

Amendment to the Audiovision Act

**Czech Film Fund
2016**

**Act No. 496/2012 on Audiovisual Works and Film Support and on the Amendment to
Certain Laws (Audiovision Act)**

**496
ACT
of 26 October 2012
on Audiovisual Works and Film Support and on the Amendment to Certain Laws
(Audiovision Act)**

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) the obligations arising in connection with the production and public presentation 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 Film Fund, its financing, provision of support to film projects (hereinafter referred to as “film support”) and provision of incentives to the film industry (hereinafter referred to as “production incentives”).

(2) This Act shall not apply to audiovisual works that are not intended to be released to the public against payment.

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) producer shall mean a person who 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 rights⁴⁾ in relation to the recording of the audiovisual work, or a share of such rights,
- d) co-producer shall mean any producer, if there are more than one producer of an audiovisual work,
- e) Czech audiovisual work shall mean an audiovisual work
 1. produced with a contribution of a producer or co-producer with his principal place of business, permanent residence or registered office 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 with his principal place of business, permanent residence or registered office in the Czech Republic, combined with the contribution of a co-producer not having his principal place of business, permanent residence or registered office 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⁾ or of any other international agreement binding on the Czech Republic (hereinafter referred to as the "international cinematographic co-production agreement"), irrespective of how such a co-producer contributed to the financing of the production costs,
- f) Czech cinematographic work shall mean a Czech audiovisual work which is also a cinematographic work,
- g) distributor shall mean a person who, as a part of performance of his business activities and to the extent of the authorisation granted by holders of rights to use the audiovisual work and its recording,
 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 by television broadcasting⁸⁾, and as a rule also provides a recording of the audiovisual work for this purpose to the beneficiary of the authorisation,
- h) cinematographic performance organiser shall mean a person who organises at his own cost and his own responsibility a cinematographic performance.

(2) If the activities referred to in Subsection 1(g) 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 in accordance with this Act.

TITLE II

OBLIGATIONS IN THE PRODUCTION OF AUDIOVISUAL WORKS AND THE RELEASE THEREOF TO THE PUBLIC

Section 3

Captions for the Hearing Impaired Viewers

(1) Captions for the 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 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 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) unsuitable for minors and juveniles under 18 years of age.

Section 5

Obligations in the Classification of Cinematographic Works

(1) A producer or co-producer who has his principal place of business, permanent residence or registered office in the Czech Republic shall classify the Czech cinematographic work and shall notify the distributor 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 notify the classification under Subsections 1 and 2 above to each cinematographic performance organiser, on-demand audiovisual media service provider⁹⁾ and any other persons to whom he (the distributor) grants authorisation to use the work in the territory of the Czech Republic.

(4) The distributor defined in Section 2(1)(g)(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)(c) or (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)(c) or (d) shall not sell, lease or lend it 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)(c) or (d), as regards suitability of their contents for children, 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)(c) or (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 shall 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

The Offer Obligation

(1) The producer of a Czech cinematographic work, or its co-producer with his registered office, permanent residence or principal place of business in the Czech Republic, shall offer to the National Film Archive two undamaged copies of the work at the quality required for a copy intended for cinematographic performances, a copy of the script and the publicity material about the work, and shall do so in writing in the form of a proposed contract within 60 days of the date of releasing such a work to the public.

(2) If there are more than one technologically different type of copies used for the cinematographic performance of a work, all these types shall be indicated in the written offer referred to in Subsection 1 above. The selection of the type of copies for whose transfer the National Film Archive accepts a proposal referred to in Subsection 4 below shall be made by the National Film Archive.

(3) The producer or co-producer referred to in Subsection 1 above shall also offer to the National Film Archive, in the form of a proposed contract, an undamaged copy of a Czech cinematographic work at the quality required for the production of copies intended for presentation to the public through theatrical performances, if the National Film Archive expresses its interest in obtaining such a copy; the provisions of Subsection 2 above shall apply *mutatis mutandis*.

(4) The period for accepting the proposal to conclude a contract under Subsection 1 above shall be 6 months of the date of delivery of such a proposal.

(5) The producer or co-producer referred to in Subsection 1 above shall deliver to the National Film Archive copies of the Czech cinematographic work that constitute the subject of the contract concluded in accordance with Subsection 4 and shall do so within 6 months after the date on which the contract was concluded; digital copies may not be encrypted. Within the same period, the producer or the co-producer shall deliver to the National Film Archive all other items that constitute the subject of the contract.

(6) The obligation under Subsection 1 above shall not apply to a producer or co-producer referred to in Subsection 1 above who is at the same time a recipient of film support in

accordance with Section 31(1)(b). However, such a producer or co-producer shall make a written offer to the National Film Archive, in the form of a proposed agreement on the donation in favour of the Czech Republic, of one undamaged copy of such a work at the quality required for a copy intended for cinematographic performances, or more such copies, under the conditions referred to in Subsection 2 above, and the publicity material about the work and a copy of the script, and shall do so within 60 days from the date when such a work is made public. The provisions of Subsection 5 above shall apply *mutatis mutandis* to the delivery of the item upon acceptance of such an offer.

(7) Once the item has been delivered in accordance with Subsections 5 or 6 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 according to Subsections 1 to 6 does not grant the National Film Archive the right to use such cinematographic works in any manner whatsoever, unless it obtains an authorisation to do so from the holders of the copyright or rights related to copyright.

(8) If the National Film Archive learns that any person has breached his obligations referred to in Subsections 1, 3 or 6 above, the National Film Archive shall forthwith report such persons in writing to the relevant regional authority. Such report shall contain information about who, when and how has breached the obligation.

Section 7

Notification Obligation in Respect of the Listing of Cinematographic Works

(1) The producer of a Czech cinematographic work, or its co-producer with his registered office, permanent residence or principal place of business in the Czech Republic, shall inform the National Film Archive about any 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 distributor shall notify the National Film Archive of any cinematographic work presented within his distribution to the public in the Czech Republic through cinematographic performances, 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.

(3) Any notification referred to in Subsections 1 and 2 shall contain:

- a) the name of the cinematographic work or, in the case of a cinematographic work other than a Czech work, its name in the original language version as well as the name under which the cinematographic work is released to the public in the Czech Republic, if it differs from the name in the original language version,
- b) the first name(s) and last name(s) of the author(s) of a cinematographic 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) 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 the case of a Czech cinematographic work: the company name, or the first name(s) and last name(s), registered office, address of the principal place of business or permanent

- residence, of the producer or all co-producers who have their registered office, permanent residence or principal place of business in the territory of the Czech Republic,
- e) the year of public release of the audiovisual work,
 - f) classification of the cinematographic work in accordance with Section 4,
 - g) information about the original language version of the cinematographic work,
 - h) the length of the cinematographic work in metres or, in the case of a digital work, its length in minutes,
 - i) in the case of a Czech cinematographic work produced with the participation of foreign co-producers: the percentage contribution of the co-producer, or all co-producers who have their registered office, permanent residence or principal place of business in the territory of the Czech Republic, to the financing of the costs of production of the Czech cinematographic work, and the percentage contribution of the co-producer, or 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 the Czech cinematographic work; this information shall only be indicated in the case that the co-producer, or any of the co-producers having their registered office, permanent residence or principal place of business in the Czech Republic received film support from the Czech Film Fund, intended for the production of a Czech cinematographic work in accordance with Section 31(1)(b), and
 - j) information about all types of copies of the cinematographic work used for cinematographic performances in the Czech Republic, and information about the visual and sound format of such types of copies.

(4) The obligation referred to in Subsection 2 above shall not apply to cinematographic works presented to the public in the Czech Republic in the calendar year through not more than 10 cinematographic performances.

(5) 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 and 2 above.

(6) If a notification referred to in Subsections 1 and 2 above fails to contain the complete information specified in Subsection 3 above, the National Film Archive shall call the obliged person to complement the notification within 15 days after the date of delivery of 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 and 2 above shall be deemed not fulfilled.

(7) If the National Film Archive learns that any person has breached his obligations referred to in Subsections 1, or 2 above, the National Film Institute 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.

TITLE III

NATIONAL FILM ARCHIVE

Section 8

(1) The National Film Archive (hereinafter referred to as the “Archive”), having its registered office in Prague, established by the Ministry as an organisation partly financed from public budgets¹⁵⁾, is a specialised archive¹⁶⁾ for audiovisual archival materials. Its mission is to develop, protect, restore, scientifically process, make accessible and use the national film heritage, audiovisual archival materials, including collections of written archival documents, literature and

the Archive's library collection, to cooperate with Czech and foreign film and cultural institutions in developing and disseminating film culture, including by means of new technologies, to develop research and educational cooperation with secondary and post-secondary vocational film schools and film universities, and to publish specialised literature.

(2) The national film heritage means audiovisual works and their tangible recordings, including, but not limited to, original negatives, copying materials and emergency reserve materials, duplication copies, duplicate negatives and other audiovisual archival materials connected with the production, distribution and retrieval of audiovisual works, which document the history of cinema, culture and the society and are administered by the Archive as the property of the Czech Republic¹²⁾; the national film heritage also means producers' rights and obligations in relation to the audio/video recordings belonging to the Archive in accordance with another legal regulation¹⁷⁾ and the rights to the objects of intellectual property rights or the rights of use thereof by the Archive for the Czech Republic, acquired under a contract and exercised by the Archive.

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

(4) 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 Archive, or with the written consent of the Archive. This shall be without prejudice to the rights of the authors of the audiovisual work or the audiovisually used works. In providing the original carriers to persons interested in using the audiovisual works, the 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.

(5) The Archive shall not assign the rights of ownership of the national film heritage or any part thereof to any third party, and shall not encumber it with any third party rights, with the exception of copies of audiovisual works or audiovisual archival materials made by the 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 Archive for publishing purposes²²⁾.

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

(7) Licences to use audiovisual recordings of Czech audiovisual works shall be issued by the Archive under equal conditions to interested applicants within the scope of the rights pertaining to the Archive under other legal regulations or under agreements with the holders of the rights, and transcripts of audiovisual works or parts thereof, or documentation materials, shall be provided by the 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 Archive's activities.

(8) The Archive shall maintain files concerning audiovisual works in accordance with Section 7 and make such files accessible to the public by a method allowing for remote access.

TITLE IV

THE CZECH FILM FUND AND PROVISION OF FILM SUPPORT

Division 1

Czech Film Fund

Sub-division 1

Status of the Czech Film Fund

Section 9

(1) The Czech Film 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 manage the property of the Czech Republic.

(3) Details of the Fund’s activities, internal organisation, financial management, the provision of film support and of production incentives shall be defined in the Fund’s statutes. The Fund’s statutes shall also define the details of matters indicated herein to be so defined. A draft version of the Fund’s statutes 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 “Committee”) and agreed by the Fund’s Council (hereinafter referred to as the “Council”). The Council shall consider the draft statutes of the Fund or amendments thereto within the range of its remit under Section 13(1). The Fund’s statutes shall be approved by the government upon the Minister’s proposal.

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

(5) The Ministry shall submit the draft budget to the government by 31 August of each year. The government may make changes to the draft budget and shall submit it, simultaneously with the draft national budget of the Czech Republic, for approval to the Chamber of Deputies of the Parliament of the Czech Republic.

(6) If the Chamber of Deputies fails to approve the Fund’s budget for a budgetary year before the first day of the budgetary year concerned, the budgetary receipt and expenditure volumes for the period from the first day of the budgetary year to the date of approval of the budget for that year shall be as approved for the preceding budgetary year.

(7) The Fund shall maintain accounts in accordance with another law²⁴⁾. After the end of the budgetary year, the Fund shall prepare draft financial statements and annual report on the Fund’s activities and shall submit them through the Minister to the government for consideration and to the Chamber of Deputies for approval within 3 months after the end of the budgetary year. The Fund’s annual financial statements shall be audited by an auditor before they are submitted to the Chamber of Deputies.

Sub-division 2

Activities of the Fund

Section 10

Responsibilities and Activities of the Fund

- (1) The Fund shall, in particular:
- a) administer audiovisual fees and administrative fees in accordance with this Act,
 - b) maintain records in the audio/video sphere,
 - c) provide film support,
 - d) exercise property rights, including copyright and property rights of performing artists which shall pass to the state under another law²⁶⁾,
 - e) exercise the audiovisual work producer rights that have passed to its legal predecessor in accordance with another law²⁷⁾ and the audio/video recording producer rights pertaining to it in accordance with another law¹⁷⁾,
 - f) grant the co-producer status in accordance with the Convention or under any other international agreement on film co-production,
 - g) provide production incentives,
 - h) carry out methodological, publicity and strategic activities in the field of cinema and film industry,
 - i) perform activities defined by other laws²⁸⁾.
- (2) The Fund shall publish its approved annual report in a manner allowing for remote access.

Sub-division 3

Bodies of the Fund

Section 11

The Fund's Bodies and the Confidentiality Obligation

- (1) The Fund's bodies include the Director of the Fund, the Council, and the Committee.
- (2) Members of the Council and the Committee and the Fund's employees shall keep confidential the information about any facts they have learned in connection with their work for the Fund.
- (3) The tasks connected with the organisational and technical support to the Fund's activities shall be performed by the Fund's Office.
- (4) The costs connected with the operation of the Fund's Office and the costs of the Fund's employees shall be funded from a subsidy provided by the Ministry.

Section 12

Director of the Fund

- (1) The Director of the Fund shall be appointed and recalled by the Minister.
- (2) The Director of the Fund shall be the head of the Fund, its governing body and its employee. The Director shall be responsible for the management of the Fund's finances.

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

- a) ensure the implementation of the Council's decisions to provide film support,
- b) inspect the final film support account,
- c) issue decisions on production incentives and incentivised projects,
- d) issue decisions on granting the co-producer status under Section 53,
- e) examine the Committee's findings and suspicions that the film support funds have been used in contravention with the purpose defined in the decision to provide film support or in a wasteful manner, and inform the Council accordingly, and
- f) decide on matters not reserved for other bodies of the Fund.

Section 13

The Council

(1) The Council shall:

- a) determine the film support policy and strategy,
- b) define and subsequently publish the criteria for the evaluation of projects on the basis of the film production support policy,
- c) decide on the form of film support, on support for projects and the amounts thereof and on the conditions under which the support is provided, and
- d) perform other activities entrusted to the Council by this Act or by the Fund's statutes.

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

(3) A Council member shall be excluded from deciding on film support in cases specified in the Administrative Procedure Code or due to his personal interest in the decision or to a personal advantage that may be gained 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 film support, he or she must be excluded from deciding on all applications for support submitted within one call under Section 33(1).

Section 14

Council Composition and Meetings

(1) The Council shall have 9 members.

(2) Council members shall be elected and recalled by the Chamber of Deputies upon the proposal of the Minister, and shall be chosen from among recognised persons with experience in the field of cinema who have been proposed by trade union organisations associating solely authors of audiovisual works or works used audiovisually, associations, public benefit organisations, institutes and special-interest associations of legal entities involved in film industry, with the exception of collective managers of copyrights and rights related to copyright, and also by secondary and post-secondary vocational schools with focus on film, and film universities (hereinafter referred to as "professional organisations"). The proposals shall be submitted to the Fund, which shall deliver it to the Minister.

(3) The Council members' term of office shall be 3 years. One-third of the Council members shall be elected by the Chamber of Deputies each year. Re-election is possible. The term of office of a previous Council member shall be extended until a new member is elected but the extension shall not exceed 12 months.

(4) At the next meeting following the election of a third of the Council members as referred to in Subsection 3, the Council shall elect from among its members the chairman and vice-chairman. The chairman shall direct 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 obstacle to work for reasons of public interest²⁹⁾.

(6) For exercising 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 being regarded as his regular place of work for the purposes of travel expense reimbursement.

(7) During Council meetings, a Council member who takes active part in the debate or submits a proposal, or is authorised to vote, shall inform the members present at the meeting about his relation to the matter at hand if a personal advantage or damage may arise to him with respect to the results of the debate on the matter, or if he is otherwise interested in the 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 details of the requisites of the nomination of a candidate for Council membership, the process of submission thereof, and the election of the Council chairman and vice-chairman and of the meetings of the Council shall be determined in the Fund's statutes.

Section 15

Requirements for Council Membership

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

- 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 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 exercising his position 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.

(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) on the date of delivery of the Council member's written notice of resignation to the chairman of the Chamber of Deputies,
- c) on the date of delivery to the Council member of the decision to recall him from office,
- d) on the date of finality of a court decision to restrict the Council member's legal capacity,
- e) on the date of finality of a court decision convicting the Council member of a premeditated criminal act, or
- f) on 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 ceased to meet the requirements for exercising his office,
- b) has committed conduct threatening to affect the confidence in his independence or impartiality in exercising his office,
- c) has seriously damaged the dignity of the office exercised by him,
- d) has acted in favour of political parties or political movements in connection with exercising his office as a Council member, or
- e) has not taken part in Council meetings for longer than 6 months.

(3) A new member replacing a Council member whose membership terminated before expiry of his term may be elected only for the period remaining of the term of office of the member whose membership has terminated.

Section 17

The Committee

(1) The Committee shall oversee the activities and financial management of the Fund.

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

(3) A Committee member shall be excluded from discussing and voting on a matter and the provisions of Subsection 2 shall not be applied due to his personal interest in the matter being considered or to a personal advantage that may be gained by him either directly or through a relative or friend in connection with the matter being considered or with access to the documents and records as referred to in Subsection 2 above.

Section 18

Composition of and Adoption of Decisions by the Committee

(1) The Committee shall have 9 members.

(2) Two Committee members shall be appointed and recalled by the Minister, 2 Committee members shall be appointed and recalled by the Minister of Finance, and 5 Committee members shall be appointed and recalled by the Minister upon proposal by the payer of, or person/entity liable to pay, the audiovisual fees; the nomination proposals shall be submitted to the Fund, which shall deliver it to the Minister.

(3) The Committee members' term of office shall be 3 years. Re-election is possible.

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

(5) The chairman shall direct the activities of the Committee and convene its meetings. The vice-chairman shall substitute for the chairman in the chairman's absence.

(6) For exercising his office, a Committee member shall be entitled to remuneration.

(7) The Committee shall be quorate if at least 5 members are present at its meeting. The 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 equality of votes, and the proposal shall be deemed unaccepted if no decision is reached after such repeated voting.

(8) During Committee meetings, a Committee member who takes active part in the debate or submits a proposal, or is authorised to vote, shall inform the members present at the meeting about his relation to the matter at hand if a personal advantage or damage may arise to him with respect to the results of considering the matter, or if he is otherwise interested in the matter. This information shall be given by the relevant Committee member orally during the meeting but not later than before the Committee begins to vote. This information shall always be included in the minutes of the meeting.

(9) Details of the requisites of the nomination of a candidate for Committee membership, the process of review thereof, of the election of the Committee chairman and vice-chairman and of the proceedings of Committee meetings shall be specified in the Fund's statutes.

Section 19

Requirements for Committee Membership

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

- 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 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 exercising his office as Committee member.

(3) 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.

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

Section 20

Termination of Committee Membership

(1) Committee membership shall terminate:

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

(2) The person entitled to appoint a Committee member to the office shall recall the Committee member from his office if:

- a) the Committee member has ceased to meet the requirements for exercising his office,
- b) the Committee member has committed conduct threatening to affect the confidence in his independence or impartiality in exercising his office,
- c) the Committee member has seriously damaged the dignity of the office exercised by him,
- d) the Committee member has acted in favour of political parties or political movements in connection with exercising his office as a Committee member,
- e) the Committee member has not taken part in Committee meetings for longer than 6 months, or
- f) the recalling has been proposed and substantiated by the payer of, or person/entity liable to pay, the audiovisual fee, upon whose nomination the Committee member was appointed.

(3) A new member, substituting for a Committee member whose membership terminated before expiry of his term, may be elected only for the period remaining of the term of office of the member whose membership has terminated.

Sub-division 4

Experts and Expert Analysis

Section 21

Appointment of Experts and Requirements for the Office of an Expert

(1) The Office of the Fund shall invite professional organisations to nominate experts for each individual subsidy heading, as indicated in Section 31 below. The nomination proposals shall be submitted to the Fund, which shall deliver it to the Minister.

(2) A natural person may be eligible to be an expert 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,
- c) is a recognised personality in the field of cinema with experience in the activities that are supported within the subsidy heading under Section 31 for which such a natural person is nominated, and
- d) has not been recalled from the position of an expert during the last 3 years.

(3) The position of an expert shall be incompatible 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 an expert shall be incompatible with the basic employment relationship with the Fund.

(5) Experts shall be appointed by the Minister on the basis of proposals referred to in Subsection 1, and upon the Council's recommendation.

(6) An expert is a public official in accordance with the Administrative Procedure Code³¹).

Section 22

Activities of an Expert and the Termination of his Position

(1) The Fund's Office shall prepare a public list of appointed experts. This list shall be accessible in a manner allowing for remote access.

(2) The position of an expert shall terminate:

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

(3) The Minister shall recall an expert from his position upon the Council's proposal, if:

- f) the expert has ceased to meet the requirements for exercising his office,
- g) the expert has committed conduct threatening to affect the confidence in his independence or impartiality in exercising his position,
- h) the expert has seriously damaged the dignity of the office exercised by him,

- i) the expert has acted in favour of political parties or political movements in connection with exercising his office as a an expert,
- j) the expert has repeatedly failed to properly discharge his duties under this Act or other legal regulations, or the Fund's statutes, or
- k) the Council determines in its decision that the expert analyses prepared by the expert fail to serve the purpose specified in Section 23(1) below.

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

Section 23

Expert Analysis

(1) The purpose of the expert analysis is to create a qualified basis for a professional evaluation of the content and economic aspects of the project for which the film support is requested. Expert analysis serves as a basis for the Council's decision.

(2) The Fund's Office provides 2 expert analyses for each application for film support. The Council may request an additional expert analysis.

(3) The details of the requisites of the nomination of a candidate for the position of an expert, the process of submission thereof, the selection of experts for preparing expert analyses, the requisites of an expert analysis and the amount of the expert's fee shall be determined in the Fund's Statutes.

Division 2

The Fund's Resources and Expenses

Section 24

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

- a) audiovisual fees,
- b) administrative fees under this Act,
- c) income from the Fund's agreed share of the profit generated by supported projects,
- d) income from transactions with the property of the Czech Republic the Fund is entitled to manage,
- e) interest on the Fund's cash in bank,
- 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 film 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 passed to it on the basis of another legal regulation and for which the Fund is treated as producer¹⁷⁾,
- j) income from the securities acquired by the Fund from other persons and entities,
- k) gifts, legacies and devises for the Fund,
- l) penalty payments for breaches of budgetary discipline³²⁾, including fines,
- m) subsidy from the national budget,

- n) subsidy from the national budget, specifically intended for production incentives,
- o) subsidy provided from the national budget every year, specifically intended for film support, whose amount and calculation are specified in Section 24a, and
- p) other resources as specified in other legal regulations³³).

(2) The balance of the Fund's financial resources at the end of the calendar year shall be kept by the Fund to 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 only for the purpose for which the subsidy has been provided and only in accordance with Subsection 3 below; these subsidies are subject to financial settlement for the year in which the use or provision of funds for the given purpose shall terminate.

(3) The Fund's financial resources referred to in Subsection 1(a) to (m) and Subsection 1(o) and (p) shall be used to provide film support under the headings listed in Section 31 and to cover other expenditures, including those under Section 11(4), unless they are covered by a subsidy under Section 11(4). The Fund's financial resources referred to in Subsection 1(n) shall be used for the provision of production incentives. There is legal entitlement to the subsidy provided from the national budget under Subsection 1(o) up to the level specified in Section 24(a) below.

(4) The Fund sets up and maintains a welfare fund ('Fund for Cultural and Social Needs'). Provisions of a specific legal regulation shall be applied *mutatis mutandis*⁴⁷) to its formation and financial management.

(5) The Fund may, in addition to its accounts with the Czech National Bank, open an account, or accounts, with a bank or a branch of a foreign bank with a prior consent of the Ministry of Finance and keep part of the financial resources referred to in Subsection 1 above in such an account or accounts and use them to cover the expenses related to business trips using payment cards on such business trips. Payment cards may also be used for payment of other expenses which cannot be covered in any other manner.

Section 24a

(1) Financial resources of the Fund include a subsidy provided from the national budget every year, whose amount corresponds to the sum of proceeds received by the Fund from audiovisual fees in the calendar year preceding the calendar year in which the Fund's budget for the next calendar year is prepared.

(2) The Fund's annual financial statements are used as a basis for the determination of the sum of proceeds under Subsection 1 above.

Division 3

Audiovisual Fees

Section 25

Definition of Audiovisual Fees

Audiovisual fees shall include:

- a) fee for cinematographic performance,
- b) fee for provision of on-demand audiovisual media services,
- c) fee for television rebroadcasting-, and

- d) fee for broadcast advertising.

Section 26

Fee for Cinematographic Performance

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

(2) The fee for 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 fee for cinematographic performance shall be the admission fee (not including the fee for cinematographic performance) paid for the presentation of the cinematographic work to the public. The payer of the fee for cinematographic performance shall include the fee for cinematographic performance into the admission fee.

(4) The rate of the fee for cinematographic performance shall be 1%.

(5) The fee period shall be a quarter of the calendar year.

(6) The payer of the fee for cinematographic performance shall maintain records for purposes related to the fee. These records shall comprise any 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 organising the cinematographic performance.

Section 27

Fee for Provision of On-demand Audiovisual Media Services

(1) The on-demand audiovisual media service provider⁷⁾ shall be a payer of the fee for the provision of on-demand audiovisual media service.

(2) The fee for the provision of on-demand audiovisual media service shall be charged on the price paid by the end user to the on-demand audiovisual media service provider.

(3) The base for calculating the fee for the provision of on-demand audiovisual media service is the price (without the fee for the provision of on-demand audiovisual media service) paid by the end user to the on-demand audiovisual media service provider for one-time provision of the service, including the presentation of a cinematographic work, or for the on-demand audiovisual media service provided in a manner other than by one-time presentation of the work, irrespective of the technological nature of the service, including also all forms of prepayment, provided that the service includes the presentation of at least one cinematographic work. The payer of the fee for the provision of on-demand audiovisual media service shall include the fee for the provision of on-demand audiovisual media service into the price to be paid by the end user for these services.

(4) The rate of the fee for the provision of on-demand audiovisual media service shall be 0.5%.

(5) The fee period shall be the calendar year.

(6) The payer of the fee for the provision of on-demand audiovisual media service shall maintain records for purposes related to the fee. 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 on-demand audiovisual media service is provided and the amount of the price they have paid for the provision of the on-demand audiovisual media service.

Section 28

Fee for Television Rebroadcasting

(1) The operator that operates rebroadcasting on the basis of registration or in accordance with another legal regulation³⁴⁾ shall be a payer of the fee for television rebroadcasting.

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

(3) The base for calculating the fee for television rebroadcasting shall be the price (without the fee for television rebroadcasting) paid to the payer of the fee for television rebroadcasting for his provision of television rebroadcasting. The payer of the fee for television rebroadcasting shall include the fee for television rebroadcasting into the price for the provision of television rebroadcasting.

(4) The rate of the fee for television rebroadcasting shall be 1%.

(5) The fee period shall be the calendar year.

(6) The payer of the fee for television rebroadcasting shall maintain records for purposes related to the fee. 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 television rebroadcasting is provided and the amount of the price they have paid for the provision of television rebroadcasting.

Section 28a

Fee for Broadcast Advertising

(1) The person/entity liable to pay the fee for broadcast advertising 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 and broadcasts a programme that also comprises cinematographic works.

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

(3) The fee for broadcast advertising is based on:

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

(4) If the person/entity liable to pay the fee generates proceeds or income from indirect sale of air time through third parties that are, under the legislation concerning income taxes, related to the person/entity liable to pay the fee and are not end users of the air time, the proceeds or income included in the base for the calculation of the fee shall be the proceeds or income that would be generated by the person/entity liable to pay the fee in the case of direct sale of such air time.

(5) The rate of the fee for broadcast advertising shall be 2%.

(6) The fee period is a calendar year.

(7) The person/entity liable to pay the fee for broadcast advertising shall keep records for purposes related to the fee, including data concerning such a liable person's/entity's liability to pay the fee, such data being as follows:

- a) the date when air time for advertising was provided,
- b) the name of the person/entity to whom air time is provided by the person/entity liable to pay the fee,
- c) the VAT number or company number of the person/entity to whom air time is provided by the person/entity liable to pay the fee,
- 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 charging period,
- e) the calculated amount of the fee for the fee period.

Section 28b

Topping up the Fee for Broadcast Advertising

(1) In the event that the proceeds from the fee for broadcast advertising is less than CZK 150,000,000, the fee shall be increased to top up the fee for broadcast advertising, 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 fees for 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 fee for broadcast advertising paid by the person/entity liable to pay the fee and the sum of the fees for broadcast advertising paid by all persons/entities liable to pay the fee.

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

Section 28c

Determination and Payment of the Amount to Top up the Fee for Broadcast Advertising

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

(2) The additional amount topping up the fee for broadcast advertising 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 fee for broadcast advertising, such an additional amount topping up the fee shall be so assessed *ex officio* for all persons/entities liable to pay the fee for broadcast advertising. Should the amount additionally

assessed to top up the fee for broadcast advertising 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.

Section 29

Joint Provisions Concerning Audiovisual Fees

- (1) The value added tax shall not be included in the base of the audiovisual fee.
- (2) The base of the audiovisual fee shall be rounded upwards to whole crowns.
- (3) The audiovisual fee shall be calculated as the product of the audiovisual fee base and the charge rate.
- (4) The data to which the obligation to keep records applies shall be maintained by the payer of, or person/entity liable to pay, the audiovisual fee until the expiry of the fee determination period to which the data are related.
- (5) The payer of, or person/entity liable to pay, the audiovisual fee shall submit a fee declaration. The fee declaration period may not be extended.
- (6) The structure of the fee declaration, including any mandatory details, shall be made public by the Fund in a manner allowing for remote access. The payers of, or persons/entities liable to pay, the audiovisual fee shall submit the fee declaration in the electronic form, using an electronic application allowing for remote access.
- (7) Proceeds from the audiovisual fee shall be an income to the Fund. The Fund shall be the administrator of this fee.

Division 4

Audiovision Registers

Section 30

Film Support Registers

- (1) For the purposes of administration of the support provided to cinema and for informing the public about the support provided, the Fund shall register:
 - a) the applicants for film support ,
 - b) the applications for film support, and
 - c) the provided film support.
- (2) Registers referred to in Subsection 1 above shall be regarded as a public administration information system³⁵). These registers shall be made public in a manner allowing for remote access.
- (3) The data referred to in Subsection 1 above shall be maintained in the registers from the date of submission of the application for film support until the expiration of 3 years from the finality of the decision on the film support.
- (4) In maintaining the registers referred to in Subsection 1 above, the Fund shall use as a basis the applications for film support and the decisions on the provision of film support.

Division 5

Provision of Film Support

Sub-division 1

General Provisions on Film Support

Section 31

Subsidy Headings and the Limits of the Funds Provided

(1) Film support provided by the Fund in accordance with Section 32 below may be provided for the implementation of projects under the following headings:

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

(2) The Fund's statutes shall set out:

- a) the eligibility of costs – list of eligible costs in respect of each of the subsidy headings or type of project, and a positive or negative enumeration of eligible costs,
- b) the method of proving the costs and the eligibility thereof.

(3) As at 31 January of the calendar year the Fund shall make public in a manner allowing for remote access the amount of the funds planned to be provided, including, but not limited to, estimates of

- a) the total expenditures of the Fund for the calendar year under all of the subsidy headings listed in Subsection 1 above,
- b) expenditures under each heading for the calendar year, and
- c) expenditures under the individual headings with respect to individual calls referred to in Section 33(1).

Section 32

Form of the Film Support

(1) The money from the Fund intended for film support shall be provided as subsidies or as profit-sharing subsidies.

(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.

Sub-division 2

Application for Film Support

Section 33

Call for Submission of Applications for Film Support

(1) On the basis of the Council's strategy, the Fund shall issue calls for submission of applications for film support.

(2) The information to be contained in the call shall include the start date of the period for submission of applications for film support, the length of the period for submission of applications for film support, which shall not be shorter than one month from the announcement of the call, and the enumeration of the subsidy headings (from among those referred to in Section 3), to which the call applies.

(3) Detailed conditions of announcing the calls shall be specified in the Fund's statutes.

Section 34

Application for Film Support

(1) An application for film support shall be submitted in the electronic form using an electronic filing application accessible in a manner allowing for remote access, and shall be so submitted within the period referred to in Section 33(2) above. The applicant shall enter his application for film support in the electronic form into the Fund's system maintained in a manner allowing for remote access.

(2) When submitting an application for film support, the applicant shall pay an administrative fee.

(3) In addition to the essentials based on the Administrative Procedure Code, an application for film support shall also contain the following:

- a) the name, characteristics and timetable of the project for which the applicant requests support,
- b) the anticipated level of costs and data about the financing of the project,
- c) information about international participation, if any, in the project,
- d) the form of film support preferred by the applicant, and the amount thereof; if the applicant requests only a certain specific form of film support, it shall be expressly stated in the application,
- e) consent with making the application public,
- f) number of the applicant's bank account.

(4) Documents proving that the applicant meets the requirements referred to in Section 39(1)(b) to (f) and, in cases specified in Section 39(3), also the requirements referred to in Section 39(1)(a), shall be part of the application. The fact that the requirements under Section 39(1)(b) to (f) are met shall be confirmed by a statutory declaration.

(5) Documents essential for the consideration of the application, as defined in the Fund's statutes for each subsidy title under Section 31 above, shall be attached to the application for film support.

Sub-division 3

Making Decisions about Film Support

Section 35

Making Decisions about Film Support

(1) In deciding about film support, the Council is not obliged to respect the form of film support preferred by the applicant (unless the applicant requests only a specific form of support), nor is it obliged to respect the requested amount of support.

(2) When evaluating an application for film support, the Council shall take into account the expert analyses prepared for each project and shall consider, in particular:

- a) the quality of the project,
- b) the project's contribution to the development and diversity of the Czech and European cinema,
- c) the project's cultural importance for the Czech cinema,
- d) the project's economic feasibility,
- e) the creative and technical participation of young and beginner film professionals,
- f) the project's contribution to the economic viability of the Czech cinema and to strengthening its independence and identity,
- g) the artistic or documentary worth of addressing an ethnic theme, if the project is so focused, and
- h) previous works by the same author or producer in the case of a project referred to in Section 31(1)(a) or (b).

(3) In addition to the essentials based on the Rules of Administrative Procedure, a decision on film support shall contain information about:

- a) the form and amount of film support,
- b) the purpose for which the film support is being provided,
- c) the conditions of the use of the film support,
- d) the definition of the basic conditions for agreeing on the Fund's share of the profit, if any, to be generated from the project, as referred to in Section 32(2), including, but not limited to, the level of the Fund's share of the profit, if any, to be generated from the project,
- e) the period for submission of the documents referred to in Section 40,
- f) the time when to report project income in accordance with Section 40(4), and
- g) the time period for the project to be completed.

(4) The procedure of adoption of the Council's decisions on applications for film support shall be laid down in the Statutes of the Fund. In the substantiation of the decision, the Council shall also address expert analyses.

(5) In exceptional cases, the Council may make its decisions without expert analyses, including, but not limited to, cases where the Fund does not have a sufficient number of appointed experts in the area of the relevant subsidy heading under Section 31 above who are not excluded due to conflict of interests, or where the expert entrusted with the preparation of an expert analysis fails to submit the analysis within the required timeframe.

(6) There is no legal entitlement for film support.

(7) There is no appeal against the Council's decision on the application for film support

(8) Provisions of Section 146 of the Rules of Administrative Procedure shall not be applied in proceedings where decisions on film support are made in accordance with this Act.

Section 36

Amendment to a Decision on Film Support

(1) Upon request of a recipient to whom film support has been lawfully provided, the Council may decide to change the decision on film support on the basis of changed circumstances. In making its decision, it shall respect the proposal and the justification of the application for changing the decision on film support

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

(3) When submitting an application for changing the decision on film support, the applicant shall pay an administrative fee.

(4) There is no appeal against the Council's decision on the application for changing the decision on film support.

(5) The application to change a decision on film support shall be submitted in the electronic form using an electronic application allowing for remote access. The application to change a decision on film support shall be entered electronically into the Fund's system maintained in a manner allowing for remote access.

Section 37

Procedure and Time Periods for Considering Applications for Film Support

(1) If the application for film support meets all formal requirements referred to in Section 34 above, the Fund's Office shall send it without undue delay to selected experts to prepare expert analyses. The Fund's Office shall deliver to the Council the application for film support as referred to in the preceding sentence, and the expert analyses shall also be so delivered. The Council shall then evaluate the application for film support in accordance with Section 35(2) above and shall make its decision on the application for film support at its meeting.

(2) The decision on an application for film support, as characterised in Subsection 1 above, shall be made by the Council within 90 days from the end of the period for submission of applications for film support.

(3) The voting shall be recorded in a protocol, including information on how each Council member evaluated the application and how he or she voted on it.

Section 38

Information to Be Made Public

(1) The Fund shall make public the following information in a manner allowing for remote access:

- a) applications for film support and applications for changing the decision on film support ,
- b) expert analyses and the minutes of the Council's meeting at which the application referred to under clause (a) above was considered, and the protocol of the Council concerning the voting on the application for film support,
- c) information on
 - 1. the amount and form of the film support and the period of time available to complete the project for whose implementation the film support was provided,
 - 2. changes to the amount or form of the film support provided or the period of time to complete the project on which a decision was made on the basis of an application referred to in Section 36, and
 - 3. the dismissal of an application for film support and application for changing a decision on film support.

(2) The following information shall not be made public:

- a) sensitive personal data³⁷⁾,
- b) trade secrets,
- c) data concerning persons taking part in the project other than the recipient of the support,
- d) copyright-protected works of art attached to applications referred to in Subsection 1(a) above,
- e) data whose non-disclosure is required by another legal regulation.

(3) The timescales for making the information public shall be set out in the Fund's Statutes.

Section 39

Recipient of Film Support

(1) A recipient of film support shall meet certain requirements. He shall:

- a) have integrity; an individual convicted with finality of 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 shall be met by the legal person as such, as well as its governing body or each member of the governing body, and if a legal person is the governing body of the recipient of film support or a member of the governing body of the recipient of film support, this requirement shall be met by the legal person as such, as well as its governing body or each member of the governing body; if a foreign legal person is a recipient of film 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 support in relation to both the Czech Republic and the country where it or he has its or his registered office, principal place of business or permanent residence,
- b) not be subject to insolvency proceedings regarding the recipient's bankruptcy or imminent bankruptcy; or no decision has been made during the last 3 years regarding the recipient's bankruptcy, or no decision has been so made to dismiss an insolvency petition because of lack of assets to cover the costs of the proceedings, and no decision has been so made to

terminate bankruptcy proceedings due to absolute lack of assets to satisfy the creditors, or no receivership has been imposed on the recipient in accordance with any other legal regulation,

- c) not be in liquidation,
- d) 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,
- e) have no registered arrears in the records maintained by the internal revenue authorities 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,
- f) 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
- g) 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 legal regulation. If a legal person with registered office in the Czech Republic is the applicant, 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 governing body or each member of such a legal person's governing body, and if a legal person with registered office in the Czech Republic is that legal person's governing body or a member of that legal person's governing body, the Fund shall also request an excerpt from the criminal register for that legal person exercising the functions of the governing body of the applicant as well as for the governing body, or for each member of the governing body, of that legal person exercising the functions of the governing body of the applicant.

(3) If the applicant is a citizen of a state other than the Czech Republic or a citizen of the Czech Republic who has been in a state other than the Czech Republic for at least 6 continuous months during the last three years, such an applicant shall, for the purposes of proving his integrity, furnish an excerpt from the criminal register or an equivalent document issued by a relevant court or administrative body of such a state or of the state where he spent at least 6 continuous months during the last three years, (hereinafter referred to as the "foreign excerpt from the criminal register"). If the applicant is a citizen of a state other than the Czech Republic, such an applicant shall, for the purposes of proving his integrity, also furnish a Czech excerpt from the criminal register (hereinafter referred to as the "local excerpt from the criminal register"). If a legal person is the applicant, 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 governing body or each member of the governing body, and if a legal person is its governing body or a member of its governing 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 governing body or each member of that legal person's governing body. A foreigner who was or is a citizen of another Member State of the European Union, or who had or has his permanent residence in another Member State of the European Union, may prove his integrity by submission of a (local) excerpt from the criminal register with a supplement containing information recorded in the

criminal records of such another Member State of the European Union instead of a foreign excerpt from the criminal register⁴⁸).

(4) If the state referred to in Subsection 3 above does not issue excerpts from the criminal register, a natural person shall submit a statutory declaration of integrity made before a notary public of the state whose citizen he is or before a notary public of the state of his last residence or before a notary public of the Czech Republic. These documents shall not be older than 3 months and may be replaced by a certificate of recognition of professional qualification, provided that such a certificate also proves that the integrity requirement is met and that it is not older than 3 months.

Section 40

Joint Provisions Concerning the Provided Film Support

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

(2) The final settlement account in respect of the funds provided shall be submitted for inspection to the Fund by the recipient of film support within the period specified in the decision on film 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 costs incurred. The auditor's report shall cover the entire project, including the project co-producers.

(4) A recipient of film support in the form of subsidy with the Fund's share of the income generated from 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 cinematography.

(5) All the submissions related to film support that are made by an applicant or recipient of support shall be submitted in the electronic form through an electronic application allowing for remote access. The applicant or recipient of support shall enter such submissions in the electronic form into the Fund's system in a manner allowing for remote access.

Section 41

Joint Provisions on Administrative Fees

(1) Administrative fees paid under this Act shall be an income to the Fund.

(2) Administrative fees under this Act shall be paid to the Fund's account. Administrative fees shall not be paid in the form of duty stamps.

Division 6

Provision of Production Incentives

Sub-division 1

General Provisions on Production Incentives

Section 42

Conditions for the Provision of Production Incentives and the Definition of Concepts

(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 or animated audiovisual work whose length is at least 70 minutes,
 2. a documentary audiovisual work whose length is at least 70 minutes,
 3. an episode of a fiction audiovisual series whose length is at least 30 minutes, or an audiovisual series of more such episodes,
 4. an episode of an animated audiovisual series whose length is at least 5 minutes, or an audiovisual series of more such episodes,
- c) which meets the content requirements; this shall mean, for production incentive purposes, that the content of the audiovisual work:
 1. complies with applicable European Union regulations⁴⁹⁾, which shall be proved by the cultural test upon submission of the application for registration,
 2. complies with the legal regulations of the Czech Republic,
 3. is not pornographic, does not consent to violence and does not openly insult human dignity,
- d) whose total amount of eligible costs exclusive of the value added tax is at least:
 1. CZK 15,000,000 in the case under clause b(1) above,
 2. CZK 2,000,000 in the case under clause b(2) above,
 3. CZK 8,000,000 in the case under clause b(3) above, provided that the incentivised project is one episode of a fiction audiovisual series,
 4. a multiple of CZK 8,000,000 and the number of segments in the case under clause b(3), provided that the incentivised project involves more episodes of a fiction audiovisual series, or
 5. CZK 1,000,000 in the case under clause b(4), provided that the incentivised project involves one episode of an animated audiovisual series, or
 6. a multiple of CZK 1,000,000 and the number of episodes in the case under clause b(4), provided that the incentivised project involves more segments of an animated audiovisual series.

(2) For production incentive purposes, production of an audiovisual work shall mean:

- a) preparatory work,
- b) shooting; animation work in the case of animated audiovisual works,
- c) finalising work.

(3) An incentivised project shall be understood to mean the production of an audiovisual work and activities related thereto aiming at making its audio and video recording, in which eligible costs are incurred as specified in Subsection 4 above. An incentivised project shall not include activities that precede production and represent the development of an audiovisual work, including, but not limited to, the creation of screenplays on whose basis an audiovisual

work is to be created, and activities related to the raising of funds for its production. If the incentivised project consists of one or more episodes of a fiction or animated audiovisual series, the number of episodes of such series which is decisive for the determination of the amount of eligible costs under Subsection 1(d) shall include all further episodes of such series whose production has been provided for in the Czech Republic, even in part, by the same applicant in the period from the submission of the application for registration of an incentivised project until the submission of the application for a production incentive, unless the production of such episodes constitutes a part of another incentivised project.

(4) 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 registration and costs incurred by the applicant in paying for the supply of goods and services directly related to the incentivised project by a person having his principal place of business, permanent residence or registered office in the Czech Republic and registered for income tax in the Czech Republic, 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 registration of the incentivised project on which a decision was made under Section 45(3) 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 principal place of business, permanent residence or registered office outside the Czech Republic, provided that this compensation is subject to income taxation in the Czech Republic and that such a payment was made after the date of submission of the application for registration of the incentivised project on which a decision was made under Section 45(3) and before submission of the application for a production incentive,
- c) the applicant's revenue having the nature of his remuneration for securing 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 responsible for securing the production of the audiovisual work or a part thereof within the project upon order from the producer or co-producer of the audiovisual work, 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 under this clause may become an eligible cost up to the maximum amount equal to the difference between the total revenues of the applicant relating to the implementation of the incentivised project and the total costs incurred by the applicant in connection with the implementation 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 implementation of the incentivised project.

(5) The Fund's statutes shall lay down:

- a) a positive and a negative enumeration of eligible costs and detailed rules of cost eligibility,
- b) the method of documenting the costs and the eligibility thereof,
- c) other conditions of the provision of production incentives not addressed in the law,
- d) the method of proving that the conditions for the provision of production incentives, ensuing from the law, the Fund's statutes or the Fund's decisions, have been met,
- e) an enumeration of the activities that fall within the production of an audiovisual work for the purposes of production incentives.

(6) The minimum length of the duration of the audiovisual work under Subsection 1(b) shall be maintained when the audiovisual work is first presented to the public in the manner of presentation for which it has been created.

Section 43

Purpose, Form and Amount of Production Incentives

(1) The primary purpose of the provision of production incentives is to support the production of audiovisual works in the Czech Republic and to strengthen the competitiveness of the Czech film industry.

(2) Production Incentives represent the ‘other pecuniary resources’ category of state funds in accordance with another law⁴¹).

(3) Production Incentives constitute public aid³⁸). The Fund shall be the provider of production incentives.

(4) Production Incentives shall be provided:

- a) in an amount corresponding to 20% of eligible costs as per Section 42(4)(a) and (c),
- b) 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 42(4)(b), and
- c) only for eligible costs under Section 42(4) representing in aggregate 80% or less of the total costs of the production of the audiovisual work; in the event that eligible costs under Section 42(4) exceed 80% of the total costs of the production of the audiovisual work, the production incentive calculation shall be first based on eligible costs under Section 42(4)(a), then on eligible costs under Section 42(4)(c) and finally on eligible costs under Section 42(4)(b), until the indicated maximum admissible level of eligible costs is achieved.

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

Sub-division 2

Adoption of Decisions on Production Incentives

Section 44

Application for Registration of an Incentivised project

(1) An application for registration of an incentivised project may only be submitted by a person who is a tax resident of the Czech Republic or a of another Member State of the European Union or of any of the countries constituting the European Economic Area, provided that such a person has a permanent establishment in the Czech Republic and is to be the producer or co-producer of an audiovisual work or is planning to ensure upon order the production of an audiovisual work or part thereof for a producer or co-producer.

(2) An application for registration of an incentivised project shall be submitted in the electronic form using an electronic application accessible in a manner allowing for remote access. The applicant shall enter his application for incentivised project registration in the electronic form into the Fund’s system maintained in a manner allowing for remote access.

(3) The application for registration of an incentivised project shall contain the essentials of an application required by the Rules of Administrative Procedure, as well as the cultural test

whose content shall be defined in the Fund's Statutes, plus other attachments specified in the Fund's Statutes.

(4) When submitting an application for registration of an incentivised project, the applicant shall pay an administrative fee.

(5) More than one applicant may file their applications in respect of one and the same incentivised project.

(6) An application for registration of an incentivised project may not be submitted by a person to whom an incentivised project listing certificate, issued upon such a person's request in respect of the same incentivised project under Section 47, has been delivered, if such a project listing certificate has been cancelled by the Fund in accordance with Section 47(4). A person to whom an incentivised project listing certificate, issued upon such a person's request in respect of another incentivised project under Section 47, has been delivered, shall not be allowed to submit an application for registration of an incentivised project for 2 years from the finality of the decision to cancel the listing certificate, if such a listing certificate has been cancelled by the Fund in accordance with Section 47(4).

(7) The Director of the Fund may, for reasons deserving a special merit, suspend the acceptance of applications for registration of incentivised projects. Information that the acceptance of applications for registration of incentivised projects has been suspended and information about the period of time for which this measure is to be in effect shall be made public by the Fund in a manner allowing for remote access. No application for registration of an incentivised project can be submitted during such a period.

Section 45

Evaluation of the Application for Registration of an Incentivised Project and the Inclusion of an Incentivised Project in the Registration List

(1) If an application for registration of an incentivised project fails to contain all details required by this Act or by the Fund's Statutes, the Fund shall invite the applicant to complement the application. If the applicant fails to complement the application for registration of his incentivised project within 10 working days of the date of delivery of the Fund's call to do so, the Fund shall issue a resolution to discontinue the proceedings concerning the application. The Fund shall also issue a resolution to discontinue the proceedings concerning the application for registration of an incentivised project if the application was filed in the period referred to in Section 44(7). In the event that the applicant fails to meet the conditions specified in Section 44(1) or that an application for registration of an incentivised project has been submitted in contravention of Section 44(6), the Fund shall dismiss the application for registration of the incentivised project.

(2) If the Fund does not discontinue or dismiss the application for registration of the incentivised project in accordance with Subsection 1 above, the Fund shall refer the application for registration of an incentivised project to the Commission for Production Incentives (hereinafter referred to as the "Commission"), which shall evaluate it with regard to its compliance with the content requirements and shall issue an opinion on whether the incentivised project meets the content requirements for the provision of the production incentive, and if the Commission determines that the incentivised project does not meet the content requirements for the provision of the production incentive it shall furnish evidence in support of its opinion.

(3) If the Commission states in its opinion that an incentivised project meets the content requirements for the provision of production incentives, the Fund shall issue a certificate of incentivised project registration and shall include the incentivised project in the incentivised project registration list. In the registration certificate, the Fund shall determine the period of time to submit the application for the listing of an incentivised project and also the conditions, binding on the applicant, for the provision to the Fund of information about the implementation of the incentivised project. Conditions in respect of which the applicant's non-compliance is treated as less serious may be highlighted by the Fund in the incentivised project registration certificate.

(4) The incentivised project registration list shall be made public by the Fund in a manner allowing for remote access.

(5) If the Commission states in its opinion that an incentivised project does not meet the content requirements for the provision of production incentives, the Fund shall dismiss the application for registration of the incentivised project.

(6) The Fund's decision on the application for registration of an incentivised project and its resolution to discontinue the proceedings is unappealable.

(7) An application for registration may be submitted repeatedly, if a decision on it was made in accordance with Subsections 1 or 5 above. An application for registration of the same incentivised project may only be submitted by an applicant after the expiration of the period for submission of an application for listing the incentivised project as determined in the incentivised project registration certificate; for the purposes of assessing the eligibility of costs in accordance 42(4), the date of submission of repeated application for incentivised project registration shall be considered conclusive in this case.

(8) For the purposes of providing production incentives, projects considered the same shall be such under which the production of the same audiovisual work is to be carried out, as indicated by the applications submitted on the basis of the same, albeit altered script, and irrespective of any change of name.

Section 46

Incentivised Project Listing Application

(1) An applicant to whom an incentivised project registration certificate has been delivered shall be entitled to submit an incentivised project listing application no later than within the period specified in the incentivised project registration certificate,

- a) if he meets the requirements set out in Section 50(2) below,
- b) if he has not breached the conditions specified in the incentivised project registration certificate, except the conditions in respect of which the applicant's non-compliance is treated as less serious according to the incentivised project registration certificate,
- c) if no other person has yet applied for the listing of the same incentivised project, unless the certificate of incentivised project listing issued upon such an application has been cancelled or unless the period available to another person for submission of an application for film subsidy under Section 48 has expired to no effect,
- d) if the incentivised project listing certificate issued by the Fund upon such an applicant's application under Section 47 below in relation to the same incentivised project has not been cancelled with finality under Section 47(4) below, and

- e) if no other incentivised project listing certificate issued by the Fund upon such an applicant's application under Section 47 below has been cancelled with finality under Section 47(4) below during the preceding 2 years.

(2) The incentivised project listing application shall be submitted in the electronic form, using an electronic application allowing for remote access. The incentivised project listing application shall be entered electronically into the Fund's system maintained in a manner allowing for remote access.

(3) The incentivised project listing application shall contain the essentials of an application as specified in the Administrative Procedure Code, plus Appendices determined in the Fund's Statutes.

Section 47

Evaluation of the Incentivised Project Listing Application. The Listing of an Incentivised Project

(1) If an incentivised project listing application fails to contain all details required by this Act or by the Fund's Statutes, the Fund shall invite the applicant to complement the application. If the incentivised project listing application is complemented within the period specified by the Fund, the date of submission of the complemented incentivised project listing application shall be regarded as the date of a complete and duly submitted application. If the applicant fails to complement the incentivised project listing application within 10 working days of the date of delivery of the Fund's call to do so, the Fund shall issue a resolution to discontinue the proceedings concerning the application.

(2) If an applicant or an incentivised project fails to meet the conditions determined by law or by the Statutes of the Fund the Fund shall reject the incentivised project listing application.

(3) If the Fund does not proceed in accordance with Subsections 1 or 2 above, it will issue an incentivised project listing certificate. The incentivised project listing certificate shall contain information about the expected production incentive amount. In the listing certificate, the Fund shall determine the conditions, binding on the applicant, as to the determination of the obligation under Section 50(3)(d) concerning compliance with the periods for the implementation of the incentivised project, and as to the provision to the Fund of information about the implementation of the incentivised project. The period for submission of the application for an incentive, prescribed by the Fund in the incentivised project listing certificate, may be shorter than the period indicated in Section 48(1) below. Conditions in respect of which the applicant's non-compliance is treated as less serious may be highlighted by the Fund in the incentivised project listing certificate.

(4) If an applicant to whom an incentivised project listing certificate has been delivered fails to comply with the conditions indicated therein, with the exception of the conditions in respect of which a non-compliance is treated as less serious according to the incentivised project listing certificate, the Fund may decide to cancel the incentivised project listing certificate. If it is learned upon the issuance of an incentivised project listing certificate that during the period preceding the issuance of the incentivised project listing certificate the applicant contravened the conditions prescribed in the certificate of registration of the same incentivised project, except the conditions in respect of which a non-compliance is treated as less serious according to the incentivised project registration certificate, the Fund may decide to cancel the incentivised project listing certificate.

(5) If upon issuance of a project listing certificate the incentivised project is not implemented or if it becomes impossible, because of changed circumstances, to submit an application for a production incentive for the production of an audiovisual work, the applicant shall immediately inform the Fund to that effect. The Fund shall decide to cancel the incentivised project listing certificate.

(6) If upon issuance of a project listing certificate the expected production incentive amount increases or decreases by more than 5% or by more than CZK 1,000,000 as a result of changed circumstances, the applicant shall submit an application for a change to the listing certificate, and shall do so no later than within the period indicated in the listing certificate. The Fund shall issue a decision on a change of the listing of the incentivised project.

(7) If an applicant to whom an incentivised project listing certificate has been delivered ceases to comply with the conditions under Section 50(2), the applicant shall immediately inform the Fund to that effect. The Fund shall decide to cancel the incentivised project listing certificate. If the Fund learns from other sources that the applicant to whom an incentivised project listing certificate has been delivered has ceased to comply with the conditions under Section 50(2), the Fund shall decide to cancel the incentivised project listing certificate.

(8) The Fund's decision about an incentivised project listing application, about cancellation of an incentivised project listing certificate and about a change to an incentivised project listing certificate, and the Fund's resolution to discontinue the proceedings are unappealable.

(9) The Fund shall make public the incentivised project records and the periods in a manner allowing for remote access.

Section 48

Application for a Production Incentive

(1) An applicant to whom an incentivised project listing certificate has been delivered shall be entitled to submit an application for a production incentive no later than within 4 years from the date of delivery of the project registration certificate, unless a shorter period is indicated in the project listing certificate, provided that

- a) the incentivised project listing certificate has not been cancelled,
- b) the applicant meets the requirements laid down in Section 50(2).

(2) An application for a production incentive shall be submitted in the electronic form using an electronic application accessible in a manner allowing for remote access. The applicant shall enter his application for a production incentive in the electronic form into the Fund's system maintained in a manner allowing for remote access.

(3) If an incentivised project includes the making of an audiovisual work in the Czech Republic for at least 10 shooting days and if the audiovisual work concerned is not an animated audiovisual work, an application for a production incentive in relation to one incentivised project can be submitted twice in succession, each time related to different eligible costs. The first of such two applications may be submitted no sooner than after the end of the making of the audiovisual work in the Czech Republic. However, the minimum limit of eligible costs under Section 42(1)(d) shall be observed in respect of the first of such two successive applications for production incentive. Otherwise an application for a production incentive in respect of one incentivised project may only be submitted once, provided that a previous application has not been rejected or the relevant proceedings discontinued.

(4) The amount corresponding to the production incentive according to the application for a production incentive may be higher by up to 5%, but by not more than CZK 1,000,000, than the expected amount of the production incentive indicated in the incentivised project listing certificate. In the event that an applicant submits 2 applications for a production incentive in succession in respect of one and the same incentivised project in accordance with Subsection 3 above, the provision of the first sentence of this Subsection 4 shall apply to the sum of the amounts indicated in the two applications for a production incentive.

(5) An application for a production incentive shall contain the basic essentials of an application based on the Administrative Procedure Code plus Appendices determined in the Fund's Statutes.

(6) The auditor's report, which shall be an integral part of the application for a production incentive, shall be prepared by an auditor who is authorised to carry out audit activities in accordance with another legal regulation⁴⁴⁾ and who has executed an insurance policy whose subject-matter is the insurance of liability for damage caused to a third party during the performance of the auditor's activities and where the agreed limit of insurance proceeds amounts to at least 100,000,000 CZK. Particulars of the auditor's report, which comply with Act No. 93/2009 Coll. on auditors and on the amendment to certain laws (Act on Auditors), as amended, and with the standards of the International Auditing and Assurance Standards Board (IAASB), are set out in the Fund's Statutes.

Section 49

Evaluation of the Application for a Production Incentive

(1) If an application for a production incentive fails to contain all details required by this Act, the Fund shall invite the applicant to complement the application. If the applicant fails to complement the application for a production incentive within 10 working days of the date of delivery of the Fund's call to do so, the Fund shall issue a resolution to discontinue the proceedings concerning the application.

(2) If all the conditions laid down in this Act are met, the Fund shall make its decision on the provision of a production incentive. Otherwise the Fund shall dismiss the application for a production incentive. If, however, the application for a production incentive contains an amount higher than the amount resulting from this Act, the Fund shall not dismiss the application and shall determine in the decision on the production incentive the amount of the production incentive in compliance with this Act.

(3) The Fund shall also reject an application for a production incentive if the applicant breaches the conditions specified in the incentivised project listing certificate, with the exception of the conditions in respect of which a non-compliance is treated as less serious according to the incentivised project listing certificate.

(4) The Fund shall commit and disburse the production incentive to the applicant's bank account within 30 days from the decision on the production incentive, provided that the applicant meets the conditions specified in Section 50(2) at the moment of payment of the production incentive. The bank charges connected with this transaction shall be paid by the applicant.

(5) The Fund's decision on the application for a production incentive is unappealable.

(6) An overview of the production incentives provided shall be made public by the Fund in a manner allowing for remote access.

(7) If an applicant ceases to comply with the conditions under Section 50(2) before the payment of the production incentive or if it is later learned that the applicant or the incentivised project did not meet the requirements for the issuance of a decision on the production incentive, the Fund shall cancel the decision on the production incentive. The Fund's decision to cancel its decision on the production incentive is unappealable.

Section 50

Production Incentive Recipient

(1) For the purposes of this Act, a production incentive recipient shall be understood to mean:

- a) an applicant who has been delivered a certificate of incentivised project registration,
- b) an applicant who has been delivered an incentivised project listing certificate,
- c) an applicant who has been delivered a decision on the production incentive.

(2) A production incentive recipient:

- a) shall meet the requirements of Section 39(1) and Section 44(1),
- b) shall not be a recipient of aid for rescuing and restructuring firms in difficulty⁴⁵⁾,
- c) shall not be a person whose assets are subject to enforcement of a decision- or execution.

(3) A production incentive recipient shall:

- a) ensure that selected accounting operations associated with the incentivised project are maintained in separate analytical records in the recipient's books of accounts. The recipient shall be able to prove that the relevant book entries refer to the incentivised project and are related to its implementation,
- b) in order to maintain an audit trail, ensure the archiving of all documentation, including the incentivised project accounting documents, for a period of 5 years from the payment of the production incentive and make them available to the Fund on request,
- c) meet the conditions contained in the incentivised project registration certificate and in the incentivised project listing certificate,
- 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 the incentivised project listing certificate,
- e) provide the Fund free of charge with a copy of the audiovisual work produced as a part of the incentivised project on an audiovisual recording medium within 6 months from the first presentation of the audiovisual work to the public.

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

Sub-division 3

Section 51

Activities of the Commission, its Composition and the Manner of Adoption of Decisions

(1) The Commission shall:

- a) evaluate the applications for registration of incentivised projects with regard to their compliance with the content requirements under Section 42(1)(c) and issue opinions related thereto,
- b) perform other activities in accordance with this Act and with the Fund's statutes.

(2) The Commission shall have quorum if at least 3 members are present. The Commission shall decide by a majority of votes. The voting shall be repeated not more than twice in the case of equality of votes, and the proposal shall be deemed unaccepted if no decision is reached after such repeated voting.

(3) 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 that a personal advantage may be gained by him either directly or through a relative or friend. For the quorum purposes, the excluded member of the Commission shall be deemed to be absent from the Commission meeting.

(4) The Commission shall have 5 members.

(5) Commission members shall be appointed and dismissed by the Minister, and shall be chosen from among recognised persons with experience in audiovision who have been nominated by professional organisations. The proposed nominations shall be submitted to the Fund which shall refer them to the Minister.

(6) The Commission members' term of office shall be 3 years. Commission members may be re-appointed, but not more than twice.

(7) At its first meeting following the appointment of Commission members, the Commission shall elect its chairman and vice-chairman.

(8) Being a member of the Commission shall be a public office.

(9) For exercising 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 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 being regarded as his regular place of work for the purposes of reimbursement of travel expenses.

(10) Details of the requisites of the nomination of a candidate for the Commission membership, the process of submission thereof, and the election of the Council chairman and vice-chairman and of the meetings of the Commission shall be determined in the Fund's statutes.

Section 52

Requirements for Commission Membership and Commission Membership Termination

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

- a) 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 Commission member may not hold an office in any political party or political movements, nor may he act in favour of any political party or movement in connection with exercising 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.

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

(5) Commission membership shall terminate:

- a) by the expiry of the term of office,
- b) on the date of delivery to the Minister of the Commission member's written announcement of resignation,
- c) on the date of delivery to the Commission member of the decision to recall him from office,
- d) on the date of finality of a court decision to restrict the Commission member's legal capacity,
- e) on the date of finality of a court decision convicting the Commission member of a premeditated criminal act, or
- f) on the date when the Commission member acquires a position indicated in Subsection (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 ceased to meet the requirements for exercising his office,
- b) has committed conduct threatening to affect the confidence in his independence or impartiality in exercising his office,
- c) has seriously damaged the dignity of the office exercised by him,
- d) has acted in favour of political parties or political movements in connection with the exercise of his office as a Commission member, or
- e) has repeatedly failed to properly discharge his duties under this Act or other legal regulations, or the Fund's statutes.

Division 7

Co-production Status

Section 53

Adoption of Decisions on Granting the Co-production Status

(1) The Fund shall decide on granting the co-production status to a cinematographic work to confirm the compliance of the work with the Convention or any other international agreement on film co-production, if the work meets the conditions of the Convention or other international agreement on film co-production.

(2) The co-production status shall not be granted to audiovisual works of pornographic nature, cinematographic works consenting to violence or cinematographic works openly insulting human dignity.

(3) An application for the granting of the co-production status shall be submitted to the Fund by a co-producer with his permanent residence or registered office in the Czech Republic at least 2 calendar months before the date of commencement of making the cinematographic work concerned, which date is indicated in the co-production contract.

(4) The following documents shall be attached to the application for the granting of the co-production status:

- a) a copy of the licence contract or a similar contract, which authorises the applying co-producer or any other co-producer to use the script of the cinematographic work and the cinematographic work itself,
- b) the script of the cinematographic work,
- c) a list of the co-producers' artistic and technical participations from each state involved in the production of the cinematographic work,
- d) the aggregate amount of the planned costs of production of the cinematographic work (the budget),
- e) the financing plan with an overview of all resources planned to cover the costs of the production of the cinematographic work,
- f) the planned timetable of the production of the cinematographic work, and
- g) the co-production contract, or co-production contracts, meeting the conditions laid down in the Convention or other international agreement on film co-production.

(5) If the financial contribution of a co-producer with his permanent residence or registered office in the Czech Republic is smaller than the financial contribution of other individual co-producers, the Fund shall not make its decision on the granting of the co-production status before receiving a notification from the co-production status-granting authority relevant to the co-producer with the highest financial contribution.

(6) If the co-production status is granted to a cinematographic work on the basis of an application for the granting of the co-production status and the submitted documents, the Fund may withdraw the co-production status if it is found that the cinematographic work, as produced, does not comply with the conditions of the Convention or any other international agreement on film co-production.

Division 8

Supervision

Section 54

(1) Supervision over compliance with the obligations under this Act, except the obligations of the Fund, shall be the responsibility of the Regional Authority (representing the state in this matter). For this purpose, the Fund shall provide the Regional Authority with the essential information contained in the audiovision records.

(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.

Division 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)(c) or (d) shall be regarded as committing an administrative offence by selling, leasing or

lending, in contravention of 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) Any producer or co-producer with registered office, permanent residence or principal place of business in the Czech Republic shall be regarded as committing 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) Any producer of a cinematographic work or its co-producer with registered office, permanent residence or principal place of business in the Czech Republic shall be regarded as committing an administrative offence by failing to notify the cinematographic work to the Archive in accordance with Section 7(1) above.

(4) Any producer of a Czech cinematographic work or its co-producer with registered office, permanent residence or principal place of business in the Czech Republic shall be regarded as committing an administrative offence by:

- a) failing to offer in writing in the form of a proposed contract to the Archive two undamaged copies of a Czech cinematographic work at the quality required for a copy intended for cinematographic performances, a copy of the script or the publicity materials about the work in accordance with Section 6(1) above,
- b) failing to offer in the form of a proposed contract to the Archive an undamaged copy of a Czech cinematographic work at the quality required for the production of copies intended for presentation to the public through cinematographic performances in accordance with Section 6(3) above, or
- c) failing to offer to the Archive in the form of a proposal to make in favour of the Czech Republic a deed of gift of one undamaged copy of a Czech cinematographic work at the quality required for a copy intended for cinematographic performances and a copy of the script or the publicity material about the work, in accordance with Section 6(6).

(5) A cinematographic performance organiser shall be regarded as committing 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.

(6) A distributor shall be regarded as committing an administrative offence by:

- a) failing to provide copies of a Czech audiovisual work, 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 the classification to the cinematographic performance organiser, on-demand audiovisual media service provider or any other persons to whom he (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)(g)(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)(c) or (d) contain the designation of such a work's classification, in accordance with Section 5(7), or
 - f) failing to notify the Archive about any cinematographic work presented within his distribution to the public in the Czech Republic through cinematographic performances, in accordance with Section 7(2).
- (7) For administrative offence, fines shall be charged, ranging 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 6(f) above.

Section 56

Joint Provisions on Administrative Offences

(1) A legal person shall not be held liable for an administrative offence if it proves to have made all efforts that could be reasonably expected to prevent a breach of a legal obligation.

(2) When determining the amount of a fine to be imposed on a legal person, the seriousness of the offence shall be taken into account, including, but not limited to, the manner in which it was committed, the consequences thereof, and the circumstances thereof.

(3) A legal person's liability for an administrative offence shall terminate if the administrative body has not begun relevant proceedings within 1 year of the date on which the administrative body learned about it and not later than 3 years after it was committed.

(4) In accordance with this Act, administrative offences shall be addressed in the first instance by the Regional Authority representing the state in this matter.

(5) The Ministry shall be the appellate authority against decisions on administrative offences under this Act.

(6) 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.

(7) Provisions of this Act concerning the liability of legal persons and the relevant sanctions shall also apply to the liability for any act occurring during the course of the business activities of a natural person or in direct connection therewith.

(8) Fines shall be collected and enforced by the authority which imposed them. Income from fines shall be treated as receipts to the budget that finances the activities of the administrative authority that imposed the fines.

TITLE V
JOINT, TRANSITIONAL AND FINAL PROVISIONS

Division 1

Joint Provisions

Section 57

(1) To evidence that copyright or a performing artist's rights have passed to the state, the Ministry of the Interior shall provide the following information about deceased copyright holders to the Fund upon request in a manner allowing for remote access:

- a) reference data from the basic population register,
- b) data from the civil registration sectoral information system.

(2) The data provided in accordance with Subsection 1(a) above shall include:

- a) the surname (last name),
- b) the first name(s)
- c) the residence address,
- d) the date, place and district of birth; for data subjects born outside the Czech Republic: the date, place and country of birth,
- e) the date, place and district of death; for data subjects who died outside the Czech Republic: the date, place and country of death; if a data subject is declared dead by a court: the date indicated in the court's decision as the date of death or the date which was not survived by the data subject, and the date of finality of this court decision.

(3) The data provided in accordance with Subsection 1(b) above shall include:

- a) the first name(s) and surname (last name), and surname at birth,
- b) the date of birth,
- c) the permanent residence address, including previous permanent residence addresses,
- d) the date, place and district of death; for data subjects who died outside the Czech Republic: the country of death, and the date of death, if known,
- e) the date indicated in a court's decision as the date of death or the date which was not survived by the data subject who was declared dead.

(4) The data maintained as reference data in the basic population registers may be taken from the civil registration sectoral information system only in the case that such data is in a format preceding the current state.

(5) Of the data provided, only such data as is necessary to perform a particular task may be used in a particular case.

Section 57a

Intensity of Public Aid

(1) The intensity of public aid, which for the purposes of this Act shall be understood to mean the volume of public aid provided to a project implemented with public aid under this Act, shall not exceed:

- a) 60% of the total costs of the project, if it is a project implemented with the film support provided under the headings indicated in Section 31(1)(a) or (b) and which is jointly implemented by the applicant of film support and one or more co-producers with their principal place of business, permanent residence or registered office in another Member State of the Convention, or
- b) 50% of the total project costs in the remaining cases.

(2) The intensity of public aid, as defined in Subsection 1 above, may be increased up to 90% of the total project costs if the project concerned is a culturally ambitious project or if the project involves the development, production, distribution or promotion of a culturally ambitious audiovisual work.

(3) The criteria for assessing the level of cultural ambitiousness of a project or an audiovisual work within the meaning of Subsection (2) above shall be defined in the Fund's Statutes. It is for the Council to determine whether a project or audiovisual work for which cinematography support is provided under this Act is a culturally ambitious project or audiovisual work and to set the maximum intensity of public aid in such a case; the Council shall determine this in its decision on the provision of film support, except as indicated in the following sentence. Whether an audiovisual work for whose implementation a production incentive has been provided and for which no decision on the provision of film support under the headings indicated in Section 31(1)(b) has been issued as at the date of submission of the application for a production incentive is a culturally ambitious audiovisual work, and what is the maximum intensity of public aid in such a case, shall be determined by the Commission. The decision of the Commission shall be binding for the Fund in its decision on the production incentive, determining the conditions of the provision of the production incentive.

(4) Considered as public aid shall be the film support and production incentives under this Act and any other resources of public aid nature⁴⁹⁾ intended for the implementation of a project and made available to an applicant for film 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 implementation of the entire project as incurred by the applicant for film support, the applicant for a production incentive or other individuals or legal entities taking part in the implementation 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 Statutes of the Fund shall define the procedure of determining and documenting the intensity of public aid.

Division 2

Transitional Provisions

Section 58

(1) The Czech Republic State Fund for Support and Development of Czech Cinema shall be dissolved. The Ministry shall file a petition to delete the Czech Republic State Fund for

Support and Development of Czech Cinema from the Commercial Register within 15 days of the effective date of this Act.

(2) The Fund shall be the legal successor to the Czech Republic State Fund for Support and Development of Czech Cinema. On the effective date of this Act, the Fund shall become competent to manage any and all assets of the Czech Republic that have until that date been under the management of the Czech Republic State Fund for Support and Development of Czech Cinema, and the relevant obligations shall also pass to the Fund. All the rights and duties based on the legal relations previously involving the Czech Republic State Fund for Support and Development of Czech Cinema shall devolve upon the Fund on the same date.

Section 59

(1) The Council of the Czech Republic State Fund for Support and Development of Czech Cinema shall act as the Council until 4 April 2015. For the period of exercising their office as Council members, the members of the Council of the Czech Republic State Fund for Support and Development of Czech Film industry shall be entitled to remuneration determined in accordance with Section 14(6). The Council shall elect a new chairman and vice-chairman in the event that such election is proposed by the majority of Council members.

(2) In electing the first members of the Council, the Chamber of Deputies shall choose by ballot the members whose term of office will end after one year, whose term of office will end after two years and whose term of office will end after three years.

(3) The first meeting of the Council shall be convened by the Minister within 30 days of the date of election of the sixth member of the Council.

(4) At the first meeting convened as referred to in Subsection 3 above, the Council shall elect its chairman and vice-chairman from among its members.

Section 60

The decisions on the applications submitted to the Czech Republic State Fund for Support and Development of Czech Cinema prior the effective date of this Act shall be made by the Fund in accordance with the previous legal regulations.

Section 61

Proceedings regarding administrative offences and proceedings regarding recovery of overdue debts which were commenced and have not yet been completed with finality before the effective date of this Act shall be completed by the Ministry in accordance with the previous legal regulations.

Section 62

Proceedings regarding projects which were commenced prior to the effective date hereof shall be governed by the previous regulations, the provision of production incentives being the responsibility of the Fund.

Section 63

Compliance with the offering obligation towards the Archive which arose before the effective date of this Act shall be governed by previous legal regulations.

Section 64

Settlement and transfer of the surcharge paid in addition to the admission fee in accordance with previous legal regulations shall be performed by the organiser within 60 days of the effective date of this Act.

Section 65

Audiovisual work record files, which have been kept in accordance with Section 1a of Act No. 273/1993 on Certain Conditions of the Production, Distribution and Archiving of Audiovisual Works and Amending Certain Acts and Certain Other Regulations, as amended, shall be transferred by the Ministry to the Archive within 60 days of the effective date of this Act.

Section 66

The National Film Archive, established in accordance with previous regulations, shall be regarded as the Archive established under this Act.

Division 3

Repealing Provisions

Section 67

Repealing Provisions

This is to repeal:

1. Act No. 241/1992 on the Czech Republic State Fund for Support and Development of Czech Cinema.
2. Act No. 249/2006, Amending Act No. 273/1993 on Certain Conditions of the Production, Distribution and Archiving of Audiovisual Works and Amending Certain Acts and Certain Other Regulations, as amended.

PART TWO

AMENDMENT TO THE ACT ON CERTAIN CONDITIONS OF THE PRODUCTION, DISTRIBUTION AND ARCHIVING OF AUDIOVISUAL WORKS

Section 68

Part One, Part Three and Section 13 of Act No. 273/1993 on Certain Conditions of the Production, Distribution and Archiving of Audiovisual Works and Amending Certain Acts and Certain Other Regulations, as amended by Act No. 40/1995 Coll., Act No. 121/2000 Coll., Act No. 132/2000 Coll., Act No. 499/2004 Coll., Act No. 249/2006 Coll., Act No. 130/2008 Coll., and Act No. 281/2009 Coll. are hereby repealed.

PART THREE
AMENDMENT TO THE COPYRIGHT ACT

Act No. 121/2000 Coll. on Copyright, Rights related to Copyright and on the Amendment to Certain Laws (Copyright Act), as amended by Act No. 81/2005 Coll., Act No. 61/2006 Coll., Act No. 186/2006 Coll., Act No. 216/2006 Coll., Act No. 153/2010 Coll., Act No. 424/2010 Coll., Act No. 375/2011 Coll., Act No. 420/2011 Coll. and Act No. 18/2012 Coll., is hereby amended as follows:

1. Footnote No. 3 reads as follows:

“³⁾ Act No. 496/2012 Coll. on Audiovisual Works and Support of Film Industry and on the Amendment to Certain Laws (Audiovision Act).”.

2. In Sections 26(2) and 106(4), the words “of the Czech Republic for Support and Development of Czech” are repealed.

3. Part Seven is repealed.

PART FOUR
**AMENDMENT TO THE ACT ON THE AMENDMENT AND REPEALING OF
CERTAIN LAWS RELATING TO THE ACT ON REGIONS, ACT ON
MUNICIPALITIES, ACT ON DISTRICT AUTHORITIES AND ACT ON THE
CAPITAL CITY OF PRAGUE**

Section 70

Part Twenty Nine of Act No. 132/2000 Coll. on the Amendment and Repealing of Certain Laws relating to the Act on Regions, Act on Municipalities, Act on District Authorities and Act on the Capital City of Prague, as amended by Act No. 217/2000 Coll., Act No. 143/82001 Coll., act 86/2002 Coll., Act No. 356/2003 Coll., Act No. 22/2004 Coll., Act No. 93/2004 Coll., Act No. 99/2004 Coll., Act No. 562/2004 Coll., Act No. 587/2004 Coll. Act No. 264/2006 Coll., Act No. 329/2011 Coll., Act No. 375/2001 Coll., Act No. 456/2011 Coll. and Act No. 255/2012 Coll.

PART FIVE
**AMENDMENT TO ACT ON THE OPERATION OF RADIO AND TELEVISION
BROADCASTING AND ON THE AMENDMENT TO CERTAIN OTHER LAWS**

Section 71

Act No. 231/2001 Coll. on the Operation of Radio and Television Broadcasting and on the Amendment to Certain Other laws, as amended by Act No. 309/2002 Coll., Act No. 274/2003 Coll., Act No. 341/2004 Coll., Act No. 501/2004 Coll., Act No. 626/2004 Coll., Act No. 82/2005 Coll., Act No. 127/2005 Coll., Act No. 348/2005 Coll., Act No. 235/2006 Coll., Act No. 160/2007 Coll., Act No. Act No. 296/2007 Coll., Act No. 304/2007 Coll., Act No. 124/2008 Coll., Act No. 384/2008 Coll., Act No. 41/2009 Coll., Act No. 196/2009 Coll., Act No. 227/2009 Coll., Act No. 132/2010 Coll., Act No. 153/2010 Coll., Act No. 302/2011 Coll., Act

No. 420/2011 Coll., Act No. 458/2011 Coll., Act No. 142/2012 Coll. and Act No. 275/2012 Coll., is hereby amended as follows:

1. The words “which is a party to the European Convention on Cross-border Television in Section 3(4) are hereby deleted.
2. The words “under Section 12(3)(a)” are hereby inserted after the words “under the licence” in Section 32a(1).
3. Paragraph 2 of Section, including footnote no. 19, reads as follows:

“(2) If the person liable to pay the fee generates revenue or income by indirect sale of broadcasting time through third parties which are not end users of the broadcasting time, the fee base shall include, in lieu of such revenue or income, the revenue or income which would be achieved by the person liable to pay the fee by direct sale of such broadcasting time, notwithstanding whether such sale has actually taken place. The provision of the previous sentence shall only apply in the case that the third parties referred to in the previous sentence are parties related to the person liable to pay the fee within the meaning of another law.”¹⁹

¹⁹ Section 66a(9) of Act No. 513/1991 Coll., as amended.”.

4. The following new Section 32g is hereby inserted after Section 32f:

“Section 32g

(1) If the total amount of the fee revenue does not reach 150 million CZK, the person liable to pay the broadcast advertising fee shall participate in the difference between the total revenue and the amount of 150 million CZK in proportion to its share in total advertising revenues generated by all persons liable to pay the broadcast advertising fee.

(2) The additional payment of the broadcast advertising fee shall be paid by the liable person within 30 days after the delivery of a request of the Czech Film Fund.”

PART SIX

AMENDMENT TO THE ACT No. 218/2000 COLL. ON BUDGET RULES AND ON THE AMENDMENT TO CERTAIN RELATED LAWS (THE BUDGET RULES), AS AMENDED, AND TO CERTAIN OTHER LAWS

Section 72

Part Seven of Act No. 482/2004 Coll. amending Act No. 218/2000 Coll. on Budget Rules and on the Amendment to Certain Related Laws (the Budget Rules), as amended, and Certain Other Laws, as amended by Act No. 94/2005 Coll., is hereby repealed.

PART SEVEN

AMENDMENT TO ACT ON ADMINISTRATIVE FEES

Section 73

Act No. 634/2004 Coll. on Administrative Fees, as amended by Act No. 217/2005 Coll., Act No. 228/2005 Coll., Act No. 357/2005 Coll., Act No. 361/2005 Coll., Act No. 444/2005 Coll., Act No. 545/2005 Coll., Act No. 553/2005 Coll., Act No. 48/2006 Coll., Act No. 56/2006 Coll., Act No. 57/2006 Coll., Act No. 81/2006 Coll., Act No. 109/2006 Coll., Act No. 112/2006 Coll.,

Act No. 130/2006 Coll., Act No. 136/2006 Coll., Act No. 138/2006 Coll., Act No. 161/2006 Coll., Act No. 179/2006 Coll., Act No. 186/2006 Coll., Act No. 215/2006 Coll., Act No. 226/2006 Coll., Act No. 227/2006 Coll., Act No.235/2006 Coll., Act No. 312/2006 Coll., Act No. 575/2006 Coll., Act No. 106/2007 Coll., Act No. 261/2007 Coll., Act No. 269/2007 Coll., Act No. 374/2007 Coll., Act No. 379/2007 Coll., Act No. 38/2008 Coll., Act No. 130/2008 Coll., Act No. 140/2008 Coll., Act No. 182/2008 Coll., Act No. 189/2008 Coll., Act No. 230/2008 Coll., Act No. 239/2008 Coll., Act No. 254/2008 Coll., Act No. 296/2008 Coll., Act No. 297/2008 Coll., Act No. 301/2008 Coll., Act No. 309/2008 Coll., Act No. 312/2008 Coll., Act No. 382/2008 Coll., Act No. 9/2009 Coll., Act No. 41/2009 Coll., Act No. 141/2009 Coll., Act No. 197/2009 Coll., Act No. 206/2009 Coll., Act No. 227/2009 Coll., Act No. 281/2009 Coll., Act No. 291/2009 Coll., Act No. 301/2009 Coll., Act No. 346/2009 Coll., Act No. 420/2009 Coll., Act No. 132/2010 Coll., Act No. 148/2010 Coll., Act No. 153/2010 Coll., Act No. 160/2010 Coll., Act No. 343/2010 Coll., Act No. 427/2010 Coll., Act No. 30/2011 Coll., Act No. 105/2011 Coll., Act No. 133/2011 Coll., Act No. 134/2011 Coll., Act No. 152/2011 Coll., Act No.188/2011 Coll., Act No. 245/2011 Coll., Act No. 249/2011 Coll., Act No. 255/2011 Coll., Act No. 262/2011 Coll., Act No.300/2011 Coll., Act No. 308/2011 Coll., Act No. 329/2011 Coll., Act No. 344/2011 Coll., Act No. 349/2011 Coll., Act No. 350/2011 Coll., Act No. 357/2011 Coll., Act No. 367/2011 Coll., Act No. 375/2011 Coll., Act No. 428/2011 Coll., Act No. 457/2011 Coll., Act No. 458/2011 Coll., Act No. 472/2011 Coll., Act No. 19/2012 Coll., Act No. 37/2012 Coll., Act No. 53/2012 Coll., Act No. 119/2012 Coll., Act No. 169/2012 Coll., Act No. 172/2012 Coll., Act No. 202/2012 Coll., Act No. 221/2012 Coll., Act No. 225/2012 Coll. and Act No. 274/2012 Coll., is hereby amended as follows:

1. Item 67 of Part IV reads as follows:

“Item 67

a) Acceptance of the application		
1. for granting a licence to operate television broadcasting	CZK	90,000
2. for an extension of the term of a licence to operate television broadcasting	CZK	90,000
3. for granting of a licence or extension of the term of a licence to operate local television broadcasting	CZK	50,000
b) Acceptance of an application for granting a licence or for extension of the term of a licence to operate radio broadcasting	CZK	25,000
c) Acceptance of an application for operation of rebroadcasting	CZK	90,000
d) Acceptance of an application for a change of data stated		
1. in the application for granting a licence to operate television broadcasting	CZK	20,000
2. in the application for an extension of the term of a licence to operate television broadcasting	CZK	5,000
3. in the application for operation of rebroadcasting	CZK	20,000
The following is not subject to the fee		
1. Acceptance of an application for granting a licence to operate television broadcasting under clause a) of this item if such application is filed pursuant to Section 21(1) of Act No. 132/2010 Coll. on On-demand Audiovisual Services and on the Amendment to Certain Laws (Act on On-demand Audiovisual Services). 2. Acceptance of an application for a change of data under clause d) of this item if such change is entered into the Commercial Register.”.		

2. The following new item 67a, including footnote no. 41a, is inserted in Part IV of the Annex to the Act:

“Item 67a

Acceptance of an application		
a) for aid to films concerning the implementation of a project from the sphere of development of a Czech cinematographic work or for the implementation of a project from a sphere other than the production of a Czech cinematographic work ^{41a)}	CZK	5,000
b) for film support for the implementation of a project from the sphere of production of a Czech cinematographic work ^{41a)}	CZK	10,000

c) for a change of the conditions specified in a decision on film support 41a)	CZK	500
d) for registration of a incentivised project 41a)	CZK	30,000

^{41a} Act No. 496/2012 Coll. on Audiovisual Works and on the Support of Film Industry and on the Amendment to Certain Laws (Audiovision Act).”

PART EIGHT

AMENDMENT TO THE ACT AMENDING CERTAIN LAWS RELATING TO POPULATION RECORDS AND SOME OTHER LAWS

Section 74

Part Six of Act No. 342/2006 Coll. Amending Certain Laws Relating to Population Records and Some Other Laws, as amended by Act No. 274/2008 Coll., Act No. 375/2011 Coll. and Act No. 89/2012 Coll., is hereby repealed.

PART NINE

AMENDMENT TO THE ACT AMENDING ACT No. 455/1991 Coll. ON TRADES (TRADES LICENSING ACT), AS AMENDED, AND OTHER RELATED LAWS

Section 75

Part Six of Act No. 130/2008 Coll. amending Act No. 455/1991 Coll., on Trades (Trades Licensing Act, as amended, and Other Related Laws, as Amended by Act No. 456/2011 Coll., Act No. 17/2012 Coll. and Act No. 89/2012 Coll., is hereby repealed.

PART TEN

AMENDMENT TO THE ACT AMENDING CERTAIN LAWS IN CONNECTION WITH THE PASSING OF THE ACT ON BASIC REGISTERS

Section 76

Part Thirteen of Act No. 227/2009 Coll. Amending Certain Laws in Connection with the Enactment of the Act on Basic Registers, as amended by Act No. 291/2009 Coll., Act No. 306/2009 Coll., Act No. 101/2010 Coll., Act No. 159/2010 Coll., Act No. 424/2010 Coll., Act No. 350/2011 Coll., Act No. 375/2011 Coll., Act No. 456/2011 Coll., Act No. 466/2011 Coll., Act No. 17/2012 Coll., Act No. 89/2012 Coll. and Act No. 201/2012 Coll., is hereby repealed.

PART ELEVEN

AMENDMENT TO THE ACT AMENDING CERTAIN LAWS IN CONNECTION WITH THE ENACTMENT OF THE TAX CODE

Section 77

Part Fourteen of Act No. 281/2009 Coll. Amending Certain Laws in Connection with the Enactment of the Tax Code, as amended by Act No. 153/2010 Coll., Act No. 350/2011 Coll., Act No. 456/2011 Coll., Act No. 466/2011 Coll., Act No. 165/2012 Coll., Act No. 201/2012 Coll. and Act No. 255/2012 Coll., is hereby repealed.

PART TWELVE

AMENDMENT TO ACT No. 111/2009 Coll. ON BASIC REGISTERS, AS AMENDED BY ACT No. 100/2010 COLL., AND OTHER RELATED LAWS

Section 78

Part Four of Act No. 424/2010 Coll. Amending Act No. 111/2009 Coll. on Basic Registers, as Amended by Act No. 100/2010 Coll., and Other Related Laws, as amended by Act No. 89/2012 Coll., is hereby repealed.

PART THIRTEEN

AMENDMENT TO THE ACT AMENDING ACT No. 218/2000 Coll. ON BUDGET RULES AND ON THE AMENDMENT TO CERTAIN RELATED LAWS (BUDGET RULES) AS AMENDED, AND TO CERTAIN OTHER LAWS

Section 79

Part Five of Act No. 465/2011 Coll. Amending Act No. 218/2000 Coll. on Budget Rules and on the Amendment to Certain Other Laws (Budget Rules, as Amended, and to Certain Other Laws, is hereby repealed.

PART FOURTEEN

AMENDMENT TO ACT No. 239/2012 COLL. AMENDING ACT No. 563/1991 Coll. ON ACCOUNTING, AS AMENDED, AND TO OTHER RELATED LAWS

Section 80

Part Five of Act No. 239/2012 Coll. Amending Act No. 563/1991 Coll. on Accounting, as Amended, and to Other Related Laws, is hereby repealed.

PART FIFTEEN

EFFECT

Section 81

This Act shall enter into effect on 1 January 2013, except the provisions of Section 27, which shall enter into effect on 1 January 2016.

Transitory Provisions introduced by Art. II of Act No. 139/2016 Coll.

1. The specialisation of experts appointed before the effective date of this Act separately for the economic and the content area is cancelled as of the effective date of this Act and such experts shall be considered experts appointed under Act No. 496/2012 Coll., as amended from the effective date of this Act.
2. Applications for film support filed before the effective date of this Act shall be decided by the Fund in accordance with Act No. 496/2012 Coll. which was in effect before the effective date of this Act.
3. Applications for registration of an incentivised project, incentivised project listing applications and applications for a production incentive relating to the same incentivised projects shall be decided by the Fund in accordance with Act No. 496/2012 Coll. which was in effect before the effective date of this Act, provided that at least the application for registration of the incentivised project was filed before the effective date of this Act. Incentivised project listing applications submitted after the effective date of this Act but before 1 January 2017, as well as the incentivised project listing applications and applications for a production incentive relating to the same incentivised projects shall be decided by the Fund in accordance with Act No. 496/2012 Coll. effective from 1 January 2017. The applicants whose incentivised project listing applications were decided before the effective date of this Act under Section 47(5) and (6) of Act No. 496/2012 Coll. which was in effect before the effective date of this Act shall submit an incentivised project listing applications under Section 46(2) of Act No. 496/2012 Coll. which was in effect before the effective date of this Act within 3 months after the effective date of this Act. Application for registration of an incentivised project submitted before 1 January 2017 shall be decided by the Fund by 31 January 2017 at the latest.
4. The obligations to pay the broadcast advertising fee for the fee periods preceding the effective date of this Act and for the fee period commencing in 2016, as well as the related rights and obligations, shall be governed by Act No. 231/2001 Coll. on the Operation of Radio and Television Broadcasting and on the Amendment to Other Laws, which was in effect before the effective date of this Act.
5. The Committee members appointed in accordance with the previous laws shall hold their office until at least 5 Committee members will be appointed in accordance with Act No. 496/2012 Coll., effective from the effective date of this Act.
6. Until launching of the electronic application for submission of applications for registration of an incentivised project, incentivised project listing applications, applications for a change of the certificate of registration of the incentivised project and applications for a production incentive by the Fund, such applications shall be filed in writing on the forms published by the Fund by a manner allowing remote access.
7. Until launching of the electronic application for submission of fee statements by the Fund, the fee statements shall be submitted in writing or electronically on the forms published by the Fund by a manner allowing remote access.
8. The revenue amount for the purposes of Section 24a of Act No. 496/2012 Coll. which is effective from the effective date of this Act, determined in accordance with the annual financial statements of the Fund for 2015, shall correspond to the sum of the revenue from audiovisual fees and revenue from broadcast advertising fees.

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- 1) Section 62 of Act No. 121/2000 on Copyright, Rights Related to Copyright, and Amending Certain Acts (the Copyright Act).
 - 2) Act No. 40/1995 on Advertising Regulation, and Amending Act No. 468/1991 on Radio and Television Broadcasting, as amended, as amended.
 - 3) Section 12 of Act No. 121/2000, as amended by Act No. 216/2006.
 - 4) Section 79 of Act No. 121/2000.
 - 5) Communication of the Ministry of Foreign Affairs No. 26/2000 on the adoption of the European Convention on Cinematographic Co-production.
 - 6) Section 14 to 16 of Act No. 121/2000.
 - 7) Act No. 132/2010, on On-demand Audiovisual Media Services, and Amending Certain Acts (the On-demand Audiovisual Media Services Act), as amended by Act No. 302/2011.
 - 8) Section 21 of Act No. 121/2000, as amended by Act No. 216/2006.
 - 9) Section 2(1)(d) of Act No. 132/2010.
 - 10) Section 15 of Act No. 121/2000, as amended by Act No. 216/2006.
 - 11) Section 16 of Act No. 121/2000, as amended by Act No. 216/2006.
 - 12) Section 55(1) of Act No. 219/2000 on the Property of the Czech Republic and its Representation in Legal Relationships, as amended.
 - 13) Section 64 of Act No. 121/2000, as amended by Act No. 216/2006.
 - 14) Section 7 of Act No. 121/2000.
 - 15) Section 53 of Act No. 218/2000 on Budgetary Rules and Amending Certain Related Acts (the Budgetary Rules), as amended, and Section 54 of Act No. 219/2000, as amended.
 - 16) Act No. 499/2004 on Archives and Record Management Services and Amending Certain Acts, as amended.
 - 17) Section 106(4) of Act No. 121/2000.
 - 18) Act No. 561/2004 on Pre-school, Elementary, Secondary, Post-secondary Vocational and Other Education (the “School Act”), as amended.
 - 19) Act No. 111/1998 on Universities and Amending Other Acts (the University Act), as amended.
 - 20) Section 214 of Act No. 89/2012 Civil Code.
 - 21) Act No. 248/1995 on Public Benefit Organisations and Amending Certain Acts, as amended.
 - 22) Section 4 of Act No. 121/2000.
 - 23) Section 28 of Act No. 218/2000.
Section 54 of Act No. 219/2000, as amended.
 - 24) Act No. 563/1991 on Accounting, as amended.
 - 26) For example, Section 26(2) to (4) and Section 74 of Act No. 121/2000, as amended.
 - 27) Section 14 of Act No. 273/1993 on Certain Conditions of the Production, Distribution and Archiving of Audiovisual Works, and Amending Certain Acts and Other Regulations.
 - 28) For example, Section 26(2) to (4) of Act No. 121/2000, as amended by Act No. 216/2006.
 - 29) Section 201(3) of Act No. 262/2006 – the Labour Code, as amended.
 - 30) Section 51 of Act No. 513/1991, the Commercial Code.
 - 31) Section 14(1) of Act No. 500/2004, Rules of Administrative Procedure.
 - 32) Section 44 of Act No. 218/2000, as amended.
 - 33) E.g., Section 26(2) of Act No. 121/2000, as amended by Act No. 216/2006.
 - 34) Act No. 231/2001, as amended.
 - 35) Act No. 365/2000, on Public Administration Information Systems and Amending Certain Other Acts, as amended.
 - 36) Section 146 of Act No. 500/2004.
 - 37) Section 4(b) of Act No. 101/2000 on the Protection of Personal Data and Amending Certain Acts, as amended.
 - 38) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Certain Legal Aspects Relating to Cinematographic and Other Audiovisual Works, OJ C 43, 16 February 2002 (Cinema Communication).
 - 39) Act No. 280/2009, the Tax Code, as amended.
 - 40) Act No. 586/1992 on Income Taxes, as amended.
 - 41) Section 3(c) of Act No. 218/2000 on Budgetary Rules and amending certain related laws (the Budgetary Rules).
 - 42) Act No. 125/2008, on Transformations of Companies and Cooperatives, as amended.
 - 43) Section 44 of the Budgetary Rules.
 - 44) Section 2(b) of Act No. 93/2009, on Auditors and Amending Certain Acts, as amended (the Auditors Act), as amended.
 - 45) Commission Communication (EC) 2004/C 244/02, Community Guidelines on State Aid for Rescuing Firms in Difficulty.

- 46) Section 402 f Civil Code.
- 47) Regulation No. 114/2002 on the Welfare Fund, as amended.
- 48) Act No. 269/1994 on the Criminal Register, as amended.
- 49) Communication from the Commission on State Aid for Films and Other Audiovisual Works 2013/C 332/01.