

SAZAS: Millions were siphoned off while the regulator was asleep

For a decade, SAZAS has been transferring millions of Euros that should have gone to Slovenian directors and producers to a private company in Switzerland without any legal authority. The authors have constantly warned the supervisory authority, the Intellectual Property Office, but it has ignored them. Was the Office guilty of a dereliction of its duty?

Anja Hreščak

16 November 2016



Sazas, led by Matjaž Zupan, transferred the bulk of the money, which did not reach the authors - according to unofficial estimates, 20 million euros - to Switzerland.

"We have been informally informed that SAZAS has been temporarily collecting part of the audiovisual copyright contributions, and we are therefore asking for a report and accounts," the Collecting Society of Authors of Audiovisual Works of Slovenia ([AIPA](#)) wrote to SAZAS in 2003.

SAZAS did not respond.

In 2005, the association wrote to SAZAS again:

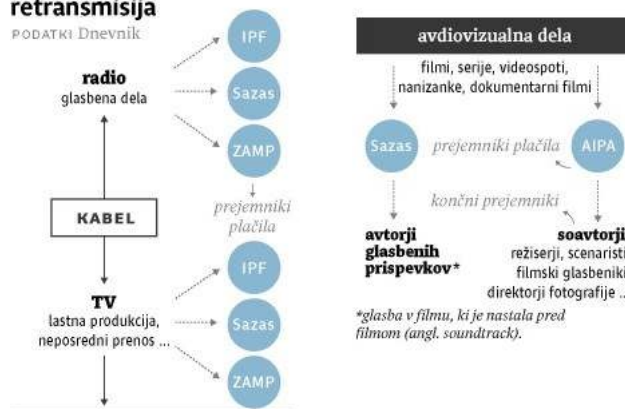
"Please explain how much money has been collected from 2001 to now, how it has been distributed and to whom. /.../ Not a single domestic author has received any compensation for cable retransmission in recent years."

This letter was sent to SAZAS by registered mail with return receipt, and again ignored by SAZAS.

Numerous letters in Dnevnik's possession prove that for a decade and a half authors have been pointing out that SAZAS has failed to distribute money from cable retransmission.

Kaj je kabelska retransmisija

PODATKI Dnevnik



Cable TV operators, of which there are more than 50 in Slovenia, have to pay a fee (cable retransmission fee) to a collecting society for the films, documentaries, series, etc. they broadcast. Until 2010, the fee was collected by SAZAS, after which it lost its licence, and since then the compensation has been collected by the AIPA Institute.

These organisations ensure - or are supposed to ensure - that part of the revenue generated by the film is returned to the authors.

Any cable operator that screens films and thus generates revenue has to share part of the revenue with the (co-)authors (they have to pay a cable retransmission fee).

Until 2010, this money was collected by SAZAS on behalf of the authors, but for the last six years it has been collected by the AIPA Institute. The money collected should be paid to the directors, producers and screenwriters. But almost no one (apart from four individuals) received a single cent from SAZAS between 2001 and 2010.

"During those years, we didn't even know that SAZAS was collecting anything on our behalf, let alone that we should get it," says Miha Černek, President of the Slovenian Producers' Association.

SAZAS pocketed € 3 million as "operating costs"

But the bulk of the money collected, which did not reach the authors, did not stay with SAZAS. It was transferred, among others, to AGICOA in Switzerland.

AGICOA is a private interest association representing itself as the representative of the rights of authors of audiovisual works, but it is not licensed for collective activities either in Switzerland or in Slovenia and is not under state control. It has branches in several European countries, but has never produced any evidence of its representation in any of these countries, even when requested by the courts.

Why and on what basis did SAZAS transfer money to AGICOA that belongs to Slovenian authors and should have been distributed in Slovenia?

We did not receive any answers from SAZAS within five days, but on their website they wrote that they had distributed € 31.6 million over ten years to *"eligible rights holders from Slovenia and the world"*, but they did not say to whom specifically, in addition to AGICOA, to broadcasting programmes and to the authors of musical works. The money, they claim, was distributed *"in accordance with the agreed relations with the contractual partners"*, but, interestingly, in the same breath they stress that they are not authorised to distribute royalties to the final beneficiaries (authors, rights holders) - although this is not the case. Meanwhile, they have deducted 10% for operating costs, i.e. € 3.1 million.

Jurij Žurej, former Director of the Intellectual Property Office (URSIL), which is the only body responsible for monitoring the legitimacy and legality of the activities of collecting societies, also questioned the transfers to Switzerland a few years ago. He accused SAZAS of transferring money to Switzerland without any legal basis.

What is the legal basis?

SAZAS has been transferring money to AGICOA on the basis of a so-called memorandum on the regulation of copyright and related rights for television and radio programmes retransmitted on cable systems, the URSIL says, although there is no article in the Copyright and Related Rights Act which is the basis for this memorandum. According to our information, AGICOA has never provided SAZAS with proof that it represents certain authors, nor has it provided it to the AIPA in the six years since.

While SAZAS has not responded to press inquiries, the Economic Interest Association of Slovenian Independent Audio and Video Producers (SNAVP) has. "AGICOA is a competent partner for most of the world's biggest, European and Slovenian producers. The proof that it meets international standards is that all the world's biggest studios entrust their repertoire for cable retransmission rights to their management," wrote SNAVP Vice President Andrej Kregar. He claimed that all their members, on the advice of SAZAS, had temporarily - until the creation of AIPA - declared their repertoire to AGICOA a few years ago. According to our information, they are the only ones; SNAVP has fewer than ten members (this information is not public), one of whom is Tomaž Grubar - also Vice-Chairman of the Board of SAZAS.

What has the regulator been doing in the meantime?

Žurej was the only one who, as director of URSIL, tried to exercise oversight over the legality of SAZAS's operations and demanded explanations from it about these transfers. But before he received them he was wrongfully dismissed from URSIL (the case is pending in court).

Today, he does not wish to comment further on the matter.

This year, AIPA again reminded URSIL of the allegedly controversial transfers.

"We are still awaiting clarifications from either SAZAS or URSIL on the basis of which acts multi-million transfers were made to the said private association from 1999 to 2010," they wrote.

AIPA is the first collecting society to distribute the money since it was authorised in 2010. After they obtained their permanent licence, AIPA wrote several letters to SAZAS asking them to also transfer unpaid royalties and to provide financial and audit reports, but SAZAS - again - did not respond.

And the supervisory authority, URSIL, whose acting director is Vojko Toman, has not responded to the warnings either.

"UIL is in possession of the data published by SAZAS in its annual reports, which includes cable retransmission revenues," URSIL wrote back.

It did not reply to questions about whether SAZAS had been asked for further clarifications or taken any action. We have asked the Ministry of Economy whether this may be a dereliction of duty, and their reply is expected today.

Original text in Slovenian at:

<https://www.dnevnik.si/1042754712/slovenija/szas-milijoni-so-odtekali-nadzornik-pa-je-spal>