

Collecting Society for Performing Artists and
Phonogram Producers (SFH)
Austurströnd 3
170 Seltjarnarnes

Date
Case No.

19 March 2025
MVF23090362

MINISTERIAL RECOGNITION

for the collective management of the collection of remuneration in accordance with Article 47 of the Copyright Act No. 73/1972

The Ministry of Culture, Innovation and Higher Education refers to an application from the Collecting Society for Performing Artists and Phonogram Producers (SFH), Reg. No. 620976-0169, dated 5 April 2022, regarding recognition by the Ministry of Culture and Business Affairs, as the ministry was termed at the time, relating to the management activities of the Society based on sections 47.2 and 47.3 of the Copyright Act No. 73/1972 (hereinafter the “Copyright Act”), in accordance with subsection 1 of Article 2 of Act No. 88/2019 on the collective management of copyright (hereinafter the “Management Act”), and Section 26.4(a) and Article 26(d) of the Copyright Act and Article 5 of Regulation No. 821/2021, on the recognition of collective management organisations issued in accordance with the Copyright Act (hereinafter “Regulation 821/2021”).

The provision of Section 47.1 provides for compulsory licensing as regards the public performance of phonograms according to Section 2.3(3) of the Copyright Act, apart from communication to the public in the understanding of Section 2.4(1) of the Copyright Act. Compulsory licensing means that users are permitted the use provided for in the compulsory licence, but against remuneration, as stated in Section 47.1. According to the current legislation, the collection of such remuneration can only be entrusted to a management organisation which constitutes a society of producers and performers of music, as provided in Section 47.2 of the Copyright Act. The recognition of such organisations is entrusted to the Ministry, as provided in Section 47.2 and Section 26.4 of the Copyright Act. The award of such recognition is provided for in Regulation 821/2021.

According to SFH’s articles of association the principal objects of the Society are to negotiate, collect, administer and distribute remunerations to performers and phonogram producers in Iceland when their phonograms are broadcast or performed publicly in Iceland, as provided in Article 47 of the Copyright Act. The Society is also empowered to collect, administer and distribute other forms of remuneration pertaining to the groups of right holders referred to above. The same applies in the case of funds that accrue to the same groups of right holders where individual distribution is not possible.

In reviewing SFH’s application, the Ministry has taken account of the requirements laid down in the Copyright Act, the Act on Public Administration and Regulation 821/2021.

Specific emphasis has been placed on the general requirements laid down in Section 3.1 of Regulation 821/2021, which all collective management organisations are required to meet in order to obtain recognition.

- SFH has shown that the Society represents a sufficient number of right holders of phonograms, both performers and producers, that fall within the scope of the compulsory licence provided for in Article 47 of the Copyright Act as regards the performance of musical works, and also as regards other public performance;
- The new and amended articles of association of SFH clearly indicate that SFH has unquestioned authorisation from its members and member associations to undertake the

management activities covered by the recognition, as provided in Articles 2-5 of Act No. 88/2019;

- Information has been made available showing the financial viability and administrative capacity of SFH to undertake the management of rights in conformity with the provisions of Chapters II-V of Act No. 88/2019;
- SFH has demonstrated the existence of processes for internal controls and trusteeship in the interest of members in accordance with the provisions of Act No. 88/2019;
- SFH has managed the copyrights of its member associations in the areas covered by the application for a number of years, as evidenced by SFH's articles of association, and the Society has therefore established itself as a management organisation in this area;
- On the basis of its activities over the years, SFH has acquired knowledge of marketing matters in its field and experience of negotiating compulsory licensing agreements.

Furthermore, SFH has informed the Ministry that the Society has entered into mutual agreements with foreign sister collecting societies and collection agencies and represents the interests of foreign and domestic right holders, both those who are members of SFH and those who are not.

Having regard to the above, SFH is seen as representing a significant proportion of right holders in the area covered by the recognition. It is furthermore of the opinion of the Ministry that the Society has sufficient capacity to undertake the collection and disbursement of income from rights in accordance with the provisions of the Act on management organisations.

In light of the above, and in light of the documentation supplied by the Society to the Ministry, SFH is hereby accredited as an association of right holders competent to undertake management functions relating to the collection of remuneration in accordance with Section 47.2 and Section 26[a].4 of the Copyright Act. The recognition is granted for the following administrative activities:

- Undertaking of management functions and collecting remuneration relating to broadcast performances of musical works on the basis of Article 47 of the Copyright Act, as well as other public performances with regard to the rights of performing artists and phonograph producers in Iceland;
- The recognition does not cover communication of material in the understanding of point 1 of Section 2.4 of the Copyright Act.

This recognition is of indefinite duration, but it is a prerequisite for recognition by the Ministry that the following conditions are, and continue to be, met on the part of SFH:

1. That SFH continues throughout the duration of the recognition period to be seen as representing a significant proportion of right holders of the phonograms to which the recognition applies, and which are utilised in Iceland;
2. That SFH undertakes, on receipt of a request to such effect, to inform the Ministry of Culture, Innovation and Higher Education of any relevant matters of the Society, as provided in Section 36.2 of the Act on management organisations;
3. that the activities of SFH are conducted within the framework of current legislation and rules, including the Copyright Act, the Act on management organisations and Regulation 821/2021. SFH should furthermore observe the international obligations that Iceland has undertaken;
4. that SFH publishes in an unequivocal manner on its website that the Society has obtained the recognition of the Ministry as a management organisation regarding the use of phonograms on the basis of Section 47.2 of the Copyright Act and publish such information as may be necessary for a right holder who is not a member of the Society to submit claims for individual remuneration;

5. that SFH submit to the Ministry an annual report on its activities, as provided in Section 4.1 of Regulation 821/2021.

The Ministry of Culture, Innovation and Higher Education is responsible for the supervision of the activities of collective management organisations, apart from matters falling within the aegis of the Copyrights Complaints Board. The Ministry may decide to investigate a matter *ex officio*, in which case that Ministry's supervision will be limited to formal requirements and whether proper procedures have been observed, as noted in the report attached to the legislative bill that became the Act on management organisations. The Ministry is permitted to call for information on the activities of collective management organisations at any time, and if the Ministry should request such information the collective management organisations shall submit the information without undue delay. If it is revealed in the course of supervision that a management organisation no longer meets the conditions laid down in the Copyright Act, the Act on management organisations and Regulation 821/2021, the Minister may withdraw this recognition in accordance with Section 4.5 of the Regulation.

For the Minister,

Sigrún Brynja Einarisdóttir
Permanent Secretary,

Anna Kristín Einarisdóttir
Chief of Staff