

No. 50/2019 Coll.

The Act

of February the 1st, 2019

amending the Act No. 121/2000 Coll., on Copyright and Rights Related to Copyright and on Amendment to Certain Acts (the Copyright Act), as amended by subsequent provisions

The Parliament has adopted the following Act of the Czech Republic:

Section I.

The Act No. 121/2000 Coll., on Copyright and Rights Related to Copyright and on amendment to Certain Acts (the Copyright Act), as amended by Act. No. 81/2005 Coll., Act No. 61/2006 Coll., Act No. 186/2006 Coll., Act No. 216/2006 Coll., Act No. 168/2008 Coll., Act No. 41/2009 Coll., Act No. 227/2009 Coll., Act No. 153/2010 Coll., Act No. 424/2010 Coll., Act No. 375/2011 Coll., Act No. 420/2011 Coll., Act No. 18/2012 Coll., Act No. 496/2012 Coll., Act No. 156/2013 Coll., Act No. 303/2013 Coll., Act No. 64/2014 Coll., Act No. 228/2014 Coll., Act No. 355/2014 Coll., Act No. 356/2014 Coll., Act No. 250/2016 Coll., Act No. 298/2016 Coll., Act No. 102/2017 Coll., and Act No. 183/2017 Coll., shall be amended as follows:

1. At the bottom of the footnote no. 1 shall be to the separate line added sentence “Directive (EU) 2017/1564 of the European Parliament and of the Council of 13 September 2017 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print- disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society.”
2. In the introductory part of Article 1 shall be after the word “union¹⁾” inserted sentence “follows at the same time the directly applicable European Union legislation²⁸⁾” “.

The footnote no. ²⁸⁾ shall sound:

„²⁸⁾ Regulation (EU) 2017/1563 of the European Parliament and of the Council of 13 September 2017 on the cross-border exchange between the Union and third countries of accessible format copies of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled.”

3. Article 38 including its title shall sound:

“Article 38

Use of the Original Work or Reproduction of a Work of Fine Arts, Photography or a Work Expressed in Manner analogous to Photography by its Exhibition

Copyright is not infringed by the owner or by a person who borrows from him/her, the original or reproduction of a work of fine arts or of a photographic work or of a work produced by a process similar to photography, who exhibits such work or provides such work for exhibition free of charge, unless such use was banned by the author during the transfer of ownership to such an original or reproduction of the work, and the owner or borrower were aware of or must have been aware of the ban particularly because of the inscription of the ban in the list maintained for that purpose by the collective management organization.”

The footnote no. 15 shall be revoked.

4. Article 39 including its title and the footnote no. ²⁹ shall sound:

„Article 39

Licence for Persons with Disabilities

- (1) Copyright is not infringed by anybody, who:

a) exclusively for the benefit of persons with disabilities, to the extent required by the specific disability and not for the purpose of direct or indirect economic or commercial advantage, makes or has a reproduction made; a reproduction so made may also be distributed and communicated by him/her, unless this is done for the purpose of direct or indirect economic or commercial advantage, or

b) exclusively for the benefit of persons with visual or hearing impairment and not for the purpose of direct or indirect economic or commercial advantage, provides a reproduction of an audiovisual fixation of an audiovisual work adding a verbal expression of the visual component or visual or textual aids necessary to make the work accessible to those persons; so supplemented audiovisual work may also be reproduced, distributed and communicated by him/her, unless this is done for the purpose of direct or indirect economic or commercial advantage.

(2) Paragraph 1 above shall apply to an audiovisual work only in the case, that it has been published.

(3) Copyright is not infringed by anybody, who operates a television broadcasting service and, in compliance with the law, broadcasts a programme ²⁹⁾ supplemented by an audio description, that make the programme accessible to the persons with visual impairment, if such service is free of charge, or unless this is done for the purpose of direct or indirect economic or commercial advantage.

(4) Copyright is neither infringed by the person referred to in Article 37 (1), if it lends originals or reproductions of published works to meet the needs of persons with disabilities in relation to their disability.

(5) Provisions of Article 30 (5) shall apply accordingly.

²⁹⁾ Article 2 (1) point (1) of the Act No. 231/2001 Coll., on Radio and Television Broadcasting and on Amendment to certain acts, as amended by subsequent provisions.”

5. At the bottom of Article 39 are inserted new Articles 39a and 39b, which including the titles shall sound:

„Article 39a

Licence for Certain Use of the Works for the Benefit of Persons who are Visually Impaired or Otherwise Print- disabled

- (1) The beneficiary person for the purpose of this Article and Article 39b means a person, who
- a) is blind or has other visual impairment which cannot be compensated or improved by commonly available means so as to give the person visual function substantially equivalent to that of a person without such an impairment,
 - b) has a perceptual or reading disability and is, as a result, unable to read printed works to substantially the same degree as a person without such disability, or
 - c) is not, due to a physical disability, able to hold a book, journal, newspaper or other kind of writing or manipulate it or to focus or move their eyes to the extent that would be normally acceptable for reading.
- (2) The accessible format reproduction for the purpose of this Article and Article 39b means a reproduction of original or reproduced work in the form of book, journal, newspaper, magazine or other kind of writing, including related illustrations, or sheet music, in any media, made in an alternative manner or form which allows a beneficiary person to read or otherwise perceive the work to the same or substantially same degree as a person without disability or such an impairment under the paragraph 1.
- (3) The authorised entity for the purpose of this Article and Article 39b means anybody that provides as its primary activity or as a part of its public-interest mission, not for the purpose of direct or indirect economic or commercial advantage, to the beneficiary persons education, instructional training, adaptive reading or information access.
- (4) Copyright law is not infringed by
- a) a beneficiary person, or person acting in his/her interest, who makes an accessible format reproduction for the exclusive use of this beneficiary person,
 - b) an authorised entity established or residing in the Czech Republic that makes, not for the purpose of direct or indirect economic or commercial advantage, an accessible format reproduction and to meet exclusively the needs of the beneficiary person, distributes, lends or communicates this reproduction to the beneficiary person or to the other authorised entity established or residing in the Czech Republic.

- c) an authorised entity established or residing in the Czech Republic that makes, not for the purpose of direct or indirect economic or profit advantage, an accessible format reproduction and to meet exclusively the needs of the beneficiary person distributes, lends or communicates this reproduction to the beneficiary person or to the other authorised entity established or residing in other member state of the European Union or in the third country under the directly applicable European Union legislation²⁸, or
 - d) a beneficiary person or an authorised entity established or residing in the Czech Republic that, not for the purpose of direct or indirect economic or profit advantage, imports or otherwise obtains or accepts an accessible format reproduction distributed or communicated to beneficiary persons or authorised entities by authorised entity established or residing in member state of the European Union or in the third country under the directly applicable European Union legislation.²⁸
- (5) Application of the compulsory licence pursuant to paragraph 4 may not be contractually excluded or limited.

Article 39b

Obligations of Authorised Entity

- (1) An authorised entity established or residing in the Czech Republic that applies the compulsory licence pursuant to Article 39a (4) point (c) or (d), is obliged to
 - a) distribute, lend or communicate the accessible format reproduction only to a beneficiary person or the other authorised entity,
 - b) take appropriate steps to discourage the unauthorised reproduction, distribution, lending or communicating of accessible format reproduction to the public,
 - c) demonstrate due care in, and maintain records of, its handling of a work and its accessible format reproduction, and
 - d) publish and update, on its website, or through other online or offline channels information on how it complies with the obligations laid down in points (a) to (c).
 - (2) An authorised entity established or residing in the Czech Republic, that applies the compulsory licence pursuant Article 39a (4) point (c) or (d), shall provide, on request, in an appropriate way, to a beneficiary person, other authorised entity or to the author
 - a) the list of the works for which it has accessible format reproductions including the available formats and
 - b) the names and the contact details of the authorised entities with which it has engaged in the exchange of accessible format reproductions.
6. In Article 43 (4) the text “Article 38” shall be revoked and words “and Article 38e” shall be replaced by the words “, Article 38e, 39 and Article 39a (4)”.
7. In Article 74, 78 and in Article 82 the words “Article 37 to 38a” shall be replaced with text “Article 37, 37a, 38a” and words “Article 40 to 44” shall be replaced with words “Article 39 to 44”.

8. In Article 86 the text “Article 38 (1) point (a)” shall be revoked and words “Article 40 to 44” shall be replaced with words “Article 39 (1) point (a), Article 39a to 44”.
9. In Article 94 the words “Article 40 to 44” shall be replaced with words “Article 39 to 44”.

Section II.

Efficiency

This Act shall enter into force on the day of its publication.

Vondáček m.p.

Zeman m.p.

pp Brabec m.p.