



Rectangular stamp of "A-PRAVA MONTENEGRO" attesting proper service
No. 01/29-19
Podgorica, 28 May 2019

**MONTENEGRO
MINISTRY OF ECONOMY**

Number: 331-1761/2019-6
Podgorica, 27 May 2019

The Ministry of Economy, pursuant to Article 147 paragraph 6 of the Law on Copyright and Related Rights ("Official Gazette of Montenegro", Nos. 37/11 and 53/16) and Article 12 of the Decree on the Organization and Manner of Work of the State Administration ("Official Gazette of Montenegro", Nos. 87/18 and 2/19), acting upon the request for the issuance of a license to perform the activity of collective exercising of property rights of film producers in Montenegro, No. 331-1761/2019-1 of 4 April 019 year, submitted by the Organization for the Protection of the Rights of Film Producers in Montenegro – "A – PRAVA MONTENEGRO", hereby issues the following:

DECISION

1. Adopting the application for the issuance of a license to perform the activity of collective exercising of property rights of film producers in Montenegro, submitted by the Organization for the Protection of the Rights of Film Producers in Montenegro "A-PRAVA MONTENEGRO", with registered office in Podgorica, at the address Josipa Broza Tita No. 17.
2. The license is issued for the collective exercise of the following property rights of film producers in Montenegro: the exclusive right to allow or prohibit another from reproducing, distributing, leasing and publicly displaying of videogram and making the videogram available to the public; cable retransmission rights of the subject of protection, except for broadcasts of broadcasting organizations from their own production, regardless of whether they are their own rights or rights acquired from other holders of rights and the right to reproduction fee for private and other internal needs.
3. The license shall be issued for a period of five years.
4. This decision shall be published in the "Official Gazette of Montenegro."

RATIONALE

Organization for the Protection of the Rights of Film Producers in Montenegro - A-PRAVA MONTENEGRO (hereinafter: "the Organization"), with registered office in Podgorica, at the address Josipa Broza Tita No. 17, addressed the Ministry of Economy (hereinafter: "the Ministry"), with a request for the issuance of a license to perform the activity of collective exercising of property rights of film producers in Montenegro, number 331-1761/2019-1 of 5 April 2019.

In addition to the request, the applicant, in accordance with Article 148, paragraph 2 and Article 149 of the Law on Copyright and Related Rights (hereinafter: "the Law"), submitted also:

- Contract on amendments to the Memorandum of Association of 2 July 2013, amending the Memorandum of Association of 5 July 2012, which the Ministry reviewed;
- Articles of Association of the Organization of 29 March 2018;



- Decision of the Ministry of Interior, No. 05-006/13-41607/1 of 22 July 2013, altering the Register of Associations under ordinal number 6016 and registering the new Articles of Association and the name of the association is entered, Certificate of facts No: 05-006/16-5812/2 of 11 November 2016 issued from the official records kept by the Ministry of Interior, as well as an excerpt from the electronic Register of Non-governmental Organizations of 14 March 2019;

- Agreements on representation of members of the Organization
- Evidence of payment of the administrative fee
- Evidence of fulfillment of personnel, organizational and technical conditions
- Draft rules on transparent, complete, timely and correct manner of work and actions.

The provision of Article 148 of the Law stipulates that the procedure for obtaining a license from the competent authority shall be initiated by submitting a written request of a legal entity that meets the requirements set by law, as well as that the legal entity must submit a Memorandum and Articles of Association, Preliminary agreements on representation of members, and other evidence of meeting the requirements of Article 149 of the Law. The provision of Article 149 of the Law stipulates that the collective exercise of copyright and related rights may be performed by a legal entity: having the Articles of Association that meets the requirements of Article 160 paragraphs 1 and 2 of the Law; which is registered with the Register of Non-governmental Organizations kept by the competent authority; has concluded Preliminary agreements on representation of the majority of national right holders for the objects of protection to which the activity refers; employs at least one person with a university degree in law; disposes of business premises owned or leased equipped with the necessary IT and communication equipment; has a draft rule on the transparent, complete, timely and proper operation and conduct of the organization.

After reviewing the Founding Agreement and the amended Memorandum of Association, it was determined that the Organization was established on 5 July 2012, as well as the founders, name, address, registered office of the Organization, objectives and activities and the person authorized to represent the Organization.

After reviewing the Articles of Association of the Organization, it was determined that it includes the provisions from Article 160 paragraph 1 of the Law, i.e. it includes provisions related to: types and objects of protection of collectively exercised rights and rules in relation to members and users of objects of protection; the manner and content of informing the members about the sessions of the general meeting, the manner of voting and the number of votes required for deciding on certain issues; obligations of members; method of determining tariffs; basic criteria for determining the costs of performing the activities of the Organization; rules on the distribution of income to members; the manner of exercising control over financial resources; the type and basic content of the report that must be submitted to members and the competent authority in accordance with the law; the manner of informing members and the public about the Organization's operations; criteria for determining the proportion of the scope and degree of use of the object of protection and the number of votes that a member of the Organization has in its general meeting.

The Ministry reviewed the Decision of the Ministry of the Interior, No. 05-006/13-41607/1 of 22 July 2013, by which the Register of Associations under ordinal number 6016 has been altered to include the fact on the new Articles of Association and name of the association, Certificate of facts issued from the official records of the Ministry of Interior No: 05-006/16-5812/2 of 11 November 2016, and an excerpt from the electronic Register of Non-governmental Organizations of 14 March 2019, which the Organization submitted. The Ministry also, ex-officio, reviewed the Decision of the Ministry of the Interior, No. 05-006 / 12-11597/1 of 1 August 2018, registering the Organization with the Register of Associations, as well as



the current Register of Associations and found that the Organization for the Protection of the Rights of Film Producers in Montenegro – “A-PRAVA MONTENEGRO” has been registered with the Register of NGOs under the number 6016 and that the person authorized for representation of the Organization is Predrag Buric, in accordance with the provision of Article 149 paragraph 1 item 2 of the Law.

Upon inspection of the submitted contracts, it was determined that the contracts on representation of the holders of the related first contract were concluded with 36 film producers. In accordance with the above, it was concluded that the conditions of Article 149 paragraph 1 item 3 of the Law are met, which stipulates that the collective exercise of copyright and related rights may be performed by a legal entity that has concluded pre-agreements on representation of most domestic right holders.

for the objects of protection to which the activity relates. Also, the contracts in question were found to contain

basic elements of the contract, as well as to be concluded for a period of five years.

It was established that the Organization, in accordance with the provision of Article 148 paragraph 2 of the Law, paid the prescribed administrative fee in the amount of 100 € for a license to perform the activity of collective management of copyright and related rights, based on tariff number 117 of the Law on Administrative Fees. list CG ", number 18/19).

Upon reviewing the employment contract of 15 October 2012, Annex to the Contract No. 38/01 of 27 November 2014, as well as the Certificate of Employment No. 01/18-19 of 3 April 2019, it was determined that the condition from Article 149 item 4 of the Law has been fulfilled, i.e. that the Organization has employed at least one person with a university degree in law.

Furthermore, upon reviewing the Contract on lease of business premises of 19 January 2004 and the Annex to the Lease Contract of 20 January 2005, as well as the Contract on sublease of business premises of 21 November 2012 and the Annex to the Sublease Contract of 5 December 2012, it was determined that the Organization has business premises in Podgorica, at the address Josipa Broza Tita No. 17, area of 80 m2, as well as that the space is fully equipped with information and communication equipment, thus meeting the requirements of Article 149, item 5 of the Law.

Upon reviewing the provisions of the Draft Rules on Transparent, Complete, Timely and Proper Manner of Work and Procedure, it was determined that it contains rules on transparent, complete, timely and correct manner of work and conduct of the Organization, which is in accordance with Article 149 item 6 of the Law.

Article 132 of the Law stipulates that a film producer shall have an exclusive right to allow or prohibit another from: reproducing, distributing, leasing and publicly showing his videogram, as well as making the videogram available to the public, while Article 155 stipulates, inter alia, that the copyright holder or related rights can only collectively exercise the right of cable retransmission of the subject matter of protection, except for broadcasts of own broadcasting organizations, regardless of whether they are their own rights or rights acquired from other right holders (item 1) and the right to reproduction fee for private and other internal needs (item 3). Starting from the above, and taking into account ex officio the type of work and the type of rights for which the license is issued, it was decided as in point 2 of the dispositive of this decision.

The provision of Article 150, paragraph 1 of the Law stipulates that the license to perform activities shall be issued by a decision, for a period of five years.



The provision of Article 153, paragraph 3 of the Law stipulates that the decision on issuing a license shall be published in the "Official Gazette of Montenegro."

Based on all the evidence submitted by the applicant, as well as those obtained by the Ministry ex-officio, it was determined that the Organization meets the conditions for issuing a license to collectively exercise the property rights of film producers in Montenegro.

In the light of the above, it was decided as in the dispositive of this decision.

Instruction on legal remedy: An appeal against this decision may be lodged with the Ministry of Economy through the Directorate for Normative Affairs and International Cooperation in the Field of Intellectual Property, within 15 days from the day of delivery of the Decision.

/Stamp of the Ministry
of Economy/

Minister,
Dragica Sekulic
/signature/

Copy to be delivered to:

- Organization for the Protection of the Rights of Film Producers in Montenegro - A-PRAVA MONTENEGRO;
- Case files.

Approved by:
Biljana Jakic,
General Director

Processed by:
Dragana Ranitovic,
Head



TUMAČ

Milena B. Šćekić

za engleski jezik, postavljena u Crnoj Gori rješenjem ministra pravde
broj: 02-745-1763/17 od 28. juna 2017. godine, na vrijeme od pet godina,
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Pečat

Potpis

INTERPRETER/TRANSLATOR

Milena B. Šćekić

for English, appointed in Montenegro by the decision of the Minister of Justice
number: 02-745-1763/17 from 28 June 2017, for the period of five years,
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