
- j) perform activities associated with the development of conditions for the production of audiovisual works on the national and regional level and promotional activities in the field of audiovision and film industry in the Czech Republic and abroad, including the organization of the participation of the Czech Republic in national and international festivals and markets, and activities related to the membership of the Czech Republic in specialized associations in the field of audiovision;
- k) manage the agenda management system of the Fund (hereinafter the "agenda management system");
- l) perform activities defined by other laws²⁸⁾.

(2) The tasks and activities performed by the Fund in accordance with Subsection 1 represent a justified interest of the Fund within the meaning of a directly applicable regulation of the European Union ⁵⁵⁾.

(3) The Fund shall publish its approved annual report in a manner allowing for remote access.

(4) The Fund shall prepare an audiovisual development concept (hereinafter the "Concept"), which is the key strategic document of the Fund. The Concept shall define the development goals and measures through which the Fund shall fulfil those goals. The Concept and amendments thereto shall be published by the Fund by a method allowing for remote access.

(5) Measures laid down in the part of the Concept relating to the selective support shall be published by the Fund in the form of 4 Short-term Concepts prepared annually for each of the 4 categories named in Subsection 1(c). These Short-term Concepts shall be published by the Fund by a method allowing for remote access not later than by 30 September for each immediately following calendar year. Distribution of financial funds designated specifically for selective support among the 4 categories in accordance with Subsection 1(c) must comply with the Concept and must ensure the development of each of these categories.

(6) The Fund shall monitor and regularly evaluate whether the providers of on-demand audiovisual media services established in the Czech Republic and providers of on-demand audiovisual media services who are not established in the Czech Republic but target their on-demand audiovisual media service at viewers in the Czech Republic fulfil their obligations specified in Sections 27 and 27a below. A report on the compliance with those obligations shall be presented by the Fund every two years to the European Commission in a manner ensuring that the report shall be available to the European Commission within 2 years after the date when it received the previous similar report from the Fund²⁴).

Division 3

Bodies and Office of the Fund

Section 11

(1) The Fund's bodies are as follows:

- a) the Board of Representatives;
- b) the Supervisory Committee;
- c) the Fund's Council for the provision of support to cinematography;
- d) the Fund's Council for the provision of support to television works;
- e) the Fund's Council for the provision of support to animated audiovisual works and videogames;
- f) the Fund's Council for the provision of support to audiovisual infrastructure (individually, a Council" and jointly the "Councils"); and
- g) the Director of the Fund.

(2) The Fund's Office consists of the Fund's employees. The Fund's Office performs tasks related to the management and organizational, technical and legal arrangements concerning the Fund's activities. In particular, it provides support for the decisions of the Fund's bodies and arranges for the execution of the decisions of those bodies. The Fund's Office further collects, processes and analyses data generated by the Fund's own activities and in the field of audiovision and performs the related analytical and conceptual activity in accordance with Section 10(1)(i), and prepares a draft of the Concept in accordance with Section 10(4) using the data specified in Section 10(1)(i) and the basic materials prepared by the councils for this purpose.

Section 11a

Board of Representatives

The Board of Representatives

- a) approves the Concept in accordance with Section 10(4) the draft of which is presented by the Fund's Director;
- b) approves the distribution of financial funds earmarked for selective support among the 4 categories set forth in Section 10(1)(c) on the basis of a proposal prepared by the Fund's Director; the distribution of those financial funds must comply with the Concept;
- c) approves the draft Statutes of the Fund and amendments thereto; and
- d) proposes project assessors to be appointed by the Minister.

Section 11b

Membership of the Board of Representatives

(1) The Board of Representatives has 15 members.

(2) Members of the Board of Representatives include chairmen of the Fund's councils and 11 members appointed by the Minister.

(3) The Fund presents a call for submission of proposals of candidates for membership in the Board of Representatives.

(4) The Minister appoints 1 member of the Board of Representatives for the Ministry and 1 member of the Board of Representatives nominated by the Minister of Finance.

(5) The Minister appoints

- a) 3 members of the Board of Representatives representing payers of the audiovisual fee under Section 25(a), i.e. 1 member nominated by a legal entity associating operators of film theatres, 1 member nominated by the legal entity associating film distributors and 1 member nominated by the legal entity associating audiovision producers;
- b) 2 members of the Board of Representatives representing payers of the audiovisual fee under Section 25(b), i.e. 1 member nominated by a legal entity associating providers of on-demand audiovisual media services based in the Czech Republic and 1 member nominated by the legal entity associating providers of on-demand audiovisual media services who are not based in the Czech Republic;
- c) 1 member of the Board of Representatives representing payers of the audiovisual fee under Section 25(c) nominated by a legal entity associating operators of television rebroadcasting; and
- d) 1 member of the Board of Representatives representing payers of the audiovisual fee under Section 25(d) nominated by a legal entity associating operators of television broadcasting who operate such broadcasting under a licence granted in accordance with another law³⁴).

(6) The Minister appoints

- a) 1 member of the Board of Representatives nominated by the legal entity associating universities or their faculties involved in the field of audiovisual production; and
- b) 1 member of the Board of Representatives nominated by a specialized legal entity in accordance with Section 14(2).

(7) If the legal entity associating payers or persons liable to pay audiovisual levies fails to nominate a candidate for membership in the Board of Representatives in accordance with Subsection 5(a), (b), (c) or (d) or if the legal entity associating universities or their faculties involved in the field of audiovisual production or the legal entity referred to in Subsection 6(a) or (b) fails to nominate such candidate, the member of the Board of Representatives shall be appointed by the Minister without such nomination.

(8) The office term of members of the Board of Representatives appointed by the Minister shall be 5 years.

Section 11c

Requirements for Membership in the Board of Representatives

(1) A natural person may be eligible to become a member of the Board of Representatives if he/she possesses

- a) full legal capacity; and
- b) integrity; an individual convicted with finality of a premeditated criminal act shall not be considered to have integrity, unless he is looked upon as if he were not convicted.

(2) A member of the Board of Representatives may not hold an office in any political party or political movement, nor may he act in favour of any political party or movement in connection with the performance of his office as member of the Board of Representatives.

(3) Membership in the Board of Representatives shall be incompatible with the office of the President of the Republic, member of the Chamber of Deputies, Senator, member and deputy member of the government, head and deputy head of a central state administration authority, President of the Supreme Audit Office or member of its Advisory Board, member of the Council of the Czech Telecommunication Office, member of the Bank Board of the Czech National Bank, member of the Council for Radio and Television Broadcasting and member of the Czech Television Council. Also, a member of a council (except for its chairman), a Supervisory Committee member, a member of the Commission for Production Incentives (hereinafter the “Commission”) or a project assessor may not be a member of the Board of Representatives.

(4) Membership in the Board of Representatives shall be incompatible with the basic employment relationship with the Fund.

Section 11d

Deliberations of the Board of Representatives

(1) The Board of Representatives shall elect the chairman and vice-chairman from among its ranks. The chairman shall preside over the activities of the Board of Representatives and shall convene its meetings. The vice-chairman shall substitute for the chairman in the chairman's absence.

(2) A member of the Board of Representatives shall not be entitled to any remuneration for the exercise of his office.

(3) The Board of Representatives shall be quorate if at least 8 members are present at its meeting. Decisions of the Board of Representatives shall be passed by the majority of votes of the present members.

(4) At a meeting of the Board of Representatives, a member of the Board of Representatives is obliged to disclose his relationship to a matter discussed at the meeting if he could obtain a personal benefit or suffer a detriment with regard to the result of review of the matter or if he is otherwise involved in such matter. This information shall be given orally during the meeting but not later than before the Board of Representatives begins to vote. This information shall always be included in the minutes of the meeting.

(5) The Director of the Fund shall be entitled to participate in meetings of the Board of Representatives.

Section 11e

Termination of the Membership in the Board of Representatives

(1) The membership in the Board of Representatives shall terminate

- a) by the expiry of the term of office;
- b) as of the date of delivery of a written resignation notice of the member of the Board of Representatives to the Minister;
- c) as of the date of delivery to the member of the Board of Representatives of the Minister's decision to recall him from office; or
- d) as of the date when the member of the Board of Representatives ceased to fulfil any of the requirements for membership in the Board of Representatives set forth in Section 11c.

(2) The Minister shall recall a member of the Board of Representatives from his office

- a) if such member of the Board of Representatives has committed an act threatening to affect the confidence in his independence or impartiality in the performance of his office,
- b) if such member of the Board of Representatives has seriously damaged the dignity of the office held by him,
- c) if such member of the Board of Representatives has acted in favour of a political party or political movement in connection with the performance of his office;
- d) upon a proposal of the entity that has proposed the appointment of such member of the Board of Representatives.

(3) A member of the Board of Representatives appointed for the Ministry may be also recalled by the Minister without cause.

Section 12

Director of the Fund

(1) The Director of the Fund shall be appointed⁵⁶⁾ and recalled by the Minister. The office term of the Director of the Fund shall be 6 years. The Director of the Fund shall be appointed by the Minister on the basis of the results of a tender procedure.

(2) The Director of the Fund shall be the head of the Fund, its statutory body and its employee. The Director of the Fund shall be responsible for the management of the Fund's finances, issues the organizational rules, the rules of approbation and other internal regulations of the Fund and performs tasks associated with organizational, technical and legal aspects of the Fund's activities.

(3) The Director of the Fund shall, in particular:

- a) implement decisions of the councils to provide selective support;
- b) issue decisions on production incentives and incentivised projects;
- c) issue decisions on granting the co-producer status under Section 53; and
- d) decide on matters not reserved for other bodies of the Fund.

Section 13

The Councils

(1) The Councils shall decide on:

- a) the form of selective support;
- b) support for projects and the amounts thereof;
- c) the demands of an audiovisual work or project, if allowed by its nature, and on the intensity of state support; and
- d) the conditions under which the support is provided and conditions failing which a decision will be taken to withdraw selective support according to Section 40a.

(2) The Council shall be quorate if at least 3 members are present at its meeting. The council's decisions shall be passed by the majority of votes of the present members. In case of a tie, the chairman's vote shall prevail.

(3) A Council member shall be excluded from deciding on selective support in cases specified in the Administrative Procedure Code or due to his personal interest in the decision or to a personal benefit that may be obtained by him either directly or through a relative or friend. For the quorum purposes, the excluded member of the Council shall be deemed to be absent from the Council's meeting.

(4) If a Council member is excluded from deciding on selective support, he or she must be excluded from deciding on all applications for support under the same subsidy heading submitted in response to one call under Section 33(1).

(5) The Councils provide to the Director of the Fund specialised assistance in the execution of the decisions on selective support issued by them.

Section 14

Composition and Deliberations of the Councils

(1) Each Council shall have 5 members.

(2) Council members shall be elected and dismissed by the Chamber of Deputies upon the proposal of the Minister, and shall be chosen from among recognised and experienced practitioners in the field of audio-visual. Proposals for Council members shall be presented via the Fund by specialized legal entities that have been operating for at least 3 years in the field of audio-visual, i.e. by legal entities associating solely authors of audiovisual works or works used audiovisually, associations, public benefit organisations, institutes and special-interest associations of legal entities, with the exception of collective managers of copyright and rights related to copyright, and also by secondary and post-secondary vocational schools with a focus on film, and film universities (hereinafter referred to as "professional organisations"). A call for

submission of proposals for Council members shall be announced by the Fund. Proposals for Council members shall be referred by the Fund to the Minister.

(3) The office term of Council members shall be 3 years. One third of members of the Councils shall be elected by the Chamber of Deputies every year.

(4) Each Council shall elect the chairman and vice-chairman from among its ranks. The chairman shall preside over the activities of the Council and convene its meetings. The vice-chairman shall substitute for the chairman in the chairman's absence.

(5) Being a member of the Council is a public office and the exercise thereof shall be regarded as an impediment to work for reasons of public interest²⁹⁾.

(6) For the performance of his office, a Council member shall be entitled to remuneration determined upon the Minister's proposal by government resolution. A Council member shall also be entitled to the reimbursement of travel expenses related to the exercise of his office to the same extent as employees, the place of his permanent residence in the Czech Republic being regarded as his regular place of work for the purposes of travel expense reimbursement.

(7) At a Council meeting, a member is obliged to disclose his relationship to a matter discussed at the meeting if he could obtain a personal benefit or suffer a detriment with regard to the result of review of the matter or if he is otherwise involved in such matter. This information shall be given orally during the meeting but not later than before the Council begins to vote. This information shall always be included in the minutes of the meeting.

(8) The Council member's liability for damage caused by him to the Fund in connection with the exercise of his office and the procedure used by the Fund for the ascertainment of average earnings shall be governed by the Labour Code. For these purposes, the Fund shall be deemed employer and the Council member employee.

Section 15

Requirements for Council Membership

(1) A natural person may be eligible to become a member of a Council if he possesses:

- a) full legal capacity; and
- b) integrity; an individual convicted with finality of a premeditated criminal act shall not be considered to have integrity, unless he is looked upon as if he were not convicted.

(2) A Council member may not hold an office in any political party or political movement, nor may he act in favour of any political party or movement in connection with the performance of his office as Council member.

(3) The Council membership shall be incompatible with the office of the President of the Republic, member of the Chamber of Deputies, Senator, member and deputy member of the government, head and deputy head of a central state administration authority, President of the Supreme Audit Office or member of its Advisory Board, member of the Council of the Czech Telecommunication Office, member of the Bank Board of the Czech National Bank, member of the Council for Radio and Television Broadcasting and member of the Czech Television Council. Also, a member of another Council, a Supervisory Committee member, a member of the Commission, a project assessor or a member of the Board of Representatives (with the exception of chairman of the Board of Representatives) may not be a member of any Council.

(4) The Council membership shall be incompatible with the basic employment relationship with the Fund.

Section 16

Termination of Council Membership

(1) The Council membership shall terminate:

- a) by the expiration of the term of office;
- b) as of the date of delivery of the Council member's written notice of resignation to the chairman of the Chamber of Deputies;
- c) as of the date of delivery to the Council member of the decision to recall him from office;
- d) as of the date of finality of a court decision to restrict the Council member's legal capacity;
- e) as of the date of finality of a court decision convicting the Council member of a premeditated criminal act; or
- f) As of the date when the Council member has acquired a position as indicated in Section 15(2) or (3) or has become an employee of the Fund.

(2) The Chamber of Deputies shall recall a Council member from his office upon the Minister's proposal if he:

- a) has committed an act threatening to affect the confidence in his independence or impartiality in the performance of his office;
- b) has seriously damaged the dignity of the office held by him;
- c) has acted in favour of a political party or political movement in connection with the exercise of his office as a Council member; or
- d) Has not taken part in Council meetings for longer than 3 months.

Section 17

The Supervisory Committee

(1) The Supervisory Committee shall oversee the financial management of the Fund and notify the Director of the Fund of any identified shortcomings.

(2) In carrying out their activities in accordance with Subsection 1 above, members of the Supervisory Committee shall be entitled to inspect all documents and records of the Fund, which are held by the Fund.

(3) The Director of the Fund shall notify the Supervisory Committee by the end of the calendar month following the end of a calendar quarter of the balance of the Fund's income and expenses for such quarter. The Director of the Fund shall present to the Supervisory Committee a draft budget of the Fund.

(4) The Director of the Fund shall present to the Supervisory Committee annual reports of the Fund, its financial statements and auditor's reports before presenting these documents to the government. Contract-awarding documentation for the selection of the auditor prepared in accordance with the Public Procurement Act shall be prepared by the Director of the Fund in cooperation with the Supervisory Committee.

(5) A Supervisory Committee member shall be excluded from discussing and voting on a matter and the provisions of Subsection 2 shall not be applied in the event of his personal involvement in the matter being considered when he/she may obtain personal benefit either

directly or through a relative or friend in connection with the matter being considered or with access to the documents and records in accordance with Subsection 2 above.

Section 18

Composition of and Deliberations of the Supervisory Committee

(1) The Supervisory Committee shall have 9 members appointed by the government upon the Minister's proposal, i.e. 2 members for the Ministry, 2 members for the Ministry of Finance and 5 members for payers and persons liable to pay audiovisual levies.

(2) Proposals for the Supervisory Committee members shall be presented on the basis of a call announced by the Fund by legal entities associating payers or persons liable to pay audiovisual levies. The proposals shall be then presented by the Fund to the Minister.

(3) The Supervisory Committee members' term of office shall be 3 years.

(4) The Supervisory Committee shall elect the chairman and vice-chairman from among its ranks every year.

(5) The chairman shall direct the activities of the Supervisory Committee and convene its meetings, which shall be held at least once every calendar quarter. The vice-chairman shall substitute for the chairman in the chairman's absence.

(6) A Supervisory Committee member shall not be entitled to remuneration for the performance of his office.

(7) The Supervisory Committee shall be quorate if at least 5 members are present at its meeting. The Supervisory Committee's decisions shall be passed by the majority of votes, unless otherwise provided. The voting shall be repeated not more than twice in the case of a tie and the proposal shall be deemed unaccepted if no decision is reached after such repeated voting.

(8) At a Supervisory Committee meeting, a member of the Supervisory Committee is obliged to disclose his relationship to a matter discussed at the meeting if he could obtain a personal benefit or suffer a detriment with regard to the result of review of the matter or is otherwise involved in such matter. This information shall be given orally during the meeting but not later than before the Supervisory Committee begins to vote. This information shall always be included in the minutes of the meeting.

Section 19

Requirements for Supervisory Committee Membership

(1) A natural person may be eligible to become a member of the Supervisory Committee if he possesses:

- a) full legal capacity,
- b) Integrity; an individual convicted with finality of a premeditated criminal act shall not be considered to have integrity, unless he is looked upon as if he were not convicted.

(2) A Supervisory Committee member may not hold any office in any political party or political movements, nor may he act in favour of any political party or movement in connection with the performance of his office as Supervisory Committee member.

(3) Supervisory Committee membership shall be incompatible with the office of the President of the Republic, member of the Chamber of Deputies, Senator, member and deputy member of the government, head and deputy head of a central state administration authority, President of the Supreme Audit Office or member of its Advisory Board, member of the Council of the Czech Telecommunication Office, member of the Bank Board of the Czech National Bank, member of the Council for Radio and Television Broadcasting and member of the Czech Television Council. Also, a member of the Board of Representatives, a member of another Council, of the Commission or a project assessor may not be a Supervisory Committee member.

(4) Supervisory Committee membership shall be incompatible with the basic employment relationship with the Fund.

Section 20

Termination of Supervisory Committee Membership

(1) The Supervisory Committee membership shall terminate:

- a) by the expiry of the term of office;
- b) as of the date of delivery of the Supervisory Committee member's written announcement of resignation to the person entitled to appoint him to the office;
- c) as of the date of delivery to the Supervisory Committee member of the decision to recall him from office;
- d) as of the date of finality of a court decision to restrict the Supervisory Committee member's legal capacity;
- e) as of the date of finality of a court decision convicting the Supervisory Committee member of a premeditated criminal act;
- f) as of the date when the Supervisory Committee member acquires a position indicated in Section 19(2) or (3) or becomes an employee of the Fund; or
- g) as of the date of termination of the legal existence of the payer of, the person liable to pay or the legal entity associating payers or persons liable to pay the audiovisual fee that nominated him for appointment to Supervisory Committee membership.

(2) Based on a proposal of the Minister, the government shall recall the Supervisory Committee member from his office if:

- a) the Supervisory Committee member has committed an act threatening to affect the confidence in his independence or impartiality in the performance of his office;
- b) the Supervisory Committee member has seriously damaged the dignity of the office held by him,
- c) the Supervisory Committee member has acted in favour of a political party or political movement in connection with the performance of his office as a Supervisory Committee member,
- d) the Supervisory Committee member has not taken part in Supervisory Committee meetings for longer than 6 months, or

- e) the recalling has been proposed and substantiated by the payer of, the person liable to pay or the legal entity associating payers or persons liable to pay, the audiovisual levy, upon whose nomination the Supervisory Committee member was appointed.

Division 4

Project assessors and the Creative and Realization Test

Section 21

(1) Project assessors are selected on the basis of a call announced by the Fund from among the ranks of recognized practitioners involved in the audiovisual sphere, who are proposed by professional organizations.

(2) A natural person may be eligible to be a project assessor if he:

- a) has full legal capacity,
- b) has integrity; an individual convicted with finality of a premeditated criminal act shall not be considered to have integrity, unless he is looked upon as if he were not convicted, and
- c) has not been recalled from the position of an evaluator during the last 3 years.

(3) The position of a project assessor shall be incompatible with membership in the Board of Representatives, in a Council, in the Supervisory Committee, with membership in the Council of the Czech Telecommunication Office, membership in the Council for Radio and Television Broadcasting and membership in the Council of the Czech Television.

(4) The position of a project assessor shall be incompatible with the basic employment relationship with the Fund.

(5) Project assessors shall be appointed by the Minister on the basis of proposals presented by the Board of Representatives.

(6) A project assessor is a public official in accordance with the Administrative Procedure Code³¹⁾.

Section 22

(1) The Fund shall prepare a public list of appointed project assessors. This list shall be accessible in a manner allowing for remote access.

(2) The position of a project assessor shall terminate:

- a) as of the date of delivery of the project assessor's written notice of resignation to the Minister,
- b) as of the date of delivery to the project assessor of the decision to remove him from his position,
- c) as of the date of finality of a court decision to restrict the project assessor's legal capacity,
- d) as of the date of finality of a court decision convicting the project assessor of a premeditated criminal act, or
- e) as of the date when the evaluator has acquired a position as indicated in Section 21(3) or has become an employee of the Fund.

(3) The Minister shall recall a project assessor from his position upon a proposal of the Board of Representatives, if:

- a) the project assessor has committed an act threatening to affect the confidence in his independence or impartiality in the performance of his office,
- b) the project assessor has seriously damaged the dignity of the office held by him,
- c) the project assessor has acted in favour of a political party or political movement in connection with the performance of his office as an evaluator, or
- d) the project assessor has repeatedly failed to properly discharge his duties.

(4) If a project assessor's office has been terminated or the project assessor has been dismissed, the Fund shall strike out his name from the list referred to in Subsection 1.

Section 23

(1) For each call for submission of applications for selective support, the Councils shall select on the basis of the list of project assessors compiled in accordance with Section 22(1) above a group of project assessors, which shall consist of at least 3 members and 3 substitute members.

(2) A project assessor who participates in any way in the realization of the project presented in the relevant call is not eligible to become a member of the group of project assessors who assess the applications for selective support filed on the basis of such call.

(3) The group of project assessors shall evaluate applications filed on the basis of one call by means of the creative and the realization test. The purpose of the evaluation prepared by the group of project assessors is to produce for the Council and for the applicant a qualified written evaluation of the project that is the subject of the application for selective support.

(4) The evaluation criteria in the creative and the realization test are as follows:

- a) creative criteria, particularly those concerning the content, creativity, artistic and cultural intent of the project, the strategy or concept for release or exploitation of the project; and
- b) realization criteria, particularly those concerning project financing, the production team, the applicant's professional career, equal opportunities, environmental sustainability and social impacts of the project.

Part 2

Financial Management of the Fund

Section 24

Sources of Income

(1) The Fund's financial resources include, without being limited to:

- a) audiovisual levies, including appurtenances;
- b) income from fines for administrative offences;
- c) administrative fees for acts performed by the Fund;
- d) income from the Fund's agreed share in the profit generated by supported projects;
- e) income from transactions with the property of the Czech Republic which the Fund is entitled to manage;

- f) income from the investments of the Czech Republic in legal entities' businesses in the film industry, which investments the Fund is entitled to manage;
- g) income from public fund-raising campaigns for the benefit of the Fund and of selective support;
- h) income from the use of cinematographic works, if transferred to the Fund;
- i) income from the use of cinematographic works for which the Fund exercises the producer's copyright, which has passed to it on the basis of another legal regulation and for which the Fund is treated as producer¹⁷⁾;
- j) income from securities acquired by the Fund from other persons and entities;
- k) gifts, legacies and devises for the Fund;
- l) fines for breaches of budgetary discipline³²⁾, including penalties;
- m) subsidies from the state budget;
- n) subsidy provided from the state budget every year, specifically intended for production incentives, whose amount and calculation are specified in Section 24a;
- o) subsidy provided from the state budget every year, specifically intended for selective support, whose amount and calculation are specified in Section 24a, and
- p) subsidy provided from the state budget every year, specifically intended for tasks and activities of the Fund performed under Section 10 and for the Fund's operation, whose amount and calculation are specified in Section 24a;
- q) the annual income in the amount equal to 25% of the revenue from levies on cinematographic performances, specifically intended for tasks and activities of the Fund performed under Section 10 and for the Fund's operation, but not more than CZK 10,000,000; and
- r) other resources specified by other laws³³⁾.

(2) The balance of the Fund's financial resources at the end of the calendar year shall be kept by the Fund on its current account and sub-accounts and shall be carried forward to the next calendar year; the balance of the Fund's resources under Subsection 1(m) through (o) can be used in subsequent years solely for the purpose for which the subsidy has been provided; these subsidies are subject to financial settlement in accordance with the conditions specified in the decision on their allocation.

(3) The Fund sets up and maintains a Fund for Cultural and Social Needs. Provisions of a special law shall be applied *mutatis mutandis*⁴⁷⁾ to its formation and financial management.

Section 24a

(1) The subsidy provided from the state budget under Section 24(1)(m) shall be provided to the Fund in the amount approved by the Ministry on the basis of an application for subsidy.

(2) The minimum amount of the subsidy for production incentives provided every year under Section 24(1)(n) shall be equal to six times the Fund's income from audiovisual levies in the calendar year preceding the calendar year in which the Fund's budget for the next calendar year is prepared.

(3) The minimum amount of the subsidy for selective support provided every year under Section 24(1)(o) shall be equal to the Fund's income from audiovisual levies in the calendar year preceding the calendar year in which the Fund's budget for the next calendar year is prepared.

(4) The minimum amount of the subsidy provided every year for the Fund's tasks and activities' under Section 10 and for its operation under Section 24(1) shall be equal to any deficit balance between the Fund's income reduced by the Fund's income specified in Section 24(1)(a),(i) and (l) to (p), and the Fund's expenses reduced the Fund's expenses specified in Section 24b1(a) and (b) in the calendar year preceding the calendar year in which the Fund's budget for the next calendar year is prepared..

(5) The Fund's annual financial statements are used as a basis for the determination of the amounts specified in Subsections 2 to 4 above.

(6) The part of the income from audiovisual levies equal to the partial levy from unrealised direct investment shall be disregarded for the purpose of Subsections 2 and 3.

(7) The application for subsidies under Subsections 1 to (4) shall not include information specified in Section 14(3)(d) to (g) of the Budgetary Rules.

Section 24b

The Fund's Expenses

Financial funds of the Fund shall be used for

- a) selective support,
- b) production incentives,
- c) authors' royalties for the use of cinematographic works in respect of which the Fund exercises the producer's copyright that has passed to the Fund under another law and with respect to which the Fund is considered as their producer¹⁷⁾,
- d) expenses relating to the remuneration of members of the Councils, the Commission and of the project assessors; and
- e) the Fund's tasks and activities specified in Section 10 and for the Fund's operation.

Section 24c

(1) The Fund shall prepare a draft budget and a draft medium-term outlook to the extent and within the time limits determined for the preparation of the draft state budget and the draft medium-term outlook of the state budget.

(2) The Minister shall present the draft budget and the draft medium-term outlook of the Fund to the government by 31 August. The government shall present the approved draft budget of the Fund to the Chamber of Deputies for approval together with the draft state budget.

(3) If the Chamber of Deputies does not approve the Fund's budget for the relevant budget year before the first day of the budget year, the budgeting of the Fund in the period from the first day of the budget year until the date of approval of the budget for such year shall be governed *mutatis mutandis* by the provisional budget rules specified in Section 9 of the Budgetary Rules.

(4) The Fund's financial statements and annual report must be audited before their presentation to the Chamber of Deputies.

Division 3
Audiovisual Levies

Section 25

Definition of Audiovisual Levies

Audiovisual levies shall include:

- a) the levy on cinematographic performances;
- b) the levy on the provision of on-demand audiovisual media services;
- c) the television rebroadcasting levy; and
- d) the broadcast advertising levy.

(2) If the same revenue or income are generated at least partly by more than one levy under Subsection 1(b) to (d), such revenue or income shall be divided for the purpose of audiovisual levies into separate parts corresponding to the definition of the subject of each such levy.

(3) A payer or person liable to pay the levy that generates any revenue or income that constitute at least partly the subject of more than one fee under Subsection (b) to (d) shall introduce principles under which they shall handle this revenue and income in accordance with Subsection 2, and shall be obliged to record such principles in written form specifying the date of their introduction and the date (if any) when they have been replaced by other principles.

Section 26

Levy on Cinematographic Performance

(1) The organiser of a cinematographic performance shall be the payer of the levy for cinematographic performance.

(2) The levy on cinematographic performance shall be charged on the admission fee for the public presentation of the cinematographic work. For the purposes of this Act, admission fee shall mean the amount of money paid by the participant of the event for the opportunity to take part in it.

(3) The base for calculating the levy on cinematographic performance shall be the admission fee (not including the levy on cinematographic performance) paid for the release of the cinematographic work to the public. The payer of the levy on cinematographic performance shall include the levy on cinematographic performance into the admission fee.

(4) The rate of the levy on cinematographic performance shall be 2%.

(5) The payer of the levy on cinematographic performance shall maintain records for purposes related to the fee. These records shall comprise all data concerning the obligation to pay the fee, including, but not limited to:

- a) the name of the audiovisual work and the date when the cinematographic performance takes place;
- b) the number of viewers of the cinematographic performance and the amount of admission fee collected for the organisation of the cinematographic performance.

Section 27

Levy on the Provision of On-demand Audiovisual Media Services

(1) The person liable to pay the levy on the provision of on-demand audiovisual media service shall be an on-demand audiovisual media service provider⁷⁾ who is

- a) established in the Czech Republic; or
- b) not established in the Czech Republic if he provides the on-demand audiovisual media service to end users in the Czech Republic.

(2) Persons who operate of television broadcasting under the law are not persons liable to pay the fee on the provision of audiovisual media services.

(3) The levy on the provision of on-demand audiovisual media services shall be charged on the revenue from

- a) on-demand audiovisual media services in the Czech Republic; and
- b) audiovisual commercial messages⁵⁷⁾ displayed to end users in the Czech Republic in connection with the provision of on-demand audiovisual media services in the Czech Republic; the subject of the levy under this clause does not include the revenue from an audiovisual commercial message that is not directly related to the viewing of the program which constitutes the content of the on-demand audiovisual media service.

(4) Providers of on-demand audiovisual media services with a low turnover and providers of on-demand audiovisual media services with a low audience shall be exempt from the levy on the provision of on-demand audiovisual media services. The fulfilment of the conditions of low turnover and low audience shall be assessed in accordance with the guidelines issued by the European Commission, which shall be published by the Fund on its website in the wording published in the Official Journal of the European Union⁵⁸⁾. Providers of on-demand audiovisual media services whose services contain a negligible number or none of the audiovisual works that may become the object of selective support or production incentives may be also exempt from the duty to pay the levy on the provision of on-demand audiovisual media services. The person liable to payment of the levy shall assert its claim for exemption in its declaration of the levy.

(5) Providers of thematically exceptional on-demand audiovisual media services are also exempt from the levy on the provision of on-demand audiovisual media services. Details about the fulfilment of the condition concerning the existence of a thematically exceptional on-demand audiovisual media service are specified in the Fund's Statute. The person liable to pay the levy shall assert its claim for exemption from the levy in its declaration of the levy.

(6) The levy on the provision of on-demand audiovisual media services consists of

- a) a partial levy based on the sum of prices; and
- b) a partial levy based on an unrealised direct investment,

(7) The base of the sum of prices consists of

a) the sum of prices paid by the end user to the provider of on-demand audiovisual media services for

1. one-time provision of the service which includes the making available of an audiovisual work; or

2. an on-demand audiovisual media service provided in a manner other than by a one-time making available of the work, notwithstanding the technological nature of the service and including also all forms of subscription if the service includes the release of at least one audiovisual work; and

b) the sum of prices agreed between the provider of the on-demand audiovisual media service with the party ordering the production of an audiovisual commercial message which is displayed together with the provision of the on-demand audiovisual media service.

(8) The rate of the partial levy based on the sum of prices shall be 2%.

(9) The partial levy based on the sum of prices may be reduced by a discount for direct investment. Such reduction may not exceed 50% and may be claimed by the person liable to pay the levy on the provision of on-demand audiovisual media services up to the amount equal to the sum of complementary direct investments realized in the calendar year corresponding to the fee period. The decision of the person liable to pay the levy whether to claim or not and the amount of the claimed discount cannot be changed retroactively.

(10) The entitlement to the discount may be asserted in the form of a conditional discount. If the person liable to pay the levy fails to claim in time the discount for direct investment in the form of conditional discount in a timely additional declaration of the levy, the entitlement to the discount shall cease to exist from the outset.

(11) The partial levy on unrealized direct investment amounts to the positive difference between

a) 1.5% of the base of the partial levy based on the sum of prices; and

b) the sum of the basic realized direct investments.

(12) The levy on the provision of on-demand audiovisual media services shall be calculated as the sum of the partial levies. The partial levy based on the sum of prices shall amount to a positive difference between

a) the product of the base and rate of the levy; and

b) the discount for direct investment.

Section 27a

Direct Investment

(1) For the purposes of this Act, a direct investment means an expense paid by a provider of the on-demand audiovisual media service that is a person liable to pay the fee on the provision of on-demand audiovisual media services and that is not fully exempt from such fee, in respect of

a) the acquisition of the right to use in the original Czech language the audiovisual work in the original language version;

b) the production of

1. an audiovisual work in the original language version in the Czech language version;

2. a Czech language version of a foreign audiovisual work; or
3. a foreign language version of a Czech audiovisual work.

(2) A nonmonetary expense is not deemed direct investment under Subsection 1.

(3) Where the provider of an on-demand audiovisual media service under Subsection 1 incurs only partly an expense for the purposes referred to in Subsection 1, the direct investment shall only consist of a part of the expense incurred for the purposes specified in Subsection 1.

(4) A claimed direct investment for the relevant calendar year is a direct investment that

- a) is claimed by the provider of an on-demand audiovisual media service in accordance with Subsection 1 in relation to such calendar year;
- b) is not claimed by the provider of an on-demand audiovisual media service in accordance with Subsection 1 in relation to another calendar year; and
- c) has been actually paid by the provider of an on-demand audiovisual media service in accordance with Subsection 1 at the earliest in this calendar year and at the latest in the second calendar year following immediately such calendar year.

(5) A direct investment may be divided into parts which shall be claimed by the provider of the on-demand audiovisual media service under Subsection 1 using the procedure described in Subsection 4 in relation to more than one calendar year. The sum of such claimed direct investments may not exceed the amount of such direct investment.

(6) A direct investment incurred by more than one person may only be claimed by one of them. The same applies to a part of the direct investment referred to in Subsection 5.

(7) Only the direct investments that cumulatively meet the following conditions may be claimed for the relevant calendar year:

- a) at least 50% of the total sum of such claimed direct investments have been spent on:
 1. the acquisition of rights of use of audiovisual works created by producers or co-producers who meet the condition stipulated in Section 39(1)(b) and who are tax residents of the Czech Republic under the Income Taxes Act, or who are tax non-residents of the Czech Republic under the Income Taxes Act but have a permanent establishment in the territory of the Czech Republic and are at the same time tax residents of another Member State of the European Union or of a state forming the European Economic Area under the applicable laws of such states; or
 2. the production of audiovisual works whose co-producer is a person who meets the condition stipulated in Section 39(1)(b), who is a tax resident of the Czech Republic under the Income Taxes Act, or who is a tax non-resident of the Czech Republic under the Income Taxes Act but has a permanent establishment in the territory of the Czech Republic and is at the same time a tax resident of another Member State of the European Union or of a state forming the European Economic Area under the applicable laws of such states; and
- b) not more than 10% of the total sum of direct investments claimed for such calendar year, reduced by direct investments specified in clause a), have been spent for purpose of the production of language versions under Subsection 1(b)(2) or (3).

(8) The total sum of basic direct investments claimed for the relevant calendar year means, for the purposes of this Act, the sum of direct investments claimed for such year up to a maximum 1.5% of the base of the partial levy based on the sum of prices for such calendar year.

(9) The total sum of supplementary direct investments claimed for the relevant calendar year means, for the purposes of this Act, the positive difference between

- a) the sum of direct investments claimed for such calendar year; and
- b) the sum of the basic direct investments claimed.

(10) If the total sum of direct investments claimed for the relevant calendar year does not meet any one of the conditions specified in Subsection 7, such sum shall be reduced for the purposes of Subsections 8 and 9 to such an extent that the conditions specified in Subsection 7 may be met.

Section 27b

Administration of the Levy on the Provision of On-demand Audiovisual Media Services

(1) The person liable to pay the levy shall state in the declaration of the levy

- a) the expected sum of the basic direct investments claimed; or
- b) the sum of basic direct investments claimed that have not been realized.

(2) Where the person liable to pay the levy claims a direct investment discount as a conditional discount, the person shall state in the declaration of the levy the expected sum of supplementary direct investments claimed.

(3) Where the person liable to pay the levy specifies in the declaration of the levy the envisaged sum under Subsection 1(a) or Subsection 2, the levy shall be calculated on the basis of such envisaged sums. This shall not apply if the tax administrator has specific doubts which have not been removed by the procedure used in the removal of doubts or by a tax audit. The person liable to pay the levy shall be obliged to file an additional declaration of the levy where it shall state the fee calculated on the basis of the direct investment actually realized, no later than by the end of the time limit for submission of the declaration of the levy for the second fee period following immediately the period of collection of the levy for which the regular declaration is filed. In such a case, the time limit for the determination of the levy shall run from the submission date of such additional fee declaration and shall end not later than 10 years after such date. An additional declaration for an audiovisual levy lower than the last known levy may not be filed after the expiration of 9 years from that date.

(4) The person liable to pay the levy on the provision of on-demand audiovisual media services shall maintain records together with underlying information and documents required for such records, which shall contain at least the following data:

- a) the number of end users to whom the on-demand audiovisual media service is being provided;
- b) the total price that has been paid by each end user for the provision of the on-demand audiovisual media service; and
- c) the expenses incurred by the person liable to pay the levy in connection with direct investments in accordance with Section 27a in the form of a statement of account and the sum of costs of suppliers who have realized the direct investment for the person liable to pay the fee.

(5) In cases where an audiovisual commercial message is displayed together with the provision of the on-demand audiovisual media service and the revenue of which is subject to the levy on the provision of the on-demand audiovisual media service, the person liable to pay

the levy shall be obliged to keep in the records maintained for the fee purposes information related to the person's obligation to pay the levy, namely

- a) the date of provision of the media space for the audiovisual commercial message;
- b) the name and surname of the person or the name of the entity to which the person liable to pay the fee provides the media space for the audiovisual commercial message;
- c) the tax identification number of the person to whom the person liable to pay the fee provides the media space for the audiovisual commercial message;
- d) the total monetary value of the media space for the audiovisual commercial message that has been provided as of the date specified under clause a) for the period of collection of the levy; and
- e) the amount of the levy calculated for the period.

Section 28

Television Rebroadcasting Levy

(1) Payers of the levy on television rebroadcasting shall be all persons who operate rebroadcasting on the basis of registration under another law³⁴⁾.

(2) The television rebroadcasting levy shall be charged on the price for the provision of television rebroadcasting.

(3) The base for calculating the television rebroadcasting levy shall be the price (reduced by the television rebroadcasting levy) paid to the payer of the television rebroadcasting levy for his provision of television rebroadcasting. The payer of the television rebroadcasting levy shall include the television rebroadcasting levy in the price for the provision of television rebroadcasting.

(4) The rate of the television rebroadcasting levy shall be 2%.

(5) The payer of the television rebroadcasting levy shall maintain records for purposes related to the levy. These records shall comprise any data concerning the obligation to pay the fee, including, but not limited to, the information about the number of persons to whom the television rebroadcasting is provided and the amount of the price they have paid for the provision of the television rebroadcasting.

Section 28a

Broadcast Advertising Levy

(1) The person liable to pay the broadcast advertising levy shall be a television broadcaster other than local or regional, whose broadcasting is not protected by conditional access and who operates a broadcasting business under a broadcasting licence via transmitters or via a special transmission system under a licence granted under another law³⁴⁾, and who broadcasts a programme that also comprises audiovisual works.

(2) The broadcast advertising levy is payable on the income from broadcast advertising.

(3) A television broadcasting operator under Subsection 1 shall be exempt from the fee for broadcast advertising if the broadcasted program contains a negligible number or none of audiovisual works that may become the subject of selective support or production incentives

under this Act. The person liable to pay the levy shall assert the claim for exemption in the declaration of the levy.

(4) The broadcast advertising levy is based on:

- a) the revenue from broadcast advertising in the case of a liable person who is an accounting entity,
- b) the income from broadcast advertising in the case of a liable person who is not an accounting entity.

(5) If the person liable to pay the levy generates revenue or income from indirect sale of air time through third parties that are, under the Income Taxes Act, related to the person liable to pay the levy and are not end users of the air time, the revenue or income included in the base for the calculation of the levy shall consist, instead of the above revenue or income, of the revenue or income that would be generated by the person liable to pay the levy in case of direct sale of such air time.

(6) The rate of the broadcast advertising levy shall be 2%.

(7) The person liable to pay the broadcast advertising levy shall keep records for purposes related to the levy, including data concerning such a liable person's liability to pay the fee, i.e.:

- a) the date when air time for the advertising was provided;
- b) the name of the person to whom air time is provided by the person liable to pay the levy;
- c) the tax identification number of the person to whom air time is provided by the person liable to pay the levy;
- d) the total financial value of the air time provided for advertising as at the date referred to in Section 28a(7)(a) for the period of collection of the levy;
- e) the amount of the levy calculated for the period of collection of the levy.

The wording of Section 28b effective until 31 December 2028

Section 28b

Topping up the Broadcast Advertising Levy

(1) In the event that the revenue from broadcast advertising levy is less than CZK 150,000,000, the levy shall be increased to top up the broadcast advertising levy, the topping up amount being calculated as the product of:

- a) the difference between the amount of CZK 150,000,000 and the sum of the levies on broadcast advertising paid by all persons liable to pay the levy and
- b) a coefficient.

(2) The coefficient shall be calculated as the quotient of the broadcast advertising levy paid by the person liable to pay the levy and the sum of the levies on broadcast advertising levies paid by all persons liable to pay the levy.

(3) The amount topping up the broadcast advertising levy shall be treated as appurtenant to the levy.

The wording of Section 28 effective from 1 January 2029 until 31 December 2032

Section 28b

Topping-up the Broadcast Advertising Levy

(1) In the event that the revenue from the broadcast advertising levy is less than CZK 120,000,000, the levy shall be increased to top up the broadcast advertising levy, the topping up amount being calculated as the product of:

- a) the difference between the amount of CZK 120,000,000 and the sum of the levies on broadcast advertising paid by all persons liable to pay the fee and
- b) a coefficient.

(2) The coefficient shall be calculated as the quotient of the broadcast advertising levy paid by the person liable to pay the fee and the sum of the levies on broadcast advertising paid by all persons liable to pay the levy.

(3) The amount topping up the broadcast advertising levy shall be treated as appurtenant to the levy.

The wording of Section 28b effective from 1 January 2033 to 31 December 2034:

Section 28b

Topping-up the Broadcast Advertising Levy

(1) In the event that the revenue from the broadcast advertising levy is less than CZK 80,000,000, the levy shall be increased to top up the broadcast advertising levy, the topping up amount being calculated as the product of:

- a) -the difference between the amount of CZK 80,000,000 and the sum of the levies on broadcast advertising paid by all persons/entities liable to pay the fee and
- b) a coefficient.

(2) The coefficient shall be calculated as the quotient of the broadcast advertising levy paid by the person liable to pay the fee and the sum of the levies on broadcast advertising paid by all persons liable to pay the levy.

(3) The amount topping up the broadcast advertising levy shall be treated as appurtenant to the levy.

The wording of Section 28b effective from 1 January 2035:

Section 28b

Repealed

The wording of Section 28c effective until 31 December 2034:

Section 28c

Determination and Payment of the Amount to Top up the Broadcast Advertising Levy

(1) The administrator of the shall assess the additional amount to top up the broadcast advertising levy, using a payment assessment document serving for the assessment of the levy.

(2) The additional amount topping up the broadcast advertising levy shall be payable and paid within 30 days of the date of delivery of the payment assessment document.

(3) Should the fee administrator assess an additional amount of the broadcast advertising levy, such an additional amount topping up the levy shall be so assessed *ex officio* for all persons liable to pay the broadcast advertising levy. Should the amount additionally assessed to top up the broadcast advertising levy be greater than the last determined topping up amount, the difference shall be payable and paid within 30 days of the date of delivery of the additional payment assessment document.

The wording of Section 28c effective from 1 January 2034

Section 28c

Repealed

Section 29

Joint Provisions Concerning Audiovisual Levies

(1) The value added tax shall not be included in the base of the audiovisual levy.

(2) The base of the audiovisual levy shall be rounded upwards to whole crowns.

(3) The audiovisual levy shall be calculated as the product of the audiovisual levy base and the charge rate.

(4) The period for collection of the audiovisual levies shall be one calendar year.

(5) The payer of, or person liable to pay, the audiovisual levy shall submit a declaration of the levy electronically through the agenda management system. The period for submission of the declaration may not be extended.

(6) The decree referred to in Section 72(4) and (5) of the Taxation Code shall be issued by the Ministry.

(7) Proceeds from the audiovisual levy shall constitute an income of the Fund. The Fund shall be the administrator of this levy.

Section 29a

Self-assessment and Additional Self-assessment of Audiovisual Levies

(1) The audiovisual levy asserted by the payer or person liable to pay the levy in the declaration of the levy shall be deemed assessed as of the expiration date of the time limit for submission of the declaration in the amount asserted therein.

(2) If the payer or the person liable to pay the levy fails to submit the declaration of the levy within the time limit specified in the law, the levy referred to in this Part shall be deemed asserted in the amount of CZK 0; the fine for late assertion of the levy shall not be applied.

(3) The audiovisual levy asserted by the payer or person liable to pay the levy in an additional declaration shall be deemed additionally assessed as of the submission date of the additional declaration in the amount of the asserted difference from the last known levy; this shall not apply if the additional declaration has been filed in the course of the additional assessment proceedings initiated *ex officio*.

(4) The date of ascertainment of the difference compared with the last known levy under this Part shall not be stated in the additional declaration.

(5) The audiovisual levy assessed in accordance with Subsection 1 or the difference assessed additionally in accordance with Subsection 3 shall be stated by the fee administrator in the fee register.

(6) The audiovisual levy may also be additionally assessed *ex officio* in cases where the fee administrator finds out by the procedure for removal of doubts that the last known amount of the levy is incorrect.

(7) An additional declaration for a levy lower than the last known levy may not be submitted after the expiration of 9 years from the start of the fee determination period.

(8) The time limit for payment of arrears of the amount of the audiovisual levy that is to be paid on the basis of an additional declaration shall start as of the date of the additional assessment of such levy based on such additional declaration.

Part 4

Agenda Management System

Section 30

Provision of Services of the Fund's Agenda Management System

(1) The agenda management system serves for the exercise of the Fund's authority, contains data generated or used in the exercise of the Fund's authority or in the management and operation of the agenda management system and serves for remote access and for the provision of digital services by the Fund.

(2) The agenda management system allows for

- a) filing of submissions and performance of other acts relating to the selective support and provision of production incentives;
- b) submission of f declarations of levies and performance of other acts relating to the administration of audiovisual levies;
- c) presentation of proposals for members of the Board of Representatives, the Councils the Supervisory Committee and the Commission and performance of other acts relating to such proposals;
- d) presentation of proposals for project assessors and performance of other acts relating to such proposals;

- e) filing of submissions and performance of other acts relating to the granting of the co-production status; and
- f) delivery of decisions and other documents in the proceedings on the provision of selective support and in the proceedings on production incentives, notices of change, documents relating to the submission of proposals for members of the Board of Representatives, the Councils, the Supervisory Committee and the Commission, for the project assessors and for the performance of other acts relating to such proposals, and other documents that form part of the performance of the Fund's activities in accordance with Section 10(1)(a) to (c), (f) and (g) of this Act.

(3) Submissions and acts specified in Subsection 2 may be made solely through the agenda management system unless excluded by the nature of the relevant act or by the law. Submissions and other acts that must be performed under this Act through the agenda management system but have been made in another form shall be disregarded.

(4) Acts performed via the agenda management system that do not constitute submissions under the Administrative Procedure Code or under the Taxation Code and in respect of which this Act does not specify that they are to be performed via the agenda management system shall be disregarded unless stipulated otherwise by this Act.

(5) A person presenting submissions and performing other acts in accordance with Subsection 2 via the agenda management system (hereinafter the "user") shall present such submissions and perform other acts after logging in the agenda management system with the use of electronic identification data or of access data allocated by the Fund upon the user's request and of other than electronic identification if the user is a person who does not have in his possession electronic means of access to a data box or any other means of electronic identification. If there is no form available for submissions or other acts and if no required data format has been set, the user may file submissions or perform other acts in the agenda management system at his own discretion in any output data format specified in the law regulating the archival science and filing service.

(6) An act performed via the agenda management system shall have the same effects as an act performed in writing and signed.

(7) All notices and other documents referred to in Subsection 2 shall be delivered to the user through the agenda management system. The Fund shall notify the user of the dispatch of the relevant notice or document together with the dispatch thereof by a message sent to the electronic address set up by the user in the user interface of the agenda management system.

(8) A notice or other document delivered to the user via the agenda management system shall be deemed delivered at the moment when the user or a person authorised by the user who has access to such document within the scope of his authorization in the agenda management system logs in the agenda management system.

(9) If the user or a person authorized by the user under Subsection 8 does not log in the agenda management system within 10 days after the input of the document into the agenda management system, or within 5 days from such date in case of acts related to the provision of the selective support and the provision of production incentives, such document shall be deemed delivered on the last day of such time limit.

Part 5

Provision of Selective support

Division 1

General Provisions on Selective support

Section 31

Selective support Categories and Subsidy Areas

(1) The selective support provided by the Fund in accordance with Section 32 below may be provided for the realization of projects in the following areas:

- a) development of a Czech audiovisual work,
- b) production of a Czech audiovisual work,
- c) distribution of an audiovisual work,
- d) project in the field of technical development and audiovisual innovation,
- e) audiovisual promotion,
- f) audiovisual publishing activities and activities in the field of film science,
- g) preserving the national film heritage and making it accessible to the public,
- h) education and training in the field of audiovisual media and studies,
- i) festivals, conferences and shows in the field of audiovisual media and studies, or
- j) protection of rights to audiovisual works and their recordings.

(2) If the selective support cannot be provided under the conditions determined by the directly applicable regulation of the European Union which declares certain support categories compatible with the internal market⁵⁹⁾, the selective support shall only be provided after the consent of the European Commission with the provision of the support and subject to the conditions determined by the European Commission⁰⁾.

Section 32

Form of the Selective Support

(1) The money from the Fund intended for the selective support shall be provided in the form of subsidies or profit-sharing subsidies. Support to videogames shall be always provided in the form of a profit-sharing subsidy.

(2) In the case of profit-sharing subsidies the money so provided shall be non-repayable but the decision on the provision of support shall contain the Fund's share of the income from the project.

Division 2

Application for Selective Support

Section 33

Call for Submission of Applications for Selective Support

(1) On the basis of the Concept, the Fund shall issue calls for submission of applications for selective support.

(2) The information to be contained in the call shall include the period for submission of applications for selective support, which shall not be shorter than 30 days from the announcement of the call, and the enumeration of the subsidy headings (from among those referred to in Section 31) to which the call applies.

Section 34

Application for Selective support

(1) An application for selective support shall be submitted within the period referred to in Section 33(2) above. Any application submitted after this period shall be disregarded by the Fund.

(2) A receipt of payment of administrative fee shall be attached as a part of the application for selective support.

(3) An application for selective support shall contain the following:

- a) the name of the project for which the applicant requests support,
- b) the total amount of the planned budget,
- c) the form of selective support requested by the applicant, and the amount thereof; if the applicant requests only a certain specific form of selective support, it shall be expressly stated in the application,
- d) number of the applicant's bank account.

(4) The application for selective support shall include documents attesting that the applicant has fulfilled the prerequisites specified in Section 39(1)(d) to (i). In case of a project from the sphere of production of Czech audiovisual works under Section 31(1)(b), the application shall include documents attesting that the applicant has fulfilled the prerequisites specified in Section 39(1)(b) to (i). In case of a videogame, the applicant shall present documents proving that he has met the prerequisites under Section 39(1)(c) to (i). The fulfilment of the prerequisites specified in Section 39(1)(b) to (f) shall be attested to by a solemn declaration, which shall be a part of the application for selective support. The fulfilment of the prerequisite specified in Section 39(1)(a) is attested to by the documents specified in Section 39(2) to (4).

(5) An application for selective support shall include appendices relevant for the assessment of the project and for the creative and realization test, by means of which the applicant shall defend the relevance of his project on the basis of pre-determined criteria, and other documents conclusive for the assessment whether the applicant meets the conditions set for a recipient of the selective support.

Division 3

Making Decisions about Selective Support

Section 35

(1) A decision on selective support must be issued within 120 days after the end of the time limit for submission of applications for selective support and must include, beside general particulars specified in the Administrative Procedure Code,

- a) the form and amount of the selective support;
- b) the number of the bank account of the recipient of the selective support to which the selective support is payable;
- c) the purpose for which the selective support is provided;
- d) conditions for the provision and use of selective support and the conditions failing which a decision will be taken to withdraw the selective support under Section 40a,
- e) the determination of basic terms for the agreement on the Fund's share in any profit referred to in Section 32(2), particularly on the amount of the Fund's share in any profit generated by the project;
- f) the time limit for submission of documents under Section 40,
- g) the time limit for submission of the notification of income under Section 40(4a);
- h) the time limit for completion of the project.

(2) In the reasoning of its decision, the Council must deal with the assessment of the project by a group of project assessors. The reasoning of the decision must also include a verbal assessment of the project by the Council based on each of the criteria of the creative and realization test.

(3) In exceptional cases, the Council may decide without the assessment by the group of project assessors.

(4) There is no legal entitlement for selective support.

(5) The Council decision on an application for selective support is non-appealable.

(6) The provision of Section 146 of the Administrative Procedure Code shall not apply to the proceedings concerning the decision on selective support.

(7) The decision on the discontinuance of proceedings concerning the application for selective support in accordance with Section 66(1) of the Administrative Procedure Code shall be issued by the Director of the Fund, who shall also discontinue the proceedings on the application for selective support in the event that the application for selective support does not contain particulars specified in Section 34 or does not meet the conditions of the relevant call for submission of applications for selective support.

Section 36

(1) Upon request of a recipient to whom selective support has been provided with finality, the Council may decide to change the decision on selective support on the basis of changed circumstances. In making its decision, the Council shall respect the proposal and the reasoning of the application for a change of the decision on selective support.

(2) The changed circumstances referred to in Subsection 1 above shall include factual changes which occurred during the preparation or realization of the project and which the recipient was unable to prevent or mitigate them despite exercising due care. Such changes include, without limitation, changes in the project's time schedule, in the project's total budget, and in the contribution of each co-producer.

(3) A receipt of payment of administrative fee shall be attached as a part of the application.

(4) The Council's decision on the application for a change of the decision on selective support is non-appealable.

Section 37

Repealed

Section 38

Repealed

Section 39

Recipient of Selective Support

- (1) A recipient of selective support shall meet certain requirements. The recipient
- a) shall have integrity; an individual convicted with finality of a property-related or economic criminal act, including also cases of preparation of, attempt at and participation in such a criminal act, shall not be considered to have integrity, unless he is looked upon as if he were not convicted; in the case of a legal person, this requirement must be met by the legal person as such, as well as its statutory body or each member of the statutory body, and if a legal person is the statutory body of the recipient of selective support or a member of the statutory body of the recipient of selective support, this requirement shall be met by the legal person as such, as well by as its statutory body or each member of the statutory body; if a foreign legal person is a recipient of selective support through its organisational unit, the requirement under this clause shall be met by persons referred to above and the head of that organisational unit; this requirement shall be met by the recipient of selective support in relation to both the Czech Republic and the country where the recipient has his registered office or permanent residence;
 - b) for the purposes of support under Section 31(1)(b), if not a videogame, the recipient shall not be a television broadcasting operator or provider of an on-demand audiovisual media services, shall not be a capital-related party with a television broadcasting operator or provider of an on-demand audiovisual media service, or his deliveries of works for one television broadcasting operator or provider of an on-demand audiovisual media shall not exceed within 3 years 90% of his total production; a person who is capital-related to the television broadcasting operator or provider of an on-demand audiovisual media service means a person participating in voting rights or registered capital of such television broadcasting operator or provider of an on-demand audiovisual media service, or a person in which the television broadcasting operator or provider of an on-demand audiovisual media service participates hold a share in voting rights or registered capital;

- c) for the purposes of support under Section 31(1)(b), the recipient shall be a producer, and in case of a videogame the producer of such videogame;
- d) shall not be a business in distress in accordance with a directly applicable regulation of the European Union which declares certain support categories compatible with the internal market⁵⁹⁾, and shall not be a person against which a collection order has been issued upon a decision of the European Commission, which has not been paid yet;
- e) shall not be in liquidation;
- f) shall not be a person whose assets are subject to an order of enforcement of a judicial decision or execution;
- g) shall have no arrears of public health insurance premiums and no past-due penalties in respect of public health insurance in the Czech Republic and in the state of its or his registered office, principal place of business or permanent residence;
- h) shall have no arrears registered in the records maintained by the Financial Administration of the Czech Republic and the customs authorities of the Czech Republic and in the records maintained by such authorities of the state where he has his registered office, principal place of business or permanent residence, except the cases where suspension of the payment of such arrears, or the splitting thereof into instalments, has been permitted;
- i) shall have no outstanding arrears of social insurance premiums and penalties and no outstanding arrears of contributions to the employment policy in the Czech Republic and in the state of his registered office, principal place of business or permanent residence; and
- j) shall have no past due liabilities payable to the Fund.

(2) To satisfy itself of the integrity of an applicant who is a citizen of the Czech Republic, the Fund shall request an excerpt from the criminal register for the applicant in accordance with another law. If the applicant is a legal person with registered office in the Czech Republic, the Fund shall request an excerpt from the criminal register for such a legal person itself as well as for such a legal person's statutory body or each member of such a legal person's statutory body, and if the statutory body or a member of the statutory body of such legal person is a citizen of another state, the applicant shall attach for the purpose of evidencing integrity a document similar to an excerpt from the criminal register issued by such state (the "foreign excerpt from the criminal register"), as well as an excerpt from the criminal register of the Czech Republic (a "local excerpt from the criminal register") of such person, and if a legal person with registered office in the Czech Republic is that legal person's statutory body or a member of that legal person's statutory body, the Fund shall also request an excerpt from the criminal register for that legal person exercising the functions of the statutory body of the applicant as well as for the statutory body or for each member of the statutory body of that legal person exercising the functions of the statutory body of the applicant, and if the statutory body or a member of the statutory body is a foreign legal person, the applicant shall attach for the purpose of evidencing integrity the foreign excerpt from the criminal register and the local excerpt from the criminal register of the legal person acting as the applicant's statutory body, as well as of the statutory body or each member of the statutory body of that legal person. These excerpts from the criminal register shall not be older than 3 months.

(3) If the applicant is a citizen of a state other than the Czech Republic, he shall, for the purposes of proving his integrity, furnish beside a foreign excerpt from the criminal register a local excerpt from the criminal register. If the applicant is a legal person, it shall, for the purposes of proving its integrity, furnish a foreign excerpt from the criminal register and local

excerpt from the criminal register for such a legal person as well as for such a legal person's statutory body or each member of the statutory body, and if a legal person is its statutory body or a member of its statutory body, it shall also furnish a foreign excerpt from the criminal register and local excerpt from the criminal register for that legal person as well as for that legal person's statutory body or each member of that legal person's statutory body. In lieu of the foreign excerpt from the criminal register, the applicant may furnish an excerpt from the criminal register with an appendix containing information filed in the register of the state where the applicant is a citizen. These excerpts from the criminal register shall not be older than 3 months.

(4) If the state referred to in Subsection 2 or 3 above does not issue foreign excerpts from the criminal register or excerpts from another similar register, the applicant for selective support shall submit a solemn declaration of integrity.

Section 40

Joint Provisions Concerning the Provided Selective Support

(1) The funds provided by the Fund may be used exclusively for the purposes defined in the decision on selective support.

(2) The final settlement account of the project in respect of the funds provided shall be submitted for inspection to the Fund by the recipient of selective support within the period specified in the decision on selective support.

(3) A recipient of an amount of more than CZK 3,000,000 from the Fund shall submit to the Fund the final settlement account as referred to in Subsection 2 above together with an auditor's report in respect of the expenses incurred.

(4) A recipient of selective support in the form of a subsidy with the Fund's share of the profit generated by the project shall submit to the Fund a statement of income by 31 March of each year for the preceding year until the time specified in the decision on support to audiovision.

(5) The Fund shall pay the selective support on the applicant's account in Czech crowns. Any exchange rate difference shall be charged to the applicant. Banking service fees shall be paid by the applicant.

(6) In case of support provided under Section 31(1)(b) for cinematographic works, television works and for animated television works, the recipient of the Fund's financial means shall document to the Fund, together with the settlement under Subsection 2, that he is entitled in relation to that work to

- a) the rights of the producer of the audiovisual work or a share in such rights corresponding to at least to the size of the ratio of the provided selective support and total production costs of the audiovisual work; and cumulatively
- b) proceeds from the use of the work or the share in such proceeds corresponding to at least the size of the ratio of the provided selective support and total production costs of the audiovisual work, except if the lower or no share of the recipient of the Fund's financial means in some proceeds from the use of the work is compensated by a higher share of the Fund's financial means in other proceeds from the use of the work.

Section 40a

Withdrawal of the Selective Support

(1) The Director of the Fund shall decide on the withdrawal of the selective support if it transpires after the issue of the decision to provide the selective support that

- a) the recipient of the support does not meet the prerequisites set forth in Section 39(1);
- b) the recipient of the support has failed meet the conditions set forth in Section 40(6); or
- c) the recipient of the support has failed to meet the conditions defined in the decision on the selective support under Section 35(1)(d) as the conditions failing which a decision will be taken to withdraw the selective support.

(2) The recipient of the support shall be obliged to return the selective support paid to him to the Fund's account within 30 days after the final and effective date of the decision to withdraw the selective support.

Section 40b

Details about the Provision of Selective Support

Details about the provision of the selective support are laid down in the Fund's Statute and include, without limitation

- a) a definition of expenses and detailed rules for eligibility of expenses, including particulars of the auditor's report on the verification of their spending;
- b) the method of evidencing expenses and their eligibility;
- c) detailed conditions of the announcements of calls to submit applications for selective support;
- d) detailed conditions of submission of applications for selective support and documents relevant for their assessment;
- e) the procedure used in the adoption of the Council's decisions;
- f) detailed conditions of the provision of selective support;
- g) the method of composing the group of project assessors;
- h) particulars of the creative and the realization test; and
- i) details concerning Section 40(6).

Section 41

Selective Support Certificate

(1) The Fund shall issue upon request of the recipient of selective support a certificate of granting selective support or of other facts relating to the project for the realization of which the recipient has been provided selective support. Upon request of the recipient of the support, the certificate according to the first sentence may be issued in the English language.

(2) A receipt of payment of administrative fee shall be attached as a part of the request for the issue of the certificate in accordance with Subsection 1.

Part 6

Provision of Production Incentives

Division 1

General Provisions on Production Incentives

Section 42

Purpose of Production Incentives and Definition of Terms

(1) The primary purpose of the provision of production incentives is to strengthen the competitiveness of the Czech film industry through support of the production of audiovisual works in the Czech Republic, support of foreign investments in the film industry and creation of conditions for the development of creative industry.

(2) For production incentive purposes, production of an audiovisual work shall be understood to mean production of an audio/video recording thereof and the related activities.

(3) For the purpose of production incentives the following terms shall have the following meanings:

- a) a fiction or animated series shall mean a series of at least 2 audiovisual works comprising a single whole, connected by a consistently and continuously narrated story, the actions of the same leading characters or by the central topic,
- b) a documentary series shall mean a series of at least 2 documentary audiovisual works comprising a single whole, connected by the person of the guide or through the central topic;
- c) an episode of a series shall mean one of the audiovisual works under clause (a) or (b); audiovisual works under clause (a) or (b) that are released to the public successively within an interval of at least 12 months shall not be deemed episodes of a series.

(4) In case of simultaneous production of more audiovisual works under the same screenplay or under mutually derived screenplays, constituting simultaneous production of an audiovisual work under Section 43(1)(b)(1), (2) or (5), or episodes derived from such work, the production of such work may only be carried on within a single incentivised project, and the variant of the audiovisual work or series that shall be presented to the public as the first one by a method defined in Subsection 5 must meet the criteria relating to the duration and minimum eligible costs laid down in Section 43(1)(b). The same applies in cases where individual episodes of a series are produced in more variants of their duration or where the series is produced in more variants as to the number of episodes.

(5) For the purpose of production incentives, the presentation/release of an audiovisual work or series to the public shall be understood to mean its authorised

- a) television broadcasting⁸⁾,
- b) release to the public⁶¹⁾ through an on-demand audiovisual service⁶²⁾, if the audiovisual work is present for at least 1 month in the on-demand audiovisual media service catalogue;
or
- c) release from a recording⁶³⁾ through cinematographic performances if the audiovisual work under Section 43(1)(b)(1), (2) or (5) constitutes a part of the usual offer presented by the distributor continuously for at least 1 month to organisers of cinematographic performances.

(6) An incentivised project shall be understood to mean the production of an audiovisual work that complies with the criteria laid down in Section 43, in respect of which eligible costs are incurred.

(7) Identical incentivised project shall be understood to mean an incentivised project within the scope of which the audiovisual work shall be produced on the basis of the same or adjusted screenplay, as indicated in the submitted application for filing of the incentivised project; any change of the name shall be disregarded.

Section 43

Conditions for the Provision of Production Incentives and Definition of Terms

- (1) Production incentives may be provided for the production of an audiovisual work,
- a) which is at least partly produced in the Czech Republic;
 - b) which is
 - 1. a fiction audiovisual work whose length is at least 60 minutes, which is not an episode of a series and where the total amount of eligible costs incurred in its production shall reach, exclusive of value added tax, at least CZK 18,000,000;
 - 2. a documentary audiovisual work whose length is at least 60 minutes, which is not an episode of a series and where the total amount of eligible costs incurred in its production shall reach, exclusive of value added tax, at least CZK 2,500,000;
 - 3. an episode of a fiction series whose length is at least 20 minutes and where the total amount of eligible costs incurred in its production shall reach, exclusive of value added tax, at least CZK 7,500,000;
 - 4. an episode of a documentary series whose length is at least 20 minutes and where the total amount of eligible costs incurred on its production shall reach, exclusive of value added tax, at least CZK 2,500,000;
 - 5. an animated audiovisual work whose length is at least 60 minutes, which is not an episode of a series and where the total amount of eligible costs incurred in its production shall reach, exclusive of value added tax, at least CZK 5,000,000; or
 - 6. an episode of an animated series whose length is at least 5 minutes and where the total amount of eligible costs incurred in the production of all episodes of the series carried on within the incentivised project shall reach, exclusive of value added tax, at least CZK 5,000,000; and
 - c) which meets the content requirements; this shall mean, for production incentive purposes, that the content of the audiovisual work:
 - 1. meets the requirements of a cultural product under the directly applicable European Union regulation⁴⁹⁾, which compliance shall be proved by the cultural test containing a pre-determined list of cultural criteria;
 - 2. complies with the legal regulations of the Czech Republic.
- (2) The length of the audiovisual work under Subsection 1(b) shall be assessed inclusive of the introductory and final credits and exclusive of added signature tunes.
- (3) In case of an audiovisual work defined in Subsection 1(b)(3), it is possible to produce within a single incentivised project more than one episode of the same fiction series, provided

that the total amount of eligible costs incurred in the production of such episodes shall reach, exclusive of value added tax, at least a multiple of CZK 7,500,000 and the number of the episodes. The number of the episodes of such series that shall be relevant for the determination of the amount of eligible costs shall include all episodes of such series whose production in the Czech Republic, albeit partial, shall be procured by the same applicant in the period from the submission of the application for filing of the incentivised project until the submission of the application for production incentive, unless such episodes are produced as a part of another already filed incentivised project..

(4) In case of an audiovisual work defined in Subsection 1(b)(4), it is possible to produce within a single incentivised project more than one episode of the same documentary series, provided that the total amount of eligible costs incurred in the production of such episodes, exclusive of value added tax, at least a multiple of CZK 2,500,000 and the number of the episodes. The number of the episodes of such series that shall be relevant for the determination of the amount of eligible costs shall include all episodes of such series whose production in the Czech Republic, albeit partial, shall be procured by the same applicant in the period from the submission of the application for filing of the incentivised project until the submission of the application for production incentive, unless such episodes are produced as a part of another filed incentivised project.

(5) The limit of eligible costs specified in Subsection 1(b)(5) is also decisive for incentivised projects which include production of other than animated audiovisual works, if the incentivised project does not include shooting of a live actor's performance.

Section 44

Eligible Costs

(1) For production incentive purposes, eligible costs shall mean, exclusive of the value added tax:

- a) the administrative fee paid by the applicant with the submission of the application for filing of the incentivised project and local costs⁶⁵⁾ incurred by the applicant in paying for the supply of goods and services directly related to the incentivised project by a person registered in the Czech Republic for income tax purposes, provided that the corresponding income is not subject to any tax similar to the income tax in any state other than the Czech Republic and that such a payment was made after the date of submission of the application for filing of the incentivised project on which a decision was made under Section 52(5) and before submission of the application for a production incentive;
- b) the costs incurred by the applicant in paying remuneration to actors and members of the crew having their registered office or permanent residence outside the Czech Republic, provided that this remuneration is subject to income tax in the Czech Republic withheld under a special tax rate, and that the applicant paid such costs and the related tax after the submitting the application for filing of the incentivised project on which a decision was made under Section 52(5) and before submitting the application for a production incentive;
- c) the applicant's revenue having the nature of his remuneration for providing for the production of an audiovisual work or a part thereof, which remuneration was paid to the applicant before submission of the application for a production incentive, provided that the applicant is neither the producer nor co-producer of the audiovisual work but is a person securing for the producer or co-producer the production of the audiovisual work or a part thereof within the incentivised project, and that such revenue of the applicant is not subject

to a tax similar to the income tax in a state other than the Czech Republic. However, the applicant's revenue may become an eligible cost up to the maximum amount equal to the difference between the total revenues of the applicant relating to the realization of the incentivised project, including the production incentive, and the total costs incurred by the applicant in connection with the realization of the incentivised project and may not exceed at the same time 7% of the total costs incurred by the applicant in connection with the realization of the incentivised project;

d) the applicant's costs incurred within 6 months before submission of the application for registration of the incentivised project directly in connection with the preparation for the realization of the incentivised project.

(2) Any costs claimed as eligible in one incentivised project may not be claimed as eligible costs of another incentivised project. A single audiovisual work may only be produced as a part of a single incentivised project.

Section 45

Form and Amount of Production Incentives

(1) Production incentives constitute state aid³⁸. The provider of production incentives shall be the Fund.

(2) Production Incentives shall be provided:

- a) in an amount corresponding to 25% of eligible costs as per Section 44(1)(a), (c) and (d);
- b) in an amount corresponding to 35% of eligible costs as per Section 44(1)(a), (c) and (d) if the incentivised project includes production of an animated audiovisual work, an animated audiovisual series or an episode thereof or if it is a project specified in Section 43(5);
- c) in an amount corresponding to 66% of the amount of the income tax collected or withheld in the Czech Republic from the eligible costs as per Section 44(1)(b), in which case the production incentive amount determined in such manner that is provided to the same incentivised project shall not exceed one half of the production incentive amount as per clause (a);
- d) only for eligible costs representing in aggregate 80% or less of the total costs of the production of the audiovisual work or series whose production, albeit partial, is a part of an incentivised project (hereinafter the "total costs"); in the event that the eligible costs exceed 80% of the total costs, the calculation of the production incentive shall be based successively on eligible costs under Section 44(1)(a), (c), (d) and (b), until the indicated maximum admissible level of eligible costs is achieved; and
- e) in the maximum amount of the envisaged production incentive stated in the decision on registration of the incentivised project or in the last of the successive decisions on a change of filing of the incentivised project.

(3) The maximum amount of a production incentive shall be CZK 450,000,000 per one incentivised project.

(4) There is no legal entitlement to receive production incentives.

Division 2

Adoption of Decisions on Production Incentives

Section 46

The Commission

- (1) The Commission shall:
- a) evaluate the applications for filing of incentivised projects with regard to their compliance with the content requirements under Section 43(1)(c) and issue opinions related thereto, also after any change that is to occur on the basis of an application submitted by the applicant in accordance with Section 52(5);
 - b) evaluate whether
 1. the incentivised projects are identical pursuant to Section 42(7);
 2. some audiovisual works form a series; and
 3. the audiovisual work is a fiction, animated or documentary audiovisual work; and
 - c) determine whether the audiovisual work produced as a part of the incentivised project in relation to which no decision to provide selective support under the heading specified in Section 31(1)(b) was issued as of the submission date of the application for production incentive is a demanding audiovisual work, and shall set the maximum amount of state aid to be provided in such case.

Section 47

Composition and Deliberations of the Commission

- (1) The Commission shall have 5 members. Commission members shall be appointed by the Minister from among recognised and experienced practitioners in the audiovision sphere, proposed by professional organizations.
- (2) The office term of the Commission members shall be 3 years. Re-appointment is possible only twice.
- (3) The Commission shall elect its chairman and vice-chairman from among its ranks.
- (4) Being a member of the Commission shall be a public office. For the performance of his office, a Commission member shall be entitled to remuneration to be determined by a government resolution upon the Minister's proposal. A Commission member shall be further entitled to reimbursement for travel expenses related to the exercise of his office to the same extent as employees, the place of his permanent residence in the Czech Republic being regarded as his regular place of work for the purposes of reimbursement of travel expenses.
- (5) The Commission shall be quorate if at least 3 members are present. The Commission shall decide by a majority of votes.
- (6) A Commission member shall be excluded from deciding on a production incentive in cases specified in the Administrative Procedure Code or on the basis of his personal interest in the decision or if a personal benefit may be obtained by him either directly or through a close person.

Section 48

Requirements for Commission Membership

(1) A natural person may be eligible to become a member of the Commission if he has:

- a) full legal capacity; and
- b) integrity; an individual convicted with finality of a premeditated criminal act shall not be considered to have integrity, unless he is looked upon as if he were not convicted.

(2) A Commission member may not hold an office in any political party or political movement, nor may he act in favour of any political party or movement in connection with the performance of his office as Commission member.

(3) Commission membership shall be incompatible with the office of the President of the Republic, member of the Chamber of Deputies, Senator, member and deputy member of the government, head and deputy head of a central state administration authority, President of the Supreme Audit Office or member of his Advisory Board, member of the Council of the Czech Telecommunication Office, member of the Bank Board of the Czech National Bank, member of the Council for Radio and Television Broadcasting and member of the Czech Television Council. Also, a member of the Board of Representatives, of a Council, of the Supervisory Committee or an evaluator may not be a member of the Commission.

(4) Commission membership shall be incompatible with an employment relationship to the Fund.

Section 49

Termination of the Membership in the Commission

(5) Commission membership shall terminate:

- a) by the expiry of the term of office;
- b) as of the date of delivery to the Minister of the Commission member's written announcement of resignation;
- c) as of the date of delivery to the Commission member of the decision to recall him from office;
- d) as of the date of finality of a court decision to restrict the Commission member's legal capacity;
- e) as of the date of finality of a court decision convicting the Commission member of a premeditated criminal act; or
- f) as of the date when the Commission member acquires a position indicated in Section 48(2) or (3) above or becomes an employee of the Fund.

(6) The Minister shall recall a Commission member from his office if he:

- a) has committed an act threatening to affect the confidence in his independence or impartiality in the performance of his office;
- b) has seriously damaged the dignity of the office held by him;
- c) has acted in favour of a political party or political movement in connection with the exercise of his office as a Commission member, or
- d) has repeatedly breached his duties under this Act or other legal regulations, or the Fund's Statutes.

Section 50

Applicant for Filing of an Incentivised Project

(1) An application for filing of an incentivised project may only be submitted by a person (hereinafter the “applicant”) who

- a) is, in accordance with the Income Taxes Act, a tax resident of the Czech Republic or a tax non-resident of the Czech Republic, has a permanent establishment in the territory of the Czech Republic and is, at the same time, under the laws of the relevant state, a tax resident of another Member State of the European Union or a state constituting the European Economic Area;
- b) is not a television broadcasting operator or provider of an on-demand audiovisual media services, is not a capital-related party to a television broadcasting operator or provider of an on-demand audiovisual media service, or his deliveries of works for one television broadcasting operator or provider of an on-demand audiovisual media shall not exceed within 3 years 90% of his total production; a person who is capital-related to the television broadcasting operator or provider of an on-demand audiovisual media service means a person participating in voting rights or registered capital of such television broadcasting operator or provider of an on-demand audiovisual media service, or a person in which the television broadcasting operator or provider of an on-demand audiovisual media service hold a share in voting rights or registered capital;
- c) meets the conditions laid down in Section 39(1) (a) and (d) to (j);
- d) is not a person in respect of whom a decision on filing of the same incentivised project has been cancelled with finality within the last 2 years due to a breach of duties imposed by this Act or conditions stated in the decision on filing of the incentivised project the breach whereof is not deemed less serious; and
- e) shall be
 1. the producer or a co-producer of the audiovisual work that shall be produced within the scope of the incentivised project; or
 2. a person who shall secure for the producer and co-producer(s) of the audiovisual work within the scope of the incentivised project the production of the audiovisual work or a part thereof.

(2) The criteria defined in Subsection 1(a) and (b) and the compliance with the conditions laid down in Section 39(1)(d) to (i) shall be documented by the applicant by means of a solemn declaration which shall form part of the application for filing of the incentivised project. The provisions of Section 39(2) to (4) shall be applied accordingly.

Section 51

Application for Filing of the Incentivised Project

(1) The application for registration of an incentivised project shall contain beside the essentials of an application required by the Administrative Procedure Code and by this Act also a cultural test plus other appendices attesting to the fulfilment of the prerequisites for registration of an incentivised project. The application shall also include a receipt of payment of the administrative fee.

(2) The application for registration of an incentivised project must be submitted before the start of production of the audiovisual work in the Czech Republic beyond the scope of the preparation for realization of the incentivised project.

(3) The application for registration of an incentivised project which includes production of a series or episodes thereof cannot be submitted before completion of shooting of other episodes of the same series in the Czech Republic, which have been produced as a part of another incentivised project in respect of which an application for registration was submitted earlier and the decision on registration of such project was not cancelled. The provision of this Subsection shall not apply to animated series.

(4) In the event that the application for registration of an incentivised project has been dismissed or the related proceedings have been discontinued, the same applicant may file an application for registration of the same project repeatedly but not more than once.

(5) Due to lack of financial means of the Fund earmarked for production incentives or for other reasons deserving a special merit, the Fund's Director may suspend acceptance of applications for registration of incentivised projects. The notice of suspension or resumption of acceptance of applications for registration of incentivised projects shall be published by the Fund in the form allowing for remote access. The effects of suspension of acceptance of applications for registration of incentivised projects shall occur upon the publication of the notice of suspension of acceptance of applications for registration of incentivised projects, unless a later effective date of suspension of acceptance of applications for registration of incentivised projects is stated in the notice. The effects of suspension of acceptance of applications for registration of incentivised projects shall cease by the expiration of the time limit for which the acceptance of applications for registration of incentivised projects has been suspended, or upon the publication of a notice of the Fund's Director revoking suspension of acceptance of applications for registration of incentivised projects.

Section 52

Evaluation of Applications for Filing of Incentivised Projects

(1) Applications for registration of incentivised project that are submitted in the period of suspension of acceptance of applications in accordance with Section 51(2) shall be disregarded.

(2) If an application for filing of an incentivised project does not contain all required particulars and appendices, the Fund shall invite the applicant to complement the application. If the applicant fails to complement the application for filing of his incentivised project within 5 working days of the date of delivery of the Fund's call to do so, the Fund shall discontinue the proceedings concerning the application.

(3) In the event that the applicant fails to meet the conditions specified in Section 50 or that the content of the application for filing of the incentivised project and appendices

thereto shows that the incentivised project does not meet the conditions laid down in Sections 42 and 43, or in the event that the application for filing of the incentivised project has been submitted in contravention of Section 51(2), (3) or (4), the Fund shall dismiss such application. If the application for filing of an incentivised project was submitted in the period when another application for filing of an identical project had been submitted earlier, the Fund shall dismiss the later application in the event that a decision on filing of the incentivised project has been issued on the basis of the earlier application.

(4) If the Commission issues an opinion in which it will determine that the application for filing of the incentivised project does not meet the prerequisites regarding its content which are specified in Section 43(1)(c), the Fund shall dismiss the application.

(5) If the Fund does not dismiss the application of filing of the incentivised project or discontinue the related proceedings, the Fund shall issue a decision on filing of the incentivised project.

Section 52a

Decision on Filing of an Incentivised Project

(1) A decision on filing of an incentivised project shall contain information about the incentivised project, the applicant's data and information regarding the envisaged amount of the production incentive, which may not exceed the amount specified in Section 45(3).

(2) In its decision on filing of the incentivised project, the Fund shall determine the conditions concerning the realization of the incentivised project, which shall be binding for the applicant. particularly the method and time limits for presenting evidence of the performance of works on the production of the audiovisual work and for the provision of information to the Fund concerning the realization of the incentivised project, and conditions that shall be binding for the applicant as regards the determination of the obligation under Section 52f(1)(d). The Fund may highlight in its decision on filing of the incentivised project certain conditions whose breach by the applicant is treated as less serious.

(3) If the available financial means of the Fund are not sufficient to fully cover the envisaged amount of the production incentive, the Fund shall state in its decision on filing of the incentivised project the partial amount of the envisaged production incentive for which there are sufficient available funds. If the Fund lacks the sufficient amount of the available funds, it shall not specify in its decision on filing of the incentivised project the amount of the envisaged production incentive.

(4) Using the procedure described in Subsection 3, the Fund shall process applications on filing of incentivised projects in the order in which they have been submitted. In its decision on filing of the incentivised project under Subsection 3, the Fund shall state that the envisaged amount of the production incentive shall be determined by the procedure laid down in Section 52b(1) depending on the availability of financial funds.

(5) If the Fund obtains new available funds, it shall use them primarily to cover the envisaged amount of the production incentives specified in its decisions issued under Section 52b(1) and only thereafter for the covering of envisaged amounts of production incentives in newly issued decisions on filing of incentivised projects.

(6) The amounts of envisaged production incentives stated in Fund's decisions on filing of incentivised projects and in its decisions on changes of decisions on filing of incentivised projects constitute a conditional commitment of the Fund.

Section 52b

Change of a Decision on Filing of an Incentivised Project

(1) The Fund shall issue *ex officio* a decision on a change of the decision on filing of an incentivised project issued in accordance with Section 52a(3), where it shall specify the envisaged amount of the production incentive. Such decision shall be issued without undue delay after the Fund obtains available financials funds sufficient to cover such amount. The provisions of the first sentence of Section 52a(4) shall apply accordingly.

(2) The Fund shall publish in a manner allowing for remote access the total sum of available funds required for the issue of all decisions under Subsection 1 above.

(3) If the envisaged production incentive amount decreases by more than CZK 1,000,000 compared to the amount of the envisaged production incentive specified in the decision on filing thereof, the applicant shall submit an application for a change of the decision on filing of the incentivised project. Based on such application, the Fund shall issue a decision on a change of the decision on filing of the incentivised project, in which it shall specify the new envisaged amount of the production incentive. If the applicant submits an application for a change of the decision on filing of an incentivised project issued under Section 52a(3), the Fund shall not issue any further decision under Subsection 1 with regard to such decision on filing of the incentivised project. An application relating to the same incentivised project may be submitted more than once.

(4) In case of an increase of the envisaged amount of the production incentive, the applicant may submit an application for a change of the decision on filing of the incentivised project. Based on such application, the Fund shall issue a decision on a change of the decision on filing of the incentivised project, in which it shall specify the new envisaged amount of the production incentive; however, such new amount may not exceed by more than 15% the amount of the envisaged production incentive stated in the decision on filing of the incentivised project; also, the new envisaged amount of the production incentive may not exceed the amount specified in Section 45(3). Such application may not be submitted in respect of a decision on filing of an incentivised project issued in accordance with Section 52a(3); any such application shall be dismissed by the Fund. Such application may only be submitted once. Repeated applications shall be dismissed by the Fund.

(5) If the nature of the audiovisual work changes to such an extent that, instead of the type of the audiovisual work defined in Section 43(1)(b), which is specified in the decision on filing of the incentivised project, another type of the audiovisual work defined in 43(1)(b) shall be realized, or in case of a change of the number of episodes in a series which are produced as a part of an incentivised project, the applicant shall submit an application for a change of filing of the incentivised project. If the incentivised project remains the same after such change under Section 42(7) and the incentivised project and the applicant meet at the same time all conditions laid down by this Act, the Fund shall issue the decision on a change of the decision on filing of the incentivised project on the basis of such application; otherwise, the Fund shall dismiss the application.

(6) The application for filing of an incentivised project shall contain beside the essentials of an application required by the Administrative Procedure Code and essentials specified by this Act also other appendices attesting to the compliance with the conditions of a change of the decision on filing of the incentivised project. If the application for a change of the decision for filing of the incentivised project does not contain such essentials and appendices, the Fund shall invite the applicant to complement the application. If the applicant

fails to complement the application for the change of the decision on filing of the incentivised project within 5 days after the delivery of the Fund's call, the Fund shall discontinue by its resolution the proceedings on the application.

Section 52c

Cancellation of the Decision on Filing of the Incentivised Project

(1) If an applicant to whom a decision on filing of an incentivised project has been delivered breaches the conditions laid down therein, with the exception of the conditions whose breach is considered less serious in accordance with the decision on filing of the incentivised project, the Fund shall decide to cancel the decision on filing of the incentivised project.

(2) If, after the decision on filing of the incentivised project, the incentivised project is not realized or, due to a change of the circumstances, it is impossible to submit in time an application for a production incentive for the production of the audiovisual work, the applicant shall inform the Fund without delay to that effect. In such case, the Fund shall decide to cancel the decision on filing of the incentivised project.

(3) If the Fund finds out after the issue of the decision on filing of the incentivised project that the prerequisites for dismissal of the application for filing of the incentivised project have been met, the Fund shall decide to cancel the decision on filing of the incentivised project.

(4) If the Fund finds out after the issue of the decision on filing of the incentivised project that the applicant ceased to meet the conditions specified in Section 50 or that the incentivised project ceased to meet the conditions specified in Section 42 or 43, the Fund shall decide to cancel the decision on filing of the incentivised project.

(5) If the applicant to whom a decision for filing of the incentivised project has been delivered fails to initiate or to carry on works on the production of the audiovisual work not later than within 6 months after the delivery of the decision on filing of the incentivised project, the Fund shall decide to cancel the decision on filing of the incentivised project. In the event that the Fund proceeds in the issue of a decision for filing of an incentivised project in accordance with Section 52a(3), the period specified in the first sentence shall only start upon the delivery of the change of filing of the incentivised project under Section 52b(1) or (3).

Section 52d

Application for a Production Incentive

(1) An applicant to whom a decision on filing of an incentivised project has been delivered may submit an application for a production incentive until the expiration of 3 years after the date of delivery of the decision for filing of the incentivised project unless such decision has been cancelled by the Fund.

(2) In the event that the Fund proceeds in the issue of a decision for filing of an incentivised project in accordance with Section 52a(3), the period specified in Subsection 1 shall only start upon after the delivery of the Fund's decision on a change of the decision on filing of the incentivised project issued under Section 52b(1), which specifies the envisaged amount of the production incentive, or under Section 52b(3).

(3) The application for filing of an incentivised project shall contain beside the essentials of an application required by the Administrative Procedure Code and by this Act

other appendices attesting to the compliance with the conditions for the provision of a production incentive. The application shall also include a report on the verification of eligible costs of the incentivised project, prepared by an auditor who is authorized to carry on auditor activities under the law regulating auditor activities.

(4) The applicant shall state in the application for the production incentive such amount of the production incentive that shall be determined in accordance with this Act and shall not exceed the envisaged amount of the production incentive specified in the decision for filing of the incentivised project or in subsequent decisions on a change of the decision on filing of the incentivised project, if any.

(5) If the application for the production incentive has been dismissed or the proceedings on have been discontinued, an application for a production incentive relating to the same incentivised project may be submitted repeatedly unless the time limit specified in Subsection 1 has expired.

(6) An applicant who submits an application for a change of the decision on filing of the incentivised project under Section 52b(3) may not submit an application for a production incentive earlier than 3 months after submission of the application for a change of the decision on filing of the incentivised project; the period specified in Subsection 1 shall not be affected thereby. If the applicant has submitted successively two or more applications for a change of the decision on filing of the incentivised project relating to the same incentivised project in accordance with Section 52b(3), the time limit for submission of the application for the production incentive under the previous sentence shall start after submission of the last of those applications.

Section 52e

Evaluation of the Application for Production Incentive

(1) If the application for production incentive does not contain the essentials specified in the Administrative Procedure Code and this Act and all required appendices, the Fund shall invite the applicant to complement the application. If the applicant fails to complement the application for the production incentive within 5 days after the delivery of the Fund's call, the Fund shall issue a resolution to discontinue the proceedings on the application. If the application for production incentive was submitted by a person to whom the decision on filing of the incentivised project was not delivered, the Fund shall issue a resolution to discontinue the proceedings on the application.

(2) The Fund shall dismiss the application for the production incentive if

- a) it has been filed after the expiration of the time limit for its submission;
- b) the applicant does not comply with the conditions laid down in Section 50;
- c) the incentivised project does not comply with the conditions specified in Section 42 or 43;
- d) the decision on filing of the incentivised project has been cancelled;
- e) the decision on filing of the incentivised project does not contain the envisaged amount of the production incentive in accordance with the second sentence of Section 52a(3) and no decision on a change of this decision has been issued in accordance with Section 52b (1) or (3);

- f) the applicant has breached the conditions laid down in the decision on filing of the incentivised project, with the exception of the conditions whose breach is deemed less serious under the decision on filing of the incentivised project;
- g) the application for production incentive has been submitted before the expiration of the time limit specified in Section 52d(6); or
- h) there are other conditions for the provision of the production incentive which have not been met.

(3) If the Fund does not discontinue the proceedings under Subsection 1 and does not dismiss the application under Subsection 2, it shall issue a decision on the provision of the production incentive where it shall specify the amount of the provided production incentive, determined in accordance with Section 45(2), which shall not exceed, however, the amount specified in the decision on filing of the incentivised project. If the applicant did not submit an application under Section 52b(3) and, at the same time, the amount of the production incentive specified in the application for the production incentive is by more than CZK 1,000,000 lower than the envisaged production incentive amount stated in the decision on filing of the incentivised project, the Fund shall state in the decision on the provision of the production incentive the amount of the production incentive determined under the previous sentence, reduced by 10% of the difference between the amount of the envisaged production incentive stated in the decision on filing of the incentivised project and the production incentive amount stated in the application for the production incentive.

(4) The Fund shall pay the production incentive in the amount determined in accordance with Subsection 3 on the applicant's account in Czech crowns within 60 days after the date of issue of the decision on the provision of the production incentive. Any exchange rate difference shall be charged to the applicant. Bank charges shall be paid by the applicant.

(5) If it transpires after the issue of the decision on the provision of the production incentive that there were prerequisites for discontinuance of the proceedings in accordance with Subsection 1 or for dismissal of the application for production incentive under Subsection 2, the Fund shall cancel its decision to provide the production incentive and the applicant shall be obliged to return the paid production incentive amount to the Fund's account within 30 days after the final and effective date of the decision to cancel the decision on the provision of the production incentive. This procedure shall apply *mutatis mutandis* in the event that the applicant failed to comply with the conditions laid own in Section 42(4).

Section 52f

Applicant's Obligations

- (1) The applicant shall:
- a) ensure that selected accounting operations associated with the incentivised project are maintained in separate analytical records in the applicant's books of account in a manner allowing to prove that the relevant book entries refer to the incentivised project and are related to its realization;
 - b) in order to maintain an audit trail, ensure the archiving of all documentation, including the incentivised project accounting documents, for a period from the submission of the application for the production incentive until the expiration of 5 years after payment of the production incentive and make them available to the Fund upon request;

- c) meet the conditions contained in the decision on filing of the incentivised project decision to provide the production incentive;
- d) note in the final credits of the audiovisual work produced as a part of the incentivised project that the production of the audiovisual work was supported by a production incentive under this Act, and do so in the manner indicated in decision on filing of the incentivised project;
- e) ensure that the audiovisual work produced as a part of the incentivised project will be released to the public not later than 2 years after submission of the application for production incentive;
- f) notify the Fund within 2 months after the first public presentation of the audiovisual work produced as a part of the incentivised project of the date and manner of its presentation, and provide to the Fund within the same time limit a free copy of the audiovisual work produced as a part of the incentivised project; if the audiovisual work has been presented to the public before submission of the application for production incentive, the applicant shall provide such information to the Fund in the application for production incentive and shall provide to the Fund at the same time a copy of the audiovisual work.

(2) A breach of the obligations under Subsection 3 above shall be treated as a breach of budgetary discipline in accordance with another legal regulation⁴³⁾.

Section 52g

Remedies and Extension of Time Limits

(1) The decision issued by the Fund under this Part is non-appealable.

(2) Upon the applicant's request, the Fund may decide on the basis of particularly serious and exceptional grounds to extend the time limit stated in Section 52c(5), Section 52d(1) or Section 52f(1)(e), provided that such request has been submitted before the expiration of the relevant time limit. Attached to such request shall be a receipt of payment of the administrative fee. The Fund shall not be bound by the requested period for which the time limit is to be extended. If the Fund dismisses the request submitted under the first sentence, the time limit that was requested to be extended shall not expire earlier than 1 month after the delivery of the decision to dismiss the request to the applicant.

Section 52h

Details on the Provision of Production Incentives

The Fund's Statute shall lay down the following details about the provision of production incentives, in particular:

- a) a positive and a negative enumeration of eligible costs and detailed rules of cost eligibility, including particulars of the auditor's report verifying their spending;
- b) the method of documenting the costs and the eligibility thereof;
- c) the method of proving that the conditions for the provision of production incentives, ensuing from the Act, the Fund's Statute or the Fund's decisions, have been met;
- d) an enumeration of the activities that form part of the production of an audiovisual work for the purposes of production incentives;

- e) criteria for the differentiation of fiction, documentary and animated audiovisual works for the purposes of production incentives, particularly of audiovisual works that combine the means of those kinds of audiovisual works;
- f) details of essentials of proposals for candidates for the Supervisory Committee membership and the procedure concerning submission of such proposals, and details pertaining to the election of the chairman and vice-chairman of the Commission and to the adoption of decisions by the Commission; and
- g) further details concerning the provision of production incentives.

Part 7

Co-production Status and s Certificate of Compliance with Co-production Prerequisites

Section 53

(1) The Fund shall decide on granting the co-production status

- a) to an audiovisual work if it complies with the conditions of an international film co-production agreement;
- b) to a cinematographic work if it complies with the conditions of the Convention or the Revised Convention.

(2) The Fund shall decide on the granting of the certificate of compliance with co-production prerequisites to a cinematographic work that meets the criteria of a European film work laid down in the Convention or of an officially co-produced film work in accordance with the Revised Convention.

(3) The co-production status and the certificate of compliance with co-production prerequisites cannot be granted to audiovisual works of pornographic nature, cinematographic works consenting to violence or cinematographic works openly insulting human dignity.

(4) An application for the granting of the co-production status and for the certificate of compliance with co-production prerequisites shall be submitted to the Fund by a co-producer based in the Czech Republic.

(5) A receipt of payment of administrative fee shall be attached as a part of the application for the granting of the co-production status and for the certificate of compliance with co-production prerequisites.

Part 8

Supervision

Section 54

(1) Supervision over compliance with the obligations under this Act, with the exception of the obligations of the Fund, shall be the responsibility of the Regional Authority (under the authority delegated by the state). For this purpose, the Fund shall provide the Regional Authority with the essential information contained in the records of audiovisual works.

(2) The Regional Authority shall send to the Fund a copy of any decision concerning a breach of this Act by a legal person or a natural person carrying on a business, and shall do so within 30 days from the finality of such a decision.

Part 9

Administrative Offences

Section 55

(1) Any legal person or any natural person carrying out a business which/who sells, leases or lends copies of a cinematographic work labelled as classified in accordance with Section 4(2)(d) shall commit an administrative offence by selling, leasing or lending, in contravention with Section 5(6) above, copies of a cinematographic work labelled as classified to a person to whom a restriction of access, based on the classification, applies.

(2) A producer or co-producer with registered office or permanent residence in the Czech Republic shall commit an administrative offence by failing to classify a Czech cinematographic work or by failing to notify the distributor of such work about the classification in accordance with Section 5(1) above.

(3) A producer of a Czech audiovisual work or its co-producer with registered office or permanent residence in the Czech Republic shall commit an administrative offence by failing to notify the National Film Archive of such work in accordance with Section 7(1) or (2) above.

(4) A producer of a Czech cinematographic work or its co-producer with registered office or permanent residence in the Czech Republic shall commit an administrative offence by:

- a) failing to offer in writing to the National Film Archive in the form of a proposed contract copies of such Czech cinematographic work in accordance with Section 6(1) or (2) above;
- b) failing to deliver to the National Film Archive copies or other items that constitute the subject-matter of the contract in accordance with Section 6(4).

(5) A producer of a Czech cinematographic work or its co-producer with registered office or permanent residence in the Czech Republic who is at the same time a recipient of the selective support in accordance with Section 31(1)(b) shall commit an administrative offence if, in contravention of Section 6(5), he fails to do the following within the prescribed time limit:

- a) to offer in writing in the form of a proposed contract to the National Film Archive free copies of such Czech cinematographic work in accordance with Section 6(1) or (2) above;
or
- b) to deliver to the National Film Archive copies or other items that constitute the subject-matter of the contract in accordance with Section 6(4).

(6) A producer of a Czech cinematographic work or its co-producer with registered office or permanent residence in the Czech Republic who is at the same time a recipient of the selective support in accordance with Section 31(1)(b) shall commit an administrative offence by failing

- a) to offer in writing in the form of a proposed contract to the National Film Archive free copies of such Czech cinematographic work in accordance with Section 6a(1) or (2) above;
or
- b) to deliver to the National Film Archive copies or other items that constitute the subject-matter of the contract in accordance with Section 6a(4).

(7) A cinematographic performance organiser shall commit an administrative offence by:

- a) failing to ensure together with the announcement of the cinematographic performance or during the cinematographic performance that the presence of persons to whom the restriction of access to the work applies is excluded in accordance with Section 5(5) above; or
- b) presenting to the public before, during or immediately after a cinematographic performance, in contravention of Section 5(8) above, any trailers having a stricter restriction label than the cinematographic work shown as the main feature of the cinematographic performance.

(8) A distributor shall commit an administrative offence by:

- a) failing to provide copies of a Czech audiovisual work (with the exception of a videogame), distributed to the public in the Czech Republic, with captions for the hearing impaired viewers or by failing to ensure that the inscription “Captioned for the Hearing Impaired” is printed on the packages of such copies in accordance with Section 3(2) above;
- b) failing to classify any cinematographic work other than Czech cinematographic work distributed by him in the territory of the Czech Republic in accordance with Section 5(2) above;
- c) failing to notify of the classification the cinematographic performance organiser, on-demand audiovisual media service provider or any other persons to whom the distributor grants authorisation to use the work in the territory of the Czech Republic in accordance with Section 5(3);
- d) failing, as a person referred to in Section 2(1)(j)(1), to put a classification label on the packages of the copies of a cinematographic work, or by failing to use a classification label with the strictest restriction if such a copy contains more than one cinematographic work, in accordance with Section 5(4);
- e) failing to ensure that the audiovisual trailers or other forms of advertising the cinematographic work distributed by him and classified in accordance with Section 4(2)(d) contain the designation of the classification of such cinematographic work in accordance with Section 5(7); or
- f) failing to notify the National Film Archive of any cinematographic work or any television work presented within his distribution to the public in the Czech Republic through cinematographic performances, television broadcasting or through an on-demand audiovisual media service in accordance with Section 7(3).

(9) Fines that may imposed for an administrative offence may amount up to:

- a) CZK 50,000 in the case of an administrative offence referred to in Subsection 6(a) to (e) above,
- b) CZK 100,000 in the case of an administrative offence referred to in Subsections 1 to 5 or Subsection 8(f) above.

Section 56

Joint Provisions on Administrative Offences

(1) In accordance with this Act, administrative offences shall be addressed by the Regional Authority.

(2) The Regional Authority shall send a copy of its decision on an administrative offence to the Fund within a period of 30 days of the date of finality of the decision.

(3) Fines shall be collected and enforced by the authority which has imposed them. Fines shall constitute the Fund's income.

Title V

JOINT, TRANSITIONAL AND FINAL PROVISIONS

Part 1

Joint Provisions

Section 57

Repealed

Section 57a

Intensity of State Aid

(1) The intensity of state aid, which for the purposes of this Act shall be understood to mean the volume of state aid provided to a project claimed with state aid under this Act, shall not exceed the limit determined in the directly applicable regulation of the European Union⁵⁹⁾ or in a decision of the European Commission and may not exceed at the same time 90% of the total project costs.

(2) Considered as state aid shall be the selective support and production incentives under this Act and any other resources of state aid nature provided for the purpose of realization of a project and made available to an applicant for selective support or for a production incentive and to all other individuals or legal entities taking part in the financing of the project. Considered as total project costs shall be the costs of the realization of the entire project as incurred by the applicant for selective support, the applicant for a production incentive or other individuals or legal entities taking part in the realization of the project. With respect to the production incentives, a project shall be understood to mean for this purpose the entire production of the audiovisual work, rather than only the part of production carried out within the scope of the incentivised project.

(5) The Statute of the Fund shall define the procedure of determining and documenting the intensity of state aid.

Section 57b

Publication of Information

(1) The Fund publishes information about provided selective support in the form of open data in accordance with the Act on Free Access to Information to the following extent:

- a) the recipient's name and surname or business name;
- b) the recipient's identification number, if allocated;
- c) the municipality where the recipient has his registered office or place of residence;
- d) the amount of the granted selective support;

- e) the purpose for which the selective support intended; and
- f) minutes of the Council meeting which adopted the decision on the supported project based on the announced call for submission of application for selective support, including a protocol containing information how each Council member evaluated the application and how he voted on it.

(2) The information referred to in Subsection 1 shall be published within 30 days after the Council meeting which adopted the decision on the supported project based on the announced call for submission of application for selective support. This information must be available to the public at least for 10 years.

(3) The Fund shall publish information about the provided production incentives in the form of open data in accordance with the Act on Free Access to Information to the following extent:

- a) the recipient's name and surname or business name;
- b) the recipient's identification number, if allocated;
- c) the municipality where the recipient has his registered office or place of residence;
- d) the amount of the granted production incentive; and
- e) the date of issue of the decision on the provision of the production incentive.

(4) The information about the provided production incentives referred to in Subsection 3 shall be published within 30 days after the issue of the decision. This information must be available to the public at least for 10 years.

Section 57c

(1) If the person nominating a candidate for a member of one of the Fund's bodies, for a project assessor or for a Commission member, an applicant for selective support, a recipient of the selective support, an applicant for a production incentive, recipient of a production incentive or an applicant for the issue of a co-production status is obliged to submit a document under this Act, he shall submit a copy of such document. If the Fund has any doubts about the genuineness of the document, it may demand the presentation of the original or a certified copy thereof.

(2) The documents referred to in Subsection 1 which are written in other than the Czech or the Slovak language must be accompanied with their translation into the Czech language. The Fund may demand submission of a certified translation into the Czech language. The Fund may designate documents that may be presented to it without translation, also in relation to certain selected languages.

Section 57d

Each member of the Board of Representatives, of a Council, of the Supervisory Committee or the Commission, each project assessor and each of the Fund's employees shall keep confidential all facts learned by him/her in connection with his/ her activities in the Fund.

- 1) Section 62 of Act No. 121/2000 Coll. on Copyright, Rights Related to Copyright, and Amending Certain Acts (the Copyright Act).
- 2) Act No. 40/1995 Coll. on Advertising Regulation, and Amending Act No. 468/1991 Coll. on Radio and Television Broadcasting, as amended, as amended.
- 3) Section 12 of Act No. 121/2000 Coll., as amended by Act No. 216/2006 Coll.
- 4) Section 79 of Act No. 121/2000 Coll.
- 5) Communication of the Ministry of Foreign Affairs No. 26/2000 Coll. on the adoption of the European Convention on Cinematographic Co-production.
- 6) Section 14 to 16 of Act No. 121/2000 Coll.
- 7) Act No. 132/2010 Coll. on On-demand Audiovisual Media Services, and Amending Certain Acts (the On-demand Audiovisual Media Services Act), as amended by Act No. 302/2011 Coll.
- 8) Section 21 of Act No. 121/2000 Coll., as amended by Act No. 216/2006 Coll.
- 9) Section 2(1)(d) of Act No. 132/2010 Coll.
- 10) Section 15 of Act No. 121/2000 Coll., as amended by Act No. 216/2006 Coll.
- 11) Section 16 of Act No. 121/2000 Coll., as amended by Act No. 216/2006 Coll.
- 12) Section 55(1) of Act No. 219/2000 Coll. on the Property of the Czech Republic and its Representation in Legal Relationships, as amended.
- 13) Section 64 of Act No. 121/2000 Coll., as amended by Act No. 216/2006 Coll.
- 14) Section 7 of Act No. 121/2000 Coll.
- 15) Section 53 of Act No. 218/2000 Coll. on Budgetary Rules and Amending Certain Related Acts (the Budgetary Rules), as amended
Section 54 of Act No. 219/2000 Coll., as amended.
- 17) Section 106(4) of Act No. 121/2000 Coll.
- 18) Act No. 561/2004 Coll. on Pre-school, Elementary, Secondary, Post-secondary Vocational and Other Education (the “School Act”), as amended.
- 19) Act No. 111/1998 Coll. on Universities and Amending Other Acts (the University Act), as amended.
- 20) Section 214 of Act No. 89/2012 Coll., the Civil Code.
- 21) Act No. 248/1995 Coll. on Public Benefit Organisations and Amending Certain Acts, as amended.
- 22) Section 4 of Act No. 121/2000 Coll.
- 23) Section 28 of Act No. 218/2000 Coll.
Section 54 of Act No. 219/2000 Coll., as amended.
- 24) Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)
- 26) E.g. Section 26(2) to (4) and Section 74 of Act No. 121/2000 Coll., as amended.
- 27) Section 14 of Act No. 273/1993 Coll. on Certain Conditions of the Production, Distribution and Archiving of Audiovisual Works, and Amending Certain Acts and Other Regulations.
- 28) E.g. Section 26(2) to (4) of Act No. 121/2000 Coll., as amended by Act No. 216/2006 Coll.
- 29) Section 201(3) of Act No. 262/2006 Coll., the Labour Code, as amended.
- 31) Section 14(1) of Act No. 500/2004 Coll., the Administrative Procedure Code.
- 32) Section 44 of Act No. 218/2000 Coll., as amended.
- 33) E.g., Section 26(2) of Act No. 121/2000 Coll., as amended by Act No. 216/2006 Coll.
- 34) Act No. 231/2001 Coll., as amended.
- 43) Section 44 of the Budgetary Rules.
- 46) Section 402 of the Civil Code.
- 47) Decree No. 114/2002 Coll. on the Fund of Cultural and Social Needs, as amended.
- 52) Act No. 106/1999 Coll. on Free Access to Information.
- 53) Section 2(1)(e) of Act No. 242/2022 Coll. on Services of Platforms for Sharing Video Recordings and on the Amendment to Certain Related Laws (Act on Services of Platforms for Sharing Video Recordings).
- 54) Convention of the Council of Europe on Film Co-production (Revised), promulgated under no. 23/2021 of the Collection of International Agreements.
- 55) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
- 56) Section 33(3) of Act No. 262/2006 Coll., the Labour Code, as amended by Act No. 362/2007 Coll.
- 57) Section 2(1)(e) of Act No. 132/2010 Coll.
- 58) Communication from the Commission Guidelines pursuant to Article 13(7) of the Audiovisual Media Services Directive on the calculation of the share of European works in on-demand catalogues and on the definition of low audience and low turnover 2020/C 223/03.

- 59) Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty
- 60) Art. 108(3) of the Treaty on the Functioning of the European Union; Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (codification).
- 61) Section 18(2) of Act No. 121/2000 Coll., as amended.
- 62) Section 2(1)(a) of Act No. 132/2010 Coll., as amended by Act No. 242/2022 Coll.
- 63) Section 20 of Act No. 121/2000 Coll.
- 64) Art. 54(2) of the Commission Regulation (EU) 651/2014, as amended.
- 65) Act No. 565/1990 Coll. on Local Fees, as amended.