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Performing Arts Institutions Act

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Passed	Published	Entry into force
17.12.2008	RT I 2009, 5, 35	01.07.2009
11.11.2009	RT I 2009, 57, 381	01.01.2010

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application of Act

(1) This Act provides the definition of performing arts institution and the bases for the organisation of activities and financing of performing arts institutions and reporting by performing arts institutions.

(2) The Administrative Procedure Act applies to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

§ 2. Performing arts institution

(1) For the purposes of this Act, performing arts institution is an institution:

- 1) which organises regularly public presentations of the creative work of authors and performers in the form of performances and concerts;
- 2) which is in employment relations with persons engaged in creative activities;
- 3) which has an artistic director and an artistic council;
- 4) which informs the public of performances or concerts.

(2) This Act regulates the activity of performing arts institutions, which operate as a state agency administered by the Ministry of Culture (hereinafter referred to as *state performing arts institution*), a local government agency (hereinafter referred to as *municipal performing arts institution*) or as a foundation founded by the state or with the participation of the state (hereinafter referred to as *performing arts institution operating as a foundation*).

(3) This Act regulates the activities of the performing arts institutions operating in accordance with the Acts concerning legal persons in private law (hereinafter referred to as *private performing arts institution*) not specified in subsection (2) of this section only insofar as it is specified in this Act.

(4) The Foundations Act and the Foundation of and Participation in Legal Persons in Private Law by the State Act are applied to performing arts institutions operating as a foundation regarding issues not provided for in this Act.

Chapter 2

ORGANISATION OF ACTIVITIES OF PERFORMING ARTS INSTITUTIONS

§ 3. Foundation, reorganisation and termination of activities of performing arts institution and notification thereof

(1) A state performing arts institution shall be founded, reorganised and its activities shall be terminated by the Minister of Culture pursuant to the procedure established by the Government of the Republic.

(2) A municipal performing arts institution shall be founded, reorganised and its activities shall be terminated by the rural municipality or city government on the basis of a resolution of the council.

(3) The rural municipality or city government shall notify the Minister of Culture of the foundation, reorganisation or termination of the activities of a municipal performing arts institution in writing within ten working days as of the date of making the decision. A foundation notice shall set out the name of the performing arts institution, the address and the telecommunications numbers.

(4) A private performing arts institution shall notify the Minister of Culture of the foundation, reorganisation or closure of a private performing arts institution in writing within ten working days as of the date of making the decision. A foundation notice shall set out the information specified in subsection (3) of this section.

§ 4. Statutes and articles of association of performing arts institution

(1) A performing arts institution shall have statutes which sets out the functions of the performing arts institution, the functions, the rights and obligations of the director and the artistic director of the performing arts institution, the structure of the performing arts institution and other material provisions concerning the organisation of the activities of the performing arts institution.

(2) The statutes of a state performing arts institution shall be established by the Minister of Culture. The statutes of a municipal performing arts institution shall be established by a rural municipality or city council.

(3) In case of a performing arts institution operating as a foundation the requirements specified in subsection (1) of this section shall be provided for in the articles of association.

§ 5. Director and artistic director of performing arts institution

(1) The manager of a performing arts institution is the director, who shall ensure the performance of the functions of the performing arts institution and be responsible for the general state and development of the institution and for the expedient use of financial resources. Decisions on issues relating to creative activity shall be made by the director on the proposal of the artistic director.

(2) The creative activity of a performing arts institution shall be planned and coordinated by the artistic director, who:

- 1) shall organise the selection of the repertoire of the performing arts institution and draw up a repertoire programme and submit it for review to the artistic council;
- 2) shall organise the selection and employment of persons engaged in creative activities;
- 3) shall ensure the achievement of the creative objectives of the performing arts institution.

(3) The official title of the artistic director shall be prescribed in the statutes of a performing arts institution.

(4) The functions of the director and the artistic director of a performing arts institution may, by a resolution of the person who formed the performing arts institution, be performed by one and the same person, if the possibility is provided for in the statutes of the performing arts institution.

(5) In a performing arts institution operating as a foundation the functions imposed on the director of the performing arts institution shall be performed by the management board of the foundation pursuant to the procedure prescribed by the articles of association. The functions of the artistic director of a performing arts institution may, by a resolution of the supervisory board of the foundation, be performed by a member of the management board.

§ 6. Filling positions of director and artistic director

(1) In order to fill a vacant position of the director of a performing arts institution, a public competition shall be organised. The conditions and procedure for conducting such a competition shall be established and the competition shall be organised by the person who formed the performing arts institution.

(2) The person who formed a performing arts institution shall enter into an employment contract with the director for up to five years.

(3) The procedure for filling the position of the artistic director of a performing arts institution shall be provided for in the statutes of the performing arts institution.

(4) An employment contract for a specified term with the artistic director of a performing arts institution may be entered into for up to five years.

(5) Subsections (1)–(3) of this section do not apply to performing arts institutions operating as a foundation. An employment contract for a specified term with the artistic director of a performing arts institution operating as a foundation may be entered into for up to five years if the artistic director is not a member of the management board of the foundation.

§ 7. Persons engaged in creative activities of performing arts institutions

(1) The list of positions of the persons engaged in creative activities of performing arts institutions shall be established by a regulation of the Minister of Culture.

(2) An employment contract for a specified term with a person engaged in creative activities of a performing arts institution may be entered into for up to five years.
[RT I 2009, 5, 35 - entry into force 01.07.2009]

(3) The restriction on consecutive entry into employment contracts for a specified term shall not be applied to the persons engaged in creative activities of performing arts institutions.
[RT I 2009, 5, 35 - entry into force 01.07.2009]

(4) The employment contracts entered into with persons engaged in creative activities of performing arts institutions before the passing of this Act shall be brought into conformity with this Act within one calendar year since entry into force of this Act.
[RT I 2009, 5, 35 - entry into force 01.07.2009]

§ 8. Artistic council

(1) The artistic council of a performing arts institution shall plan and assess the creative activities of the performing arts institution and decide upon the recording of the work.

(2) The procedure for the formation of the artistic council and the competence of the council shall be provided for in the statutes or articles of association of the performing arts institution.

(3) An artistic council shall include the director and artistic director and the representatives of the persons engaged in creative activities of the performing arts institution. An artistic council may include also other persons as experts.

§ 9. Development plan of performing arts institution

(1) A performing arts institution shall prepare a development plan for the period of at least four years.

(2) A development plan shall set out the mission and objectives of the performing arts institution and the activities and means planned to fulfil the mission and achieve the objectives.

(3) The procedure for the preparation and amendment of a development plan shall be provided for in the statutes or articles of association of the performing arts institution.

(4) A development plan shall be submitted to the person who formed or founded the performing arts institution for approval.

(5) A municipal performing arts institution and a private performing arts institution shall submit a development plan to the Minister of Culture if it applies for subsidy from the state budget pursuant to the procedure provided for in this Act.

§ 10. Organisation of work of performing arts institution

(1) Performing arts institutions shall act independently in the selection of repertoire.

(2) Performances and concerts shall be planned for each calendar year on the basis of the monthly programme.

(3) The repertoire programme is the basis for the preparation of the monthly programme.

§ 11. Repertoire programme

- (1) A repertoire programme shall be prepared for at least one calendar year.
- (2) A repertoire programme shall be established by the director of the performing arts institution on the proposal of the artistic council.
- (3) A repertoire programme shall be submitted to the person who formed or founded the performing arts institution for information purposes.
- (4) Municipal performing arts institutions and private performing arts institutions shall submit a repertoire programme to the Minister of Culture if they apply for subsidy from the state budget pursuant to the procedure provided for in this Act.

§ 12. Informing the public

- (1) A performing arts institution shall inform the public of a performance or concert by submitting the following information:
 - 1) the name of the performing arts institution;
 - 2) the title of the presented work or part thereof;
 - 3) the title of the work in the original language;
 - 4) in case of derivative work a reference to the original work;
 - 5) the name of the author of the work;
 - 6) the main performer or collective of performers of the work;
 - 7) the time and place of the performance or concert;
 - 8) the name of the artistic director of the performing arts institution.

- (2) Subsection (1) of this section also applies to private performing arts institutions.

§ 13. Recording of work

- (1) A performing arts institution shall organise the recording of works significant from the point of view of national culture, taking into account the requirements arising from the Copyright Act.
- (2) For the purposes of this Act, “recording” means recording of the performance of a work onto an audio or video tape, on film, onto a record or in another manner.
- (3) The list of works which are subject to recording shall be established by the director of the performing arts institution on the proposal of the artistic council.
- (4) The list of works which are subject to recording shall be submitted to the person who formed or founded the performing arts institution for information purposes.

§ 14. Work file

- (1) A performing arts institution shall compile a file on the work in repertoire, containing a script, a programme, advertising material, a draft design or photos of the design and extracts of media coverage. The recording of the work shall be added to the file, if possible.
- (2) The compilation and preservation of work files shall be organised by the director of the performing arts institution.

Chapter 3 BUDGETS AND FINANCING OF PERFORMING ARTS INSTITUTIONS, FORMATION OF COMMITTEE AND SUBMISSION OF APPLICATIONS

§ 15. Budget and financing

- (1) A performing arts institution shall have its own budget. In order to prepare a budget of a performing arts institution, expenditures shall be planned and sources for covering the expenditures shall be specified.
- (2) The sources for covering the expenditures of a performing arts institution are the following:
 - 1) revenue from the sale of tickets;
 - 2) revenue received from the economic activity accompanying and supporting the main activity;
 - 3) revenue from funds for specific purposes and endowments;
 - 4) donations and other income;
 - 5) subsidies from a rural municipality or city budget;
 - 6) subsidies from the state budget.

(3) The amount of subsidy to be granted shall be determined in the state budget of the corresponding year.

(4) The amount of the subsidy granted to a municipal performing arts institution from the rural municipality or city budget shall be determined by the rural municipality council or city council.

(5) Municipal performing arts institutions and private performing arts institutions may receive subsidies from the state budget through the Ministry of Culture on the basis of an application pursuant to the procedure provided for in this Act.

§ 16. Principles for granting subsidies to performing arts institutions from state budget

(1) A subsidy shall be granted as a subsidy for a visitor of a performance or concert. This compensates the performing arts institution for the difference between the actual cost of servicing a visitor and the estimated ticket price. Subsidies are granted on the basis of the number of visitors and the number of new productions or concert programmes ordered by the Ministry of Culture and the costs incurred for the servicing thereof arising from the remuneration of the employees and the management of property.

(2) An estimated ticket price shall be calculated on the basis of the location of the performing arts institution, the data of the Statistical Office on the average income of local residents and the main target groups of the visitors.

(3) Upon making a decision on the grant of subsidy to a municipal or private performing arts institution the national cultural and regional importance of the activity of the performing arts institution shall be taken into account.

§ 17. Formation of committee

(1) In order to plan and allocate subsidies to performing arts institutions from the state budget the Minister of Culture shall form an advisory committee (hereinafter referred to as *committee*). The terms for the performance of the duties of the committee, the chairman and the members of the committee and the structural unit which services the committee shall be established by a directive of the Minister of Culture.

(2) The committee shall consist of up to nine members and the term of authority of the committee shall be up to three years.

(3) The committee shall comprise three representatives of the Ministry of Culture, one representative of the Ministry of Finance, one representative of the organisation representing the persons engaged in creative activities of the performing arts institution, one representative of the organisation representing the managers of the performing arts institution and up to three members of the public.

(4) The rules of procedure of the committee shall be established by the Minister of Culture.

§ 18. Submission of applications

(1) A performing arts institution shall submit a written application to the Minister of Culture by the due date established by the Minister of Culture for the following financial year. The due date for the submission of applications shall be published on the website of the Ministry of Culture.

(2) The following documents and data concerning the performing arts institution shall be appended to the application:

- 1) the development plan and the repertoire programme of the following year;
- 2) a proposed budget for the following financial year.

§ 19. Competence of committee

(1) The committee shall assess the compliance of a performing arts institution to the requirements specified in subsection 2 (1) of this Act and shall make a proposal to the Minister of Culture on the basis of the principles for granting subsidies to performing arts institutions from state budget specified in § of 16:

- 1) for the preparation of a draft state budget concerning the recipients of subsidies and the amount of subsidies;
- 2) for the allocation of subsidies for the current year based on the amount of the funds prescribed for performing arts institutions in the state budget of the given year.

(2) The final decision concerning the application of subsidies from the state budget and allocation thereof shall be made by the Minister of Culture, taking account of the proposals of the Minister of Culture.

§ 20. Entry into Contract

(1) The Ministry of Culture shall enter into a contract with a private performing arts institution or municipal performing arts institution regarding the allocation of subsidy within one month after approval of the budget of the Ministry of Culture. The contract is the basis for the use of subsidy and reporting thereon.

(2) The following shall be set out in the contract:

- 1) the contracting parties and their representatives;
- 2) the amount of subsidy;
- 3) the rights, obligations and liabilities of the parties;
- 4) the procedure for the submission of reports concerning use of the subsidy;
- 5) the conditions and procedure for amendment of the contract;
- 6) the conditions and procedure for termination of the contract;
- 7) the date of entry into force and expiry of the contract;
- 8) the time and place of entry into the contract;
- 9) details of the contracting parties.

Chapter 4 REPORTING ON PROPERTY

§ 21. Property in possession of performing arts institution

(1) Property in the possession of a state performing arts institution shall be possessed, used and disposed of pursuant to the procedure provided for in the State Assets Act.
[RT I 2009, 57, 381 - entry into force 01.01.2010]

(2) The procedure for the possession, use and disposal of property in the possession of a municipal performing arts institution shall be established by a rural municipality council or city council.

§ 22. Accounting and reporting

(1) Performing arts institutions shall organise accounting and keep statistical records pursuant to the procedure provided by legislation.

(2) State performing arts institutions and performing arts institution operating as a foundation shall submit the statistical report of their activity and a report on the implementation of the budget during the term and pursuant to the procedure provided by legislation.

(3) Municipal performing arts institutions and private performing arts institutions shall submit the statistical report of their activity pursuant to the procedure provided for state and municipal performing arts institutions.

Chapter 5 IMPLEMENTING PROVISIONS

§ 23. [Repealed]

§ 24. Repeal of Performing Arts Institutions Act

(1) The Performing Arts Institutions Act is repealed.

(2) The statutes of state performing arts institutions established by a regulation of the Minister of Culture pursuant to the Act specified in subsection (1) of this section shall remain in force, in so far as they are not contrary to this Act, until amendment or repeal thereof.