



SERVING AUTHORS WORLDWIDE
AU SERVICE DES AUTEURS DANS LE MONDE
AL SERVICIO DE LOS AUTORES EN EL MUNDO

COU20-1129

Mr Ihor Petrashko
Minister for Development of Economy, Trade and Agriculture
12/2 M. Grushevs'kyi Street
Kyiv, 01008
Ukraine

Neuilly sur Seine, 22/12/2020

By email: meconomy@me.gov.ua

Dear Mr Petrashko,

CISAC concerns with the outcome of the accreditation process for collective management organizations

I am writing to you on behalf of CISAC, the International Confederation of Societies of Authors and Composers, to express our grave concerns with the outcomes of the recent meeting of the Accreditation Commission ("AC"), established under the 2018 Law on Collective Management Law of rights ("CRM Law") of Ukraine.

CISAC is the voice of over 4 million creators from all artistic fields including music, drama, literature, audio-visual, graphic and visual arts. These creators are affiliated to CISAC members, which are 232 authors' societies (also referred to as Collective Management Organisations, or CMOs), from 120 countries.

In Ukraine, CISAC's only music member is NGO UACRR. NGO UACRR is, without a doubt, the most representative music authors' rights society in Ukraine. It represents over 500 regular members and close to 4000 Ukrainian creators overall. It also concluded 104 reciprocal representation agreements with sister societies (members of CISAC), which basically allows them to license the world music repertoire in Ukraine. It shall be underlined that here is no other CMO that can do this in Ukraine, as of today.

Under the CRM Law, your Ministry has been charged with facilitating the selection of representative and legitimate CMOs and setting up a sustainable collective management model in Ukraine. CISAC has regularly underlined the importance of achieving a trustworthy, reliable and effective accreditation process for CMOs (For example, please see attached the May 2019 letter to one of your predecessors, sent by CISAC and other international umbrellas).

Further, the CRM law requires that the most representative CMO in each respective field, shall be chosen. The international representativeness of a CMO, as shown by the number of reciprocal agreements it has concluded with societies around the world, should serve as a key factor in this respect. CMOs rely on the network of reciprocal agreements with their sister societies to effectively exercise and protect the rights of their members around the globe in accordance with international copyright treaties. It therefore makes sense to consider the relationship of a CMO with similar societies around the world, as a decisive factor, as also clearly recognised by the 2018 CRM Law.

We were surprised to learn of the outcome of the recent AC meeting on 17 December which has apparently concluded that there are more representative CMOs in Ukraine than NGO UACRR. The AC selected two separate CMOs to administer authors' rights in music (public performance and broadcasting) in Ukraine. The process for the selection and the results announced raised the following *prima facie* concerns:

First, it seems one of the selected entities has been registered as a CMO just a few days before the accreditation process deadline. This raises serious and unavoidable questions about the integrity of the whole process. It also brings up the legitimate question as to whether a new organisation can truly be an established and representative entity as required by the CRM law.

Second, it makes little sense to split the management of rights between two entities. We were truly surprised by the AC's decision to select two separate CMOs and create an unprecedented situation where the rights of public performance and broadcasting are in the hands of different entities. This situation is bound to create confusion and inefficiencies around representation, licensing and distribution of royalties. Normally it is only one CMO that manages both rights on behalf of creators and rightsholders. We are aware of no other country in the world that has adopted an approach similar to the one recommended by the AC.

We understand that our member NGO UACRR will challenge the results of the AC process in the courts due to a number of alleged violations of the legal procedure. Nevertheless, we do hope that you will exercise your power to reject the AC decision, and prevent further obstruction and unnecessary confusion in an already dysfunctional collective management system that is in dire need of support and normalization.

Yours sincerely,



Gadi Oron
Director General

cc: Mr Volodymyr Zelenskyi, President of Ukraine
Mr Denys Shmyhal, Prime Minister of Ukraine
Mr Oleksandr Tkachenko, Minister of Culture and Information Policy of Ukraine
Mr Gernot Graninger, Chair of CISAC European Committee
Mr Sylvain Piat, CISAC Director of Business
Mr Mitko Chatalbashev, CISAC Regional Director for Europe
Mr Valerii Kharchyshyn, NGO-UACRR Director General