



## 4.6. CZ – Czechia<sup>56</sup>

### 4.6.1. Key Findings

Notions	Existence of definitions/rules
Independent production	No
Independent producer	Yes
Legal provisions concerning the transfer or cession of authors'/performers' rights to the producer (e.g. legal presumption, etc.) (Relationship author-producer)	Yes <sup>57</sup>
Specific rules related to the assignment or retention of IP rights by independent producers (Relationship independent producer-AVMS)	No

- The concept of an independent producer of audiovisual works is related to its operational and financial independence from broadcasters.
- A producer of audiovisual works (a natural or a legal person) shall be deemed independent when (s)he does not participate in the voting rights or share capital of a broadcaster and neither does the broadcaster in question participate in the voting rights or share capital of the production company.
- Additionally, a producer of audiovisual works shall be deemed independent when (s)he does not supply to one and the same broadcaster more than 90% of its total production within a three-year period.

<sup>56</sup> The summary on Czechia incorporates the feedback received from the Czech Council for Radio and TV Broadcasting (RRTV).

<sup>57</sup> Article 63(1) of Act No. 121/2000 Coll. of 7 April 2000 on Copyright and Related Rights and on Amendments to Certain Acts states that “[i]t shall be deemed that the author of the audiovisual work is the director of the work. This shall not prejudice the rights of authors of works used audiovisually”. Furthermore, Article 63(3) of the same act establishes a legal presumption of transfer from the author of an audiovisual work to the producer, unless otherwise agreed, of the exclusive rights which are necessary for the exploitation of the work, such as the rights to use, distribute, dub and subtitle the work in question. The right to communicate the work to the public shall be subject to a specific agreement. According to Article 63(3) of this act:

*Unless otherwise agreed, in the case when the author of the audiovisual work has granted the producer of the first fixation of the audiovisual work his/her written permission to fix the first fixation of the work, it shall mean that a) (s)he has also granted such producer the exclusive and unrestricted licence, with the exception of uses pursuant to Article 13, as far as making copies for the purpose of their distribution is concerned, Articles 14 and 18 paragraph (2), to use the audiovisual work in its original version as well as in the dubbed and subtitled versions, and also to use the photographs created in connection with the making of the primary fixation, including the option of granting authorisation which is part of such licence in its entirety or in part to a third party, and that b) together with such producer (s)he has agreed on a remuneration in the amount habitual in the sense of the provision of Article 49, paragraph (2) a)”.*

See Act No. 121/2000 Coll. of 7 April 2000 on Copyright and Related Rights and on Amendments to Certain Acts available at: <https://wipolex-res.wipo.int/edocs/lexdocs/laws/en/cz/cz029en.pdf>



- The national legislation does not include rules on the retention of IP rights by independent producers in their relationship with broadcasters.

#### 4.6.2. National definition of independent producer/ independent production

Legislation	Summary of the measures
Article 43(3) of Act No. 231/2001 on the operation of radio and television broadcasting and amending other laws – consolidated 15 September 2022 ( <i>Zákon č. 231/2001 o provozování rozhlasového a televizního vysílání a o změně dalších zákonů – Konsolidovaný 15. září 2022</i> ) <sup>58</sup>	According to Article 43(3) of Act No. 231/2001 an independent producer of audiovisual works is considered to be the natural or legal person that meets the following criteria: a) (s)he is not a broadcaster, b) (s)he has ownership independence with regard to broadcasters in the sense that the producer does not participate in the voting rights or share capital of a broadcaster and neither does the broadcaster in question participate in the voting rights or share capital of the production company, c) (s)he does not contribute more than 90% to a broadcaster's total production over a period of three years.

#### 4.6.3. National rules on IPR assignment/retention

Legislation	Summary of the measures
	N/A.

<sup>58</sup> <https://www.rrtv.cz/en/static/documents/act-231-2001/Act-on-RTV-broadcasting-reflecting-AVMSD.pdf>