

# **REGULATIONS ON GRANTING AUTHORISATIONS FOR PERFORMING COLLECTIVE MANAGEMENT OF RIGHTS**

## **I. GENERAL PROVISIONS**

### **Subject Matter of the Regulations**

#### **Article 1**

The Regulations on granting authorisations for performing collective management of rights (hereinafter: the Regulations) provide for details of issues regarding granting procedure, the contents of request for granting authorisations for performing collective management of copyright or related rights, and the list of documents necessary to attach to the request, reporting to the State Intellectual Property Office (hereinafter: the Office) by independent management entities with residence or business establishment in another Member State of the European Union on the intention of collective management of rights in the Republic of Croatia and records of the Office administered in the field of collective management of rights.

#### **Gender Neutrality**

#### **Article 2**

The expressions used in these Regulations, having a gender meaning, irrespective of whether they are used in the male or female gender, shall include equally the male and female gender.

## **II. REQUEST FOR GRANTING AUTHORISATIONS FOR PERFORMING THE ACTIVITY OF COLLECTIVE MANAGEMENT OF RIGHTS**

### **Contents of Request for Granting Authorisations for Performing the Activity of Collective Management Organisations**

#### **Article 3**

(1) The request for granting authorisation for performing collective management of copyright or related rights in the territory of the Republic of Croatia shall be submitted by a collective management organisation with the Office in accordance with Article 224 of the Copyright and Related Rights Act (hereinafter: the Act).

(2) The request referred to in paragraph (1) of this Article shall contain the following information:

- name and personal identification number (hereinafter: OIB) of the organisation submitting the request,
- address of the principle place of establishment in the Republic of Croatia or business residence in the European Union, telephone and telefax number and email address,
- information on legal form of the organisation,
- information on the number of employees with the organisation,
- indication of the category of the holder of copyright or related rights respectively whose rights it intends to manage and indication of the type of rights which it intends to manage on behalf of the respective holders,
- information on the number of powers of attorney granted for representation of right holders,

- information on the number of contracts concluded on mutual representation with foreign collective management organisations,
- name and surname, OIB and addresses of natural persons responsible for legal affairs and for financial affairs of the management of rights of the employed with a technical service of the collective management organisation referred to in Article 224 paragraph (3) subparagraph 2 of the Act,
- name and surname, OIB and addresses of attorneys and/or name, OIB and address of the residence of a legal person registered for accounting activities, referred to in Article 224 paragraph (4) of the Act, unless professional implementation of legal and financial affairs of the organisation is organised as referred to in Article 224 paragraph (3) subparagraph 2 of the Act,
- information on websites of the organisation,
- name and surname and e-mail address of the person authorised to communication with the Office,
- name, surname and signature of the person managing the operation of the organisation.

(3) Information referred to in paragraph (2) of this Article shall be indicated on the form published by the Office on its websites or electronic platform to provide services of state and public administration (e-citizens) or in a submission corresponding to that form as to the contents.

### **Attachments to the Request for Performing the Activity of a Collective Management Organisation**

#### **Article 4**

(1) The collective management organisation shall accompany the request for performing the activity referred to in paragraph (3) of these Regulations with the following documents:

- evidence of the legal form of the organisation, including the information on a registered activity,
- statute of the organisation, general policy on the distribution of amounts due to right holders and other internal rules and documents of the organisation indicated in Article 250 of the Act,
- the list of persons (names and surnames, OIB and residential addresses) who run business of the collective management organisation, as referred to in Article 232 of the Act,
- the list of members of the collective management organisation based on powers of attorney received and copies of powers of attorney issued,
- the list of contracts on mutual representation with other collective management organisations with the names of organisations parties to these contracts and copies of contracts concluded, if applicable,
- a written statement by the person running business of the organisation on meeting the requirements referred to in Article 224 paragraph (3) of the Act and, where applicable, Article 224 paragraph (4) of the Act, to be substantiated by corresponding information,
- evidence of qualification degree, of corresponding professional experience and knowledge of foreign languages for persons as provided under Article 224 paragraph (3) subparagraph (2) of the Act and evidence of these persons' employment with the collective management organisation submitting the request, or a contract concluded with an attorney and/or a legal person registered for performing the activity of accounting, in accordance with Article 224 paragraph (4) of the Act, and evidence that the indicated persons meet the requirements provided for under Article 224 paragraph (3) subparagraph. 2 of the Act,
- a written statement by the person managing the business of the organisation on meeting the requirements referred to in Article 224 paragraph (11) of the Act, to be substantiated by

corresponding information (for collective management organisations that intend to grant multi-territorial licenses for online rights in copyright musical works),

- a business plan of the organisation, including a general plan of activities, organisational, technical and personnel structure of the organisation and the plan of revenue and expenditure for minimum next three years of performing the activity of collective management of rights,
- evidence of payment of procedural costs of examining the request for the grant of license to perform the activity of collective management of copyright or related rights, in accordance with special regulations.

(2) In case as referred to in Article 226 paragraph (2) of the Act, the request shall be accompanied by the contract concluded with another collective management organisation.

(3) In case as referred to in Article 226 paragraph (3) of the Act, the request shall be accompanied by the contract concluded with a natural or a legal person and the papers and documents as evidence of this person's meeting professional criteria for performing administrative, technical or ancillary tasks to be performed for the collective management organisation.

(4) In the procedure of the request submitted for the grant of authorisations to perform the activity of collective management of rights, the Office may request the applicant to provide also other documents and papers in order to determine if there are requirements met as prescribed to perform such activity.

(5) The request referred to in Article 3 of these Regulations and the attachments to the request indicated in paragraphs from (1) to (4) of this Article may be submitted to the Office by post or electronically.

(6) In order to determine if there are requirements met as referred to in Article 224 paragraphs (3) and (11) of the Act, an authorised state official of the Office may conduct an inspection of business premises at the residence or the place of establishment in the Republic of Croatia of the collective management organisation having submitted the request, which shall be recorded separately, and the protocol shall be attached to the file.

### **Proceeding in Case of Submitting the Request for Performing the Activity of Collective Management of Rights by Several Collective Management Organisations**

#### **Article 5**

(1) Where several organisations submit simultaneously the request to perform collective management of rights for the same type of rights and for the same category of right holders, on the basis of the requests submitted and the supporting documents delivered as referred to in Article 4 paragraphs (1) to (4) of these Regulations, the Office shall establish for which organisation it is probable to manage the rights more efficiently than the other taking into account the number of members based on powers of attorney received, the number of contracts on mutual representation with foreign collective management organisations, the level of technical and professional infrastructure to perform collective management of rights, the quality of business plan and the plan of revenue and expenditure for the next three years of the activity, the orientation towards promotion of national culture and art i.e. repertoire in which right holders of national repertoire are represented, the development level of business on the territory of the Republic of Croatia, as well as the fact of direct presence of the collective management organisation on the territory of the Republic of Croatia in relationships with users and right holders, knowledge of Croatian and other circumstances that indicate which collective management organisation would be most efficient in performing collective management of rights on the territory of the Republic of Croatia.

(2) Where the Office has already granted authorisation for the same type of rights and the same category of right holders to one collective management organisation, and where any

other organisation submits the request for the same type of rights and the same category of right holders, the Office shall first establish if such organisation meets the requirements for collective management of rights as prescribed by the Act and by these Regulations.

(3) Should the Office establish that the applicant does meet the requirements for collective management of rights as prescribed by the Act and by these Regulations, it shall start comparing the collective management organisation that is already authorised for collective management of rights with the other organisation that submitted the request later for the same type of rights and the same category of right holders, according to criteria referred to in paragraph (1) of this Article, which in particular includes the fact of direct presence of the collective management organisation on the territory of the Republic of Croatia in relationships with users and right holders and knowledge of Croatian.

(4) Should the Office establish in accordance with paragraph (3) of this Article that it is probable for the other organisation to be more efficient in performing the activities of collective management of rights than the organisation that is already authorised for the same type of rights and the same category of right holders, it shall conduct the procedure of granting authorisations for collective management of rights in which it shall grant authorisation to such organisation for which it establishes to be more efficient in collective managing of rights, with defining an appropriate transition period as necessary for the organisation that has been authorised for performing the activity so far to complete its transactions. Should the Office establish with prior comparison that it is not probable for any other organisation to be more efficient in performing the activities of collective management of rights than the organisation that is already authorised for the same type of rights and the same category of right holders, it shall refuse the request of such other organisation.

### **Content of the Request for Granting Authorisations for Performing Activities of an Independent Management Entity with the Principle Place of Establishment or Business Residence in the Republic of Croatia**

#### **Article 6**

(1) The request for granting authorisations for performing activities of collective management of copyright or related rights on the territory of the Republic of Croatia shall be submitted by an independent management entity with the principle place of establishment or business residence in the Republic of Croatia with the Office in accordance with Article 225 paragraph (2) subparagraphs 4 to 7 and paragraphs (12) and (14) of the Act.

(2) The request referred to in paragraph (1) of this Article shall contain the following information:

- name and personal identification number OIB of an independent management entity,
- address of the principle place of establishment or business residence of an independent management entity in the Republic of Croatia, telephone and telefax number and e-mail address,
- legal form of an independent management entity,
- number of employees with an independent management entity,
- categories of holders of copyright or related rights whose rights an independent management entity intends to manage on the basis of contracts or powers of attorney, including the information on the rights, categories of rights and types of works or subject matters of related rights which it intends to manage on behalf of the respective holders,
- number of contracts concluded with right holders and number of powers of attorney issued for representation of right holders,
- name and surname, OIB and addresses of natural persons responsible for legal and financial affairs of collective management of rights, employed with a technical service of an

independent management entity, in accordance with Article 225 paragraph (5) subparagraph 2 of the Act,

- name and surname, OIB and address of an attorney or name, OIB and address of the principle place of establishment of a legal person registered for accounting, in accordance with Article 225 paragraph (6) of the Act, unless professional implementation of legal and financial affairs is organised pursuant to Article 225 paragraph (5) subparagraph 2 of the Act,
- information on website of an independent management entity with published repertoire for which it is authorised to manage the rights, according to Article 225 paragraph (14) of the Act,
- name and surname and email address of the person authorised to communicate with the Office,
- name, surname and signature of the person running business of an independent management entity.

(3) Information referred to in paragraph (2) of this Article shall be indicated on the form published by the Office on its website or electronic platform for the provision of services by the state and public administration (e-citizens) or in a submission corresponding to that form in content.

### **Enclosures to the Request for Granting Authorisations for Performing Activities of an Independent Management Entity with the Principle Place of Establishment or Business Residence in the Republic of Croatia**

#### **Article 7**

(1) An independent management entity with the principle place of establishment or business residence in the Republic of Croatia shall enclose the following documents to the request for performing activities referred to in Article 6 of these Regulations:

- evidence of the legal form of the independent management entity, including excerpt from court register and the information on a registered activity,
- statute of the independent management entity or another instrument of incorporation, general policy on the distribution of amounts due to right holders and other internal rules and documents referred to in Article 250 subparagraphs 1, 2, 3, 4, 6, 7, and 8 and Article 272 of the Act,
- the list of persons (names and surnames, OIB and residential addresses) who run business of the independent management entity,
- the list of right holders represented by virtue of contracts concluded with and powers of attorney issued to the independent management entity, who explicitly notified in writing the collective management organisation authorised by the Office in a particular area not to manage their rights, and copies of concluded contracts and issued powers of attorney,
- the list of contracts on mutual representation with other collective management organisations or independent management entities and copies of concluded contracts, if applicable,
- a written statement of the person running managing of the independent management entity on meeting requirements referred to in Article 225 paragraphs (4) and (5) of the Act, where applicable, Article 225 paragraph (6) of the Act, to be substantiated by corresponding information,
- evidence of qualification degree, of corresponding professional experience and of knowledge of foreign languages for persons as provided under Article 225 paragraph (5) subparagraph 2 of the Act and evidence of these persons' employment with the independent management entity submitting the request, or contract concluded with and attorney and/or legal person registered for accounting, in accordance with Article 225 paragraph (6) of the

Act, and evidence of these persons' meeting the requirements as provided under Article 225 paragraph (5) subparagraph 2 of the Act,

- evidence of procedural charges for examining the request paid for the issuance of authorisation for performing the activity of collective management of copyright or related rights, in accordance with special regulations.

(2) In the procedure of submitting the request for granting authorisations to perform the activity of collective management of rights, the Office may request the applicant to provide also other documents in order to determine if there are requirements met as prescribe to perform such activity.

(3) The request referred to in Article 6 of these Regulations and enclosures to the request referred to in paragraphs (1) and (2) of this Article may be delivered to the Office by post or electronically.

(4) In order to determine if there are requirements met as referred to in Article 225 paragraph (5) of the Act, an official of the Office may conduct an inspection of business premises at the principal place of establishment of an independent management entity submitting the request or at its business residence in the Republic of Croatia, which shall be recorded separately and enclosed to the file.

### **III. INDEPENDENT MANAGEMENT ENTITIES WITH THE PRINCIPAL PLACE OF ESTABLISHMENT OR BUSINESS RESIDENCE IN ANOTHER MEMBER STATE OF THE EUROPEAN UNION**

#### **Independent Management Entity Submitting Notification to the Office on the Intention to Perform Activities of Collective Management of Rights in the Republic of Croatia**

##### **Article 8**

(1) The notification to be submitted to the Office by an independent management entity as referred to in Article 225 paragraph (3) of the Act shall contain the following information:

- name and OIB of the independent management entity delivering the notification,
- address of the place of establishment of the independent management entity, telephone and telefax number and email address,
- the list of all right holders based on powers of attorney received,
- the list of rights, categories of rights, the types of works or subject matters of related rights it intends to manage by virtue of powers of attorney received,
- evidence that it may perform the activity of collective management of rights according to the law of the state of its principal place of establishment or business residence,
- information on the website of an independent management entity, with the published repertoire for which it is authorised to manage the rights, pursuant to Article 225 paragraph (14) of the Act,
- name and surname and email address of the person authorised to communicate with the Office,
- name, surname and signature of the person managing the business of an independent management entity.

(2) Information referred to in paragraph (1) of this Article shall be provided on a notification form published by the Office on its website or electronic platform for the provision of services by state and public administration (e-citizens) or in a submission corresponding to that form in content.

(3) Upon receipt of the notification referred to in Article 225 paragraph (3) of the Act, which includes information referred to in paragraph (1) of this Article, the Office may request an independent management entity to provide other information and evidence as well, such as individual powers of attorney, identification of a right holder and subject matters for which it manages the rights, notifications by a right holder provided in accordance with Article 224 paragraph (6) of the Act and other information important to establish if there are requirements met for legal performance of collective management of rights on the territory of the Republic of Croatia.

#### **IV. RECORDS OF THE OFFICE**

##### **Records on Collective Management Organisations and Independent Management Entities Performing Collective Management of Rights on the Territory of the Republic of Croatia**

##### **Article 9**

(1) The records kept by the Office pursuant to Article 266 paragraph (2) of the Act, on collective management organisations and independent management entities granted with authorisations to perform the activity of collective management of rights on the territory of the Republic of Croatia and on independent management entities having the principle place of establishment or business residence in another Member State of the European Union, which perform collective management of rights on the territory of the Republic of Croatia include the information provided under paragraph (2) of this Article and other information prescribed by the Act.

(2) On its website, the Office shall publish the following information from the records on collective management organisations and independent management entities:

- the list of the collective management organisations granted with authorisations to perform the activity of collective management of rights in the Republic of Croatia, together with the decisions issued by the Office, according to Article 266 paragraph (11) of the Act,
- the list of independent management entities with the principle place of establishment or business residence in the Republic of Croatia granted with the authorisation to perform the activity of collective management of rights in the Republic of Croatia, together with the decisions issued by the Office, according to Article 266 paragraph (11) of the Act,
- the list of independent management entities with the principle place of establishment or business residence in another Member State of the European Union, which meet the requirements prescribed by Article 225 paragraph (3) of the Act and which properly notified the Office to perform the activity of collective management of rights on the territory of the Republic of Croatia and submitted all the necessary documents to the Office, indicating the type of rights and the category of right holders for which they manage the rights,
- information, together with the decisions, on repealing the authorisations granted to collective management organisations and independent management entities or on banning their operation on the territory of the Republic of Croatia, and on banning independent management entities with the principal place of establishment or business residence in another Member State of the European Union to operate on the territory of the Republic of Croatia.

## **V. TRANSITIONAL AND FINAL PROVISIONS**

### **Termination of Regulations**

#### **Article 10**

Upon these Regulations coming into force, the Regulations on Professional Criteria and Procedure of Granting Authorisations for Collective Management of Rights and on Remunerations for Operation of the Council of Experts (“Official Gazette”, No. 107/17) shall cease to be valid.

### **Coming of These Regulations into Effect**

#### **Article 11**

These Regulations shall come into effect on the eighth day upon publication in the “Official Gazette”.