

Report on SFP-ZAPA Activity in 2017

(prepared according to the model set out in Regulation of the Minister of Culture and National Heritage of 17 July 2014 on the detailed scope of the annual report on the activity of a copyright and related rights collective management organization (Journal of Laws of 2014 item 978)).

Chapter 1

Information and copies of documents relating to the structure of a copyright and related rights collective management organization, hereinafter the collective management organization, and its internal bodies:

1. Name, registered office and address of the collective management organization:

Stowarzyszenie Filmowców Polskich (SFP), Warsaw. Address: until 31 May 2018 — ul. Krakowskie Przedmieście 7, 00-068 Warszawa, and from 1 June 2018 — ul. Pańska 85, 00-834 Warszawa. SFP's organizational unit established for collective rights management is the Union of Audiovisual Authors and Producers (Związek Autorów i Producentów Audiowizualnych, or SFP-ZAPA), ul. Żelazna 28/30, 00-832 Warszawa.

2. Designation of the registry court in which registry files of the collective management organization are kept:

District Court for the capital city of Warsaw in Warsaw

XII Commercial Division of the National Court Register

3. Number in the National Court Register and the statistical identification number in REGON system:

KRS: 0000068354

REGON: 000818002-00028

4. Articles of association of the collective management organization, with specification of the amendments made to those articles of association during the reporting year:

On 15 March 2017, the District Court for the capital city of Warsaw in Warsaw issued a decision on the entry in the National Court Register of the information about the amendment to the Articles of Association of the Polish Filmmakers Association (SFP) made on 23 April 2016 during the General Assembly of SFP. The amendment consisted in adding item 8 in Article 8 of the Articles of Association, worded as follows: "supporting cultural activities, including the activity conducted by other entities, consisting in providing Polish filmmakers with the conditions for work, discussion, exchange of creative ideas and views, in particular within the scope of operation of creative work retreats".

5. Names and surnames of members of the statutory bodies of the collective management organization holding functions during the reporting year, excluding the general meeting of members and the meeting of delegates:

Management Board of Polish Filmmakers Association (SFP):

- | | | |
|-----|-------------------------------|---|
| 1. | Jacek Bromski | SFP President; |
| 2. | Karolina Bielawska | Vice-President; |
| 3. | Władysław Dariusz Gajewski | Vice-President; |
| 4. | Allan Starski | Member of the Management Board |
| 5. | Janusz Kijowski | Member of the Management Board |
| 6. | Juliusz Machulski | Member of the Management Board |
| 7. | Filip Bajon | Member of the Management Board |
| 8. | Michał Kwieciński | Member of the Management Board and Treasurer |
| 9. | Witold Giersz | Member of the Management Board |
| 10. | Zbigniew Żmudzki | Chairperson of Łódź Branch; |
| 11. | Andrzej Jasiewicz | Chairperson of Children's and Youth Film Makers' Club |
| 12. | Krzysztof Wierzbiański | Chairperson of Senior Filmmakers' Club |
| 13. | Maciej Karpiński | Chairperson of Screenwriters' Club |
| 14. | Witold Będkowski | Deputy Chairperson of Television Section |
| 15. | Andrzej Haliński | Chairperson of Set Designers' Club |
| 16. | Andrzej Marek Drązewski | Chairperson of Documentary Film Section |
| 17. | Barbara Hollender-Kwiatkowska | Chairperson of Film Writers' Club |
| 18. | Tomasz Dettloff | Chairperson of Kraków Branch |
| 19. | Andrzej Stachecki | Chairperson of Wrocław Branch |
| 20. | Janusz Gauer | Chairperson of Directors' of Photography Club |
| 21. | Alina Skiba Wojnach | Chairperson of Digital Film Forms Club |
| 22. | Ewa Borguńska | Chairperson of Film Producers' Club |
| 23. | Jacek Zygałto | Chairperson of Television Section |
| 24. | Nikodem Wołk-Łaniewski | Chairperson of Sound Directors' Club |
| 25. | Andrzej Sapija | Deputy Chairperson of Documentary Film Section |
| 26. | Michał Szcześniak | Chairperson of Young Filmmakers' Club |
| 27. | Mirosława Wojtczak | Chairperson of Make-Up Artists' Club |
| 28. | Marek Serafiński | Chairperson of Animated Film Section whose term in office expired on 12 February 2017 |
| 29. | Jerzy Kucia | initially as Deputy Chairperson of Animated Film |

Section, and as of 28 February 2017 as the
Chairperson of Animated Film Section replacing Marek
Serafiński

30. Hanna Margolis as of 28 February 2017 as Deputy Chairperson of
Animated Film Section

The composition of the Management Board did not change during the reporting year.

Audit Committee:

- | | |
|--------------------------|--------------------------------|
| 1. Zbigniew Domagalski | Chairperson of Audit Committee |
| 2. Irena Strzałkowska | Committee Member |
| 3. Ewa Jastrzębska | Committee Member |
| 4. Łukasz Mańczyk | Committee Member |
| 5. Krzysztof Tchorzewski | Committee Member |

The composition of the Audit Committee did not change during the reporting year.

Peer Disciplinary Board:

- | | |
|---------------------------|--------------------|
| 1. Marek Piestrak | Chairperson |
| 2. Tomasz Miernowski | Deputy Chairperson |
| 3. Piotr Wojciechowski | Deputy Chairperson |
| 4. Grażyna Banaszekiewicz | Secretary |
| 5. Henryk Bielski | |
| 6. Violetta Buhl | |
| 7. Andrzej Luter | |
| 8. Wiktor Skrzynecki | |
| 9. Andrzej Sołtysik | |
| 10. Andrzej Stachecki | |
| 11. Dorian Ster | |
| 12. Magdalena Tomanek | |

The composition of the Peer Disciplinary Board did not change during the reporting year.

SFP-ZAPA Administration Board — internal control body of Union of Audiovisual Authors and Producers (ZAPA):

From 1 January to 6 May 2017:

1. Juliusz Machulski — Chairperson
2. Michał Kwieciński — Deputy Chairperson
3. Jacek Bromski — Secretary

4. Dariusz Gajewski
5. Andrzej Haliński
6. Grzegorz Kędzierski
7. Janusz Kijowski
8. Marek Serafiński (his term in office expired on 12 February 2017 upon his death)
9. Maciej Strzembosz
10. Jerzy Kucia (as of 22 March 2017, replacing Marek Serafiński)

From 7 May to 31 December 2017:

1. Juliusz Machulski — Chairperson
2. Michał Kwieciński — Deputy Chairperson
3. Jacek Bromski — Secretary
4. Janusz Gauer
5. Jacek Hamela
6. Mirosław Bork
7. Wojciech Leszczyński
8. Karolina Bielawska
9. Janusz Kijowski

6. Date of lapse of the term in office of the members of statutory bodies of the collective management organization;

In accordance with Article 18.2 of the Articles of Association of the Polish Filmmakers Association, the term in office of the members of the governing bodies of SFP, except for the General Meeting, lasts four years, however not less than until the appointment of new governing bodies. The term in office of the members of the Association's governing bodies, including the Management Board, commenced on 23 April 2016.

The term in office of the members of SFP-ZAPA Administration Board lapses on 7 May 2020.

7. Description or organizational structure of the collective management organization, including field branches, with the information on the changes to that structure during the reporting year:

In 2017, the following changes were made to SFP organizational structure: two internal organizational units, i.e. Virtual Film Databases Team and Event Coordinator, were liquidated.

In 2017, no changes were made to SFP-ZAPA organizational structure.

8. Addresses, responsibilities and geographic coverage of field branches of the collective management organization:

The Polish Filmmakers Association has three field branches: in Łódź, Kraków and Wrocław, which have no separate legal personality and are not engaged in collective rights management.

The responsibilities of field branches concur with the responsibilities of the Polish Filmmakers Association, with the sole difference being that the branches deal with matters related to a given region. Field branches geographically cover the designated cities. The branches have no separate offices. Hence, no specific address can be provided.

SFP-ZAPA, SFP's organizational unit established for collective rights management, does not have any field branches.

9. Specification of the number of members of the collective management organization by membership category stipulated in the articles of association and changes to that number during the reporting year, with the information on the categories of members who hold active or passive voting rights to appoint members of the statutory bodies of the collective management organization;

The articles of association of the Polish Filmmakers Association do not foresee categorisation of membership in the strict meaning of that term. Nonetheless, the competences of the General Assembly include the right to award the title of a honorary member to the persons with distinguished service to the cinematography. The formula has not yet been used. All members of the Association hold passive and active voting rights to appoint the members of the Association's governing bodies, with the proviso that honorary members do not hold passive voting rights.

At the end of 2017, 1,747 persons held membership of the Polish Filmmakers Association, with 50 persons joining the Association in the course of the reporting year and 33 persons seeing their membership expire for various reasons.

Furthermore, we wish to explain that, pursuant to Article 35 of the Articles of Association of the Polish Filmmakers Association, sections and clubs operate within the structures of the Association that bring together the members of the Association by type of profession exercised and professional category, with every member having the right to join more than one section with the proviso, however, that in such case he or she shall hold a passive voting right in one of those units only.

Below please find the information on the number of SFP members as at 31 December 2017, by club and section:

- Animated Film Section: 189 members
- Documentary Film Section: 267 members
- Fiction Film Section: 451
- Television Section: 201 members
- Stunt Performers' Club: 16 members
- Make-Up Artists' Club: 47 members
- Young Filmmakers' Club: 152 members
- Digital Film Forms' Club: 27 members
- Film Writers' Club: 60 members
- Film Producers' Club: 78 members
- Children's and Youth Filmmakers' Club: 61 members
- Sound Directors' Club: 85 members

- Screenwriters' Club: 96 members
- Set Designers' Club: 69 members
- Senior Filmmakers' Club: 298 members
- Directors' of Photography Club: 270 members

10. Specification of the committees, boards and other teams appointed by collective management organization, with specification of responsibilities of the individual groups as well as the members' names and surnames:

- Munk Film Studio Programme Board — directs the work of Munk Film Studio which operates within the structures of the Polish Filmmakers Association; Membership: 5. Composition: Jacek Bromski, Carmen Szewc, Edward Miszczak, Michał Kwieciński, Wojciech Marczewski.
- "First Documentary" Artistic Board — assesses and, thereafter, selects the projects for Munk Film Studio's programme titled First Documentary the primary objective of which is to enable directors to debut by making their first 10 to 15-minute long professional documentary; Membership: 5. Composition: Karolina Bielawska, Jerzy Kapuściński, Paweł Kędzierski, Paweł Łoziński, Marta Minorowicz.
- "30 Minutes" Artistic Board — assesses and, thereafter, selects the projects for Munk Film Studio's programme titled 30 Minutes; the programme foresees production of ten 30-minute long fiction debuts about the contemporary world per year; Membership: 9. Composition: Jacek Bromski, Wojciech Marczewski, Michał Rosa, Filip Bajon, Denijal Hasanovic, Carmen Szewc, Anna Waśniewska-Gill, Robert Gliński, Jerzy Kapuściński.
- "Young Animation" Artistic Board — assesses and, thereafter, selects the projects for Munk Film Studio's programme titled Young Animation; the programme foresees production of five 3- to 5-minute long animated films per year; Membership: 6. Composition: Balbina Bruszezwska, Piotr Furmankiewicz, Hanna Margolis, Liwia Mądzik, Kamil Polak, Alina Skiba-Wojnach.
- Scholarship Board of the Polish Filmmakers Association — awards art scholarships to the members of SFP's Young Filmmakers Club; Membership: 7. Composition: Karolina Bielawska, Krystyna Krupska-Wysocka, Janusz Łęski, Oriana Kujawska-Dowjat, Barbara Hollender-Kwiatkowska, Kinga Lewińska, Jadwiga Madej.
- Board of the Film Discussion Club of the Polish Filmmakers Association — programs and oversees the activity of the Film Discussion Club of the Polish Filmmakers Association; Membership: 5. Composition: Andrzej Bukowiecki, Józef Gębski, Agnieszka Gomułka, Anna Górna-Zajac, Marek Nowicki.
- Distribution Support Expert Team — operates as part of implementation of the System for Supporting Distribution of Polish and European Films and Cinema Classics programme designed to support cinema distribution of films of high artistic value. To that end, a seven-member Expert Team was established tasked with assessment of the applications filed by distributors, both in terms of artistic value of films and substantive content of their distribution plan. Composition: Barbara Hollender-Kwiatkowska, Anna Wróblewska, Grażyna Torbicka, Maria Magdalena Gierat, Rafał Marszałek, Tomasz Raczek, Krzysztof Kwiatkowski.

11. Specification of foundations and other entities established by the collective management organization:

In 2005, the Polish Filmmakers Association, together with the Local Government Assembly of the Pomeranian Voivodship and the Municipality of Gdynia, established as the founders, the Pomeranian Film Foundation in Gdynia (registry data: Pomorska Fundacja Filmowa w Gdyni, registered address: pl. Grunwaldzki 2, 81-547 Gdynia, KRS: 0000233880). The Foundation continued to operate during the reporting year.

12. Specification of associations and other entities of which the collective management organization is a member, with the date of acquisition of its membership:

- as of 30 July 2010, the Polish Filmmakers Association is a member of the National Federation of Polish NGOs (Ogólnopolska Federacja Organizacji Pozarządowych, or OFOP);
- as of 9 November 2012, the Polish Filmmakers Association is a member of the Polish Federation of Film Discussion Clubs;
- as of 14 January 2014, the Polish Filmmakers Association is a member of the Creative Poland Association (Stowarzyszenia Kreatywna Polska).

13. Specification of the companies of which the collective management organization is or was a partner, including a shareholder, during the reporting year:

During the reporting year, the Polish Filmmakers Association remained a partner in TV Film Spółka z ograniczoną odpowiedzialnością with its registered office in Warsaw, ul. Jubilerska 10, 04-190 Warszawa, entered in the register of entrepreneurs of the National Court Register under no. KRS 0000176239, NIP 7120162074, REGON 430300367.

14. Specification of international organizations of which the collective management organization is a member, with the date of acquisition of their membership:

- as of 4 March 1982, the Polish Filmmakers Association is a member of FIPRESCI (International Federation of Film Critics);
- as of 1 October 1990, the Polish Filmmakers Association is a member of FERA (Federation of European Film Directors);
- as of 28 April 1996, Stowarzyszenie Filmowców Polskich is a member of CIFEJ (International Centre of Films for Children and Young People);
- as of 1 December 1999, the Polish Filmmakers Association is a member of CISAC International Confederation (Confédération Internationale des Sociétés d'Auteurs et Compositeurs);
- as of 21 May 2002, the Polish Filmmakers Association is a member of AGICOA (Association de Gestion Internationale Collective des Oeuvres Audiovisuelles);
- as of 15 June 2009, the Polish Filmmakers Association is a member of EUROCOPYA;
- as of 11 May 2010, the Polish Filmmakers Association is a member of SAA (Société des Auteurs Audiovisuels).

Chapter 2

Information relating to the activity of the collective management organization in the area of acquisition of copyright and related rights for collective management:

1. Specification of the number of entities (natural persons, legal persons and unincorporated organizational units granted legal capacity under separate laws and regulations) that entrusted their rights into collective management as at the end of the reporting year, excluding the mutual or unilateral representation agreements:
5, 171, of which 4,559 authors and 612 producers.

2. Specification of the number of entities that entrusted their rights into collective management in a given reporting year, excluding the mutual or unilateral representation agreements:
346, of which 297 authors and 49 producers.

3. Specification of the number of entities that withdrew their rights from collective management in a given reporting year, excluding the mutual or unilateral representation agreements:
1

4. Specification of the number of the members of the collective management organization who have entrusted their rights thereto into collective management, as at the end of the reporting year:
1065

5. Specification of the number of members of the collective management organization who entrusted their rights thereto into collective management in a given reporting year:
32

6. Specification of the number of members of the collective management organization who withdrew their rights from collective management in a given reporting year:
0

7. Specification of the number of entities whose rights are managed by the collective management organization pursuant to an agreement on the entrusting of rights into collective management, as at the end of the reporting year, excluding the mutual or unilateral representation agreements:
5,171, including 4,559 authors and 612 producers.

8. Indication whether the collective management organization collects remunerations also for the benefit of the entities whose rights have not been entrusted thereto in collective management, with provision of the legal basis and individual fields of exploitation to which collection applies:

SFP-ZAPA collects remunerations also for the benefit of the entities whose rights have not been entrusted thereto in collective management, within the following fields of exploitation:

- Public performances;
- screening;
- retransmission;
- fixing, reproducing using a specific technique, including magnetic recording technique and digital technique, placing on the market or rental;
- broadcasting by means of video or audio wire or wireless systems using a ground station or broadcasting via a satellite; and
- entering in computer memory and making the work available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them.

The legal basis for collecting remunerations, also for the benefit of the entities whose rights have not been entrusted to SFP-ZAPA into collective management, are regulated in the Article 21¹ and Article 70 Clauses 2¹ and 3 of the Act on Copyright and Related Rights, Articles 752 et seq. of the Civil Code, the permission granted by the Minister of Culture and Art on 28 February 2003 and Article 15.2 of the Articles of Association of the Polish Filmmakers Association.

Furthermore, SFP-ZAPA collects remunerations pursuant to Article 70 Clauses 2¹ and 3 of the Act on Copyright and Related Rights for the film editors grouped in the Polish Association of Film Editors (Polskie Stowarzyszenie Montażystów, or PSM).

At the end of the reporting year, the number of film editors to whom payments were made amounted to: **41**.

Chapter 3

Information relating to the activity of the collective management organization in the area of collection of remunerations and fees:

1. Tables of remunerations validly approved by the Copyright Commission or court,

The Table of rates of remunerations for public performances of works and objects of related rights became final and binding, except:

1. The part in which it refers to hotels with regard to the rates of remunerations for public performances from sound carriers and by means of devices used to receive TV and radio broadcasts and by means of other devices and techniques:
 - at restaurants and bars (O/OG);
 - at service outlets (O/OU);
 - during musical and dancing events (O/ZA);

- at hotels and other facilities (O/HT);
- in transport carrying passengers (O/OK);
- during fairs, special events, sports and recreational events, fashion shows (O/IM);
- at sports and recreational and entertainment facilities (O/OR);
- in shops and at shopping centers (O/OH);
- room TV (O TV-HT);
- for sound carriers in juke-boxes and devices with karaoke functions (O/SZ).

2. Resolutions and other internal acts setting out the amount of rates of remunerations for the exercise of the rights subject to collective management, with a brief statement of reasons for the adoption of such rates:

The resolution of the Administration Board of SFP-ZAPA defines the level of the rates of remunerations for the exercise of copyright or related rights applied by SFP-ZAPA in the fields of exploitation covered by the collective management permit. However, resolution does not specify the rates of remunerations applied by SFP-ZAPA in the field of exploitation covered by the collective management permit: *“broadcasting by means of video or audio wire or wireless systems using a ground station or broadcasting via a satellite”* and *“making the work available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them”*, as the amount of those rates is defined by way of individual negotiation with the users after taking into consideration the requirements from Article 110 of the Act on Copyright and Related Rights. The rates applied by SFP-ZAPA in those fields of exploitation incorporate the amount of the receipts generated by the users as well as the nature and scope of use of the repertoire protected by SFP-ZAPA.

Furthermore, resolution does not specify the separate rates of remunerations relating to the following fields of exploitation covered by the collective management permit, namely *“fixation”*, *“placement in the market”*, *“entry in computer memory”* or *“lending”*, as:

- in relation to the *“fixation”* and *“placement in the market”* fields, the scope of utilisation of the works within those fields is inextricably associated with the exploitation of the works in the *“exercise of copyright and related rights”* field;
- in relation to the *“entry in computer memory”* field, the scope of utilisation of the works within that field is inextricably associated with their exploitation within another field of exploitation, namely *“making the work available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them”*, where the amount of the rate is defined by SFP-ZAPA by way of individual negotiation with the users after taking into consideration the requirements from Article 110 of the Act on Copyright and Related Rights;
- in relation to the *“lending”* field, SFP-ZAPA does not apply the rates of remunerations owing to the fact that, according to the definition from Article 6 item 8 of the Act on Copyright and Related Rights, *“lending for use of copies of a piece of work, it means delivery thereof for use limited in time without the objective of generating direct or indirect material benefit.”*

According to the resolution, the rates specified therein are adjusted for inflation on an annual basis. However, following the 2010 amendment of the Act on Copyright and Related Rights which introduced the requirement to submit the remunerations' table's approval requests to the Copyright

Commission, SFP-ZAPA did not adjust the remunerations rates for inflation while awaiting the final and binding decisions on the remunerations tables.

The level of the rates contained in the authors' remunerations tables applied by SFP-ZAPA is the result of arrangements made by SFP-ZAPA with the users of audiovisual works within individual fields of exploitation and is reflected in multiple agreements concluded by SFP-ZAPA in the past and in the present.

1. RETRANSMISSION — a rate of 2.2% of net receipts of a cable operator in force from mid-2009 is the result of the effort to meet the expectations of the cable TV operators who demanded the lowering of the rate of 2.8% of net receipts of a cable operator in force from 2004 agreed under the General Contract and applied in the years 2004 to 2009. The current rate of 2.2% of net receipts of a cable TV network operator applies to a few hundreds of contracts with the operators who jointly hold over 90% of the cable TV market in terms of the number of subscribers. On 26 April 2018, the Court of Appeals in Poznań approved the Table of Remunerations for the Use of Works and Videograms in Retransmission Field of Exploitation that set the rate for SFP-ZAPA rightholders at 2.2% of the receipts of cable operators obtained from subscribers in connection with the provision of retransmission services. The judgment is final and binding and, consequently, legitimacy of the 2.2% rate sought by SFP-ZAPA over many years has been ultimately confirmed.
2. SCREENING — the currently applied rate of 0.95% of total gross receipts (net of VAT) obtained by cinema operators for the screening of films is reflected in over 360 agreements concluded by SFP-ZAPA with the operators. It was determined as a result of a years-long market practice within the framework of the remunerations rate collected by Society of Authors ZAiKS from cinemas in the amount of 2.1% of gross receipts (less VAT) which incorporated also the remunerations for authors represented by SFP-ZAPA. Under the agreement concluded with SFP-ZAPA, ZAiKS transferred the applicable portion of the remunerations to SFP-ZAPA which, in turn, distributed that remunerations among the eligible authors.
3. REPRODUCTION — the rates of the author's remunerations in that field of exploitation were established as a result of a years-long market practice derived from the rulings of the Copyright Commission issued in 2000 and in 2001 which covered the aggregate rate for the rights represented by Society of Authors ZAiKS and SFP-ZAPA at the level of 8% of the user's revenue. The rate currently applied by SFP-ZAPA is derived from the aforesaid global rate while taking into consideration the scope of the rights represented by SFP-ZAPA in that field in relation to the rights represented by Society of Authors ZAiKS. In addition to the percentage rates, SFP-ZAPA applies also amount-based rates. These vary depending on the type of the work and the type of the carrier on which it has been reproduced and are derived from SFP-ZAPA's contractual practice established with the users. The rates in this field of exploitation have also been approved by the Union of Public Media Employers (Związek Pracodawców Mediów Publicznych) in the course of the proceedings for approval of SFP-ZAPA remunerations tables before the Regional Court in Poznań.
4. PUBLIC PERFORMANCES — the rates in this field of exploitation are derived from the remunerations table approved by the Copyright Commission on 10 July 2013. As at the date of this report, the Committee's ruling relating to some of them has already become final and binding. The remaining parts of the table are still being the object of the proceedings for their approval before the Regional Court in Poznań. SFP-ZAPA's due share in the rates of author's remunerations approved by the Copyright Commission for the reproduction of the repertoire protected by SFP-ZAPA in the manner defined in the parts of the Table incorporates the actual scope of the repertoire protected by the organization and the manner of its utilization (e.g. public performances from an image and sound carrier, public performances in hotel

rooms) within this field of exploitation. The said share was confirmed in the agreement concluded on 29 June 2015 with ZAiKS, the second organization in Poland protecting the rights of co-authors of audiovisual works.

5. RENTAL — the rates in this field of exploitation cover the repertoire represented by SFP-ZAPA, the level of receipts generated for the utilization of the works whose co-authors are protected by the organization as well as the scope and nature of exploitation of those works.

3. Specification of the fields of exploitation where the collective management organization exercised collective management during the reporting year as well as the fields of exploitation in which it intends to exercise collective management in the following reporting year, with specification of the reasons for failure to exercise collective management in a given field of exploitation if the situation in question took place:

SFP-ZAPA exercise collective management within the following fields of exploitation:

With respect to copyright:

- a) as regards the remunerations referred to in Article 70 Clause 2¹ of the Act on Copyright and Related Rights:
 - screening (screening in cinemas);
 - rental, public performances, (rental of audiovisual works and their public performances;
 - broadcasting by means of video or audio wire or wireless systems using a ground station or broadcasting via a satellite (broadcasting a work on television or via other means of public presentation to the general public); and
 - fixing, reproduction using a specific technique, including magnetic recording technique and digital technique, and placing on the market (reproducing an audiovisual work on the copy for individual use).
- b) as regards the remaining copyright in an audiovisual work other than listed in letter a) above:
 - lending;
 - entering in computer memory and making the work available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them; and
 - retransmission.

With respect to related rights:

- placement in the market;
- rental;
- lending;
- public performances ;
- retransmission; and
- making a videogram available to the general public so that everybody is able to access it at the place and time of their choosing.

In the following reporting year, SFP-ZAPA intends to exercise collective management within the same scope as in the year 2017.

4. Specification of the number of the users with whom the collective management organization had agreements concluded as at the end of the reporting year:

1373

The aggregate number of users is not equal to the sum of the agreements concluded with the users within individual fields of exploitation. This is attributable to the fact that SFP-ZAPA has agreements concluded with some of the users that cover more than one field of exploitation.

5. Specification of the number of the users with whom the collective management organization had agreements concluded within the individual fields of exploitation as at the end of the reporting year:

As previously mentioned in item 4 above, the aggregate number of users is not equal to the sum of the agreements concluded with the users within individual fields of exploitation. This is attributable to the fact that SFP-ZAPA has agreements concluded with some of the users that cover more than one field of exploitation. We indicate the number of agreements from the individual fields of exploitation in items 5, 6 and 7 below.

1. Public performances: 613
2. Screening: 368
3. Retransmission: 293
4. Reproduction using a specific technique, including magnetic recording technique and digital technique, placing on the market or rental: 77
5. Broadcasting by means of video or audio wire or wireless systems using a ground station or broadcasting via a satellite: 18
6. Making the work available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them: 5

6. Specification of the number of users with whom the collective management organization concluded agreements in individual fields of exploitation during a given reporting year:

1. Public performances: 42
2. Screening: 299
3. Retransmission: 13
4. Reproduction using a specific technique, including magnetic recording technique and digital technique, placing on the market or rental: 71
5. Broadcasting by means of video or audio wire or wireless systems using a ground station or broadcasting via a satellite: 4
6. Making the work available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them: 0

7. Specification of the number of users with whom the concluded agreements in individual fields of exploitation expired or were terminated during a given reporting year:

1. Public performances: 65
2. Screening: 281
3. Retransmission: 15
4. Reproduction using a specific technique, including magnetic recording technique and digital technique, placing on the market or rental: 61
5. Broadcasting by means of video or audio wire or wireless systems using a ground station or broadcasting via a satellite: 1
6. Making the work available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them: 1

The overwhelming majority of the agreements indicated in items 6 and 7 are agreements concluded for a definite term. They are concluded for specific exploitation of the works that commences and ends during the reporting year (e.g. film shows held during the summer holiday, occasional reproduction of films, e.g. during temporary exhibitions or a film on a DVD added to a magazine or newspaper). Additionally, especially in the case of retransmission, a portion of businesses wind up their business or are acquired by major operators.

8. Specification of the amount of remunerations for collective management collected during the reporting year within the individual fields of exploitation, including separately under Article 70 Clause 2¹ of the act, in net amounts:

TOTAL: PLN 148,330,498.00

of which separately under Article 70 Clause 2¹ of the act: PLN 70,091,723

1. Retransmission: PLN 78,233,458
2. Making the work available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them: PLN 5,317
 - of which under Article 70 Clause 2¹ of the act:
3. Public performances: PLN 1,006,869
4. Screening: PLN 2,421,494
5. Reproduction using a specific technique, including magnetic recording technique and digital technique, placing on the market or rental: PLN 2,016,040
6. Broadcasting by means of video or audio wire or wireless systems using a ground station or broadcasting via a satellite: PLN 64,647,319

In addition to the aforesaid amounts, SFP-ZAPA collected **PLN 1,522,325** for the utilisation of the Polish works abroad within different fields of exploitation, which amount was provided in Chapter 3 item 10.

Detailed specification of the amounts collected within the individual fields of exploitation for the utilisation of the Polish works abroad is not possible owing to the method of reporting deposits by foreign collective management organizations which, in such cases, collect and transfer amounts due to us for our rightholders, frequently providing the sum of the amounts due to a given author from different fields of exploitation. Of the specified amount of PLN 1,522,325 collected for the utilisation of the Polish works abroad, PLN 607,854 was due to the producers, of which PLN

25,170 for Private copying and PLN 582,684 for rebroadcasting. The amount due to authors, i.e. PLN 914,471, was transferred for the utilizations in the fields of exploitation covered by the agreements with foreign collective management organizations such as broadcasting, retransmission, private copies, cinema screening, reproduction, making the work available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them and use for educational purposes.

The structure of collection would be different if all users paid their fees on an ongoing basis. However, owing to the fact that some large users, e.g. cinema multiplex owners, refuse to pay royalties (and SFP-ZAPA is forced to pursue royalties in court), the value of collection in some items is lower than expected. This is the case, first of all, in the screening field of exploitation but a similar situation is also observed in the reproduction field where multiple press distributors and publishers of films on DVDs (also in the form of the so-called inserts) fail to pay due remunerations, which also results in litigation. As regards making the work available to the public in such a way that members of the public may access it from a place and at a time individually chosen by them, conclusion of agreements and collection of remunerations is rendered significantly more difficult by the additional remunerations for authors not having been guaranteed in the act.

The aggregate amount of collected remunerations and fees amounted to: PLN 149,940,324, i.e. the sum of the amounts shown in Chapter III item 8 — remunerations collected in Poland and abroad (respectively, PLN 148,330,498 and PLN 1,522,325) and in Chapter III item 9 — fees for Article 20 Clause 1 of the act (i.e. PLN 87,501).

9. Specification of the amounts of fees collected for collective management during the reporting year, in net amounts:

- a) pursuant to Article 20 Clause 1 of the act: PLN 87,501

SFP-ZAPA did not receive the fees due for Q4 2016 and for the year 2017 before the date of filing of this report. This was due to the withholding of settlements between the collective management organizations being the original fee collectors (ZAIKS and ZPAV) and SFP in connection with the wait for the new case-specific tax rulings or the general tax ruling issued by the Minister of Finance on taxation of the fees. Obtaining new tax rulings has become necessary in connection with the judgment of the Court of Justice of the European Union of 18 January 2017 (case no. C-37/16) stipulating that the fees collected for private copies should not be subject to VAT taxation. According to the tax rulings held by the collective management organizations, VAT was to be charged.

Notwithstanding the tax issues resulting in the payees' failure to transfer to SFP-ZAPA some of the fees for the current periods, the wording of the Regulation of the Minister of Culture and National Heritage, on the basis of which the fees are collected, is a major factor contributing to the low amounts collected on that account. The list of devices and carriers contained in that regulation has not been updated for a decade. As a consequence, it does not incorporate modern copying devices currently used on a widespread basis such as, for instance, tablets and smartphones. On the other hand, the list incorporates such devices and carriers as tape-recorders, video-tape players or tapes and cassettes for analogue recording. Charging fees on these devices cannot be viewed as real compensation for copying works for private use as it does not reflect in any way the actual circumstances. The said archaic list contributes to the fact that the royalties collected in Poland have been some of the lowest in Europe for many years. In terms of per capita collection, the average figure in Poland (EUR 0.04 in 2015) is many dozen times lower than the EU average (EUR 1.42 in 2015).

- b) pursuant to Article 20¹ Clause 1 of the act: SFP-ZAPA does not collect fees on that account.

10. Specification of the amount of remunerations and fees collected during the reporting year from the national or foreign collective management organizations, also under the unilateral or mutual representation agreements, in net amounts:

Amount of remunerations and fees collected during the reporting year from national collective management organizations: **PLN 3,235,935.00** The above amount refers to various fields of exploitation and is incorporated in the amounts from item 11 above.

Amount of remunerations and fees collected during the reporting year from foreign collective management organizations: **PLN 1,522,325**

11. Specification of the amount and legal basis of deductions made for administration costs during the reporting year, with explanation of the reasons for cost growth in relation to the preceding reporting year, if any:

The legal basis for the deductions being made is provided in the provisions of Article 17(2)(E) of the SFP Articles of Association and in the individual rules and regulations of distribution approved by way of the resolutions of SFP-ZAPA Administration Board.

TOTAL: PLN 14,992,207

The administration costs did not increase during the reporting year in relation to the preceding reporting year.

15. Specification of the amount of remunerations paid to the persons who collect remunerations or fees on the basis of a power of attorney or civil law contracts:

SFP-ZAPA does not outsource collection of remunerations or fees to any persons on the basis of powers of attorney or civil law contracts.

Chapter 4

Information on new or amended documents relating to the activity of the collective management organization in the area of division (distribution) of remunerations and fees:

1. During the reporting year, the following amendments were introduced to the rules and regulations of distribution:

- by way of Resolution No. 5/2017 of SFP-ZAPA Administration Board dated 9 February 2017, a list of channels incorporated in distribution for cable and satellite retransmissions for the year 2016.
- by way of Resolution No. 15/2017 of SFP-ZAPA Administration Board dated 10 October 2017, the consent was granted to the addition to the group of co-authors in an animated film of the sound director and film editor .
- by way of Resolution No. 16/2017 of SFP-ZAPA Administration Board dated 10 October 2017, change of the split of royalties at the film script level between the author of the script and the author of the dialogues.

2. Specification of the amount and legal basis for deductions made for distribution costs during the reporting year:

SFP-ZAPA does not deduct additional administration costs. They are incorporated in the costs customarily referred to as the administration costs referred to in chapter 3 item 11 above.

3. Specification of the amount and legal basis of the deductions made for the individual purposes other than the costs of administration or distribution, including deductions for social or promotional activity:

The legal basis for the deductions made is Article 47 Clause 3 of the Articles of Association of the Polish Filmmakers Association stipulating that 10% of the sums collected within the framework of collective rights management may be allocated by SFP to social and cultural purposes and promotion of films. The method of expending these monies has been defined in the Rules and Regulations of the Statutory Social, Cultural and Film Promotion Fund dated 16 May 2013.

TOTAL: PLN 13,956,503

The amounts collected on that account are managed each time on the basis of the resolutions of the Management Board of SFP, passed in compliance with the applicable regulations, in particular the Rules and Regulations of the Statutory Social and Cultural and Film Promotion Fund dated 7 March 2006 — in the wording adopted by way of Resolution No. 69 of SFP Management Board dated 16 June 2013.

4. Discussion and justification of the method of management of receipts from remunerations and fees before their payment to rightholders, including specification of the uses to which the interest earned on term deposits, bank accounts and other financial or equity market instruments is put;

During the period from their collection until their payment to rightholders, receipts from fees and remunerations are deposited in term deposits and overnight deposits. This is owed to the fact that a collective management organization may rely solely on the safe forms of investment that guarantee rapid access to the accumulated monies. Keeping those monies in a non-interest bearing account would expose the collective management organization to the charge of mismanagement.

5. Specification of the total amount of remunerations and other payments transferred during the reporting year to national and foreign collective management organizations.

SFP-ZAPA paid remunerations and fees totalling **PLN 118,078,098** to all rightholders (both national and foreign) during the reporting period.

For SFP-ZAPA

Dominik Skoczek

ZAPA Director

