

## **Legislative texts currently in force, with proposed amendments highlighted**

### **Text currently in force of Act No. 496/2012 on Audiovisual Works and Support for Cinematography and on Amendment to Certain Acts (Audio/Video Act) with amendments highlighted**

#### PART ONE

#### AUDIO/VIDEO

#### 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 State Cinematography Fund, its financing, provision of support to projects in the sphere of cinematography (hereinafter referred to as “support for cinematography”) and provision of incentives to the film industry (hereinafter referred to as “film 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 Concepts**

(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 work<sup>1)</sup>,
- b) cinematographic work shall mean an audiovisual work intended for public performances; audiovisual works having the nature of advertising shall not be considered cinematographic work<sup>2)</sup>,
- c) producer shall mean a person who is the holder, or one of the holders, of an authorisation to use<sup>3)</sup> an audiovisual work, including any copyright works and artistic performances used audiovisually in it, and who possesses at the same time the audio/video recording producer rights<sup>4)</sup> 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 place of business, permanent residence or registered office in the Czech Republic, such contribution covering at least ~~20%~~ **10%** of the total production costs, or
  2. produced with a contribution of a co-producer with his place of business, permanent residence or registered office in the Czech Republic, combined with the contribution

of a co-producer not having its 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”)<sup>5)</sup> or 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, within his business,
  1. makes copies, or has copies made, for the purpose of the distribution, leasing or lending thereof<sup>6)</sup>, and distributes, leases or lends such copies in the Czech Republic,
  2. provides an authorisation to third parties to use an audiovisual work on the territory of the Czech Republic through cinematographic performances, through an on-demand audiovisual media service<sup>7)</sup> or by television broadcasting<sup>8)</sup>, 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 at his own cost and his own responsibility organises 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 to this Act.

## TITLE II

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

#### Section 3

#### **Captions for the Deaf and the Hard of Hearing**

(1) Captions for the deaf and the hard of hearing 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 deaf and the hard of hearing to follow the dialogue and the action in the audiovisual work.

(2) The distributor of a Czech audiovisual work shall provide the copies of such a work, distributed to the public in the Czech Republic, with captions for the deaf and the hard of hearing as referred to in Subsection 1 above and shall ensure that the inscription “Captioned for the Deaf and the Hard of Hearing” is printed on the packages of such copies.

#### Section 4

#### **Classification of Cinematographic Works**

(1) Before first presentation on 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 with his place of business, permanent residence or registered office in the Czech Republic shall classify the Czech cinematographic work and shall notify the distributor about the classification.

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

(3) The distributor shall notify the classification based on Subsections 1 and 2 above to each cinematographic performance organiser, on-demand audiovisual media service provider<sup>9)</sup> and any other persons to whom he (the distributor) grants authorisation to use the work on the territory of the Czech Republic.

(4) The distributor defined in Section 2(1)(g)(1) above shall provide the packages for 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, leases<sup>10)</sup> or lends<sup>11)</sup> 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 of a cinematographic work classified as indicated in Section 4(2)(c) or (d) shall ensure that the audiovisual trailers or other forms of advertising the cinematographic work distributed by him contain the designation of such a work's classification.

(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 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 making such a work 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) Upon concluding the contract under Subsection 4 above, the producer or co-producer referred to in Subsection 1 above shall not be obliged to deliver to the National Film Archive unencrypted digital copies of the Czech cinematographic work subject to the contract sooner than 12 months after the date of the first public presentation of the Czech cinematographic work. If such copies are delivered to the National Film Archive in encrypted digital form sooner than at the end of the above period, the producer or co-producer shall not be obliged to make access codes thereto available sooner than at the end of the period.~~

~~(6) A producer or co-producer referred to in Subsection 1 above, who is at the same time a recipient of support for cinematography from the State Cinematography Fund, intended for the production of a Czech cinematographic work in accordance with Section 31(1)(b), shall make a written offer to the National Film Archive in the form of a proposed contract on transfer for nil consideration 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, a copy of the script and the publicity material about the work, and shall do so within 60 days from the date of the first public presentation of such a work or, in the case of a copy in digital form, within 12 months from the first public presentation of such a work. The offer obligation based on Subsection 1 above shall apply to only one copy of the Czech cinematographic work in this case. Once such an offer is accepted such items shall become the property of the Czech Republic to be administered by the National Film Archive<sup>12)</sup>.~~

**(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 is subject to the contract concluded in accordance with Subsection 4 and shall do so sooner than 6 months after the date on which the contract was concluded; digital copies shall not be**

encrypted. Other items that are subject to the contract shall also be delivered to the National Film Archive within the same period.

**(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 support for cinematography 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 is 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 Archive<sup>12)</sup>. The transfer of the ownership of the copies of Czech cinematographic works according to Subsections 1 to 6 does not give 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 notify in writing the relevant regional authority about such persons. The notification 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 place of business in the Czech Republic, shall notify any such work to the National Film Archive no later than by 31 January following after 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 about any cinematographic work presented within his distribution to the public in the Czech Republic through cinematographic performances, and shall do so no later than by 31 January following after 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 Czech, 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 audiovisually<sup>13)</sup>, if known and unless the author expressed his wish to make his work public without indicating the name<sup>14)</sup>; 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) 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 the name<sup>14)</sup>,
- 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 place of business or permanent residence, of the producer or all co-producers who have their registered office, permanent residence or place of business on the territory of the Czech Republic,
- e) 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) length of the cinematographic work in metres and 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 together, with registered office, permanent residence or place of business in the Czech Republic, to the financing of the costs of the production of the Czech cinematographic work, and the percentage contribution of the co-producer, or all co-producers together, with registered office or place of business on 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 co-producers with registered office, permanent residence or place of business in the Czech Republic received support for cinematography from the State Cinematography 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 fulfilling 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 invite the obliged person to complement the notification within 15 days from the date of delivery of the invitation. Should the obliged person fail to do so within 15 days from the date of delivery of the invitation, the obligation referred to in Subsections 1 and 2 above shall be deemed unfulfilled.

(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 notify in writing the relevant regional authority about such persons. 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”) with registered office in Prague, established by the Ministry as an organisation partly financed from public budgets<sup>15)</sup>, is a specialised archive<sup>16)</sup> 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 film-industry secondary and post-secondary vocational schools and film universities, and to publish specialised literature.

(2) National film heritage means audiovisual works and the carriers that contain them, 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 cinematography, culture and the society and are administered by the Archive as the property of the Czech Republic<sup>12)</sup>; national film heritage also means the producer’s rights and obligations in relation to the audio/video recordings belonging to the Archive in accordance with another legal regulation<sup>17)</sup> and the rights towards the objects of intellectual property rights or the rights of use thereof acquired by the Archive for the Czech Republic on a contractual basis and exercised by the Archive.

(3) Recordings of the audiovisual works, ~~in respect of which the Archive is authorised to make the work available to the public,~~ shall be provided by the Archive for educational purposes to film-industry secondary and post-secondary vocational schools<sup>18)</sup>, to film universities<sup>19)</sup>, and to ~~civic associations<sup>20)</sup>~~ **associations<sup>20)</sup>**, **institutes<sup>46)</sup>** or public benefit organisations<sup>21)</sup> organising cinematographic performances, provided that the Archive or the applicant has acquired 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 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 the effective date of this Act 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 with an applicant shall be invalid.

(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

against an order from 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 purposes<sup>22</sup>).

(6) Any legal action 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 legal regulations 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 STATE CINEMATOGRAPHY FUND AND THE PROVISION OF SUPPORT FOR CINEMATOGRAPHY

#### Volume 1

#### State Cinematography Fund

#### Part 1

#### Status of the State Cinematography Fund

#### Section 9

(1) The State Cinematography Fund (hereinafter referred to as the "Fund") shall be established with its registered seat in Prague.

(2) The Fund is a state-owned fund<sup>23</sup>), which is entitled to administer the property of the Czech Republic.

(3) Details of the Fund's activities, internal organisation, financial management, the provision of support for cinematography and provision of film 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 shall be submitted by the Fund's Council (hereinafter referred to as the "Council") to the Minister of Culture (hereinafter referred to as the "Minister"). Provisions concerning film incentives, submitted to the Council by the Fund's Director, shall be included by the Council in the Fund's draft statutes.~~ **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 Funds 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 legal regulation<sup>24)</sup>. 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 from 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.

## **Part 2**

### **Activities of the Fund**

#### **Section 10**

#### **Responsibilities and Activities of the Fund**

(1) The Fund shall, in particular:

- a) administer audiovisual fees, ~~charges for broadcast advertising<sup>25)</sup>~~ and administrative fees in accordance with this Act,
- b) maintain files in the audio/video sphere,
- c) provide support for cinematography,
- d) exercise ownership rights, including copyright and the ownership rights of performing artists, which pass to the state in accordance with another legal regulation<sup>26)</sup>,
- e) exercise the audiovisual work producer rights that have passed to its legal predecessor in accordance with another legal regulation<sup>27)</sup> and the audio/video recording producer rights, pertaining to it in accordance with another legal regulation<sup>17)</sup>,
- f) grant the co-producer status in accordance with the Convention or under any other international agreement on film co-production,
- g) provide film incentives,
- h) **carry out methodological, publicity and strategic activities in the cinematography and film industry areas,**
- h) i) perform activities defined by other legal regulations<sup>28)</sup>.

(2) The Fund shall make public its approved annual report in a manner allowing for remote access.

## **Part 3**

### **The 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 ~~Supervisory Committee (hereinafter referred to as the "Committee")~~ Committee.

(2) The members of the Council and the Committee, and the Fund's employees, shall respect the confidentiality of the information 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 the ~~Ministry's chapter of the national budget.~~ subsidy provided by the Ministry.

## Section 12

### **Director of the Fund**

(1) The Director of the Fund shall be appointed and dismissed 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 finance.

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

- a) ensure that the Council's decisions on the support for cinematography are carried out,
- b) inspect the final account in respect of the support for cinematography,
- c) ~~decide on film incentives~~ **issue decisions on film 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 cinematography support funds have been used in contravention of the purpose defined in the decision on support for cinematography 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 policy and strategy of support for cinematography,
- b) define and publish the criteria for the evaluation of projects on the basis of the film production support policy,
- c) decide on the form of support for cinematography, on support for projects and the amounts thereof ~~with respect to expert analysis,~~ **and the conditions under which the support is provided,** and
- d) perform other activities entrusted to the Council by law 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 support for cinematography in cases specified in the Rules of Administrative Procedure or on the basis that he is personally interested in the decision or that personal advantage 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 support for cinematography, 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 dismissed by the Chamber of Deputies upon the proposal of the Minister, and shall be chosen from among recognised and experienced practitioners in the cinematography sphere, who have been proposed to the Minister by civic associations, public benefit organisations and special interest associations of legal persons operating in the cinematography sphere, secondary and post-secondary vocational schools with focus on film, and film universities (hereinafter referred to as "professional organisations"), with the exception of collective administrators of copyright and rights related to copyright.~~

**(2) Council members shall be elected and dismissed by the Chamber of Deputies upon the proposal of the Minister, and shall be chosen from among recognised persons with experience in the cinematography sphere who have been proposed by trade union organisations associating authors of audiovisual works or works used audiovisually, associations, public benefit organisations, institutes and special-interest associations of legal persons operating in the cinematography sphere except 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 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 nearest meeting following the election of a third of Council members as referred to in Subsection 3, the Council shall elect from among its members the Chairperson and Vice-chairperson. The Chairperson shall direct the activities of the Council and convene its meetings. The Vice-chairperson shall substitute for the Chairperson in the Chairperson's absence.

(5) Being a member of the Council is a public office and the exercise thereof shall be regarded as obstacle to work for reasons of public interest<sup>29)</sup>.

(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 reimbursement for travel expenses related to exercising 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 for 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 to 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) 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.

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.

(2) 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 his Advisory Board, member of the Council of the Czech Telecommunication Office, member of the Bank Council of the Czech National Bank, member of the Council for Radio and Television Broadcasting and member of the Czech Television Council.

(3) Council membership shall be incompatible with a basic employment relationship to the Fund.

## Section 16

### **Termination of Council Membership**

(1) Council membership shall terminate:

- a) by the expiry of the term of office,
- b) on the date of delivery of the Council member's written announcement of resignation to the Chairperson of the Chamber of Deputies,
- c) on the date of delivery to the Council member of the decision to dismiss him from office,
- d) on the date of finality of a court decision to divest the Council member of his 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 dismiss 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, substituting for 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:~~

- ~~a) supervise whether the funds provided as support for cinematography have been used in compliance with the purpose indicated in the decision on the provision of support,~~
- ~~b) in the case of finding that the funds intended for support for cinematography have been used unreasonably or uneconomically, or in the case of suspicion of such use of these funds, immediately submit the findings or suspicion, together with available evidence, to the Director of the Fund for investigation,~~
- ~~c) supervise how other tasks and activities of the Fund under this Act were performed in the preceding calendar year, and~~
- ~~d) execute other tasks laid down in this Act.~~

~~(2) Members of the Committee shall be entitled to inspect, after the end of a project for which support for cinematography was provided, all documents and records of the Fund, which are held by the Fund and which are related to the use of the funds intended for support for cinematography by the beneficiaries of the support, such inspection being without prejudice to the rights under other legal regulation<sup>30</sup>.~~

#### § 17

#### The Committee

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

**(2) In carrying out their 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, on the basis that such a Committee member has personal interest in the matter being considered or that a personal advantage 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 the Committee and the Manner in which Decisions are Made**

(1) The Committee shall have 9 members.

~~(2) Committee members shall be appointed and dismissed by the Minister and shall be chosen from among the representatives of payers of charges for broadcast advertising and administrative fee payers under this Act upon proposal of such payers.~~

**(2) 2 Committee members shall be appointed and dismissed by the Minister, 2 Committee members shall be appointed and dismissed by the Minister of Finance, and 5 Committee members shall be appointed and dismissed 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. One third of Committee members shall be appointed by the Minister each year. Re-election is possible.~~

(4) The Committee shall elect from among its members the Chairperson and Vice-chairperson every year.

(5) The Chairperson shall direct the activities of the Committee and convene its meetings. The Vice-chairperson shall substitute for the Chairperson in the Chairperson'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 for him with respect to the results of considering 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 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 submission thereof, and the election of the Committee Chairman and Vice-chairman and to 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) 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 his Advisory Board, member of the Council of the Czech Telecommunication Office, member of the Bank Council 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 a basic employment relationship to 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 ~~Minister~~ **person entitled to appoint him to the office**,
- c) on the date of delivery to the Committee member of the decision to dismiss him from office,
- d) on the date of finality of a court decision to divest the Committee member of his 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~~ **payer of, or person/entity liable to pay, the audiovisual fee** that nominated him for appointment to Committee membership.

(2) The ~~Minister~~ **person entitled to appoint a Committee member to the office** shall dismiss 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, ~~or~~

- e) the Committee member has not taken part in Committee meetings for longer than 6 months, or
- f) **the dismissal 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.

## Part 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 propose, ~~for each organisation, content experts and economic 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 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 practitioners in the cinematography sphere **with experience in the activities that are subject to support within the subsidy heading under Section 31 for which such a natural person is proposed,** and
- d) has not be dismissed 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 employment in the Fund.

(5) On the basis of proposals referred to in Subsection 1, and upon the Council's recommendation, the Minister shall appoint ~~content experts and economic experts~~.

(6) An expert is a public officer in accordance with the Rules of Administrative Procedure<sup>31</sup>).

#### 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. ~~from among whom the Director of the Fund or an employee of the Fund authorised by the Director shall, in the presence of two Council members authorised for that purpose by the Council, choose by ballot those who will prepare expert analyses.~~ This list shall be accessible in a manner allowing for remote access. ~~Details of the ballot process and the method of its checking and making public its result shall be determined in the Fund's statutes.~~

(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 divest the expert of his 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 dismiss an expert from his position upon the Council's proposal, if:

- a) the expert has ceased to meet the requirements for exercising his office,
- b) the expert has committed conduct threatening to affect the confidence in his independence or impartiality in exercising his position,
- c) the expert has seriously damaged the dignity of the office exercised by him,
- d) the expert has acted in favour of political parties or political movements in connection with exercising his office as a Council member, ~~or~~
- e) the expert has repeatedly failed to properly discharge his duties under this Act or other legal regulations, or the Fund's statutes, **or**
- f) the Council determines in its decision that the expert analyses prepared by the expert fail to serve as 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 cross 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 support for cinematography is requested. Expert analysis serves as a basis for the Council's decision.

(2) The Fund's Office provides **2 expert analyses** ~~one expert analysis of content and one economic expert analysis~~ for each application for support for cinematography. The Council may request an additional expert analysis.

~~(3) The details of the content analysis and economic analysis and the maximum amount of the expert's fee shall be determined in the Fund's statute.~~

**(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, and the requisites of an expert analysis and the amount of the expert's fee shall be determined in the Fund's Statutes.**

## Volume 2

### The Fund's Resources and Expenses

#### ~~Section 24~~

#### ~~The Fund's Resources and Expenses~~

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

- ~~a) charges for broadcast advertising<sup>25)</sup>,~~
- ~~b) audiovisual fees,~~
- ~~c) administrative fees under this Act,~~
- ~~d) income from the Fund's agreed share of the profit generated by supported projects,~~

- e) ~~income from transactions with the property of the Czech Republic the Fund is entitled to manage,~~
- f) ~~interest on the Fund's cash at bank,~~
- g) ~~income from the investments of the Czech Republic in legal entities' businesses in the film industry,~~
- h) ~~income from public collections and lotteries for the benefit of the Fund and of support for cinematography,~~
- i) ~~income from the use of cinematographic works, if transferred to the Fund,~~
- j) ~~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 the producer<sup>17)</sup>,~~
- k) ~~income from the securities acquired by the Fund from other persons and entities,~~
- l) ~~gifts, legacies and devises for the Fund,~~
- m) ~~penalty payments for breaches of budgetary discipline<sup>32)</sup>, including fines,~~
- n) ~~subsidy from the national budget,~~
- o) ~~subsidy from the national budget, specifically intended for film incentives, and~~
- p) ~~other sources as specified in other legal regulations<sup>33)</sup>.~~

~~(2) The balance of the Fund's financial resources at the end of the calendar year shall be kept by the Fund to be transferred to the next calendar year; the balance of the Fund's resources under Subsection 1(n) and (o) can be used in the subsequent years in accordance with Subsection 3 below only for the purpose for which the subsidy was provided.~~

~~(3) The Fund's financial resources referred to in Subsection 1(a) to (n) and 1(p) are used to provide support for cinematography under the headings listed in Section 31 and to cover other expenditures, including those under Section 11(4), unless they are covered from the national budget. The Fund's financial resources referred to in Subsection 1(o) shall be used for the provision of film incentives.~~

## 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 at 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 collections for the benefit of the Fund and of support for cinematography,**
- 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 producer<sup>17)</sup>,**
- 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 discipline<sup>32)</sup>, including fines,**

- m) subsidy from the national budget,
- n) subsidy from the national budget, specifically intended for film incentives,
- o) subsidy provided from the national budget every year, specifically intended for support for cinematography, whose amount and calculation are specified in Section 24a, and
- p) other resources as specified in other legal regulations<sup>33</sup>.

(2) The balance of the Fund's financial resources at the end of the calendar year shall be kept by the Fund to be rolled over to the next calendar year; the balance of the Fund's resources under Subsection 1(m) and (o) can be used in the subsequent years only for the purpose for which the subsidy was 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 terminates.

(3) The Fund's financial resources referred to in Subsections 1(a) to (m) and Subsections 1(o) and (p) shall be used to provide support for cinematography 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 film 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*<sup>47</sup> 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 the payment of other expenses, which cannot be covered in any other manner.

## § 24a

(1) The subsidy provided from the national budget every year is a financial resource of the Fund, 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.

## Volume 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, ~~and~~
- 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 (without 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 date when the cinematographic performance takes place,~~
- ~~b) the amount of admission fee collected for organising the cinematographic performance,~~
- ~~c) how many times the cinematographic performance has been held.~~

**(6) The payer of the fee for cinematographic performance shall maintain files 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 provider<sup>7)</sup> 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 files for purposes related to the fee. These files 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 regulation<sup>34)</sup> 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 files for purposes related to the fee. These files 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) date when air time for advertising was provided,
- b) 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) 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 ~~audiovisual fee 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 ~~form and~~ 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 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.

## Volume 4

### Registers in the Audio/Video Area

## Section 30

### Registers in the Audio/Video Area

(1) For the purposes of administration of the support provided to cinematography and for informing the public about the support provided, the Fund shall register:

- a) the applicants for support for cinematography,
- b) the applications for support for cinematography, and
- c) the support provided to cinematography.

(2) Registers referred to in Subsection 1 above shall be regarded as a public administration information system<sup>35</sup>). 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 support for cinematography until expiry of 3 years from the finality of the decision on the support for cinematography.

(4) In maintaining the registers referred to in Subsection 1 above, the Fund shall use as a basis the applications for support for cinematography and the decisions on the support for cinematography.

## Volume 5

### **Provision of Support for Cinematography**

#### Part 1

#### **General Provisions on Support for Cinematography**

##### Section 31

#### **Subsidy Headings and the Limits of the Funds Provided**

(1) Support for cinematography from 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 cinematography,
- e) promotion of a Czech cinematographic work,
- f) publishing activities in the field of cinematography and activities in film science,
- g) preserving the national film heritage and making it accessible to the public,
- h) education and training in the field of cinematography,
- i) film festival and film show in the field of cinematography, or
- j) protection of the rights related to cinematographic works and the recordings thereof.

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



- ~~a) the amount of funds provided by the Fund, including, but not limited to, an estimate of the total expenditures under all subsidy headings referred to in Subsection 1 above for a calendar year, expenditures under each subsidy heading for a calendar year, expenditures under each subsidy heading in relation to individual calls referred to in Subsection 33(1) below and the maximum amount of subsidy for a project in per cent or as a specific amount,~~
- b) a) 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,
- e) b) 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 Support for Cinematography**

(1) The money from the Fund intended for support for cinematography 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 agreement shall contain a provision about decision on the provision of support shall contain the Fund's share~~ of the income from the project.

## Part 2

### **Application for Support for Cinematography**

## Section 33

### **Call for Submission of Applications for Support for Cinematography**

~~(1) The Office of the Fund shall announce the Fund's call for submission of applications for support for cinematography under the individual subsidy headings referred to in Section 31 (hereinafter referred to as the "call") at least four times a year.~~

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

(2) The information to be contained in the call shall include the start date of the period for submission of applications for support for cinematography, the length of the period for submission of applications for support for cinematography, 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 Support for Cinematography**

(1) An application for support for cinematography shall be submitted in 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 support for cinematography in electronic form into the Fund's system maintained in a manner allowing for remote access<sup>36</sup>.

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

(3) In addition to the essentials based on the Rules of Administrative Procedure, an application for support for cinematography 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 support for cinematography preferred by the applicant, and the amount thereof; if the applicant requests only a certain specific form of support for cinematography, 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 (g) 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 support for cinematography.

#### Part 3

### **Making Decisions about Support for Cinematography**

#### Section 35

### **Making Decisions about Support for Cinematography**

(1) In deciding about support for cinematography, the Council is not obliged to respect the form of support for cinematography 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 support for cinematography, 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 Czech and European cinematography,
- c) the project's cultural importance for Czech cinematography,
- 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 Czech cinematography 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 support for cinematography shall contain information about:

- a) the form and amount of support for cinematography,
- b) the purpose for which the support for cinematography is being provided,
- c) conditions of the use of the support for cinematography,
- d) 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) 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 support for cinematography 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, in 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 to prepare an expert analysis fails to submit the analysis within the required timeframe.**

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

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

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

## Section 36

### **Amendment to a Decision on Support for Cinematography**

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

(2) Changed circumstances, as 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 ~~conditions specified in the decision~~ on support for cinematography, the applicant shall pay an administrative fee.

(4) There is no appeal against the Council's decision on the application for changing the ~~conditions specified in the decision~~ on support for cinematography.

**(5) The application to change a decision on support for cinematography shall be submitted in electronic form using an electronic application allowing for remote access. The application to change a decision on support for cinematography 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 Support for Cinematography**

(1) If the application for support for cinematography 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. ~~When the expert analyses are completed the Fund's Office shall refer the application for support for cinematography and the expert analyses to the Council without undue delay.~~ **The Fund's Office shall deliver to the Council the application for support for cinematography as referred to in the preceding sentence, and the expert analyses shall also be so delivered.** The Council shall then evaluate the application for support for cinematography in accordance with Section 35(2) above and shall make its decision on the application for support for cinematography at its meeting.

(2) The decision on an application for support for cinematography, **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 support for cinematography.

**(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) the application for support for cinematography and application for changing the ~~conditions specified in the decision~~ on support for cinematography,
- 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 support for cinematography,**

- c) **information on**
1. **the amount and form of the support for cinematography and the period of time available to complete the project for whose implementation the support for cinematography was provided,**
  2. **changes to the amount or form of the support provided for cinematography 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. **rejection of an application for support for cinematography and application for changing the decision on support for cinematography.**

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

- a) sensitive personal data<sup>37)</sup>,
- b) trade secret,
- c) data concerning persons taking part in the project other than the recipient of the support,
- d) copyright 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 Support for Cinematography**

(1) ~~A recipient of support for cinematography shall meet certain requirements he shall:~~

- ~~a) be registered in a register in the audio/video area, as specified in Section 30,~~
- ~~b) have integrity; an individual convicted with finality of property related or economic 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 its 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, this requirement shall be met by the governing body or each member of the governing body of such a legal person,~~
- ~~c) 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 another legal regulation,~~
- ~~d) not be in liquidation,~~
- ~~e) 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 his registered office, place of business or residence,~~
- ~~f) have no registered arrears in the tax records maintained by the internal revenue authorities and the customs authorities of the Czech Republic and in the tax records maintained by the tax authorities and other such authorities of the State where he has his registered office, place of business or residence,~~
- ~~g) have no arrears of social insurance premiums and contributions to the employment policy, and no past due penalties in respect of such premiums and contributions in the Czech Republic and in the State of his registered office, place of business or residence, and~~
- ~~h) have no past due liabilities payable to the Fund.~~

~~(2) To satisfy itself of the integrity of the applicant, the Fund shall request a no criminal record certificate for the applicant. If a legal person is the applicant, the Fund shall request a no criminal record certificate for the applicant's governing body or each member of the governing body, and if a legal person is the governing body or a member of the governing body, the Fund shall request a no criminal record certificate for such a legal person's governing body or each member of the governing body.~~

~~(3) If the applicant is a citizen of a state other than the Czech Republic or a Czech national who has been in a state other than the Czech Republic for at least 6 months during the last three years, such an applicant shall, for the purposes of proving his integrity, also furnish a no criminal record certificate or an equivalent document issued by a relevant court or administrative body of such a state or of the state of his last residence (hereinafter referred to as the "no criminal record certificate"). If a legal person is the applicant, it shall, for the purposes of proving its integrity, furnish a no criminal record certificate for its governing body or each member of the governing body, and if a legal person is the governing body or a member of the governing body, it shall also furnish a no criminal record certificate for such a legal person's governing body or each member of the governing body.~~

~~(4) If the state referred to in Subsection 3 above does not issue no criminal record certificates, a natural person shall submit a statutory declaration of integrity made before a notary public or before an authority of the state whose citizen he is or before a notary public or an authority of the state of his last residence. 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.~~

## Section 39

### Recipient of Support for Cinematography

- (1) A recipient of support for cinematography 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 support for cinematography or a member of the governing body of the recipient of support for cinematography 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 support for cinematography 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, 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, 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, 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, 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 a no-criminal-record certificate 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 a no-criminal-record certificate 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 a no-criminal-record certificate 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 a no-criminal-record certificate 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 no-criminal-record certificate”). 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 no-criminal-record certificate (hereinafter referred to as the “local no-criminal-record certificate”). If a legal person is the applicant, it shall, for the purposes of proving its integrity, furnish a foreign no-criminal-record certificate and local no-criminal-record certificate 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 no-criminal-record certificate and local no-criminal-record certificate 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) no-criminal-record certificate with a supplement containing information recorded in the criminal records of such another Member State of the European Union instead of a foreign no-criminal-record certificate<sup>48</sup>).**

**(4) If the state referred to in Subsection 3 above does not issue no-criminal-record certificates, 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 Support Provided to Cinematography**

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

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

(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 review 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 support for cinematography 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 support for cinematography that are made by an applicant or recipient of support shall be submitted in electronic form through an electronic application allowing for remote access. The applicant or recipient of support shall enter such submissions in 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.

#### Volume 6

### **Provision of Film Incentives**

#### Article 1

### **General Provisions on Film Incentives**

#### Section 42

### **~~Conditions for the Provision of Film Incentives and the Definition of Concepts~~**

- ~~(1) Film incentives may be provided for the realisation of an audiovisual work,~~
- ~~a) which is at least partly realised in the Czech Republic,~~
  - ~~b) which is~~
    - ~~1. a live action or animated film intended for theatrical distribution, whose length is at least 70 minutes,~~
    - ~~2. a documentary film intended for theatrical distribution and for TV broadcast, whose length is at least 70 minutes,~~
    - ~~3. a live action or animated film intended for TV broadcast, whose length is at least 70 minutes,~~
    - ~~4. an episodic segment of a live action or animated TV series, whose length is at least 40 minutes, or a series of such episodic segments,~~
  - ~~c) which meets the content requirements; this shall mean, for film incentive purposes, that the content of the audiovisual work:~~
    - ~~1. complies with applicable European Union regulations<sup>38)</sup>, which shall be proved by the cultural test,~~
    - ~~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 producer or co-producer is a person having his place of business, permanent residence or registered office in the Czech Republic and is registered with a relevant local tax authority in the Czech Republic,~~
  - ~~e) whose total amount of eligible costs incurred in connection with its realisation on the territory of the Czech Republic is at least:~~

- ~~1. CZK 15,000,000 in the case of an audiovisual work under clauses b(1) and (3) above,~~
- ~~2. CZK 3,000,000 in the case of an audiovisual work under clause b(2) above,~~
- ~~3. CZK 10,000,000 in the case of an audiovisual work under clause b(4) above.~~

~~(2) For film incentive purposes, realisation of an audiovisual work shall mean:~~

- ~~a) pre-production,~~
- ~~b) production processes,~~
- ~~c) dissolution of production.~~

~~(3) Incentivised project shall be understood to mean the realisation of an audiovisual work and the necessary related activities aimed at creating an audiovisual work.~~

~~(4) For film incentive purposes, eligible costs shall mean:~~

- ~~a) payment for the supply of goods and services directly related to the incentivised project to a person having his place of business, permanent residence or registered office in the Czech Republic and registered with a relevant local tax authority in the Czech Republic<sup>39)</sup>, provided that the supply so paid for took place after the date of submission of the application for registration of the incentivised project,~~
- ~~b) payment of remuneration to actors and members of the crew having their place of business, permanent residence or registered office outside the Czech Republic, if this compensation is subject to taxation in the Czech Republic<sup>40)</sup>, provided that the supply so paid for took place after submission of the application for registration of the incentivised project.~~

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

- ~~a) a positive and negative enumeration of eligible costs according to the individual incentivised project types,~~
- ~~b) method of proof the costs and the eligibility thereof,~~
- ~~c) detailed conditions of the provision of film incentives not addressed in law,~~
- ~~d) method of proof that the conditions for the provision of film incentives have been met.~~

## Section 42

### Conditions for the Provision of Film Incentives and the Definition of Concepts

**(1) Film incentives may be provided for the realisation of an audiovisual work,**

- a) which is at least partly realised in the Czech Republic,**
- b) which is**
  - 1. a live-action 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 episodic segment of a live-action or animated TV series, whose length is at least 30 minutes, or a TV series of more such episodic segments,**
  - 4. an animated TV series of at least 13 segments, where the length of one segment is at least 4 minutes,**
- c) which meets the content requirements; this shall mean, for film incentive purposes, that the content of the audiovisual work:**
  - 1. complies with applicable European Union regulations<sup>49)</sup>, which shall be proved by the cultural test when the application for registration is submitted,**

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 segment of a TV 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 segments of a TV series, or
  5. CZK 10,000,000 in the case under clause b(4) above.

(2) For film incentive purposes, realisation 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.

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

- a) the costs incurred by the applicant in paying for the supply of goods and services directly related to the incentivised project to a person having his place of business, permanent residence or registered office in the Czech Republic and registered for income tax in the Czech Republic, provided that such a payment 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 film incentive,
- b) the costs incurred by the applicant in paying remuneration to actors and members of the crew having their 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 film incentive,

**c) the applicant's remuneration for securing the production of an audiovisual work or a part thereof, which remuneration was received by the applicant before submission of the application for film 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.**

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

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

#### Section 43

#### **Purpose, Form and Amount of Film Incentives**

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

(2) Film incentives represent the 'other pecuniary resources' category of state funds in accordance with another legal regulation<sup>41)</sup>.

(3) Film incentives are public support<sup>38)</sup>. The Fund shall be the provider of film incentives.

~~(4) Film incentives shall be provided for the implementation of an incentivised project and shall take the form of reimbursement of:~~

- ~~a) 20% of eligible costs as per Section 42(4)(a),~~
- ~~b) 10% of eligible costs as per Section 42(4)(b).~~

**(4) Film 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 film incentive calculation is 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 film incentives.

~~(6) The Director of the Fund shall announce the conditions of the provision of film incentives for each calendar year in accordance with law and with the Fund's statutes with special regard to the law on national budget for the relevant calendar year.~~

~~(7) The conditions for the provision of film incentives for a given period as referred to in Subsection 6 above and the forms and current amount of available funds intended for film incentives (hereinafter referred to as "funds for film incentives") shall be published by the Fund in a manner allowing for remote access.~~

## Article 2

### **Making Decisions on Film Incentives**

#### Section 44

#### **Application for Registration of an Incentivised project**

~~(1) The application for registration of an incentivised project shall be submitted to the Fund in writing.~~

~~(2) The application for registration of an incentivised project shall contain the essentials of an application as specified in the Rules of Administrative Procedure and Appendices determined in the Fund's Statutes.~~

~~(3) When submitting an application for registration of an incentivised project, the applicant shall pay an administrative fee.~~

#### 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 tax resident of another Member State of the European Union or tax resident of any of the countries constituting the European Economic Area, provided that such a person has a permanent place of business 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 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 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 serious reasons, stop the acceptance of applications for registration of incentivised projects. Information that the acceptance of applications for registration of incentivised projects is stopped 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 on 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 invitation to do so, the Fund shall ~~reject the application for registration of the incentivised project.~~ **issue a resolution to stop the proceedings concerning the application. The Fund shall also issue a resolution to stop 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 reject the application for registration of the incentivised project.**

~~(2) The Film Incentive Commission (hereinafter referred to as the "Commission") shall evaluate the application for registration from the viewpoint of its compliance with the content requirements and shall issue an opinion on whether the incentivised project meets the content requirements for the provision of film incentives and shall furnish evidence in support of its opinion. The evidence supporting the Commission's opinion shall contain, without limitation, the results of the Commission's evaluation of the applicant's cultural test and information on how they comply with law and with the Fund's statutes.~~

**(2) If the Fund does not proceed in accordance with Subsection 1 above, the Fund shall refer the application for registration of an incentivised project to the Film Incentive Commission (hereinafter referred to as the “Commission”), which shall evaluate it from the viewpoint of 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 film incentive, and if the Commission determines that the incentivised project does not meet the content requirements for the provision of the film 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 film incentives, the Fund shall issue a certificate of incentivised project registration and shall inscribe the incentivised project on the incentivised project registration list, ~~doing so within 30 days of the date of submission of the application for registration of the incentivised project.~~ 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 compliance failure is treated as less serious may be highlighted by the Fund in the incentivised project registration certificate. The periods and conditions, which must constitute part of the incentivised project registration certificate, shall be made public by the Fund in a manner allowing for remote access.**

**(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 film incentives, the Fund shall reject the application for registration of the incentivised project, ~~doing so within 30 days of the date of submission of the application for registration of the incentivised project.~~ The administrative fee shall be returned to the applicant within 3 months of the rejection of the application.**

**(6) There is no appeal against the Fund’s decision on the application for registration of an incentivised project and against the resolution to stop the proceedings.**

**(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 expiry of the period for the 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 film 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, including on the basis of an altered script and irrespective of any change of name.**

#### **Section 46**

#### **~~Incentivised project Record Application~~**

~~(1) An applicant who has received a certificate of incentivised project registration shall be entitled to submit an incentivised project record application:~~

~~a) if he meets the requirements set out in Section 50(2);~~

~~b) if funds are available to him to cover at least 75% of the total costs to implement his incentivised project.~~

~~(2) If the Director of the Fund issues an announcement in accordance with Section 47(8), an incentivised project record application may be submitted by an applicant:~~

~~a) if the following documents have been delivered to him:~~

~~1. a decision to reject the incentivised project record application in accordance with Section 47(5), or~~

~~2. incentivised project record certificate in accordance with Section 47(6), or~~

~~3. incentivised project record certificate in accordance with Section 47(7),~~

~~b) if he meets the requirements set out in Section 50(2),~~

~~e) if funds are available to him to cover at least 75% of the total costs to implement his incentivised project.~~

~~(3) The subject matter of an application referred to in Subsection 2(a)(2) and (3) shall be the issuance of an incentivised project record certificate for an amount not exceeding the difference between the amount based on Section 43(4) and the amount indicated in the incentivised project record certificate delivered to the applicant.~~

~~(4) An incentivised project record application shall be submitted to the Fund in writing:~~

~~a) within the period of 3 months of the delivery of the certificate of incentivised project registration in the case of an application based on Subsection 1 above,~~

~~b) within the period of 3 months of the announcement by the Director of the Fund referred to in Section 47(8) in the case of an application based on Subsection 2 above.~~

~~(5) The incentivised project record application shall contain the essentials of an application as specified in the Rules of Administrative Procedure and Appendices determined in the Fund's Statutes.~~

#### **Section 47**

#### **Evaluation of the Incentivised project Record Application. The Listing of an Incentivised project**

~~(1) If an incentivised project record 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 record application is complemented within the period specified by the Fund, the date of submission of the complemented incentivised project record application shall be regarded as the date of a complete and duly submitted application. If the applicant fails to complement the incentivised project record application within 10 working days of the date of delivery of the Fund's invitation to do so, the Fund shall reject the incentivised project record application.~~

~~(2) If an incentivised project record application is submitted in contravention of Section 46(3) or (4), the Fund shall reject the incentivised project record application.~~

~~(3) Complete and duly submitted incentivised project record applications shall be inscribed by the Fund on the incentivised project file on a chronological basis according to the date of submission.~~

~~(4) If the applicant or the incentivised project fail to meet the conditions laid down by law or by the Fund's Statutes, the Fund shall reject the incentivised project record application.~~

~~(5) The Fund shall reject an incentivised project record application when the Fund has no funds available for film incentives.~~



~~(6) — When the Fund has no funds available for film incentives to be able to issue an incentivised project record certificate for a requested film incentive amount, the Fund shall issue an incentivised project record certificate for an amount smaller than that referred to in Section 43(4), depending on the amount of funds available for film incentives. The amount of funds available for film incentives shall be reduced by this amount.~~

~~(7) — If the funds available to the Fund for film incentives do not suffice to allow incentivised project record certificates, committing the requested amounts, to be issued to all applicants from whom the Fund received their incentivised project record applications on the same day, the Fund shall issue incentivised project record certificates committing lower amounts than referred to in Section 43(4), depending on the amount of the funds available for film incentives, the reduction of the amount referred to in Section 41b(4) being the same in percentage terms for all applicants. The amount of funds available for film incentives shall be reduced by the sum of these amounts.~~

~~(8) — If the amount of funds available for film incentives is increased, the Director of the Fund shall announce this and the amount currently available for film incentives, doing so in a manner allowing for remote access. Details of this announcement shall be specified in the Fund's statutes.~~

~~(9) — If the Fund makes its decision on an incentivised project record application in accordance with Subsections 5, 6 or 7 above, the applicant shall be entitled to apply for the listing of the same incentivised project again in accordance with Section 46(3).~~

~~(10) — If the Fund does not reject an incentivised project record application, the Fund shall issue an incentivised project record certificate. The incentivised project record certificate shall contain the expected film incentive amount. The amount of funds available to the Fund for film incentives shall be reduced by this amount.~~

~~(11) — An applicant who has been delivered an incentivised project record certificate shall thenceforth inform the Fund without undue delay about the following:~~

- ~~a) — the applicant's transformation in accordance with a special Act<sup>42)</sup>,~~
- ~~b) — any change in the applicant's legal form,~~
- ~~c) — the applicant's entry into liquidation,~~
- ~~d) — insolvency petition filed against the applicant,~~
- ~~e) — changes to the incentivised project, compared to what was indicated in the incentivised project record application,~~
- ~~f) — the applicant's participation in other programmes of support from public resources, from the resources of the European Union or from the resources of EU Member States in connection with the incentivised project, or about the provision of any other public support funds for implementing the incentivised project.~~

~~(12) — A breach of the applicant's obligations under Subsection 11 above shall be treated as a breach of budgetary discipline in accordance with a special legal regulation<sup>43)</sup>.~~

~~(13) — An applicant who has been delivered an incentivised project record certificate shall have the obligation to spend in connection with the realisation of his audiovisual work at least 70% of the amount of eligible costs referred to in Section 42(1)(e) in the Czech Republic during the subsequent 12 consecutive months, starting from the date of delivery of the incentivised project record certificate. To prove that this obligation has been met, the applicant shall submit an auditor's report on the review of the costs incurred in the realisation of the audiovisual work on the territory of the Czech Republic, including any in-kind supplies, in accordance with a special legal regulation.<sup>44)</sup>~~

~~(14) The auditor's report referred to in Subsection 13 above shall be prepared by an auditor who:~~

- ~~a) is authorised to carry out audit work in accordance with a special legal regulation;~~
- ~~b) has a third party liability policy, insuring him against liability for damage caused to a third party during the course of his work, the insurance benefit limit being at least CZK 100,000,000.~~

~~(15) If an applicant who has been delivered an incentivised project record certificate fails to meet his obligation referred to in the first or second sentence of Subsection 13 above, the Fund shall decide to withdraw its incentivised project record certificate. The amount of funds available for film incentives shall be increased by this amount. There is no appeal against the Fund's decision to withdraw an incentivised project record certificate.~~

~~(16) The Fund shall make its decision about the incentivised project record application within 30 days of the submission of a complete and duly submitted incentivised project record application.~~

~~(17) There is no appeal against the Fund's decision about the incentivised project record application.~~

~~(18) The Fund shall make the incentivised project file public in a manner allowing for remote access.~~

~~(19) The method to maintain the incentivised project file, and the procedure and conditions of changing an incentivised project record certificate, shall be laid down in the Fund's statutes.~~

#### **Section 48**

#### **Application for a Film Incentive**

~~(1) An applicant who has been delivered an incentivised project record certificate shall be entitled to submit an application for a film incentive within 3 years from the delivery of the certificate, provided that he meets the requirements laid down in Section 50(2).~~

~~(2) The application for a film incentive shall be submitted to the Fund in writing.~~

~~(3) The application for a film incentive shall contain the basic essentials based on the Rules of Administrative Procedure and Appendices determined in the Fund's Statutes.~~

~~(4) The auditor's report which shall be an integral part of the application form film incentive shall be prepared and checked by an auditor who meets the conditions specified in Section 47(14).~~

#### **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 compliance failure 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 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 Rules of Administrative Procedure, 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 invitation to do so, the Fund shall issue a resolution to stop 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 film 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 compliance failure 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, except the conditions in respect of which a compliance failure 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 compliance failure 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 implementation of the incentivised project is not realised or if it becomes impossible, because of changed circumstances, to submit an application for a film 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 film 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.**

**(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) There is no appeal against 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 against the Fund's resolution to stop the proceedings.**

**(9) The Fund shall make public the incentivised project files and the periods and conditions that must be part of the incentivised project registration certificate, and shall do so in a manner allowing for remote access.**

#### **Section 48 Application for a Film Incentive**

**(1) An applicant to whom an incentivised project listing certificate has been delivered shall be entitled to submit an application for a film 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 film incentive shall be submitted in electronic form using an electronic application accessible in a manner allowing for remote access. The applicant shall enter his application for film incentive in 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 film 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 film incentive. Otherwise an application for film 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 stopped.

(4) The amount corresponding to the film incentive according to the application for film incentive may be higher by up to 5%, but not by more than CZK 1,000,000, than the expected amount of film incentive indicated in the incentivised project listing certificate. In the event that an applicant submits 2 applications for a film 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 film incentive.

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

(6) The auditor's report, which shall be an integral part of the application for film incentive, shall be prepared by an auditor who is authorised to carry out audit activities in accordance with another legal regulation<sup>44</sup>.

#### Section 49

#### **Evaluation of the Application for a Film Incentive**

(1) If an application for a film 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 film incentive within 10 working days of the date of delivery of the Fund's invitation to do so, ~~the Fund shall reject the application for a film incentive.~~ **the Fund shall issue a resolution to stop 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 film incentive ~~within 30 days from the date of delivery of the application for a film incentive.~~ If all the conditions laid down in this Act are not met the Fund shall reject the application for a film incentive ~~within the same period of time.~~

(3) The Fund shall also reject an application for a film incentive if the applicant ~~fails to inform the Fund about the circumstances specified in Section 47 (11).~~ **breaches the conditions specified in the incentivised project listing certificate, except the conditions in respect of which a compliance failure is treated as less serious according to the incentivised project listing certificate.**

(4) The Fund shall commit and disburse the film incentive to the applicant's bank account within ~~14~~ 30 days from the decision on the film incentive, **provided that the applicant meets the conditions specified in Section 50(2) at the moment of payment of the film incentive.** The bank charges connected with this transaction shall be paid by the applicant.

(5) There is no appeal against the Fund's decision on the application for a film incentive.

(6) An overview of the film 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 film 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 film incentive, the Fund shall cancel the decision on the film incentive. There is no appeal against the Fund's decision to cancel its decision on the film incentive.**

#### Section 50 Film Incentive Recipient

(1) For the purposes of this Act, a film 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 film incentive.

(2) A film incentive recipient:

- a) shall meet the requirements of Section 39(1)~~(b) to (g)~~, **and Section 44(1),**
- b) shall not be a recipient of aid for rescuing and restructuring firms in difficulty<sup>45)</sup>,
- c) shall not be a person whose assets are subject to enforcement of a decision: **or execution.**

(3) A film 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 selected book entries are assigned to the incentivised project and actually correspond to the project being implemented,~~ **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 ~~completion of the incentivised project~~ **payment of the film incentive and make them available to the Fund on request** ~~in order to maintain an audit trail,~~
- e) ~~submit to the Fund, on the Fund's request, the most recent data on the implementation of the incentivised project within 15 days from receiving the Fund's invitation to do so,~~

- ~~d) note in the final credits of the incentivised project that the implementation of the incentivised project was supported by the Czech Republic through the Fund in the form of film incentives, and show the logo of the Fund,~~
- ~~e) submit to the Fund, on the Fund's request, the most recent version of the production plan, which must match the script, and do so within 15 days from receiving the Fund's invitation to that effect,~~
- 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, whose production was part of the incentivised project, that the production of the audiovisual work was supported by film 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, whose production was part of the incentivised project, on an audiovisual recording medium within 6 months from the first presentation of the audiovisual work to the public.**
- ~~f) bezúplatně poskytnout Fondu kopii filmu na elektronickém nosiči dat, a to do 3 měsíců od prvního zpřístupnění audiovizuálního díla veřejnosti v kině.~~

~~(4) The Fund shall cancel the incentivised project listing certificate if the film incentive recipient has breached an obligation under Subsection 3(e) or (e).~~

**(4) A breach of the obligations under Subsection 3 above shall be treated as a breach of budgetary discipline in accordance with another legal regulation<sup>43</sup>.**

### **Article 3**

#### **Section 51**

#### **Activities of the Commission, its Composition and the Manner in which Decisions are Made**

- (1) The Commission shall:
- a) evaluate the applications for registration of incentivised projects as to 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 film incentive in cases specified in the Rules of Administrative Procedure or on the basis that he is personally interested 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 and experienced practitioners in the audiovisual industry who have been proposed to the Minister by professional organisations, with the exception of collective administrators of copyright and rights related to copyright.~~

**(5) Commission members shall be appointed and dismissed by the Minister, and shall be chosen from among recognised persons with experience in the audiovisual industry 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 Chairperson and Vice-chairperson.

(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 government resolution upon the Minister's proposal. A Commission member shall be entitled to reimbursement for travel expenses related to exercising 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.

**(10) 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 Chairperson and Vice-chairperson and to the meetings of the Council 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 Council 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 dismiss him from office,



- d) on the date of finality of a court decision to divest the Commission member of his 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 dismiss 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 exercising 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.

## Volume 7

### **Co-production Status**

#### Section 53

#### **Making 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 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) aggregate amount of the planned costs of production of the cinematographic work (the budget),
- e) the financial 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 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.

Volume 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 audiovisual industry 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 an individual carrying out a business, and shall do so within 30 days from the finality of such a decision.

Volume 9  
**Administrative Offences**

Section 55

(1) Any legal person or any individual 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 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 place of business in the Czech Republic shall be regarded as committing 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 place of business in the Czech Republic shall be regarded as committing 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 place of business in the Czech Republic shall be regarded as committing 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 material 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 transfer for nil consideration in favour of the Czech Republic 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 administrative offence by:

- a) failing to ensure that the cinematographic work classification indicated by the distributor is published together with the announcement of the cinematographic performance, or by failing to ensure 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 any trailers having a stricter restriction label than the cinematographic work shown as the main feature of the cinematographic performance, doing so in contravention of Section 5(8) above.

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

- a) failing to provide the copies of a Czech audiovisual work, distributed to the public in the Czech Republic, with captions for the deaf and the hard of hearing or by failing to ensure that the inscription “Captioned for the Deaf and the Hard of Hearing” 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 on 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 on 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 administrative offence referred to in Subsection 6(a) to (e) above,

- b) CZK 100,000 in the case of 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 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 appeal 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**

#### Volume 1

### **Joint Provisions**

## Section 57

(1) To evidence that copyright or a performing artist's rights have passed to the state, the Ministry of 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) surname (last name),
- b) first name(s)

- c) residence address,
- d) date, place and district of birth; for data subjects born outside the Czech Republic: the date, place and country of birth,
- e) 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) first name(s) and surname (last name), and surname at birth,
- b) date of birth,
- c) permanent residence address, including previous permanent residence addresses,
- d) 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) 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 Support**

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

- a) 60% of the total costs of the project, if it is a project for whose implementation cinematography support was provided under the headings indicated in Section 31(1)(a) or (b) and which is jointly implemented by the applicant for cinematography support and one or more co-producers with their 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 support, 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 how culturally ambitious a project or audiovisual work is 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 what the maximum intensity of public support is in such a case; the Council shall determine this in its decision on the provision of cinematography**

**support, except as indicated in the following sentence. Decisions on whether an audiovisual work, for whose implementation a film incentive is provided and for which no decision on the provision of cinematography support under the headings indicated in Section 31(1)(b) has been issued as at the date of submission of the application for film incentive, is a culturally ambitious audiovisual work, and what the maximum intensity of public support is in such a case, shall be made by the Commission. In its decision on the film incentive, determining the conditions of the provision of the film incentive, the Fund shall respect the decision of the Commission.**

**(4) Considered as public support shall be support to cinematography and film incentive under this Act and any other resources of public support nature<sup>49)</sup> intended for the implementation of a project and made available to an applicant for cinematography support or applicant for a film 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 cinematography support, applicant for a film incentive or other individuals or legal entities taking part in the implementation of the project. With respect to film 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 in the Czech Republic.**

**(5) The Statutes of the Fund shall define the procedure of determining and proving the intensity of public support.**

## Volume 2 Transitional Provisions

### Section 58

(1) The Czech Republic State Fund for Support and Development of Czech Cinematography shall be dissolved. The Ministry shall file a petition to delete the Czech Republic State Fund for Support and Development of Czech Cinematography 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 Cinematography. 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 Cinematography, 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 Cinematography 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 Cinematography 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 Cinematography shall be entitled to remuneration determined in accordance with Section 14(6). The Council shall elect a new Chairperson and Vice-chairperson 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 Chairperson and Vice-chairperson from among its members.

## Section 60

The decisions on the applications submitted to the Czech Republic State Fund for Support and Development of Czech Cinematography 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 ~~the enforcement~~ 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 proceedings were commenced prior to the effective date hereof, shall be governed by the previous regulations, the provision of film 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.

### Volume 3 **Revoking Provisions**

### Section 67 **Revoking Provisions**

This is to revoke:

1. Act No. 241/1992 on the Czech Republic State Fund for Support and Development of Czech Cinematography.
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 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~~**2019**.

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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) Act No. 83/199 on Association of Citizens, 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.
- ~~25) Section 32a of Act No. 231/2001 on Radio and Television Broadcasting, and Amending Certain Acts, as amended by Act No. 302/2011.~~
- 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.**

**Text Currently in Force of Act No. 231/2001 on Radio and Television Broadcasting and on Amendment to Other Acts, as amended, with proposed amendments highlighted**

## Fee for Broadcast Advertising

### Section 32a

~~— (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 under Section 12(3)(a) and broadcasts a programme where cinematographic works are also included.~~

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

### Section 32b

~~— (1) 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.~~

~~— (2) If the person/entity liable to pay the fee generates proceeds or revenue from indirect sale of air time through third parties that are not end users of the air time, the proceeds or income included in the base for the calculation of the fee shall be, instead of such proceeds or revenue, 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. Provisions of the preceding sentences shall only apply in the case that the third persons referred to in the preceding sentences are related to the person/entity liable to pay the fee within the meaning of another legal regulation<sup>19)</sup>.~~

~~— (3) The value added tax shall not be included in the base for the calculation of the fee.~~

~~— (4) The base of the audiovisual fee shall be rounded upwards to whole crowns.~~

### Section 32e

~~— (1) The rate of the fee for broadcast advertising shall be 2%.~~

~~— (2) The fee for broadcast advertising shall be calculated as the product of the base of the fee and the rate of the fee.~~

~~— (3) The charge period is a calendar year.~~

### Section 32d

~~— (1) For the purposes related to the fee, the person/entity liable to pay the fee for broadcast advertising shall keep records of all data concerning such a liable person's/entity's liability to pay the fee, including, but not limited to:~~

- ~~a) date when air time for advertising was provided,~~
- ~~b) company name, or name a surname of the person/entity to whom air time is provided by the person/entity liable to pay the fee,~~
- ~~c) the VAT 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 Clause a) above for the calendar year,~~

~~e) calculated amount of the fee for the charging period.~~

~~— (2) The data to which the obligation to keep records applies shall be maintained by the person/entity liable to pay the fee until the expiry of the fee determination period to which the data are related.~~

#### ~~Section 32e~~

~~— (1) The person/entity liable to pay the fee shall file submit a fee declaration.~~

~~— (2) The form and structure of the fee declaration, including any mandatory details, shall be made public by the Czech Republic State Fund for Support and Development of Czech Cinematography in a manner allowing for remote access.~~

#### ~~Section 32f~~

~~— (1) The Czech Republic State Fund for Support and Development of Czech Cinematography shall be the administrator of the fee for broadcast advertising.~~

~~— (2) Proceeds from the audiovisua fee shall be an income to the Czech Republic State Fund for Support and Development of Czech Cinematography.~~

#### ~~Section 32g~~

~~— (1) In the event that the proceeds from the fee fails to reach a total amount of CZK 150,000,000, the person/entity liable to pay the fee shall share the difference between the total proceeds from the feed and the amount of CZK 150,000,000 proportionally to his share of the total proceeds from advertising generated by all the persons/entities liable to pay the fee for broadcast advertising.~~

~~— (2) The amount topping up the fee for broadcast advertising shall be paid by the person/entity liable to pay the fee within 30 days of the delivery of the invitation to do so received from the State Fund for Support and Development of Czech Cinematography.~~

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<sup>19)</sup>Section 66(9) of Act No. 513/1991, as amended