

REPORT
on
„Uzus" SARAJEVO
Association of independent music authors, performers, arrangers, and public
persons, for the period 2005 – 2010

I. Legal Basis

The Institute of standardization, metrology, and intellectual property of Bosnia and Herzegovina (predecessor of the Institute for Intellectual Property of B&H), granted to Uzus Sarajevo, Association of independent music authors, performers, arrangers, and public persons (hereinafter: Association Uzus), by the decision No. IP-5472/03-01SŽ of 30/07/2003, authorization for the management of the rights of performers, associations of performers or other right holders on the basis of the power of attorney granted by right holders.

The Association Uzus was entered in the Register of Associations maintained by the Ministry of Justice of B&H on 04/06/2003. According to the Statute, the aims and activities of the Association Uzus are:

- *protection of the works of authorship of independent music authors, performers, arrangers, and public persons members of the Association,*
- *cooperation and exchange of experiences among members in their specific fields;*
- *monitoring of the work in the field, providing legal advice related to the management of rights according to the laws regulating particular forms of creative work,*
- *education of junior members,*
- *providing support in organizing concerts, and other public performances, cooperation with similar associations as well as institutions in the country and abroad, other activities according to the Statute and other acts of the Association.*

The authorized persons of the Association Uzus are Denis Murtić, President of the Assembly and Omar Mehmedbašić, Chair of the Board of Directors.

II. Statute and organization

According to the Statute, the bodies of the Association are: Assembly of the Association and Board of Directors.

The Assembly is the highest authority of the Association and it is composed of all members. The Assembly convenes on an as-needed basis, but at least two times a year. The Assembly passes the Statute, gives consent to legal actions taken during incorporation, adopts the financial plan or financial report for each year, adopts operating plan and programme, and annual financial report, adopts operating report and other reports made by the Board, decides on mergers, demergers, transformation, winding up and a stoppage of work, other status changes of the Association, appoints and releases of duty members of the Board of Directors and Supervisory Board, and decides on all other issues that another body is not responsible for.

The Board of Directors is the executive authority, and it coordinates and organizes the implementation of the adopted operating plan and decisions of the Assembly. The Board of Directors is composed of seven members who are also members of the Assembly.

III. Property acquisition and management

The property is acquired through membership fees, voluntary contributions, donations, gifts from natural persons and legal entities, funds allocated from the budget, other income generated in accordance with law. The income derived from any of the aforesaid is distributed according to the adopted financial plan. The final distribution is made on the basis of the annual report.

Financial and operating reports are drafted by the Board of Directors and submitted to the Assembly for adoption. Reports are submitted semiannually and annually, and are adopted by the Assembly.

IV. Operating report for the period 2005 – 2010

Within its responsibility for supervising the work of collective organizations, the Institute for Intellectual Property of B&H requested Uzus to produce the operating report for the period 2005-2010, and instructed it to furnish:

- information on the right/rights it manages;
- copies of powers of attorney granted by authors and authors' associations to the association for the management of their rights;
- copies of contracts concluded with users per year;
- income derived from users from B&H per year;
- income derived abroad on the basis of contracts on reciprocal representation;
- amounts distributed to authors and related right holders per year;
- amounts distributed to the authors from other countries through foreign collective organizations;
- operating expenses per year;
- operating plans per year;
- decisions of the responsible body of the association on adoption of operating plans per year;
- financial reports per year adopted by the responsible body;
- audit reports along with the assessment of a licensed auditor of the correctness of operations of the association and harmonization thereof with laws, acts of the association, and contracts concluded with third parties per year;
- copies of judicial and administrative decisions involving the association as a party to proceedings.

For the purpose of obtaining full information on the amounts paid to collective organizations, the Institute received information from some users (28 users) on the amounts of remuneration paid for the use of copyright and related rights, of which 20 stated that they had paid **KM 252.900,43** to Uzus in the reporting period.

The report with accompanying documents was received on 12/02/2011.

The copies of contracts with users (119 radio and TV stations) and 226 powers of attorney granted by performers were enclosed with the report.

Due to the failure of users to provide the requested information, it was impossible to make comparison with the information provided by Uzus, and the report was prepared on the basis of the information provided by Uzus.

V. Financial transactions

According to the report, the outstanding receivables of Uzus in the reporting period amounted to **KM 3.164.209,85**, of which **KM 794.686,00**, or **25%**, were collected. The operating expenses of Uzus were **KM 586.861,00 KM**, or **74%**, in relation to the revenue generated in the reporting period. The amount of distributed funds was **KM 96.100,00**, or **12%**, in relation to revenue.

Table 1. Financial transactions of Uzus

COLLECTIVE ORGANIZATION	YEAR	OUTSTANDING RECEIVABLES	REVENUE	OPERATING EXPENSES	%	DISTRIBUTED FUNDS	%	BALANCE INCOME-EXPENDITURE
UG „Uzus” Sarajevo	2005.	95.269,49	78.270,00	75.896,00	97%			2.374,00
	2006.	220.229,00	95.773,00	85.567,00	89%	8.350,00	9%	1.856
	2007.	441.837,00	125.379,00	97.653,00	78%	9.000,00	7%	18.726
	2008.	643.190,00	165.479,00	102.246,00	62%	16.900,00	10%	46.333
	2009.	802.040,65	170.898,00	105.726,00	62%	17.400,00	10%	47.772
	2010.	961.643,71	158.887,00	119.773,00	75%	44.450,00	28%	-5.336
	Total	3.164.209,85	794.686,00	586.861,00	74%	96.100,00	12%	111.725,00

The Institute requested Uzus on 14/10/2011 to amend the report by information on whom the balance/difference between revenue, operating expenses, and distributed funds was remitted to.

The Association Uzus provided on 24/10/2011 the requested information, stating that the balance of **KM 111.725,00** refers to the part of funds amounting to **KM 55.787,32** that remained in the Uzus bank account (bank statement no. 236 of ISP banka as of 31.12.2010), and the other part of **KM 55.000,00** was withdrawn from the account, and then deposited in the account again in July 2011. The funds in the amount of KM 938,00 were used to pay hot meal allowance to employees.

For the purpose of the collection of outstanding receivables, the Association Uzus sued RTV «BN» d.o.o. Bijeljina, within the reporting period, for the repayment of debt of **KM 28.271,34**. Judicial proceedings are ongoing. The Association Uzus entered an extrajudicial settlement agreement with Alternativna televizija Banja Luka for the repayment of debt of **KM 25.648,22** (50% cash and 50% compensation).

The report says that the Association Uzus **has not distributed funds to the authors abroad**, explaining that it executed bilateral cooperation agreements with foreign collective organizations (HUZIP Croatia, IPF Slovenia, STOART Poland etc.), as per SCARP (umbrella organization of associations dealing with the collective protection of performers' rights) instruction, directly regulating the distribution of funds to the authors abroad, and stipulating that the remuneration

collected and distributed under the Cooperation Agreement remains in the country where it has been collected.

The following decisions were submitted with the report:

- Decision on adopting the outline of income derived from users in B&H for the period 2005-2010;
- Decision on adopting the outline of income derived from users abroad for the period 2005-2010;
- Decision on adopting the outline of the funds distributed to authors through foreign collective organizations for the period 2005-2010;
- Decision on adopting the outline of the funds distributed to authors in B&H for the period 2005-2010;
- Decision on adopting the outline of the funds for covering the operating expenses of the Association, including the percentage in relation to revenue, for the period of 2005-2010;
- Decision on adopting the Operating Plan of the Association for the period 2005-2010;
- Decision on adopting the outline of judicial and administrative decisions involving the Association as a party to proceedings.

Note: All decisions were made at the General Meeting of the Association held on 12/02/2011 in Sarajevo.

Conclusion

The following was concluded by the analysis of the data provided by Uzus:

1. There is inconsistency in denoting the holders of rights managed by Uzus in a collective manner. Some documents mention performers, and some mention music authors. The Institute granted to the Association the authorization for the collective management of the rights of performers, associations of performers or other holders of performers' rights. The list of persons who authorized Uzus for the collective management of copyright contains the names of performers. On the other hand, according to the Decision of the Ministry of Justice of B&H on Entry in the Register of Associations, the aim or main activity of the Association is protection of the works of authorship of independent music authors. The documents on financial operations indicate that income was distributed to authors, and not to performers. As the Institute does not have information on concrete distribution transactions, it is not possible to establish if it is only a terminology mistake or dealings outside the scope of authorization of the Institute.
2. Outstanding receivables of the Association in the reporting period were **3.164.209,85 KM**, and revenue was **794.686,00 KM**. The balance between outstanding receivables and revenue was **2.369.523,85 KM**. It is not clear why outstanding receivables were not realized in the same period.

Operating expenses of the Association were **586.861,00 KM (74% of revenue)**, and right holders were distributed only **96.100,00 KM (12%)**. The balance/difference of **111.725,00 KM (14%)** was not substantiated by relevant documents. Taking into consideration that the purpose of the collective management of copyright and related rights is collecting the funds for the account of right holders and that, according to the international practice, operating expenses of an organization should not exceed 20-30% of revenue, and that the rest should

be distributed to right holders, the Association Uzus violates that principle by a large disproportion between the operating expenses and distribution to right holders. According to the report for 2006, the distribution to right holders was carried out linearly, by paying flat fee/rate, and not on the basis of actual usage of subject matters of protection. The information on the distribution to rights holders in other years has not been provided to the Institute.

3. According to the Statute of the Association Uzus, the Assembly is supposed to convene at least two times a year, and it is responsible for passing the financial plan, the financial report, and the annual report. The Assembly was not convened regularly, and it did not pass decisions regularly. All the decisions related to financial transactions of the Association were passed on 12/02/2011, after the report had been requested by the Institute.
4. When appraising the performance of the Association Uzus, it should be taken into account that the reporting period covers the period of application of the Law on Copyright and Related Rights of 2002 (the old Law) that regulated the collective management of copyright and related rights only in rudimentary way. As the Law on the Collective Management of Copyright and Related Rights, which entered into force in 2010, precisely regulates this matter in accordance with the standards of comparative law, it needs to be noted that the work of Uzus is impossible to continue as such, because it does not meet the standards of transparency and democratic approach to the work of the collective organization, the manner of the distribution of revenue, and efficiency in meeting the aims and objectives of its existence regulated by law.

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