



INDEPENDENT MUSIC PUBLISHERS INTERNATIONAL FORUM

To: Deputy Prime Minister and Minister of Culture and National Heritage of the Government of Poland, Prof. Dr. Piotr Glinski
From: Pierre Mossiat, President of the Independent Music Publishers International Forum
Cc: Director General CISAC, Gadi Oron; Chair CISAC, Eric Baptiste; ZAiKS, Milosz Bembinow; IMPF Music Publishers Poland, Andreas Schubert, Paulina Golba, Marta Zgrzywa, (Janusz Jakubowski); Executive Board of IMPF, Simon Platz, Teri Nelson Carpenter, Annette Barrett, Teresa Alfonso, Niclass Björlund, Francesca Trainini
Date: May 30, 2019
Ref: [Complaint regarding the recent Statute of the Authors' Association ZAiKS](#)

Delivered by email to: minister@mkidn.gov.pl

Dear Deputy Prime Minister Glinski,

I write on behalf of independent music publishers in Poland who are members of IMPF, the international organisation with a seat in Brussels, that works on behalf of independent music publishers globally.

It has come to our attention that the wording of the new Statute of the Authors' Association ZAiKS, which was approved by the ZAiKS Extraordinary Delegates Convention on April 06 2019, fails to meet the basic guiding principles set out in the Directive 2014/26/EU (collective management of copyright and related rights – "CRM Directive") and the ensuing Polish Act on Collective Management of Copyrights and Related Rights (June 15 2018 aka the "OZZ Act"). Worse in fact is that the new statute is both discriminatory and prejudicial to authors, composers and publishers of music and is a clear violation of the explicit requirements of the OZZ Act.

Music publishers constitute a special category of members of ZAiKS, providing ZAiKS with almost 90% of its total music revenue via music copyrights of songwriters and music publishers. Yet despite this long-standing 'contribution' of music copyright to ZAiKS total revenue our members still do not hold a majority of the votes in the various bodies of ZAiKS, most notably in the key decision-making bodies, the Meeting of Representatives and the Management Board.

Contrary to what the name ZAiKS might suggest (Association of Authors and Composers) ZAiKS is an association which also acts as a collective rights manager (CRM) for other kinds of creators, for example choreographic/scientific/dramatic/journalistic works or Polish translations of film dialogues and also acts for others, for which ZAiKS doesn't act as a CRM i.e. the so called "non-repartition" members, i.e. photographs, architects etc..

The new Statute adopted by ZAiKS gives equal rights to all categories of members no matter how much they contribute to the collection of the society. This way any group whose collection is marginal or nil, receive the same rights (voting etc.) as music publishers. This will mean that decision making power affecting the critical execution of collective management in Poland will be made by those who generate 10% of the income of ZAiKS, and those members who represent the generation of some 90% of the revenue via music copyright will be in a minority (in terms of numbers) as a result of this Statute. Such an outcome is entirely contrary to the intention of the CRM Directive and the provisions of Article 18 of the Polish Act, according to which the rules of selecting representatives, shall provide a fair and balanced method of representation of the members of collective societies who belong to the different categories of members in the Meeting of Representatives.

We contend therefore that the provisions of the new Statute infringe the purpose, spirit and letter of the Directive 2014/26/EU and of the OZZ Act.

We are strongly against the discriminatory actions of ZAiKS in this regard and we are in full support of our members in Poland who will pursue any necessary action to ensure that the basic principles of the EU and Polish CRM are followed.

Music Publisher members of IMPF in Poland will be pleased to meet with you at your convenience to discuss this further and we will also take it up here in Brussels.

I trust that you will give this your full consideration and with some urgency given its gravity, and I look forward to hearing from you.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Mossiat', is positioned above a light gray rectangular background.

Pierre Mossiat
President of IMPF and Chair of the Board of Directors

“IMPF is the Independent Music Publishers International Forum and serves as an international network and meeting place for independent music publishers. Its main objectives are to share experiences and best practices in music publishing; exchange information on the legal and regulatory framework and music publishing environment; coordinate actions and support projects relevant to composers, authors and their music publishers; represent the interests of the independent music publishing community; and stimulate a favourable environment for artistic, cultural, linguistic and commercial diversity”.

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