



# PRIVATE COPYING GLOBAL STUDY



SERVING AUTHORS WORLDWIDE  
AU SERVICE DES AUTEURS DANS LE MONDE  
AL SERVICIO DE LOS AUTORES EN EL MUNDO



de Thuis kopie





# FOREWORD



de ThuisKopie



BIEM, CISAC and Stichting de ThuisKopie are pleased to present the first joint publication of the Private Copying Global Study - Law and Practices.

This Study is the combination of two previous reports made on the one hand by Stichting de ThuisKopie (International Survey on Private Copying – Law and Practice 2016, in collaboration with WIPO) and, on the other hand, by CISAC (CISAC Global Private Copying Study published in 2017). We would like to acknowledge WIPO whose work on the earlier publications contributed to the drafting of this report.

This study aims to compile the information and data of the previous reports in order to give a comprehensive overview of the different private copying systems existing around the world, facilitate evidence-based decision-making and provide an update of important developments in the private copying law and practices of countries that have or do not yet have such systems in place.

The task of compiling this report was entrusted to Hester Wijminga at Stichting de ThuisKopie, Laure Margerard at BIEM, Cristina Perpiñá-Robert, Constance Herremán Follain and Leonardo de Terlizzi at CISAC. Joost Poort (Institute for Information Law (IViR), University of Amsterdam) has undertaken the economic analysis, with the support of Martin Vergne at CISAC. Paul Fischer, Head of Private Copying at Austro Mechana, took part on behalf of the BIEM societies.

The collection of data for this study would not have been possible without the support of CISAC and BIEM societies, Collective Management Organizations (CMOs) in charge of the private copying collections, as well as the CISAC Regional Directors.

It is hoped that this study will be a useful tool to all stakeholders involved in the private copying discussions for the establishment of a levy system, negotiations on levies, in background reports of any and all international institutions, in studies of rightsholders and users' organizations alike and in policy papers of government bodies.



# METHODOLOGY

The methodology adopted for the research has been twofold, depending on the level of development of the private copying exception and the contact resources available in each country.

For the countries where BIEM, CISAC or Stichting de Thuiskopie already have contacts in collective management organizations, copyright offices, etc., a questionnaire was sent covering all aspects of law and practice relevant to the private copying system (legal basis in the national legislation, collection and distribution system, levies, collections in 2018 or 2019 if already available, etc.). Where necessary and appropriate, additional information and clarifications were requested. Replies were compared with information provided in response to earlier surveys in order to identify and address possible inconsistencies. It shall be noted that the societies listed in the “Contact Information” section are the societies that have been contacted for the survey, they are not necessarily the societies in charge of the private copying collection. The societies in charge of the private copying collection are referred to in the section “Overview” and/or “Collection process”.

For the countries where the organizations have not been able to find contacts because of a lack of collective management organizations settled in the country, the first step of the research consisted in collecting the copyright national laws of each country and identifying the international or regional treaties ratified or not by each country. Due to the worldwide basis of the study, the easiest research method to find the relevant copyright national laws has been to consult the WIPO Lex database or the portal of the national entities in charge of the copyright field. Then, data collected was combined with other sources, studies or surveys. If there is no official English translation of the copyright national laws, texts are in the original language (e.g. French, Spanish, etc.).

Data on collections are those provided by the collective management organizations responsible for the administration of private copying remuneration and encompassed the global amount of collections for all rightsholders covered by the private copying levies. Data on exchange rates, population and GDP of participating countries was retrieved from World Bank databases<sup>1</sup>. Data are all for 2018<sup>2</sup>.

While the compilers of this report have taken every care to ensure the accuracy of the data contained in it, neither they nor the publishers can accept any responsibility or liability for any mistakes or inaccuracies. BIEM, CISAC or Stichting de Thuiskopie tried to collect and analyze the most updated national legislation and jurisprudence, but it is possible that developments have appeared since the publication of the study.

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<sup>1</sup> Except the Republic Democratic of Korea, the territory of Taiwan, Eritrea, South Sudan and Venezuela whose GDPs were retrieved from the Banks of Korea Estimate, the National Statistics Bureau of Taiwan and the IMF.

<sup>2</sup> Except Liechtenstein and Iran's GDPs which are for 2017.



# TABLE OF CONTENTS

1/5

## EXECUTIVE SUMMARY

Introduction	8
Legal Background for Private Copying remuneration	9
Practical implementation of compensation systems	10
Liability	11
Collection and distribution	13
Revenue trends – the Economic Analysis	16

28



## AFRICA INTRODUCTION

### 30 AFRICA: COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION

Equatorial Guinea	30
Guinea Bissau	30
Liberia	30
Somalia	30
Swaziland	30
Zambia	30

### 31 AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

Central African Republic	32
Comoros	33
Congo	34
Egypt	35
Eritrea	36
Ethiopia	37
Gambia	38
Guinea	39
Lesotho	40
Libya	41
Mauritania	42
Namibia	43
Rwanda	44
Seychelles	45
Sierra Leone	46
South Africa	47
South Sudan	49
Sudan	50
Tanzania	51
Togo	52
Uganda	53
Zimbabwe	54

56

### AFRICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

Angola	57
Benin	58
Burundi	60
Cameroon	63
Chad	65
Congo, Dem. Rep.	68
Côte d'Ivoire	70
Djibouti	73
Gabon	75
Madagascar	78
Mali	82
Mauritius	84
Mozambique	86
Niger	88
Nigeria	91
Sao Tome and Principe	95
Senegal	97

101

### AFRICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

Algeria	102
Botswana	109
Burkina Faso	111
Cabo Verde	115
Ghana	120
Kenya	125
Malawi	127
Morocco	132
Tunisia	138



142



## NORTH & SOUTH AMERICA INTRODUCTION

143

### NORTH AND SOUTH AMERICA: COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION

Argentina	143
Belize	143
Bolivia	143
Chile	143
Cuba	143
Ecuador	143
El Salvador	143
Guatemala	143
Guyana	143
Jamaica	143
St Lucia	143
Uruguay	143

144

### NORTH AND SOUTH AMERICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

Antigua & Barbuda	145
Bahamas	146
Barbados	147
Brazil	148
Colombia	149
Costa Rica	150
Dominica	151
Grenada	152
Haiti	153
Honduras	154
Mexico	155
Nicaragua	156
Panama	157
St Kitts & Nevis	158
St Vincent & the Grenadines	159
Suriname	160
Trinidad & Tobago	161
Venezuela	162

163

### NORTH AND SOUTH AMERICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

Dominican Republic	164
--------------------	-----

167

### NORTH AND SOUTH AMERICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

Canada	168
Paraguay	175
Peru	181
United States of America	183



188



## ASIA INTRODUCTION

189

### ASIA: COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION

Brunei	189
East Timor	189
Indonesia	189
Iraq	189
Lao People's Democratic Republic	189
Malaysia	189
Myanmar	189
Oman	189
Pakistan	189
Philippines	189
Singapore	189
Syria	189
Vietnam	189
Yemen	189

190

### ASIA: COUNTRIES/TERRITORIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

Afghanistan	191
Armenia	192
Bahrain	193
Bangladesh	194
Bhutan	195
Cambodia	196
China	197
Democratic People's Republic of Korea	198
India	199
Iran	200
Jordan	201
Kuwait	202
Lebanon	203
Maldives	204
Mongolia	205
Nepal	206
Qatar	207
Saudi Arabia	208
South Korea	209
Sri Lanka	210
Taiwan (Republic of China - ROC)	211
Tajikistan	212
Thailand	213
United Arab Emirates	214

215

### ASIA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

Azerbaijan	216
Kazakhstan	219
Kyrgyz Republic	221
Turkey	223
Turkmenistan	226
Uzbekistan	228

230

### ASIA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

Israel	231
Japan	235



# TABLE OF CONTENTS

4/5

245



## EUROPE INTRODUCTION

246

### EUROPE: COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION

Monaco	246
United Kingdom	246

247

### EUROPE: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

Albania	248
Ireland	249
San Marino	251

252

### EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

Andorra	253
Belarus	255
Bosnia-Herzegovina	257
Bulgaria	260
Cyprus	267
Estonia	268
Georgia	274
Luxembourg	276
Macedonia	277
Malta	280
Montenegro	281

285

### EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

Austria	286
Belgium	295
Croatia	304
Czech Republic	311
Denmark	322
Finland	329
France	332
Germany	344
Greece	353
Hungary	358
Iceland	369
Italy	372
Latvia	381
Liechtenstein	386
Lithuania	387
Moldova	395
Netherlands	402
Norway	410
Poland	413
Portugal	422
Romania	429
Russian Federation	435
Serbia	441
Slovak Republic	448
Slovenia	455
Spain	465
Sweden	470
Switzerland	477
Ukraine	485



# TABLE OF CONTENTS

5/5

491



## OCEANIA INTRODUCTION

492

### **OCEANIA:** COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION

Kiribati	492
Marshall Island	492
Micronesia	492
Nauru	492
Solomon Islands	492
Tuvalu	492

493

### **OCEANIA:** COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

Australia	494
Fiji	496
New Zealand	497
Palau	499
Papua New Guinea	500
Samoa	501
Tonga	502
Vanuatu	503

## ANNEXES

504

Summary table	504
Devices Covered	509
Relevant Case Law from the European Court of Justice of the European Union	511

## MENTION GDPR

518

## ABOUT BIEM/CISAC/STICHTING DE THUISKOPIE

518



## 1. INTRODUCTION

Private copying is usually defined as an exception to the author's exclusive right of authorizing the reproduction of his/her works, which allows a person to make a copy of a work for their personal use. Currently the content of laws and terminology used by national legislators is as varied as the number of countries under study. Sometimes the private reproduction of a work for personal use is qualified as an "exception or a limitation to the exclusive right of authors", as a "permitted use", as a "limitation to economic rights", as a "restriction to copyright", as a "fair use", as a "fair dealing", as an "act which does not constitute an infringement to copyright", or finally as an "act not controlled by copyright".

In most cases, all these terms refer to the same idea i.e. allow a natural person to make a copy of a work (music, audiovisual, drama, literature or visual works) for a non-commercial purpose and for their own personal use. Personal use commonly includes the use by the close family circle and non-collective uses. A private copy could be a reproduction on blank carriers (CDs, DVDs, etc.) or on physical and digital media storage devices (smartphones, external hard disks, etc.).

In many countries, this exception has been implemented in national laws under the condition that a fair compensation is paid to rightsholders for their loss of revenues or harm caused, whenever their works have been copied for personal use and for which they are de facto unable to license or monitor the use.

If a private copying levy system operates effectively, it can provide a substantial source of revenue for rightsholders. Furthermore, the importance of levies is increasing in the face of widespread copying on digital media and the growing popularity of mobile devices with large storage capacities.

In 2018, global collections of private copying levies represented almost EUR 1,046 million. They are a particularly important revenue source in Europe, where private copying remuneration systems are well developed, but they are also an important source of income in certain countries of Africa.

### Private copying levies by region in 2018 (EUR million)

EUROPE	1,019.4
AFRICA	21.1
LATIN AMERICA AND THE CARIBBEAN	3.9
CANADA-USA	1.0
ASIA-PACIFIC	0.3

This study is the first comprehensive global analysis of private copying systems that exist around the world. Thanks to various data sources, it examines the copyright laws of 194 countries in 5 continents<sup>3</sup> and classifies, for each continent, the countries under four categories, from the lowest level of development to the most developed:

- Countries without a private copying exception;
- Countries with a private copying exception but without a remuneration system;
- Countries with a private copying remuneration system but without collection and distribution mechanisms;
- Countries with a private copying remuneration system and collection and distribution mechanisms.

This classification provides comprehensive data on private copying systems existing around the world and thus offer insights to BIEM and CISAC societies, as well as to other stakeholders, for defining the framework of lobbying activities towards national governments, worldwide institutions, Collective Management Organisations (CMOs), etc. in order to help improve the existing private copying levy system or to promote the introduction of an effective levy system. It provides facts and figures regarding the function of private copying collection systems around the world, trends in remuneration collected on behalf of rightsholders and practices employed in collecting this important source of income for rightsholders.

<sup>3</sup> "Continent" is understood in this study in a geographical way.



## 2. LEGAL BACKGROUND FOR PRIVATE COPYING REMUNERATION

### 2.1. Main principles

The private copying exception was introduced in the German Copyright Law in 1966, based on two previous Supreme Court decisions of 1955 and 1964, respectively, and this system became a model for legislators elsewhere in Europe.

Article 9.2 of the Berne Convention (as amended by the Paris Act 1971) allows member states to implement exceptions and limitations to the right of reproduction, provided that the conditions of the three-step test are respected:

*"It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author."*

In many countries, this exception has been implemented in national laws under the condition that a fair compensation is paid for loss of revenues or harm caused to the rightsholder whose work has been copied and for which they are unable to license and thus, obtain remuneration. This is the case for Germany, which was the precursor. After the two decisions of the German Federal Supreme Court, the German government introduced a levy on sound and video recording equipment sales in the Copyright Act of 1965. Most continental European countries followed the German model and have granted rightsholders with a remuneration right in order to compensate for the private use of their works, in particular after the introduction of the binding condition imposed by article 5.2 of the Directive 2001/29/CE on the harmonization of certain aspects of copyright and related rights in the information society (hereafter, InfoSoc Directive):

*"Member States may provide for exceptions or limitations to the reproduction right provided for in Article 2 in the following cases: (...)*

*(b) in respect of reproductions on any medium made by a natural person for private use and for ends that are neither directly nor indirectly commercial, on condition that the rightsholders receive fair compensation which takes account of the application or non-application of technological measures referred to in Article 6 to the work or subject-matter concerned;*

*(..)"*

In Africa, a regional treaty was also implemented in 1977, the Bangui Agreement. This agreement, in a revision that took place in 1999, required signatory countries to provide a private copying exception and to accompany it with an effective system for remunerating authors, performers and phonogram producers.

### 2.2. Definition of private copying

A private copy is usually defined as any copy for non-commercial purposes made by a natural person for his/her own personal use. This Study provides the definition set forth in the Copyright laws of the various countries that took part in the survey.

In other jurisdictions, levies were attached to long-standing private copying exceptions when modern technological developments made it difficult to deny that private copying was affecting the income potential of rightsholders.

In general, the exception only applies when the source is legal. Downloads from a peer-to-peer network, newsgroups, torrent sites and the like, where music and films have been uploaded without consent from the rightsholders, are usually not within the scope of the exception. There are exceptions to this rule: the Russian Federation, Switzerland and Canada do not have a specific provision regarding the source of the copy, and thus all copies made for private use fall within the scope of the exception.

In the 2015 judgment in Case No. C-435/12, the ECJ held that the InfoSoc Directive precludes national legislation which does not distinguish the situation in which the source from which a reproduction for private use is made is lawful from that in which the source is unlawful.<sup>4</sup>

Several judgments of the ECJ have clarified practical aspects of the implementation of levy systems; the national and international view in some countries regarding private copying is now dominated by the concept of "harm". The ECJ held in Case No. C-467/08 that the remuneration to which rightsholders have a claim must be calculated on the basis of the criterion of the harm caused to authors of protected works by the introduction of the private copying exception.<sup>5</sup> This concept requires uniform interpretation, which has not yet been achieved: is this harm to be interpreted economically as the harm associated with the rightsholders' lost licensing opportunities for the additional private copies, or as the value consumers attach to the possibility of making a private copy? The ECJ further held that a link is necessary between the application of the levy intended to finance fair compensation with respect to digital reproduction equipment, devices and media, and the deemed use of them for the purposes of private copying.<sup>6</sup>

<sup>4</sup> <http://eur-lex.europa.eu/legalcontent/EN/TXT/HTML/?uri=CELEX:62012CJ0435&from=EN>, para. 37.

<sup>5</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62008CJ0467&from=EN>, para. 2.

<sup>6</sup> Ibid., para. 59.



As online business models shifted from ownership to access-based models, offering streaming content or temporary (tethered) downloads instead of physical carriers or permanent downloads, the discussion is further complicated by determining whether copies made in the cloud and made from online licensed (lawful) services are within the scope of the private copying exception. The ECJ seemingly confirmed cloud copies are within the scope of the exception when made from a legal source. A very recent filing to the ECJ from an Austrian court is hoped to bring clarity as to whether private copying via cloud computing, whereas the distanced servers are owned by third persons, should be subject to the exemption and thus to levy regimes too.

In some countries, the private copying exception can be limited to a time-shifting or a format-shifting exception. These exceptions are intended to provide protection for individuals who make a copy or recording of a broadcast for viewing or watching at a more convenient time (time-shifting), or who copy legally acquired protected files in order to store them on another format such as the cloud (format-shifting), for private and domestic use only.

### 3. PRACTICAL IMPLEMENTATION OF COMPENSATION SYSTEMS

For reasons of efficiency and given the impossibility of collecting compensation from individuals, the most common private copying remuneration system is one in which importers and manufacturers, and sometimes professional traders, are required to pay levies/tariffs that apply to recording devices or media used by individuals for their private purposes (all parties that can be charged for the compensation are indicated as “liable parties” in the survey). It is assumed that levies will consequently be included in the sales price of the levied products and thus the copier will pay.

In most jurisdictions, the compensation system applies to a variety of recording equipment and blank media.

It should be noted that the distinction between recording equipment and media has become increasingly blurred. In some countries with a media levy system (such as Austria and France), hard discs in equipment such as audiovisual recorders, set-top boxes and TV sets with built-in hard discs qualify as “blank media”. Nowadays most systems levy the majority of multifunctional digital devices like smartphones, tablets and PCs. In other jurisdictions, such as Canada and Denmark, levies are still limited to blank media (i.e. CD-Rs and DVD-Rs), and rightsholders are lobbying for a system to include the devices actually used for private copying.

The discussion on refurbishment is fairly new. Refurbishment is a thriving new business model where used products like smartphones and tablets are repaired or revised and resold “as new”. Often a new hard disc or new flash memory is inserted, and the product is then sold to consumers. The act of refurbishment can be classified as “manufacturing” and thus fall within the scope of the private copying exception. Technological developments resulting in the possibility of sharing, viewing and consuming any creative work stored in the cloud or on a single device in the home make negotiating and determining the scope, level and applicability of the levies more complex. All the same, this shows the increase in possibilities and opportunities to copy and enjoy creative works in any place and at any time.

#### 3.1. Tariff/levy setting

The survey reveals that tariff-setting can differ considerably among jurisdictions. As Table 1 shows, a differentiation can be made between state-funded systems with no tariffs; direct state intervention systems in which the lawmaker, ministry or designated public body sets tariffs; negotiation systems in which tariffs are set through negotiations between rightsholders and importers/manufacturers; and a combination of the latter two systems.

Determining which media and devices should be levied, or whether they are within the scope of the private copying exception, is sometimes a matter for lawmakers or the government. Courts can always determine the scope of the compensation system based on rightsholders’ claims. A third variation is found in countries where special bodies appointed by the government are responsible for selecting the media and devices on which levies can be imposed and for setting the tariffs. Often, these special bodies are appointed to advise the government, which subsequently sets the tariffs.



**Table 1: tariff/levy-setting models**

Models	Countries
State-funded system (no tariffs)	Norway, Finland, Iceland
Direct state intervention	Burkina Faso, Botswana, Cabo Verde, Czech Republic, Denmark, Ghana, Greece, Israel, Lithuania, Malawi, Moldova, Paraguay, Peru, Poland, Portugal, the Russian Federation, Serbia, Slovak Republic, Spain, Tunisia, Ukraine, USA
Negotiation between stakeholders	Austria, Croatia, France, Germany, Kenya, Liechtenstein, Netherlands, Switzerland, Slovenia
Determined by lawmaker after negotiations	Algeria, Belgium, Canada, Hungary, Italy, Japan, Latvia, Morocco, Sweden

### 3.2. Difference in tariffs/levies

Countries commonly apply a fixed levy directly related to the storage capacity of media and/or devices. As an alternative to fixed levies, countries can also apply a levy based on a percentage of the sales or import price to determine the amount of the levy.

#### *Percentage levies*

A number of countries, in particular in Eastern Europe and outside Europe, have structured private copying levies as a **percentage** of the price (see Table 1 in section 6). This ensures a fixed ratio between the levy and the value of a device for the end user and makes sure that levies respond to price developments for devices. By doing so, negative effects of relatively high levies on consumer demand can be avoided. At the same time, incentives for importers, retailers and consumers to circumvent the levy system can be reduced.

#### *Fixed levies*

Other countries, particularly in Western and Southern Europe, have a system of **fixed levies** per type of device, which often also depends on the storage capacity. Table 2 in section 6 gives an overview of all countries in our study that reported such fixed levies for a limited set of standardized devices. The table shows that most countries have levies on a wide range of devices. As in Table 1, in section 6, some countries also have fixed levies on devices that are not included in this table. VAT may have to be added to these levies at retail.

## 4. LIABILITY

### 4.1. Introduction

Almost all working private copying remuneration systems that have levies on media and devices hold the importer and the manufacturer of those devices and media liable for payment to the CMO. Importers/manufacturers report directly to the CMO which subsequently invoices the applicable levies. In a number of countries the reporting and payment of levies has to be done with the customs officials upon import.

As the remuneration or equitable compensation is due as a result of private copies of protected content being made by natural persons in the country where the exception applies, there are some instances where payment is not due.

Regarding the limits to payment liability for importers/manufacturers, the following issues have been identified:

- What system, if any, should be applied to refund levies paid when devices/media are exported?
- Is the levy payable when products are used in a professional context?
- Who is liable for payment in cross-border sales?



## 4.2. Exports and exemption from payment

The levies and remuneration are intended as compensation for private copying acts by consumers in a certain country; rightsholders whose works have been copied in that specific country have a right to be remunerated. For this reason, if leviable products are exported, the exported items are exempted in most countries.

Different systems exist for refunding the levies that have already been paid on a product which is later exported. Usually, the exporter can request a refund from the CMO if he can show proof of the actual export. Another possibility is a contractual relationship between an exporter (often a wholesaler) and an importer and/or the CMO, which can include an upfront exemption such that the exporter can buy within his own country without levies and no refunds are payable upon export.

Some countries do not have a refund system in place; the exporter is only required to report goods sold in the home country. In these cases, levies on exports can often be recovered in the next report to the CMO. Finally, some countries have multiple possibilities: exemption upfront via an agreement with the CMO or a refund request. In countries with a lot of cross-border activity and/or distribution warehouses, the bigger exporters are facilitated with specific collection agreements. Having to pay the levy upfront upon import on a product that is subsequently exported is neither efficient nor necessary. If exports can be exempted upfront, it saves both the CMO and the importer/exporter administrative burden.

**Table 2: Refunds or exemptions in case of exports**

Models	Countries
Exemption with refund (but exports by manufacturer/importer are exempted upfront)	Austria, Belgium, Denmark, Estonia, France, Greece, Hungary, Italy, Japan, Latvia, Liechtenstein, Lithuania, Netherlands, Portugal, Slovenia, Switzerland
Upfront exemption	Cabo Verde, Canada, Croatia, Germany, Ghana, Malawi, Moldova, Romania, Russian Federation, Spain, Slovak Republic, Sweden, Ukraine, Netherlands
No refund and/or exemption	Algeria, Burkina Faso, Czech Rep., Israel, Morocco, Paraguay, Poland, Serbia, Tunisia, USA

## 4.3. Professional use

Blank media and devices can be used for purposes wholly unrelated to the private copying exception, for instance, for the storage of professional data, or for professional reproductions where a license would be required. In such cases, products can be sold to a professional end user and no private copying takes place. In most jurisdictions, for products sold and used only for professional purposes, no payment of levies is due.

Within the EU, the ECJ ruling in Case No. C-467/08 (Padawan v SGAE, October 21, 2010) had a considerable impact on the collection of levies. The court ruled that the indiscriminate application of the private copying levy to all types of digital reproduction equipment, devices and media, including cases in which such equipment is acquired by persons other than natural persons for purposes clearly unrelated to private copying, is incompatible with the 2001 InfoSoc Directive. Before this ruling, mutualization systems, as they were known, were common. In these systems, the professional use was incorporated into the tariff, resulting in a reduced flat-rate tariff to be paid on all sales. Without this approach, the tariff would have been higher for products intended for private copying.

Padawan has led to follow-up cases in national jurisdictions and new cases before the ECJ to further clarify the ruling. In Spain, the result was the abolition of a levy system of collecting through media and devices, leaving Spanish rightsholders with an amount determined annually by the government based on the harm caused to rightsholders by private copying. In its 2016 Decision, the ECJ held that such a state budget compensation system was contrary to art. 5.2 b) of the InfoSoc Directive (Case No. C-470/14, EGEDA), because it was not possible to ensure that the cost of the compensation was borne by the users of private copies.<sup>7</sup> As a result, the Spanish Supreme Court, which had raised the request for preliminary ruling to the ECJ, annulled the state-funded scheme and the levy-based system was reintroduced in Spain through Royal Decree of July 3, 2017. However, court cases resulting from Padawan are still ongoing in many European countries. Importers claim refund for mutualized levies paid on deliveries to professional users.

<sup>7</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62014CN0470&rid=1>



As a result of EU case law, private copying remuneration systems have to be adapted and practical refund and/or exemption systems to be designed and implemented.

#### 4.4. Online sales and cross-border liability

Nowadays, many of the levied products are bought online and often the seller is located in another country, where a different private copying system is in place or where no such system exists. Of particular relevance for EU member states, but also interesting for other jurisdictions, is the judgment of the ECJ in Case No. C-462/09 (*ThuisKopie v Opus*, 2011).<sup>8</sup> The Court ruled that the state with a private copying exception in the law in conjunction with a levy system should ensure that the levy is paid. The judgment states: “[...] it is for the Member State which has introduced a system of private copying levies chargeable to the manufacturer or importer of media for reproduction of protected works, and on the territory of which the harm caused to authors by the use for private purposes of their work by purchasers who reside there occurs, to ensure that those authors actually receive the fair compensation intended to compensate them for that harm.”

In this case, the court in the Netherlands – the country of residence of the consumer, where a private copying compensation system is in place – was requested to ensure recovery of the levy from the seller in Germany.

For EU countries, it is determined that the seller selling directly to consumers in other member states is considered the importer. Thus, the judgement created a level playing field for the companies that sell domestically to consumers. The problem regarding direct sales to consumers from countries outside of the EU remains, especially since marketplace sites that are operated from Asia or America are not easily reached by the CMOs to collect the remuneration due on devices and media bought by consumers and used for private copying. On April 21, 2016, the ECJ ruled in favor of the jurisdiction of the courts of the member state where the levy is owed, contrary to the seat of the undertaking exporting the media to the various European countries (Case No. C- 572/14 *Austro Mechana v Amazon*).

## 5. COLLECTION AND DISTRIBUTION

### 5.1. Collection process

CMOs are the legal entities that collect private copying remunerations. In most cases, CMOs are either appointed by the government or by rightsholders to collect and distribute the private copy remuneration which is mandatory collective management.

The collecting of private copying remunerations can be done by one CMO representing all rightsholders and appointed to collect and distribute all private copying remunerations or by a CMO representing a certain group of rightsholders collecting on behalf of all rightsholders and subsequently distributing the amounts collected for the other rightsholders to their respective CMO. Last, a country can have multiple CMOs collecting from the importers/manufacturers, each on behalf of its specific category of rightsholders.

It should be noted that not all CMOs involved have joined the survey and revenues derived from private copying presented can in these cases be incomplete, being representative only for the category of rightsholders the relevant CMO represents.

In almost all countries, collection is done by one CMO, to which importers, manufacturers and other liable parties are required to report.

Distribution follows a more complicated scheme. Some collected funds are distributed directly to individual rightsholders – this is the case if multiple collection societies operate on the market – but in most cases, distribution happens in a few stages. The society responsible for the collection allocates funds to organizations of rightsholders (distributing organizations) representing the various categories of rightsholders (authors, producers and performing artists) for further distribution to individual rightsholders.

<sup>8</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:62009CJ0462&rid=1>.



## 5.2. Distribution schemes

Distribution to different categories of rightsholders, represented by CMOs responsible for distribution to individual rightsholders, follows schemes determined either by rightsholders' organizations or by law, ministerial decree or other types of regulation.

Where the distribution scheme is determined by rightsholders, the shares are established in negotiations between the different groups of rightsholders. In some cases, the results must be validated or approved by the government.

Usually, the total amount collected is first split between categories like audio, video, written works and images. The amounts allocated to these categories are divided among the groups of rightsholders within them. Distribution to audio rightsholders is usually split between authors, music performers and phonogram producers; video is distributed among music and audiovisual authors, audiovisual producers and performing artists (actors), and so on.

The introduction of levies on multifunctional devices like smartphones and tablets makes it possible to remunerate the private copying of all digital works. Nowadays, not only copies made from audio and audiovisual works, but also e-books and images (photographs, artwork etc.) are included. This results in groups of rightsholders being more included in the distribution schemes (writers, illustrators etc.) and collecting a larger share than they did in the analogue world.

The first step, allocating collections to a category of copied works, is usually based on market research on the type of works copied on the various media. As the levied products become increasingly multifunctional and as all works can be digitized, actual copying behavior becomes more important for distribution. Some countries (like Switzerland) have a distribution scheme for each levied product for which monies are received, while others (like the Netherlands and France) add up copies made on various devices totaling the audio, video copies made and have one distribution key per category.

## 5.3. Social and cultural deductions

In the majority of the countries, a percentage is deducted from the amount to be distributed to finance social and cultural purposes. Cultural funds are, for example, intended for the promotion of young artists, whereas social deductions are needed to feed pension funds for artists. In other countries, funds can be used for educating people on copyright or funding copyright protection programs. They are always used to directly or indirectly benefit rightsholders. In most cases, the percentages are set in the law. Cultural government bodies welcome funds that are allocated to promote culture and improve the position of rightsholders. The percentages vary from 10 per cent to 100 per cent, the latter only in Turkey, where levies are used entirely for cultural purposes by the Ministry of Culture. Recently, in the context of the Covid-19 crisis, specific measures to broaden the scope of distribution of social and cultural deductions coming from private copying have been adopted so that those sums can help impacted rightsholders. This has been the case, for example, in France where an Ordinance allows those sums to be paid as financial aid to artists, authors, publishers and neighboring rightsholders, whose income has been seriously affected by the crisis until the end of 2020. Exceptional measures have also been implemented in the Netherlands, Austria, Germany, Italy and other countries.

Often, a separate fund is created to select cultural events or projects that will receive financial support. In many cases, rightsholders are members of the selection committees and their vote is crucial in deciding how the money is spent. If the CMO does not deduct cultural funds, the distributing organizations can sponsor activities or events that help their specific category of rightsholders.

The funds allocated to the development of the arts and to cultural events are important, contributing to cultural diversity and growth within the sector. This collective aspect of private copying compensation is very valuable for rightsholders, particularly because of its impact on social conditions (for example, in France, where the financial input is considerable, and arts and culture thrive).

In the 2013 ECJ *Amazon v Austro-Mechana* case (Case No. C-521/11), the legitimacy of social and cultural deductions with regard to fair compensation was questioned. The ECJ held that the right to fair compensation cannot be excluded because half of the funds received by way of such compensation or levy are paid to social and cultural institutions set up for the benefit of those entitled to such compensation, rather than directly to those entitled, provided that these social and cultural institutions actually benefit those entitled and the detailed arrangements for the operation of such establishments are not discriminatory, which is for the national court to verify.



# EXECUTIVE SUMMARY

8/20

**Table 3: Social and Cultural deductions**

Country with social and cultural funds	% Social and/or Cultural purposes	Determined by
Algeria	30%	Law
Austria	50%	Law
Bulgaria	30%	Law
Burkina Faso	50%	Law
Cabo Verde	30%	Law
Croatia	30%	Law, music rightsholders
Denmark	33%	Law
Estonia	10%	Law
Finland	15%	Law
France	25%	Law
Georgia	10%	Law
Ghana	10%	
Hungary	10% (7% national cultural fund, 3% Artisjus fund)	Law, rightsholders
Italy	10% Cultural promotion activities 50% of video share for performing arts	Law, Performing artists
Japan	20%	Law
Latvia	10% of audio share	Music authors
Lithuania	25%	Law
Malawi	10%	Law
Morocco	20%	Law
Paraguay	10%	Law, authors and artists
Portugal	20%	Law
Russian Federation	20%	Law, rightsholders
Serbia	Yes	
Spain	20%	Law
Switzerland*	10%	Rightsholders' organizations
Tunisia	Yes	Law
Turkey**	100%	Law
Ukraine	25%	Law

\* The same regime is in force in Liechtenstein.

\*\*In Turkey, the state collects the entire private copying remuneration: one part goes to the state budget and the other part to the Ministry of Culture budget with an obligation for the Ministry to support some cultural activities.



# EXECUTIVE SUMMARY

9/20

## 6. REVENUE TRENDS – THE ECONOMIC ANALYSIS

### Private copying levies on devices

#### Percentage levies

Table 1 provides an overview of all countries in our study that reported such percentage levies for 2019. To allow for a comparison between countries, the table reports the percentage levies and is limited to a set of standardized devices. Overall, percentage levies range from 0.15% on smartphones and tablets in Ukraine and 0.5% on several devices in Paraguay, to 10% on various devices in Cabo Verde and Malawi. Some countries in the table have a combination of percentage levies on some devices and fixed levies on others. In these cases, devices for which fixed levies are charged are indicated with 'F'.

Two important caveats are in order. First, some countries also have percentage levies on devices that are not included in this table (e.g. older media types or memory cards). Second, even though the percentage levies in the table look comparable, the price definition that they relate to may differ. For instance, some countries charge a percentage of the sales price while others use a percentage of the import price. Relevant prices may also be including or excluding VAT.

**Table 1: Percentage levies (2019)**

	CD (700MB)	DVD (4.7GB)	Ext. HDD (1TB)	MP3 Player (8GB)	PC (500GB/1TB)	Set-top box (500GB)	Smartphone (16/32GB)	Tablet (16/32GB)	E-reader (8GB)	USB drive (16GB)	Game console (500GB)	Smartwatch (4GB)
Algeria	6%	6%	F	F		F	F	F		F	F	
Bulgaria	1.25%	1.25%	1.1%	1.4%						1.1%		
Cabo Verde			10%	10%		10%	10%	10%				
Czech Republic	F	F	F		1.8%	1.75%	F	F	3%			F
Greece		6%	6%	6%	2%	6%	2%	2%		6%	6%	6%
Japan	3%											
Latvia	6%	6%			F					4%		
Lithuania	6%	6%	F	F	F	F	F	F		F	F	F
Malawi	10%	10%	5%	10%	5%	5%	5%			10%		
Moldova	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%
Paraguay	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%				
Poland	1.72%	2.53%	1%	1.41%	1%	0.51%						
Russian Federation	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%
Serbia	3%	3%		1%						1%		
Slovakia	6%	6%	6%	3%	0.85%	3%	0.7%	0.6%		6.0%	3%	
Ukraine	0.75%	0.75%	0.75%	1%	0.3%	1.5%	0.15%	0.15%				

*Reading example: In Algeria, the levy on a blank CD is 6% of the price.*

**Notes:** Tunisia has a 1% levy on the sales turnover of the manufacturers of products. It is unclear for which devices. Israel and the United States only have levies on older media types (see the specific country pages for more details). The countries in this table do not have different percentage levies for different storage capacities of PCs, Smartphones and Tablets.



# EXECUTIVE SUMMARY

10/20

## Fixed levies

All levies in Table 2 refer to 2019 and have been converted to euro using 2019 average exchange rates. Levies range from less than a euro cent for blank CDs and DVDs in Morocco, to more than EUR 40 for set-top boxes in Hungary and Switzerland. The last column in Table 2 gives the median levy for all countries which have a levy on that specific device. This median or 'middle' value is much less sensitive than the mean for outliers at the low or high end and is therefore a better indicator of the 'average' levy. It ranges from EUR 0.08 for a blank CD, to EUR 15.25 for a set-top box with a storage capacity of 500 GB.

**Table 2: Fixed levies in EUR (2019)**

	CD (700MB)	DVD (4.7GB)	Ext. HDD (1TB)	MP3 Player (8GB)	PC 500GB	PC 1TB	STB (500GB)	Smartphone 16GB	Smartphone 32GB	Tablet 16GB	Tablet 32GB	E-reader (8GB)	USB drive (16GB)	Game cons. (500GB)	Smartwatch (4GB)	Cloud storage
Algeria	%	%	3.59	1.27			6.74	2.25	3.74	2.25	3.74		2.25	3.59		
Austria	0.23	0.36	4.50	6.00	5.00	5.00	22.50	2.50	2.50	3.75	3.75		0.50		1.00	
Belgium	0.12	0.40	6.75	2.50			1.30	2.50	3.00	2.50	3.00		0.50			
Canada	0.20															
Croatia	0.01	0.02	0.40	1.89	0.81	0.81	5.40	1.35	1.35	1.35	1.35		0.40			
Czech Republic	0.01	0.02	3.41		%	%	%	0.93	1.87	0.50	1.00	%			0.12	
Denmark	0.34	0.54											0.76			
France	0.35	0.90	6.00	12.00			25.50	8.00	10.00	8.00	10.00		1.50			Yes
Germany	0.01	0.03	4.44	5.00	13.19	13.19	34.00	6.25	6.25	8.75	8.75		1.56		1.20	
Hungary	0.27	0.41	18.80	34.07			43.60	18.18	20.78	27.13	31.01		10.93			
Italy	0.10	0.20	10.00	6.44	5.20	5.20	32.20	4.80	5.20	4.80	5.20		1.60	16.20	1.93	
Latvia	%	%			2.85	2.85							%			
Lithuania	%	%	2.31	1.44	5.79	5.79	7.24	2.89	4.34	2.89	4.34		0.29	4.34	1.01	
Morocco	0.00	0.00	0.36	0.14			0.57	0.23	0.46	0.23	0.46		0.07	0.57		
Netherlands			0.60	1.20	2.60	2.60	3.80	4.70	4.70	2.60	2.60	0.80	0.60		1.20	
Portugal	0.05	0.10	7.50	1.60	2.00	4.00	8.00	1.92	3.84	1.92	3.84	0.13	0.26			
Spain	0.08	0.21	6.45	3.15	5.45	5.45		1.10	1.10	3.15	3.15	3.15	0.24			
Sweden	0.06	0.25	7.56	0.76	7.56	7.56	30.22	4.53	9.07	1.51	3.02		1.51	7.56		
Switzerland	0.04	0.28		3.91			42.70	0.88	1.52	1.82	2.91					Yes
<b>Median</b>	<b>0.08</b>	<b>0.23</b>	<b>4.50</b>	<b>2.50</b>	<b>5.10</b>	<b>5.10</b>	<b>15.25</b>	<b>2.50</b>	<b>3.79</b>	<b>2.55</b>	<b>3.45</b>	<b>0.80</b>	<b>0.60</b>	<b>4.34</b>	<b>1.11</b>	

**Reading example:** In Austria, the levy on a blank CD is EUR 0.23. The median levy on blank CDs in this set of countries is EUR 0.08.

**Notes:** Levies for countries outside the euro-area converted to euro using 2019 average exchange rates retrieved from IMF/World Bank. **Algeria, Czech Republic, Latvia** and **Lithuania** have percentage levies for some devices and fixed levies for others.

**Slovenia** has fixed levies based on the consumer price and is therefore not included in Table 2.



# EXECUTIVE SUMMARY

11/20

## Levies paid by two hypothetical households

How do the percentage levies in Table 1 and the fixed levies in Table 2 work out in practice for a typical household? And how do these outcomes compare between countries? This depends on the consumption pattern of a household. To illustrate this, and to assess how different levy systems work out for the same household, two hypothetical households were constructed:

- A tech-savvy family, consisting of two adults and two teenagers, who all have their own state-of-the-art laptop and smart phone which they renew regularly and who no longer use MP3 players or blank CDs and DVDs.
- A more traditional couple who is much less keen on owning the newest devices and keeping up with technological trends. They share one PC that they still use to burn CDs or DVDs occasionally, but do not own an external hard drive, game console or smartwatch.

The first table below gives the annual number of devices bought per person per year in these two hypothetical households. In order to be able to calculate levies for countries with a percentage levy as well, the table also gives the assumed unit retail price. The second table gives the annual levies per person in these two households for the countries in Table 1 and 2. Algeria, Czech Republic, Lithuania and Latvia have a combination of percentage and fixed levies. Revenues from both types of levies have been added for these countries. The figure below the tables ranks the levies paid per member of these households based on the levies due for members of the tech-savvy family.

The second table and the graph show that in most countries, the annual levies per person are higher for members of the tech-savvy household, but there are a number of exceptions. For the tech-savvy household, annual levies per person range from EUR 0 in Canada and Japan, to more than EUR 37 in Cabo Verde and Hungary. For the traditional couple, annual levies per capita range from EUR 0.03 in Japan to more than EUR 27 in Hungary.

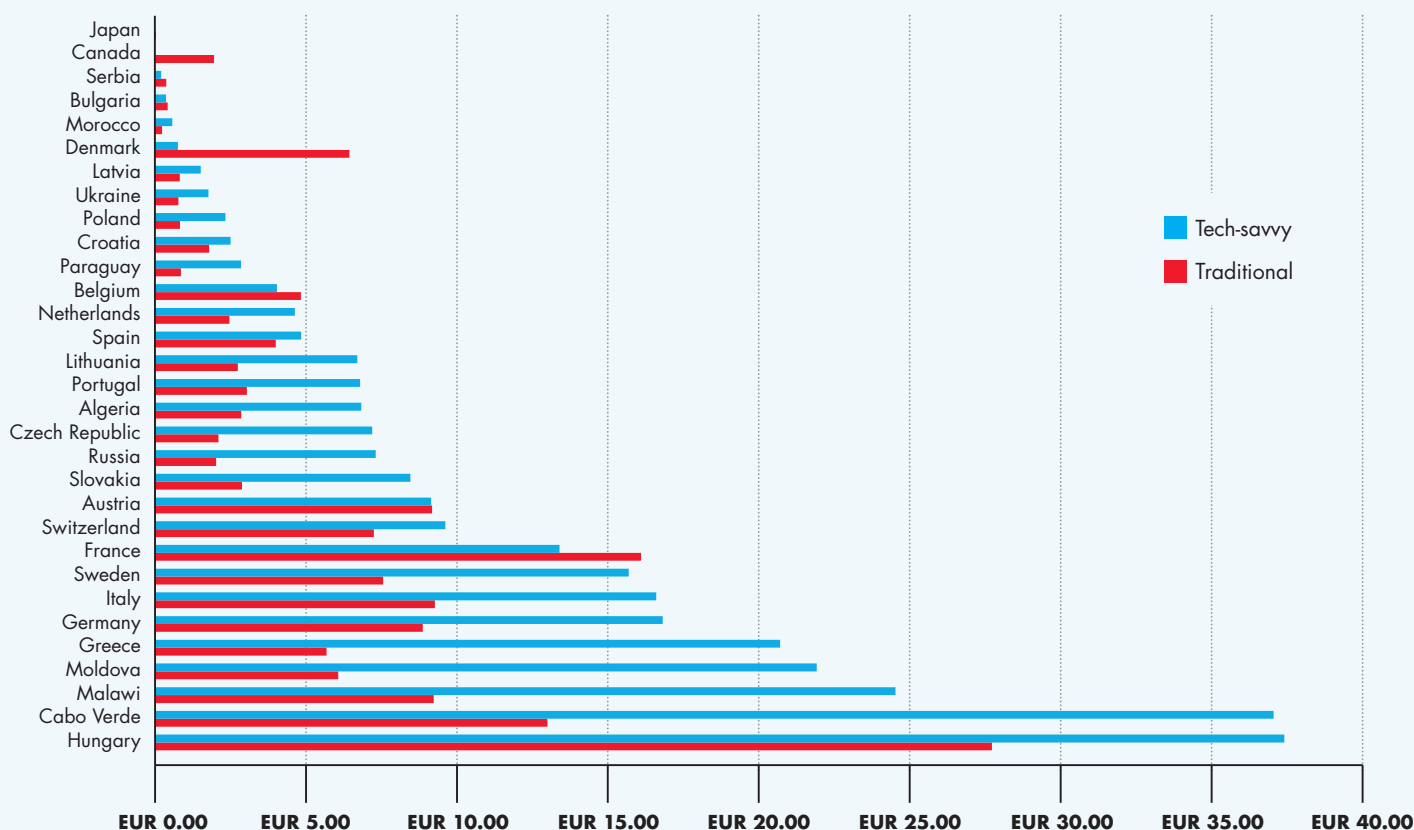
LEVIES PER PERSON PER YEAR (EUR)			LEVIES PER PERSON PER YEAR (EUR)		
Country	Tech-Savvy	Traditional	Country	Tech-Savvy	Traditional
Algeria	6.83	2.86	Lithuania	6.70	2.74
Austria	9.15	9.18	Malawi	24.53	9.23
Belgium	4.04	4.83	Moldova	21.92	6.07
Bulgaria	0.36	0.42	Morocco	0.57	0.23
Cape Verde	37.05	13.00	Netherlands	4.63	2.46
Canada	-	1.95	Paraguay	2.85	0.86
Croatia	2.50	1.79	Poland	2.33	0.83
Czech Republic	7.19	2.10	Portugal	6.79	3.04
Denmark	0.76	6.44	Russia	7.31	2.02
France	13.40	16.10	Serbia	0.20	0.37
Germany	16.82	8.87	Slovakia	8.46	2.88
Greece	20.71	5.68	Spain	4.84	4.00
Hungary	37.41	27.71	Sweden	15.69	7.56
Italy	16.60	9.27	Switzerland	9.62	7.25
Japan	-	0.03	Ukraine	1.77	0.77
Latvia	1.51	0.82			



# EXECUTIVE SUMMARY

12/20

## ... Levies paid by two hypothetical households



## Correction for differences in purchasing power

The purchasing power that a levy of EUR 1 represents varies significantly between countries. In a wealthy country such as Switzerland, EUR 1 (exchanged into Swiss Francs) will buy you much less than in Algeria (exchanged into Algerian dinar). To shed light on the actual purchasing power that levies represent and in order to achieve a more adequate comparison of levy rates between countries, **Table 3** gives the fixed levies from Table 2, after correction for differences in purchasing power between countries.<sup>9</sup>

Correction for differences in purchasing power generally brings the levies of countries such as Algeria or Morocco, on the one hand, and Switzerland or Sweden, on the other, closer together. However, it further inflates the levies in Hungary.

Morocco, Croatia and Czech Republic still have fairly low levies across the board. Canada and Denmark stand out with relatively high levies on only a narrow set of devices or carriers, which have largely become obsolete in modern media consumption.

<sup>9</sup> Purchasing power parity (PPP) conversion rates for private consumption (retrieved from the World Bank) have been used. These PPP conversion rates are expressed as local currency units (LCU) per international dollar and have been recalculated to US dollar per international dollar using annual average exchange rates, to arrive at actual purchasing power correction factors for each year. Thus, correction factors are relative to the purchasing power in the United States. Next, these factors have been applied to the levies and revenues expressed in euro.



# EXECUTIVE SUMMARY

13/20

**Table 3: Fixed levies in EUR, corrected for purchasing power parity (2019)**

	CD (700MB)	DVD (4.7GB)	Ext. HDD (1TB)	MP3 Player (8GB)	PC 500GB	PC 1TB	STB (500GB)	Smartphone 16GB	Smartphone 32GB	Tablet 16GB	Tablet 32GB	E-reader (8GB)	USB drive (16GB)	Game cons. (500GB)	Smartwatch (4GB)	Cloud storage
Algeria	%	%	10.77	3.82			20.20	6.73	11.22	6.73	11.22		6.73	10.77		
Austria	0.23	0.37	4.60	6.13	5.11	5.11	22.98	2.55	2.55	3.83	3.83		0.51		1.02	
Belgium	0.12	0.40	6.73	2.49			1.30	2.49	2.99	2.49	2.99		0.50			
Canada	0.19															
Croatia	0.02	0.03	0.66	3.08	1.32	1.32	8.79	2.20	2.20	2.20	2.20		0.66			
Czech Republic	0.01	0.04	5.32					1.46	2.91	0.78	1.55				0.19	
Denmark	0.27	0.43											0.62			
France	0.35	0.91	6.04	12.08			25.67	8.05	10.07	8.05	10.07		1.51			Yes
Germany	0.01	0.03	4.75	5.35	14.12	14.12	36.40	6.69	6.69	9.37	9.37		1.67		1.28	
Hungary	0.48	0.72	33.39	60.49			77.43	32.28	36.89	48.18	55.06		19.40			
Italy	0.11	0.22	11.05	7.12	5.75	5.75	35.58	5.30	5.75	5.30	5.75		1.77	17.90	2.13	
Latvia	%	%			4.26	4.26							%			
Lithuania	%	%	3.89	2.42	9.74	9.74	12.19	4.86	7.30	4.86	7.30		0.49	7.30	1.70	
Morocco	0.01	0.01	0.79	0.31			1.26	0.50	1.00	0.50	1.00		0.16	1.26		
Netherlands			0.59	1.19	2.57	2.57	3.76	4.65	4.65	2.57	2.57	0.79	0.59		1.19	
Portugal	0.06	0.13	9.63	2.05	2.57	5.14	10.27	2.47	4.93	2.47	4.93	0.16	0.33			
Spain	0.10	0.25	7.71	3.76	6.51	6.51		1.31	1.31	3.76	3.76	3.76	0.29			
Sweden	0.05	0.23	7.00	0.70	7.00	7.00	27.98	4.20	8.40	1.40	2.80		1.40	7.00		
Switzerland	0.03	0.20		2.87			31.30	0.65	1.11	1.33	2.14					Yes
<b>Median</b>	<b>0.10</b>	<b>0.23</b>	<b>6.04</b>	<b>3.08</b>	<b>5.43</b>	<b>5.44</b>	<b>21.59</b>	<b>3.38</b>	<b>4.79</b>	<b>3.17</b>	<b>3.80</b>	<b>0.79</b>	<b>0.62</b>	<b>7.30</b>	<b>1.24</b>	

**Reading example:** : In Algeria, the purchasing power corrected levy on a 1TB external HDD is EUR 10.77 (EUR 3.59 without this correction, see Table 2). The purchasing power corrected median levy on an external HDD is EUR 6.04.

**Notes:** Levies for countries outside the euro-area converted to euro using 2019 average exchange rates and PPP conversion factors (for 2018, the last available year) retrieved from IMF/World Bank.



# EXECUTIVE SUMMARY

14/20

## Revenue potential for selected countries

The median levies in Table 3 that have been corrected for differences in purchasing power, may be used to calculate the **revenue potential** per device type for countries that do not have such levies. This is what has been done in the table below for a set of seven countries.

As a first step, the median levies are adjusted in line with national differences in purchasing power. For instance, the median levy of EUR 3.38 for a 16GB smartphone (see Table 3) translates to EUR 1.54 in Bulgaria and EUR 4.18 in Denmark (see Table below). In the table, the same has been done for 32GB smartphones as well as 16GB and 32GB tablets.

Next, using country-specific sales data for 2019 (obtained from IDC), the revenue potential based on these levies can be calculated. Since the available sales data does not distinguish between storage capacities, a bandwidth is calculated based on the ultimate assumptions that the total sales for 2019 consist fully of devices with respectively 16GB and 32GB storage capacity.

Thus, in Japan for instance, the revenue potential from smartphones would be between EUR 109 and 155 million and from tablets between EUR 25 and 30 million. For reference purposes, the table also mentions the total population per country.

Country	Smartphone		Tablet		Population (2018, million)	Revenue potential (million EUR)	
	16 GB	32 GB	16 GB	32 GB		Smartphones	Tablets
Bulgaria	1.54	2.18	1.44	1.73	7.0	2.4 ~ 3.4	0.3 ~ 0.3
Canada	3.39	4.81	3.18	3.81	37.1	38 ~ 53	8.4 ~ 10
Denmark	4.18	5.93	3.92	4.70	5.8	9 ~ 13	2.0 ~ 2.5
Japan	3.48	4.95	3.27	3.92	126.5	109 ~ 155	25 ~ 30
Korea	3.04	4.31	2.85	3.41	51.6	52 ~ 74	7.2 ~ 8.6
Mexico	1.81	2.57	1.70	2.04	126.2	54 ~ 84	4.6 ~ 5.5
Nigeria	1.35	1.92	1.27	1.52	195.9	14 ~ 20	0.2 ~ 0.3

## Revenue trends

### Total revenues

**Table 4** provides the total revenues for 2015-2018 from private copying levies in each of the countries for which data are available (in current euro). For all countries combined, total revenues increased from EUR 669 million in 2015 to EUR 1.05 billion in 2018. Total revenues are exceptionally high in 2016 at EUR 1.44 billion, due to settlement payments for previous years in Austria and Germany.

In nominal terms, Germany and France have by far the largest revenues from private copying levies: On average over the years 2015-2018, these two countries collected around 60% of total revenues. The last line in Table 3 shows that all EU countries together are responsible for around 90% of revenues.



**Table 4: Total revenues from private copying levies in current EUR (2015-2018)**

COUNTRY	2015	2016	2017	2018
Algeria	25,884,464	25,004,33	16,819,205	15,050,050
Austria*	10,191,741	76,156,877	21,071,734	24,688,010
Belgium	24,986,442	22,428,642	20,270,809	18,413,397
Cabo Verde	n/a	n/a	175,876	450,001
Canada	2,481,745	1,791,562	1,426,738	950,227
Croatia	1,011,561	1,043,919	1,166,641	1,164,819
Czech Republic**	6,616,715	7,058,423	7,773,842	9,527,262
Denmark	3,823,918	3,735,674	3,673,074	3,555,268
Estonia	6,205	-	-	-
Finland	11,000,000	11,000,000	11,000,000	11,000,000
France	224,000,000	265,872,000	258,163,000	277,532,000
Germany***	100,664,000	754,100,000	331,927,000	332,517,000
Ghana	473,223	493,046	456,694	454,759
Greece	102,035	-	-	-
Hungary	22,046,561	25,659,794	27,766,873	27,153,451
Iceland	53,980	37,061	1,508,634	1,824,120
Israel	298	302	316	303
Italy	129,630,285	127,585,474	129,374,844	127,667,660
Japan	679,999	444,967	330,523	255,134
Latvia	329,306	302,299	326,461	543,916
Lithuania	4,241,710	3,345,434	3,179,530	4,802,131
Morocco	-	-	4,164,405	5,091,614
Moldova	n/a	n/a	7,178	100,794
Netherlands	33,498,000	30,070,000	44,187,000	33,509,000
Norway	5,069,017	4,970,431	5,029,779	5,000,983
Paraguay	899,760	3,314,725	4,210,845	3,875,208
Poland	1,569,954	1,778,325	2,339,282	1,685,270
Portugal	3,323,438	11,794,583	13,549,636	14,960,000
Russian Federation	32,313,199	36,116,806	45,395,570	59,023,125
Serbia	49,166	34,773	36,365	27,865
Slovak Republic	1,442,193	2,413,657	4,378,914	3,359,185
Spain	-	-	20,193,217****	40,428,724
Sweden	10,281,221	9,362,228	6,033,159	5,510,423
Switzerland	12,468,347	11,987,319	13,177,006	15,127,189
Tunisia	n/a	n/a	n/a	31,992
Ukraine**	194,377	114,010	444,916	281,346
United States	132,004	7,052	6,636	3,183
<b>TOTAL</b>	<b>669,464,864</b>	<b>1,438,023,720</b>	<b>999,565,704</b>	<b>1,045,565,408</b>
Growth/decline	-16%	115%	-30%	5%
EU/total	88%	94%	91%	90%

**Reading example:** In Austria, the total revenues from private copying levies were EUR 24.7 million in 2018.

**Notes:** 'n/a' = no revenue figures available; '-' = no revenues. No revenue figures for 2015-2018 available for Burkina Faso and Romania. Levies for countries outside the euro-area converted to euro using average annual exchange rates retrieved from IMF/World Bank.

\* Austria: Figures for 2016 include a settlement payment for 2012-2015 for hard discs, mobile phones and tablets.

\*\* Czech Republic: Revenues for OSA and Intergram combined; Ukraine: Revenues for UMA and UARA combined.

\*\*\* Germany: Figures show revenues in the named years, not payments. Revenues for 2016 include years since 2010 for tablets and since 2011 for mobile phones.

\*\*\*\* Spain: Since August 2017.

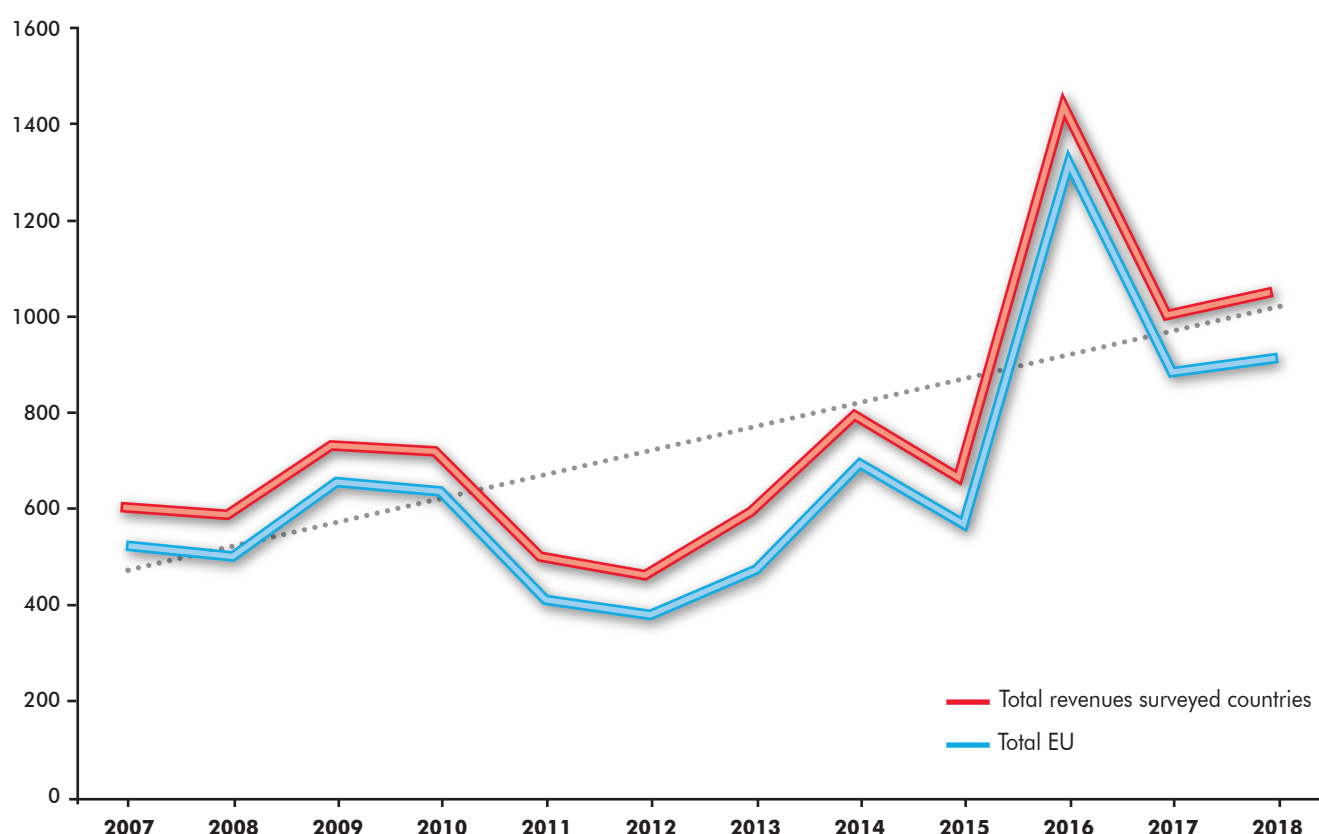


# EXECUTIVE SUMMARY

16/20

**Figure 1** shows the development of total revenues between 2007 and 2018 graphically. The solid red line gives total revenues for all countries in the survey combined, the dotted red line shows the average trend over this period. It clearly shows that, despite some ups and downs, which can often be related to lawsuits and settlements, the trend is upward.<sup>10</sup> The blue line illustrates that each year the EU is responsible for the vast majority of revenues collected.

**Figure 1: Total revenues for all data set and for all EU countries in million EUR (2007-2018)**



<sup>10</sup> Table 4 shows there are missing values for some countries in some years. However, this does not affect the trend shown in Figure 1. Each year, countries for which revenue data are available for the entire period 2007-2018 make up 98% or more of total revenues.



# EXECUTIVE SUMMARY

17/20

## Revenues per capita

**Table 5** shows the total revenues per capita for the years 2015-2018. Revenues per capita in 2018 ranged from less than EUR 0.01 in various countries (Israel, Japan, Serbia, Tunisia and the United States), to EUR 5.16 in Iceland, where annual revenues increased by a striking amount in 2017. Other countries that have relatively high revenues per capita are France, Germany, Austria and Hungary.

**Table 5: Total revenues per capita in current EUR (2015-2018)**

COUNTRY	2015	2016	2017	2018
Algeria	0.65	0.62	0.41	0.36
Austria*	1.18	8.72	2.40	2.79
Belgium	2.22	1.98	1.78	1.61
Cabo Verde	0.00	0.00	0.33	0.83
Canada	0.07	0.05	0.04	0.03
Croatia	0.24	0.25	0.28	0.28
Czech Republic**	0.63	0.67	0.73	0.90
Denmark	0.67	0.65	0.64	0.61
Estonia	0.00	-	-	-
Finland	2.01	2.00	2.00	1.99
France	3.36	3.98	3.86	4.14
Germany***	1.23	9.16	4.02	4.01
Ghana	0.02	0.02	0.02	0.02
Greece	0.01	-	-	-
Hungary	2.24	2.61	2.84	2.78
Iceland	0.16	0.11	4.39	5.16
Israel	0.00	0.00	0.00	0.00
Italy	2.13	2.10	2.14	2.11
Japan	0.01	0.00	0.00	0.00
Latvia	0.17	0.15	0.17	0.28
Lithuania	1.46	1.17	1.12	1.72
Morocco	-	-	0.12	0.14
Moldova	n/a	n/a	0.00	0.03
Netherlands	1.98	1.77	2.58	1.94
Norway	0.98	0.95	0.95	0.94
Paraguay	0.13	0.49	0.61	0.56
Poland	0.04	0.05	0.06	0.04
Portugal	0.32	1.14	1.32	1.46
Russian Federation	0.22	0.25	0.31	0.41
Serbia	0.01	0.00	0.01	0.00
Slovak Republic	0.27	0.44	0.81	0.62
Spain	-	-	0.43	0.87
Sweden	1.05	0.94	0.60	0.54
Switzerland	1.51	1.43	1.56	1.78
Tunisia	n/a	n/a	n/a	0.00
Ukraine**	0.00	0.00	0.01	0.01
United States	0.00	0.00	0.00	0.00
<b>Average</b>	<b>0.59</b>	<b>1.27</b>	<b>0.82</b>	<b>0.84</b>
<b>EU average</b>	<b>1.63</b>	<b>3.85</b>	<b>2.28</b>	<b>2.35</b>

**Reading example:** In Austria, the total revenues from private copying levies were EUR 2.79 per capita in 2018.

**Notes:** 'n/a' = no revenue figures available; '-' = no revenues; '0.00' = revenues per capita < EUR 0.01. No revenue figures for 2015-2018 available for Burkina Faso and Romania. Levies for countries outside the euro-area converted to euro using average annual exchange rates retrieved from IMF/World Bank. Sample average and EU average population-weighted.

\* Austria: Figures for 2016 include a settlement payment for 2012-2015 for hard discs, mobile phones and tablets.

\*\* Czech Republic: revenues for OSA and Intergram combined; Ukraine: Revenues for UMA and UARA combined.

\*\*\* Germany: Figures show revenues in the named years, not payments. Revenues for 2016 include years since 2010 for tablets and since 2011 for mobile phones.

<sup>11</sup> Calculated using annual population data retrieved from the World Bank.



# EXECUTIVE SUMMARY

18/20

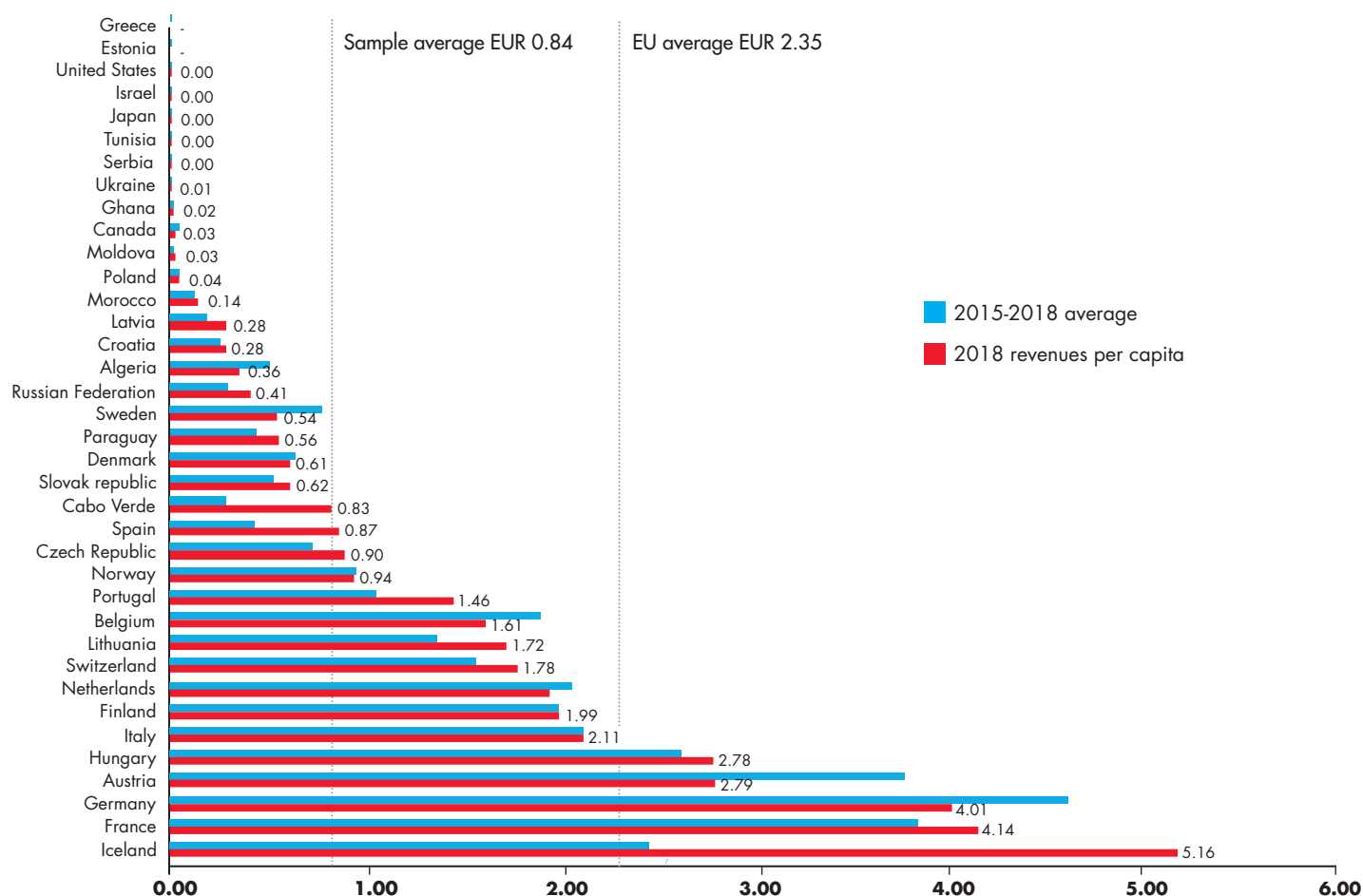
The last two rows in Table 5 give average revenues in the participating countries:

- The first of these gives the population-weighted average (mean) for all countries with revenue data available for each specific year. This increases from EUR 0.59 in 2015 to EUR 0.84 in 2018, with a peak in 2016 caused by the settlements in Austria and Germany.
- The second gives the population-weighted average for EU countries with revenue data available for each specific year. This increases from EUR 1.63 in 2015 to EUR 2.35 in 2018, again with a peak in 2016.

**Figure 2** illustrates the revenues per capita for the countries in this survey graphically. The blue bars and the euro-numbers in the graph present the revenues per capita for each country in the study for the year 2018, sorted by value. These values correspond to the rightmost column in Table 5. Dashed lines give the (population-weighted) sample average (EUR 0.83) and the EU average (EUR 2.34) for 2018. Iceland, Switzerland and Norway are the only non-EU countries that have revenues per capita above the sample average, while runner-up Cabo Verde collected almost exactly the sample average in 2018. Iceland is the only non-EU country collecting more than the EU average.

To reduce year-to-year volatility, the light blue bars (without euro-numbers) depict for each country the average revenues for the period 2015-2018. On this benchmark, Germany has the highest revenues per capita, followed by France and Austria.

**Figure 2: Revenues per capita in 2018 and 2015-2018 average (EUR)**





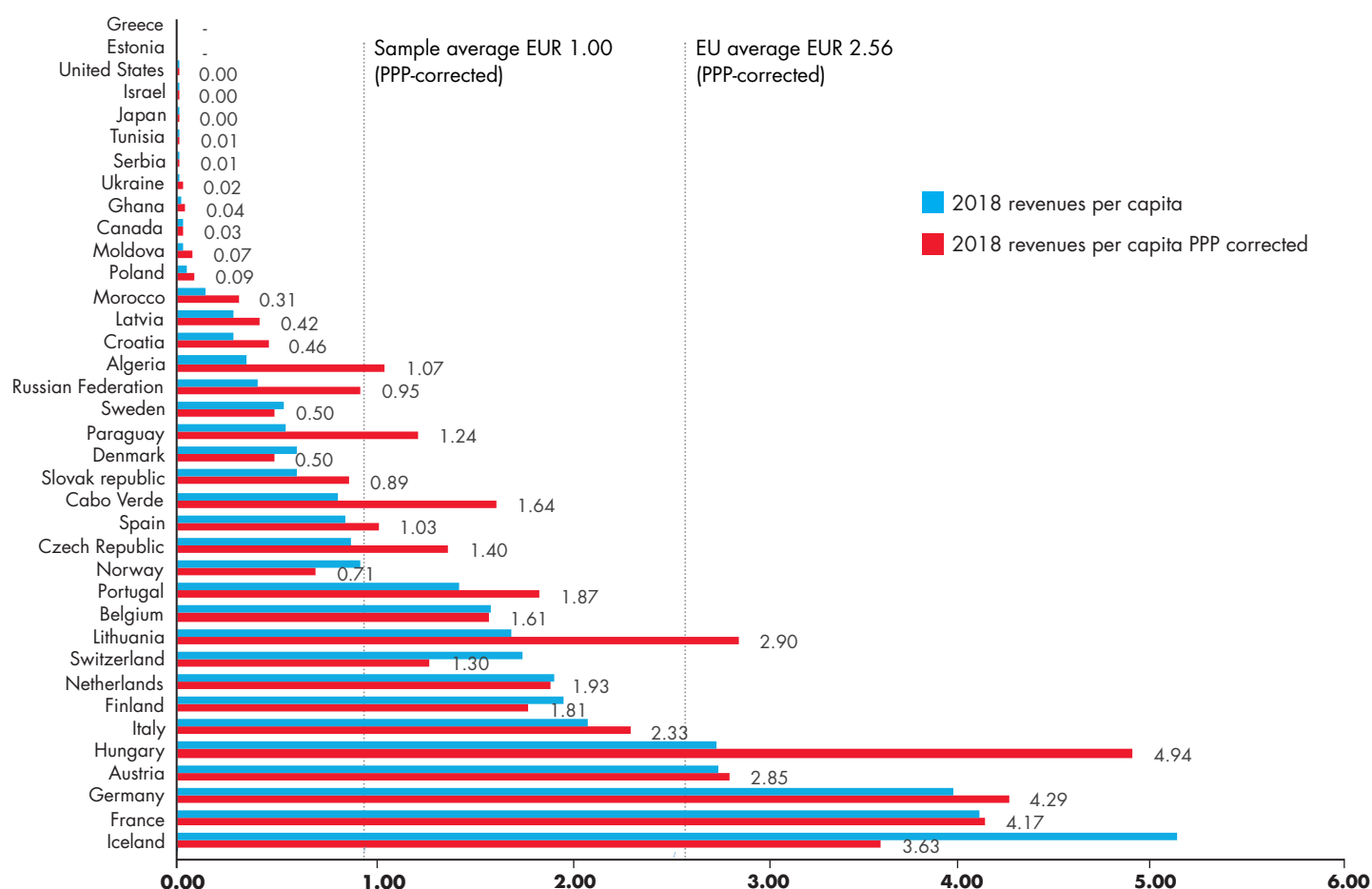
# EXECUTIVE SUMMARY

19/20

In **Figure 3**, the revenues per capita have been corrected for differences in purchasing power, analogous to the PPP-correction in Table 3. In this graph, the red bars represent the PPP-corrected revenues, while the blue bars are the actual revenues per capita in euro (identical to the red bars in Figure 2). The order of the countries is identical to Figure 2.

After correcting for purchasing power differences, Iceland loses its position as the country with the highest revenues per capita. This is taken over by Hungary, followed by Germany and France. Note the particularly large effect of PPP correction for Lithuania, Cabo Verde, Paraguay and the Russian Federation.

**Figure 3: Revenues per capita in 2018, corrected for differences in purchasing power (EUR)**



**Notes:** PPP-conversion factor for Russian Federation for year 2017 used (2018 not available).



## Regression model

From a glance at Figure 2, it may be conjectured that there is a positive correlation between revenues per capita and income per capita, while non-European countries have systematically lower revenues. On the other hand, Figure 3 seems to suggest that this correlation disappears wholly or largely after correcting for differences in purchasing power.

Econometric techniques can be applied to test the relative contribution of these variables to understand levy revenues. Also, the link with other variables – such as whether a country has percentage or fixed levies – can be tested simultaneously. It should be noted, however, that the annual number of observations is fairly small, which limits the possibilities for such analysis.

**Table 6** presents the outcomes of so-called cross-sections to explain the levy revenues per capita in 2018 and the 2015-2018 average for the participating countries. In the first model, 2018 revenues per capita are explained by a constant, whether or not a country is a member of the EU, and the GNI<sup>12</sup> per capita. The latter two turn out to be statistically significant above a 95 per cent confidence interval, which for this small data set can be considered a rather high level of certainty.

The second model uses GNI in PPP, while the dependent variable contains the PPP corrected revenues per capita. As can be seen from the table, the significance level of the variable for EU membership remains the same, while GNI is no longer statistically significant. Other variables, namely whether a country used fixed levies as well as the number of Internet users and mobile subscriptions per 100 inhabitants, are nowhere near statistically significant and for that reason, these have not been included in the model.

Average revenues per capita over the 2015-2018 period (as depicted in the blue bars in Figure 2) are less volatile than the 2018 values. These are studied in the last three columns of Table 6. Again, GNI per capita is no longer statistically significant in the model for PPP corrected revenues.

The general picture is very similar to that in the first two models:

- Per EUR 1,000 of income per capita, levy revenues per capita increase by about EUR 0.02.
- Revenues per capita in EU countries are on average EUR 0.70~1.10 higher than in non-EU countries.

Together, EU membership and GNI per capita can explain 25~35 per cent of the variation in the levy revenues. On top of this, the last models suggest that revenues may be somewhat higher in countries that have fixed levies. However, this variable is only statistically significant at a 90% confidence level in the last model. Internet access and mobile subscriptions do not have additional explanatory power in any of the models.

**Table 6: Regression models for revenues per capita (cross-sections)**

Levy revenues	2018	2018PPP	2015-2018	2015-2018	2015-2018 PPP
Constant	0.01 (0.02)	0.30 (0.65)	-0.14 (0.45)	-0.23 (0.72)	-0.11 (0.24)
EU member	0.87** (2.21)	1.10** (2.47)	0.97*** (2.83)	0.67* (1.72)	0.67 (1.44)
GNI per capita/1000	0.026** (2.64)		0.023*** (2.74)	0.021** (2.46)	
GNI per capita in PPP/1000		0.014 (0.98)			0.014 (1.02)
Fixed rates				0.60 (1.52)	0.94* (2.02)
Sample size	35	35	37	37	37
R-squared (adjusted)	0.30 (0.25)	0.23 (0.19)	0.34 (0.30)	0.38 (0.32)	0.34 (0.28)

**Reading example:** According to the first model, private copying levy revenues per capita in a country in 2018 are typically EUR 0.026 per EUR 1,000 of GNI per capita. In EU-countries, revenues per capita are on average EUR 0.88 on top of that.

**Notes:** Coefficients with t-statistics in parenthesis. \* Significant at 90% confidence interval; \*\* Significant at 95% confidence interval; \*\*\* Significant at 99% confidence interval.

<sup>12</sup> GNI (gross national income) is an alternative to the more commonly known GDP (gross domestic product) as a means of measuring a nation's wealth. It is considered a more accurate indicator for some nations. While GDP measures the market value of all final goods and services produced in a given country, GNI measures income generated by the country's citizens, regardless of the geographic location of the income.





# AFRICA INTRODUCTION

1/2

The situation in Africa regarding private copying remuneration is poor overall, but in recent years has shown signs of recovery. Several countries have explored improving or implementing private copying collections. Malawi, where remuneration started to be effective in 2019, presents an example of how a well-coordinated campaign can bring about legislative change and sharply increased income for creators.

In the region, 48 out of 54 countries have a private copying exception in their domestic legislation. 9 of them (Algeria, Botswana, Burkina Faso, Cabo Verde, Ghana, Kenya, Malawi, Morocco and Tunisia) have a remuneration system for private copying with a distribution mechanism under national law.

17 countries (Angola, Benin, Burundi, Cameroon, Chad, Democratic Republic of Congo, Djibouti, Gabon, Côte d'Ivoire, Madagascar, Mali, Mauritius, Mozambique, Niger, Nigeria, Sao Tomé and Príncipe and Senegal) provide for a levy but there is no evidence of the establishment of an operating collection and distribution mechanism under their domestic legislation. In most of these cases, the law reserves the details of such mechanism (i.e. the definition of the types of media to be levied, the criteria for fixing rates, the procedures for payment) to regulation. For instance, in Côte d'Ivoire, a decree implementing the provisions of a new law that introduces a private copying scheme is pending since many years.

An unusual situation has been reported from Kenya, where levies are collected for sound recordings but not for literary, musical, artistic or audiovisual works. Such a different treatment between authors, who do not receive compensation at all, and producers and performers, who do, is unique across the world and does not have any legal fundament.

22 countries (Central African Republic, Comoros, Congo, Egypt, Eritrea, Ethiopia, Gambia, Guinea, Lesotho, Libya, Mauritania, Namibia, Rwanda, Seychelles, Sierra Leone, South Africa, South Sudan, Sudan, Tanzania, Togo, Uganda and Zimbabwe) have a private copying exception in their legislation but do not foresee a remuneration system in favor of rightsholders. This situation undermines the interests of rightsholders, whose rights are eroded without receiving any compensation for the harm they suffer or having the possibility of monitoring the use of their works.

Finally, 6 countries (Equatorial Guinea, Guinea-Bissau, Liberia, Somalia, Swaziland and Zambia) do not provide for an explicit private copying exception.

The poor development of the remuneration for private copying in the region is taking place despite the implementation of a regional treaty (The Bangui Agreement<sup>13</sup>), which requires signatory countries to provide a private copying exception and to accompany it with an effective system for remunerating authors, performers and phonogram producers.

This overall picture shows that the legal framework of the vast majority of African countries needs to be improved in order to put in place an effective implementation of a remuneration system for rightsholders.

In recent years, the increasing awareness of the economic potential of private copying in the region has led to encouraging results. Morocco, Cabo Verde and Tunisia began collecting for private copying for the first time in 2017 and Malawi in 2019, thus joining Algeria, Botswana, Burkina Faso, Kenya and Ghana.

Senegal achieved notable progress since establishing a private copying commission in January 2018. A decree that will implement the levy system and define the role of customs is expected in the next months.

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<sup>13</sup> The Bangui Agreement, promoted by OAPI (Organisation Africaine de la Propriété Intellectuelle) entered into force in 1977 to develop regional standards for IP law in French-speaking African countries. Since 1999, the Bangui Agreement has force of law in OAPI countries (Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Gabon, Guinea, Equatorial Guinea, Mali, Mauritania, Niger, Guinea-Bissau, Senegal and Togo).





# AFRICA INTRODUCTION

2/2

An important initiative to expand and harmonize the implementation of private copying remuneration has recently been put forward by the regional communities UEMOA (West African Economic and Monetary Union) and ECOWAS (Economic Community of West African States). In December 2019, these organizations set up a steering group to draft a new regional private copying directive aimed at introducing obligations to implement private copying remuneration in the eight member states of UEMOA<sup>14</sup> and the 15 members of ECOWAS<sup>15</sup>. The final version of the directive is expected to be adopted in the first quarter of 2021 and then transposed into the national legislations of member states.

Among the ECOWAS members, Nigeria has an enormous potential in terms of private copying collections, due in particular to its flourishing audiovisual production. The economic analysis of this Study shows the potential revenue of a levy system in this country.

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<sup>14</sup> Members of the West African Economic and Monetary Union (also known by its French acronym, UEMOA) are Benin, Burkina Faso, Côte d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal and Togo.

<sup>15</sup> The 15 members of the Economic Community of West African States (ECOWAS) are Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.





# **AFRICA: COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION**







# **AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM**







AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# CENTRAL AFRICAN REPUBLIC



4,666,377

GDP: 1.9 billion EUR

1/1

## CONTACT INFORMATION

**COUNTRY** Central African Republic

**CURRENCY** CFA Franc (XAF)



## OVERVIEW

**EXCEPTION** Yes

**LEVY** No



## LEGAL BASIS

### EXCEPTION

Art. 11-18 de l'ordonnance n. 85.002 sur le droit d'auteur (du 5 janvier 1985)

Chapitre II - Limitation permanente

Article 11 : Lorsque l'œuvre a été licitement rendue accessible au public, l'auteur ne peut en interdire :

1) Les communications telles que représentation, exécution, radiodiffusion, télévision :

Si elles sont privées ou effectuées exclusivement dans un cercle de famille et ne donnent lieu à aucune forme de recette ;  
(...)

2) Les reproductions, traductions et adaptations destinées à un usage strictement privé, sous réserve que le titre de l'œuvre et le nom de l'auteur ou ses ayants droit, soit le Bureau centrafricain du droit d'auteur.

Article 18 : L'utilisation des œuvres dans les conditions prévues par le présent chapitre ne donne lieu à aucune rémunération au profit des auteurs et de leurs ayants droit. (...)





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# COMOROS



832,322

GDP: 1.0 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Comoros
<b>CURRENCY</b>	Comoros franc (KMF)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

Art. 41 of the law on literary and artistic property, 11 March 1957

When the work has been disclosed, the author may not prohibit: (..)

2 - Copies or reproductions strictly reserved for the private use of the copyst and not intended for collective use, with the exception of copies of works of art to be used for the same purpose for which the original work was created.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# CONGO



5,244,363

GDP: 9.9 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Congo
<b>CURRENCY</b>	CFA franc (XAF)
<b>NAME ORGANISATION</b>	BCDA
<b>WEB SITE</b>	<a href="http://www.bccda-congo.org">www.bccda-congo.org</a>
<b>E-MAIL</b>	<a href="mailto:bcda.congobzv1982@gmail.com">bcda.congobzv1982@gmail.com</a>
<b>ADDRESS</b>	BP 316
<b>CITY</b>	Brazzaville
<b>PHONE</b>	+242 06 828 33 85/+ 242 22 614 12 47



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Art. 33 and 98 of Law No. 24/82 of July 7, 1982 on Copyright and Neighbouring Rights

Article 33. Notwithstanding Article 28, the following uses of a protected work, either in the original language or in translation, shall be permissible without the author's consent:

1. In the case of a work that has been lawfully published: (a) the reproduction, translation, adaptation, arrangement or any other transformation of such work exclusively for the user's own personal and private use;

Article 98. However, licenses shall be issued by the Ministry responsible for culture for the reproduction of copies of phonograms where such reproduction is for the sole purpose of teaching or of scientific research, is made and distributed on the territory of the Congo, excluding any exportation of copies, and implies for the producer of the phonograms an equitable remuneration laid down by the Ministry, taking into account, in particular, the number of copies to be made and distributed.



## COMMENTS/DEVELOPMENTS

According to article 98 of the national copyright Law, an equitable remuneration is in place for reproduction of phonograms for teaching and scientific research.

Under the obligations imposed by the Bangui agreement, Congo appears to fail to meet the requirements to impose, collect and distribute remuneration for private copying.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# EGYPT



98,423,595

GDP: 212.5 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Egypt
<b>CURRENCY</b>	Egyptian pound (EGP)
<b>NAME ORGANISATION</b>	SACERAU
<b>E-MAIL</b>	sacerau@idsc.net.eg
<b>ADDRESS</b>	10, rue El Elfi
<b>CITY</b>	Le Caire
<b>PHONE</b>	+ 202 257 43 835 / + 202 257 43 966
<b>FAX</b>	+ 202 257 40 265



## OVERVIEW

<b>EXCEPTION</b>	Yes, single copy of published works for personal use, as long as not conflicting with the three-step-test. Not applicable to: works of architecture; fine, applied or plastic arts (unless in public space); musical notations; databases.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Art. 171 of Law n. 82 of 2002 on the Protection of Intellectual Property Rights

Without prejudice to the moral rights of the author under this Law, the author may not, after the publication of the work, prevent third parties from carrying out any of the following acts: (...)

(2) Make a single copy of the work for one's exclusive personal use, provided that such a copy shall not hamper the normal exploitation of the work nor cause undue prejudice to the legitimate interests of the author or copyright holders;

However, the author or his successor may, after the publication of the work, prevent third parties from carrying out any of the following acts without his authorization:

- Reproduction or copying works of fine, applied or plastic arts, unless they were displayed in a public place, or works of architecture;
- Reproduction or copying of all or a substantial part of the notes of a musical work;
- Reproduction or copying of all or a substantial part of a database or computer program.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# ERITREA



3,452,786

GDP: 1.7 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Eritrea
<b>CURRENCY</b>	Eritrean Nakfa (ERN)



## OVERVIEW

<b>EXCEPTION</b>	Yes, the exception is limited to a single copy for private use of speeches and articles.
<b>LEVY</b>	No, it is to be noted that art. 1673 of the Provisional Commercial Code of Eritrea and Provisional Civil Code of Eritrea of 1993 establishes that public authorities may in the general interest and subject to special legislation issue a compulsory license for reproduction with fair compensation to the author.



## LEGAL BASIS

### EXCEPTION

Art. 1660-1673 of the Provisional Commercial Code of Eritrea and Provisional Civil Code of Eritrea of 1993

**Art. 1660. Limitation of speeches or articles.**

- (1) The author cannot forbid analyses and press reviews of his work.
- (2) Copies or reproductions of the work made in a single copy shall be permitted where they are intended for private use only.

**Art.1673.-Rights of public authorities.**

- (1) Public authorities may in the general interest, notwithstanding the author's opposition, authorize the presentation or reproduction of a work of its adaptation, after such work has been published by its author or his heirs.
- (2) The conditions and forms of such authorization shall be determined by a special law providing in particular for fair compensation to the author.
- (3) In no circumstance may public authorities authorize the alteration of a work.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# ETHIOPIA



109,224,559

GDP: 71.4 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Ethiopia
<b>CURRENCY</b>	Ethiopian Birr (ETB)
<b>NAME ORGANISATION</b>	CNRCMSE



## OVERVIEW

### EXCEPTION

Yes, limited to a single copy. Not applicable to works of architecture, musical notations, original or signed copies of works of fine art, digital databases, other cases conflicting with three-step-test.

### LEVY

No, nevertheless, it is to be noted that art. 17 of the Copyright and Neighboring Rights Protection Proclamation N.410/2004-s.9, establishes that public authorities (the Ethiopian Intellectual Property Office) may in the general interest and subject to special legislation issue a compulsory license for reproduction with fair compensation to the author.



## LEGAL BASIS

### EXCEPTION

#### Art. 9-17 of the Copyright and Neighboring Rights Protection Proclamation N.410/2004-s.9

##### 9. Reproduction for Personal Purposes

1 - Notwithstanding the provisions of Article 7 (IXa) of this Proclamation, the owner of copyright cannot forbid private reproduction, of a published work in a single copy by a physical person exclusively for his own personal purposes.

2 - The provisions of Sub-Article (I) of this Article shall not extend to reproduction:

- a) of a work of architecture in the form of a building or other construction;
- b) of musical work in the form of notation; or of the original or a copy made and signed by the author of a work of fine art.
- c) of the whole or a substantial part of a database in digital form;
- d) of a computer program except as provided in Article 14 of this Proclamation; or
- e) which would conflict with or unreasonable harm the normal exploitation of the work or the legitimate interest of the author.

##### 17. Issuance of non-voluntary license

1 - The Office may grant, notwithstanding the copyright, heirs or legatees owners' opposition, a license to authorize the reproduction or translation or broadcasting of a published work.

2 - The conditions, forms of such authorization and in particular the fair compensation to be made to the owner of copyright shall be determined by the regulations.

3 - In no circumstances may the Office authorize the alteration of a work.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# GAMBIA



2,280,102

GDP: 1.4 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Gambia
<b>CURRENCY</b>	Dalasi (GMD)



## OVERVIEW

### EXCEPTION

Yes, exception for private reproduction of a published work in a single copy for personal purposes. Not applicable to works of architecture, reprography of books and musical notations, digital databases, other cases conflicting with three-step-test.

Expression of folklore: reproduction by way of fair dealing for private and domestic use.

### LEVY

No, nevertheless, the Secretary of State may make regulations for establishing a levy on technical devices.



## LEGAL BASIS

### EXCEPTION

#### Art. 27 of the Copyright Act, 2004

Part IV - permitted use of copyright, and ephemeral recordings

Notwithstanding the provisions of section 9 (1)(a) and subject to the provisions of subsection (2), the private reproduction of a published work in a single copy is permitted without the authorization of the author or other owner of copyright, where the reproduction is made by an individual exclusively for his or her own personal purposes.

The permission under subsection (1) does not extend to reproduction:

- (a) of a work of architecture in the form of building or any other construction;
- (b) in the form of reprography of the whole or a substantial part of a book or of a musical work in the form of notation;
- (c) of the whole or a substantial part of database in digital form;
- (d) of a computer programme, except as provided in section 28;
- (e) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or other owner of the copyright.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# GUINEA



12,414,318

GDP: 10.3 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Guinea
<b>CURRENCY</b>	Guinean Franc (GNF)
<b>NAME ORGANISATION</b>	BGDA
<b>ADDRESS</b>	c/o Ministère de la Communication et de la Culture B.P. 4904 Palais du Peuple, 4e étage "Coté Ouest"
<b>CITY</b>	Conakry
<b>PHONE</b>	+ 224 622 29 14 10



## OVERVIEW

<b>EXCEPTION</b>	Yes, for reproductions, translations and adaptations for personal and private use
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

Art. 10 of Act No. 043/APN/CP of August 9, 1980, adopting Provisions relating to Copyright and Neighboring Rights.

Chapter II - Limitations on Copyright

Permanent limitations

Art. 10

Where the work has been lawfully made available to the public, the author may not prohibit: (...)

(ii) reproductions, translations and adaptations intended for strictly personal and private use.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# LESOTHO



2,108,132

GDP: 2.2 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Lesotho
<b>CURRENCY</b>	Lesotho Loti (LSL)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Art. 9 of Copyright order 1989 (order no.13 of 1989)

Free use

9. Notwithstanding section 7, the following uses of a protected work, either in the original language or in translation, shall be permissible without the author's consent and without the obligation to pay remuneration for the use of the work,

- (a) in the case of any work that has been made whether or not that work has been lawfully published,
- (i) the reproduction, translation, adaptation, arrangement or other transformation of such work exclusively for the user's personal and private use;





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# LIBYA



6,678,567

GDP: 44.5 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Lybia
<b>CURRENCY</b>	Lybian Dinar (LYD)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

Law no. 9 for 1968 issuing the Copyright Protection law

Article 12. The author may not prevent a person making one copy of a published work for his own use.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# MAURITANIA



4,403,319

GDP: 6.0 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Mauritania
<b>CURRENCY</b>	Ouguiya (MRO)



## OVERVIEW

<b>EXCEPTION</b>	Yes, according to UNESCO's 2009 report, there is no specific copyright law in Mauritania, and the French Law of 1997 applies.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

Loi No. 57-298 March 11, 1957 portant sur la propriété littéraire et artistique (abrogé au 3 juillet 1992)

Article 41

Lorsque l'œuvre a été divulguée, l'auteur ne peut interdire :

- 1° Les représentations privées et gratuites effectuées exclusivement dans un cercle de famille ;
- 2° Les copies ou reproductions strictement réservées à l'usage privé du copiste et non destinées à une utilisation collective, à l'exception des copies des œuvres d'art destinées à être utilisées pour des fins identiques à celles pour lesquelles l'œuvre originale a été créée.



## COMMENTS/DEVELOPMENTS

According to UNESCO's 2009 report, there is no specific copyright law in Mauritania, and the French Law of 1997 applies. Under the obligations imposed by the Bangui agreement, Mauritania appears to fail to meet the requirements to impose, collect and distribute remuneration for private copying.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# NAMIBIA



2,448,255

GDP: 11.4 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Namibia
<b>CURRENCY</b>	Namibian dollar (NAD)
<b>NAME ORGANISATION</b>	NASCAM



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

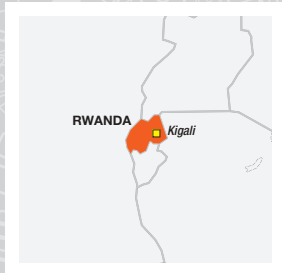
#### Copyright and Neighbouring Rights Protection Act, 1994 (Act No. 6 of 1994)

Art. 15. General exceptions regarding protection of literary and musical works (1) Copyright shall not be infringed by a fair dealing in the use of a literary or musical work- (a) for the purpose of research or private study by, or the personal or private use of, the person using the work;

Permitted free uses of a work

Art. 16. General exceptions in respect of reproduction of works In addition to reproductions permitted in terms of this Act reproduction of a work shall also be permitted in such circumstances as are prescribed, but in such a manner that the reproduction is not in conflict with a normal exploitation of the work and is not unreasonably prejudicial to the legitimate interests of the owner of the copyright.





# RWANDA



12,301,939

GDP: 8.2 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Rwanda
<b>CURRENCY</b>	Rwandan Franc (RWF)
<b>NAME ORGANISATION</b>	RWANDA SOCIETY OF AUTHORS
<b>WEB SITE</b>	www.rsau.rw
<b>E-MAIL</b>	rsau.rw@gmail.com
<b>ADDRESS</b>	Amahoro Stadium, Remera, Kigali
<b>POSTCODE</b>	PO.BOX 1044 KIGALI
<b>CITY</b>	KIGALI
<b>PHONE</b>	+250788759488



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Law No. 31/2009 of 26/10/2009 on the Protection of Intellectual Property

Part III: protection of copyrights and related rights

Section 2: limitations to economic rights

#### Article 203

Private reproduction for personal purposes Notwithstanding the provisions of article 200 of this Law, and subject to the provisions of paragraph 2 of this article, the private reproduction of a published work in a single copy shall be permitted without the authorization of the author or owner of copyright and without payment of any remuneration, where the reproduction is made by a natural person exclusively for his own personal purposes. The provisions under paragraph one of this article shall not extend to reproduction: 1° of a work of architecture in the form of building or other similar constructions; 2° in the form of reprography of the whole or of a substantial part of a book or of a musical work in the form of notation; 3° of the whole or of a substantial part of a database in digital form; 4° of a computer program, except as provided in article 178; 5° of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or other owner of the copyright.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# SEYCHELLES



96,762

GDP: 1.3 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Seychelles
<b>CURRENCY</b>	Seychellois Rupee (SCR)
<b>NAME ORGANISATION</b>	SACS
<b>E-MAIL</b>	sacseychelles@gmail.com
<b>ADDRESS</b>	Room n°6, 3rd Floor International Conference Centre, Victoria
<b>CITY</b>	Mahe
<b>PHONE</b>	+ 248 432 4353



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Copyright Act, 2014 (Act No. 5 of 2014)

Private reproduction for personal purposes

9.(1) Subject to the provisions of subsection (2), the private reproduction of a published work in a single copy shall be permitted without the authorisation of the author or other owner of copyright, where the reproduction is made by a natural person exclusively for his or her own personal purposes.

(2) The provisions of subsection (1) shall not extend to reproduction

- (a) of a work of architecture in the form of building or other construction;
- (b) in the form of reprography of the whole or of a substantial part of a book or of a musical work in the form of notation;
- (c) of the whole or of a substantial part of a database in digital form;
- (d) of a computer program, except as provided in section 15; and
- (e) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or other owner of the copyright.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# SIERRA LEONE



7,650,154

GDP: 3.5 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Sierra Leone
<b>CURRENCY</b>	Leone (SLL)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No, but the Minister may, by statutory instrument, <i>make regulations for the levy payable on technical devices used for copyright materials.</i>



## LEGAL BASIS

### EXCEPTION

#### The Copyright Act, 2011 (Act No. 8 of 2011)

Part IV-Permitted use of copyright, transfer of copyright and ephemeral recording

Art. 27. (1) Notwithstanding paragraph (a) of subsection (1) of section 10 and subject to subsection (2), the private reproduction of a published work in a single copy is permitted without the authorization of the author or other owner of copyright, where the reproduction is made by an individual exclusively for his own personal purposes.

(2) The permission under subsection (1) does not extend to reproduction:

- (a) of a work of architecture in the form of building or any other construction;
- (b) in the form of reprography of the whole or of a substantial part of a book or of a musical work in the form of notation;
- (c) of the whole or of a substantial part of database in digital form;
- (d) Of a computer programme, except as provided in section 28; and
- (e) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or other owner of the copyright.

### LEVY

#### The Copyright Act, 2011 (Act No. 8 of 2011)

Part X -Miscellaneous

Art. 80. The Minister may, by statutory instrument, make regulations for ...

- (b) the levy payable on technical devices used for copyright materials;





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# SOUTH AFRICA



57,779,622

GDP: 311.9 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	South Africa
<b>CURRENCY</b>	South African rand (ZAR)
<b>NAME ORGANISATION</b>	CAPASSO
<b>WEB SITE</b>	<a href="http://www.capasso.co.za">www.capasso.co.za</a>
<b>E-MAIL</b>	<a href="mailto:info@capasso.co.za">info@capasso.co.za</a>
<b>ADDRESS</b>	8th Floor, 20 De Korte Street, Braamfontein
<b>POSTCODE</b>	2001
<b>CITY</b>	Johannesburg
<b>PHONE</b>	+ 27 11 447 88 70
<b>FAX</b>	+ 27 11 447 19 60



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

Article 12 and 13 of the Copyright Act No 98 of 1978 (as amended up to Copyright Amendment Act 2002)

"12 - General exceptions from protection of literary and musical works

(1) Copyright shall not be infringed by any fair dealing with a literary or musical work

(a) For the purposes of research or private study by, or the personal or private use of, the person using the work,

(9) The provisions of subsections (1) to (7) inclusive shall apply also with reference to the making or use of an adaptation of a work.

(11) The provisions of subsections (1) to (4) inclusive and (6), (7) and (10) shall be construed as embracing the right to use the work in question either in its original language or in a different language, and the right of translation of the author shall, in the latter event, be deemed not to have been infringed.

13 - General exceptions in respect of reproduction of works.

In addition to reproductions permitted in terms of this Act, reproduction of a work shall also be permitted as prescribed by regulation, but in such a manner that the reproduction is not in conflict with a normal exploitation of the work and is not unreasonably prejudicial to the legitimate interests of the owner of the copyright."



# SOUTH AFRICA

2/2



## COMMENTS/DEVELOPMENTS

Currently, there is no private copy levy system in South Africa. CISAC societies SAMRO, DALRO and CAPASSO are lobbying for that to be implemented in national jurisdiction.

The South African Government is at present debating a copyright amendment bill seeking to introduce fair use provisions, among which a private copying exception, which would be highly detrimental to creators.





# SOUTH SUDAN



10,975,920

GDP: 3. 9 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	South Sudan
<b>CURRENCY</b>	South Sudanese Pound (SSP)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### The Copyright and Neighbouring Rights Protection Act 1996

Restrictions on copyright

Art. 14(4)

It shall be allowed to reproduce, translate or adapt a published work for personal and private use but this shall not apply to computer programs, data banks and scores of a musical work.



## COMMENTS/DEVELOPMENTS

There is information on WIPO Lex about a Literary and Artistic Works Act 2001, which however is only available in Arabic. This analysis is therefore based on the 1996 Act.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# SUDAN



41,801,533

GDP: 22.1 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Sudan
<b>CURRENCY</b>	Sudanese Pound (SDG)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### The Copyright and Neighbouring Rights Protection Act 1996

Restrictions on copyright

Art. 14(4)

It shall be allowed to reproduce, translate or adapt a published work for personal and private use but this shall not apply to computer programs, data banks and scores of a musical work.



## COMMENTS/DEVELOPMENTS

There is information on WIPO Lex about a Literary and Artistic Works Act 2001, which however is only available in Arabic. This analysis is therefore based on the 1996 Act.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# TANZANIA



56,318,348

GDP: 49.1 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	United Republic of Tanzania
<b>CURRENCY</b>	Tanzanian Shilling (TZS)
<b>NAME ORGANISATION</b>	Copyright Society of Zanzibar (COSOZA)
<b>E-MAIL</b>	info@cosoza.or.tz , cosoza@yahoo.co.uk
<b>ADDRESS</b>	Ministry of Youth, Culture, Arts and Sports
<b>CITY</b>	Zanzibar
<b>FAX</b>	(255 24) 2232049



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Copyright and Neighbouring Rights Act, 1999

Free use

Art. 12.-(1) Notwithstanding the Free use provisions of section 9, the following uses of a protected work, either in the original or in the translation, shall be permissible without the authors' consent and the obligation to pay remuneration for the use of the work.

(2) In the case of any work except computer programs and architectural works, that has been lawfully published

a) the production, translation, adaptation, arrangement or other transformation of such work exclusively for the user's own personal private use provided that such reproduction does not conflict with the normal exploitation of the work and does not unreasonably prejudice the legitimate interest of the author.

#### The Zanzibar Copyright Act, 2003

(Zanzibar is the semi-autonomous part of Tanzania)

Private reproduction for personal purposes

Art. 9.(1) Notwithstanding the provisions of section 6(1)(a), and subject to the provisions of subsection (2) of this section, the private personal of a published work In a single copy shall be permitted without the authorization of the author or owner of copyright, where the reproduction is made by a physical person exclusively for his own personal purposes.

(2) The permission under subsection (1) of this section shall not extend to reproduction:

- (a) of a work of architecture in the form of building or other construction;
- (b) In the form of reprography of the whole or a substantial part of a book or of a musical work in the form of notation;
- (c) of the whole or a substantial part of a database In digital form;
- (d) of a computer program, except as provided in section 15; and
- (e) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate Interests of the author or other owner of the copyright.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# TOGO



7,889,094

GDP: 4.5 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Togo
<b>CURRENCY</b>	CFA Franc (XOF)
<b>NAME ORGANISATION</b>	BUTODRA
<b>WEB SITE</b>	www.butroda.com
<b>ADDRESS</b>	Rue des Femmes savantes, derrière la Direction de la Pêche Quartier Administratif -
<b>POSTCODE</b>	BP 14053
<b>CITY</b>	Lomé
<b>PHONE</b>	+212 5 37 72 62 80
<b>FAX</b>	+212 5 37 72 27 07



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

Law No. 91-12 of June 10, 1991 on the Protection of Copyright, Folklore and Related Rights

General limitations to copyright

Art. 20. When the work has been lawfully made accessible to the public, the author may not prevent it from being used as follows:  
(...)

2- reproduction, translation and adaptations, designed for strictly personal and private use.



## COMMENTS/DEVELOPMENTS

Under the obligations imposed by the Bangui agreement, Togo appears to fail to meet the requirements to impose, collect and distribute remuneration for private copying.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# UGANDA



42,723,139

GDP: 27.8 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Uganda
<b>CURRENCY</b>	Uganda Shillings (UGX)
<b>NAME ORGANISATION</b>	Uganda Performing Right Society
<b>WEB SITE</b>	<a href="http://www.uprs.ug">www.uprs.ug</a>
<b>E-MAIL</b>	<a href="mailto:ceo@uprs.ug">ceo@uprs.ug</a>
<b>ADDRESS</b>	99 Kira Road
<b>POSTCODE</b>	Kamwokya
<b>CITY</b>	Kampala
<b>PHONE</b>	+256771952357/+256751067197
<b>FAX</b>	N/A



## OVERVIEW

<b>EXCEPTION</b>	Yes, fair use for the production, translation, adaptation, arrangement or other transformation of the work for private personal use only. This study interprets the word production as synonym of reproduction.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### The Copyright and Neighbouring Rights Act, 2006

15. Fair use of works protected by copyright

(1) The fair use of a protected work in its original language or in a translation shall not be an infringement of the right of the author and shall not require the consent of the owner of the copyright where— (a) the production, translation, adaptation, arrangement or other transformation of the work is for private personal use only;



## COMMENTS/DEVELOPMENTS

Local Society UPRS is currently lobbying the Government to amend the law in order to include a private copying levy system.





AFRICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# ZIMBABWE



14,439,018

GDP: 20.6 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Zimbabwe
<b>CURRENCY</b>	Zimbabwean Dollar (ZWL)
<b>NAME ORGANISATION</b>	ZIMURA
<b>WEB SITE</b>	<a href="http://www.zimura.co.zw">www.zimura.co.zw</a>
<b>E-MAIL</b>	<a href="mailto:info@zimura.co.zw">info@zimura.co.zw</a>
<b>ADDRESS</b>	No. 1 Aspen Flats 80 Mandel Road Avondale
<b>POSTCODE</b>	00263
<b>CITY</b>	Harare
<b>PHONE</b>	+ 263 4 336 185
<b>FAX</b>	+ 263 4 339 038



## OVERVIEW

### EXCEPTION

Yes, private recording of musical works and sound broadcasts for the private use of himself and members of his family.

Recording of programs and broadcasts for purposes of subsequent viewing or listening are allowed.

### LEVY

No, but the Minister may issue regulations may for the establishment of a levy scheme concerning the sale of blank record which can be used for the recording of works.



# ZIMBABWE

2/2



## LEGAL BASIS

### EXCEPTION

#### Copyright and Neighbouring Rights Act (Chapter 26:05)

PART III Permitted acts in relation to copyright works

##### 41 Recording of programmes and broadcasts for purposes of subsequent viewing or listening

(1) The copyright in— (a) a broadcast or cable programme; or (b) any work contained in a broadcast or cable programme; shall not be infringed by the broadcast or programme being recorded for the sole purpose of enabling it to be viewed or listened to at a more convenient time.

(2) Any recording made in terms of subsection (1) shall be used only for the purpose for which it was made and, in particular, shall not (a) be distributed, whether by way of business or otherwise, to any person outside the family of the person who made it; or (b) be performed in public.

##### 42 Private recording of musical works and sound broadcasts

(1) Subject to this section, the copyright in— (a) a sound recording or a musical work embodied in a sound recording; or (b) a sound broadcast or any work embodied in such a broadcast; shall not be infringed by the sound recording, musical work or broadcast being recorded by a person for the private use of himself and members of his family. (2) Any recording made in terms of subsection (1) shall be used only for the purpose for which it was made and, in particular, shall not (a) be distributed, whether by way of business or otherwise, to any person outside the family of the person who made it; or (b) be performed in public.

### LEVY

#### Copyright and Neighbouring Rights Act (Chapter 26:05)

##### 135 Regulations

(1) Subject to this section, the Minister may by regulation provide for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations made in terms of subsection (1) may (...):

C - provide for the establishment of one or more schemes whereby:

(i) the levy is imposed on:

A. the sale of blank record which can be used for the recording of works in accordance with section forty-one or forty-two; or  
B. the use of any apparatus or process for reprographic copying by educational institutions and libraries which reproduce or are likely to reproduce works, whether in accordance with section twenty-five or otherwise, or in accordance with a compulsory licence referred to in paragraph (a); and

(ii) the proceeds of any levy referred to in subparagraph (i) are paid to or for the benefit of authors and performers whose works or performances are being or are likely to be reproduced in terms of section forty-one or forty-two or by an educational institution or library referred to in subparagraph B or subparagraph (i) or under a compulsory licence referred to in paragraph (a).





# **AFRICA:** **COUNTRIES WITH A PRIVATE** **COPYING REMUNERATION SYSTEM** **BUT WITHOUT COLLECTION AND** **DISTRIBUTION MECHANISMS**







AFRICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# ANGOLA



30,809,762

GDP: 85.8 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Angola
<b>CURRENCY</b>	Kwanza (AOA)
<b>NAME ORGANISATION</b>	União Nacional dos Artistas e Compositores
<b>WEB SITE</b>	Infor@unac.co
<b>E-MAIL</b>	angolaunac@hotmail.com
<b>ADDRESS</b>	Rua Amilcar Cabral-135 R/C
<b>CITY</b>	Luanda
<b>PHONE</b>	+244 222 396 197



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	See Comments/Developments
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>BENEFICIARIES</b>	Authors, performers, phonogram and video producers, publishers



## LEGAL BASIS

### EXCEPTION

#### Article 9 of law no. 15/14 of July 31, 2014 on Authors' and related rights

"The following uses of works already disclosed lawfully shall be permitted, without the authorization of the author and without payment of a remuneration, on condition that the title and the name of the author are stated and that the integrity of the work is respected: (...) (d) reproduction, translation, adaptation, arrangement or any other transformation for exclusively individual and private purposes".

### LEVY

#### Article 79 of law no. 15/14 of July 31, 2014 on Authors' and related rights

1. As a means of guaranteeing the compensation for the use of protected works by the general public, either directly or indirectly, conditions are created so that the pre-sale of any devices to the public, of whatever nature, as long as they can be means of fixing and reproducing works, includes a financial compensation, with the aim of protecting the author, interpreters or performers or publishers phonographic or video graphic producers.
2. The specific regime and the amount of compensation, collection and allocation are regulated in a specific decree.



## COMMENTS/DEVELOPMENTS

Local Society UNAC is still waiting for the authorisation to collect the private copy levy, to be granted by the Ministry of Culture.





**AFRICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS**

# BENIN



11,485,048

GDP: 12.1 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Benin
<b>CURRENCY</b>	CFA Franc (XOF)
<b>NAME ORGANISATION</b>	BUBEDRA
<b>WEB SITE</b>	www.bubedra.org
<b>E-MAIL</b>	bubedra@gouv.bj
<b>ADDRESS</b>	Carré 784 P Bd du Canada - B.P. 06-2650
<b>CITY</b>	Cotonou
<b>PHONE</b>	+229 21 30 60 65 / +229 69 75 99 99



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Law
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: No Media: Yes
<b>TARIFFS</b>	Governmental regulations
<b>BENEFICIARIES</b>	Authors (literary and artistic works), performers, phonogram producers
<b>EXEMPTION</b>	Export, non-private use
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No

## RATE SETTING

<b>HOW ARE LEVIES/REMUNERATION DETERMINED?</b>	Governmental regulations (general)
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## EXEMPTION AND REFUND

<b>ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES</b>	Physical media which are exported or which cannot be used normally for the reproduction of works intended for private purposes.
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## COLLECTION PROCESS

<b>HOW IS COLLECTION ORGANIZED?</b>	There is no effective mechanism at the moment. Remuneration shall be collected and distributed by CMOs.
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# BENIN

2/2



## LEGAL BASIS

### EXCEPTION

#### Article 14 of Law N.2005-30 of 2006

Where a work has been lawfully published, the author may not prohibit reproductions, translations or adaptations thereof intended for strictly personal and private use.

The preceding paragraph shall not apply to:

- the reproduction of works of architecture in the form of buildings or other similar constructions;
- the reprographic reproduction of an entire book or of a musical work in graphical form (scores);
- the reproduction of the whole or of significant parts of databases in digital form;
- the reproduction of computer programs, except in the cases provided for in Article 20 of the present Law;
- any other reproduction of a work that would prejudice the normal exploitation of the work or would cause any prejudice to the legitimate interests of the author".

### LEVY

#### Article 74-78 of Law N.2005-30 of 2006

**Article 74.** "The authors of literary and artistic works, performers in respect of their performances fixed in phonograms, and phonogram producers shall be entitled to remuneration for the reproduction of such works, performances and phonograms intended for strictly personal and private use and made in accordance with the provisions of Articles 14 and 69 of the present Law".

**Article 75.** "Equitable remuneration for reproduction intended for private purposes in the cases provided for in Article 74 above shall be paid by the manufacturers and importers of physical media used for such reproduction; it shall be collected and distributed by the collective management organization provided for in the present Law".

**Article 76.** "The procedures for collection and the amounts of such remuneration shall be laid down in regulations".

**Article 77.** "The equitable remuneration payable to authors, performers and producers of phonograms under Articles 74 and 75 of the present Law shall be distributed among these three categories of entitled persons".

**Article 78.** "The physical media referred to in Article 75 of the present Law shall be exempt from payment of equitable remuneration where they are exported or where they cannot be used normally for the reproduction of works intended for private purposes".

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Article 75-77 of Law N.2005-30 of 2006

**Article 75.** "Equitable remuneration for reproduction intended for private purposes in the cases provided for in Article 74 above shall be paid by the manufacturers and importers of physical media used for such reproduction; it shall be collected and distributed by the collective management organization provided for in the present Law".

**Article 76.** "The procedures for collection and the amounts of such remuneration shall be laid down in regulations".

**Article 77.** "The equitable remuneration payable to authors, performers and producers of phonograms under Articles 74 and 75 of the present Law shall be distributed among these three categories of entitled persons".



## COMMENTS/DEVELOPMENTS

A Decree (n. 2015-247 of May 5 2015) has been approved in 2015 in order to allow BUBEDRA (the local CMO) to collect and distribute the remuneration for private copying. This Decree sets the tariffs and establishes supports and devices subject to the levy.





**AFRICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS**

# BURUNDI



11,175,378

GDP: 2.6 billion EUR

1/3

## CONTACT INFORMATION

<b>COUNTRY</b>	Burundi
<b>CURRENCY</b>	Burundi Franc (BIF)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no information has been gathered regarding any agreement or the implementing regulations referring to above.
<b>BENEFICIARIES</b>	Authors, performers, phonogram producers
<b>LIABLE</b>	Producers, importers
<b>EXEMPTION</b>	Export Media and devices that "may not" be normally used for private uses.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No

## RATE SETTING

<b>HOW ARE LEVIES/REMUNERATION DETERMINED?</b>	Agreement between CMOs and representatives of the producers and importers. In the absence of such agreement, the amount and the conditions of its payment shall be established by the Ministry in charge of Culture.
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## EXEMPTION AND REFUND

<b>ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES</b>	Exported media and devices. Media and devices that "may not" be normally used for private uses.
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## COLLECTION PROCESS

<b>HOW IS COLLECTION ORGANIZED?</b>	Equitable remuneration shall be collected and distributed by a collective management organization.
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<b>ARE EXPORTS EXEMPTED?</b>	Yes
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# BURUNDI

2/3

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

It should be the local CMO.

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Authors, performers and phonograms producers

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

No



## LEGAL BASIS

### EXCEPTION

Art. 26 of law no. 1/021 of December 30, 2005, on the Protection of Copyright and related rights in Burundi

TITLE III - limitations

CHAPTER I - limitations to economic rights

Section I - free uses

**Article 26** Notwithstanding the provisions of Article 24, the following uses of a protected work, in its original language or in translation, shall be permissible without the author's consent:

1. In the case of any work that has been lawfully published:

(a) the reproduction, translation, adaptation, arrangement or other transformation of such a work exclusively for the user's own personal or private use; however, private reproduction shall not apply to the reproduction of works of architecture taking the form of buildings or other similar constructions, reprographic reproduction of an entire book or musical work in graphic format (musical scores), reproduction of all or of major parts of databases in digital format, reproduction of computer programs, except in the cases provided for in Article 27, and reproduction of a work that would conflict with the normal uses of the work or would unreasonably prejudice the legitimate interests of the author.

### LEVY

Art. 34 of law no. 1/021 of December 30, 2005, on the Protection of Copyright and related rights in Burundi

CHAPTER II - equitable remuneration for reproduction for private use

**Article 34.** Notwithstanding the provisions of Article 24, the reproduction of a legally published audiovisual work or a sound recording of a work exclusively for the private use of the user shall be permitted without the authorization of the author, but with equitable remuneration.

### COLLECTION AND DISTRIBUTION SYSTEMS

Art. 34-84 of law no. 1/021 of December 30, 2005, on the Protection of Copyright and related rights in Burundi

CHAPTER II - equitable remuneration for reproduction for private use

#### Article 34.

Equitable remuneration for reproduction for private use in the cases provided for in the above paragraph shall be paid by the producers and importers of the physical media and devices used for such reproduction, and it shall be collected and distributed by a collective management organization. In the absence of agreement between the collective management organization and the representatives of the producers and the importers, the amount of the equitable remuneration and the conditions of its payment shall be established by the Ministry in charge of culture.



# BURUNDI

3/3



## LEGAL BASIS

### ...COLLECTION AND DISTRIBUTION SYSTEMS

The equitable remuneration to be paid to authors in accordance with this Article, and to performers and phonogram producers in accordance with Article 85, shall be distributed between the three groups of assignees in accordance with special regulations established by the Ministry in charge of culture.

The physical media and devices referred to above shall be exempt from payment of equitable remuneration in the following cases:

- (a) if they are exported;
- (b) if they may not normally be used for the reproduction of works for private use (such as professional equipment and physical devices or dictaphones and cassettes used for such a purpose).

Chapter VI - equitable remuneration for private reproduction

**Article 84.** Notwithstanding the provisions of Articles 67 and 76, it shall be permitted to reproduce a phonogram for the exclusive private use of the user without the authorization of the performer whose performance is fixed in the phonogram and without the authorization of the phonogram producer, but against payment of an equitable remuneration to the performer and producer.

Paragraphs 2 to 4 of Article 34 shall also apply with regard to the equitable remuneration referred to in the preceding paragraph.



## COMMENTS/DEVELOPMENTS

Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no information has been gathered regarding any agreement or the implementing regulations referring to above.





**AFRICA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# CAMEROON



25,216,237

GDP: 32.8 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Cameroon
<b>CURRENCY</b>	Franc CFA (XAF)
<b>NAME ORGANISATION</b>	CMC
<b>POSTCODE</b>	BP 2313
<b>CITY</b>	Yaoundé
<b>PHONE</b>	+ 237 221 44 77
<b>FAX</b>	+ 237 33 43 61 46



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: No Media: Yes
<b>BENEFICIARIES</b>	Authors (music, audiovisual), performers, phonogram and audiovisual producers
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	No. Remuneration for private copying of phonograms or videograms shall be shared equally by the authors, the performers, the producers and the cultural policy support fund.

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Order of the Minister of Culture

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION

Order of the Minister of Culture



## LEGAL BASIS

### EXCEPTION

Art. 29 of Law No. 2000/011 of December 19, 2000 on Copyright and Neighbouring Rights

Where the work was published with the authorization of the author, he may not forbid:

(...) (c) reproductions and transformations in one copy for strictly personal and private use of the person who makes them, excluding any collective use or any exploitation for profit, except in the cases provided for in subsections (2) and (3) below;



# CAMEROON

2/2



## LEGAL BASIS

### LEVY

#### Art. 69 to 74 of Law No. 2000/011 of December 19, 2000 on Copyright and Neighbouring Rights

Part IV Remuneration for Private Copying

Chapter I Remuneration for Private Copying of Commercial Phonograms and Videograms.

**69.** The authors and performers of works and recordings fixed on phonograms or videograms as well as producers of these phonograms or videograms shall be entitled to remuneration in respect of reproductions for strictly personal and private use.

**70.**—(1) The remuneration provided for in Section 69 shall be paid by the manufacturer or importer of recording media employed for the reproduction for private use of works or recordings fixed on phonograms or videograms upon the circulation of such recording in Cameroon. (2) The amount of the remuneration shall be fixed according to the type of medium and the length of recording possible.

**71.**—(1) The types of medium as well as the amount of the remuneration and the conditions of payment shall be determined by regulation. (2) The remuneration provided for in this chapter shall be collected on behalf of the legal representatives by the competent collective management body. (3) Remuneration for private copying of phonograms or videograms shall be shared equally by the authors, the performers, the producers and the cultural policy support fund provided for in Section 5(4) above.

Chapter II Remuneration for Private Copying of Printed Works.

**72.** The authors and publishers of printed works shall be entitled to remuneration in respect of the reproduction for strictly personal and private use.

**73.** The remuneration provided for in this chapter shall be paid by the manufacturer or the importer of machines and used for the reproduction for private use of a printed work, when such machines are put in circulation in Cameroon.

**74.**—(1) The types of machines subject to a fee and the amount of such fee, as well as the conditions of payment shall be determined by regulation. (2) The fee provided for in this chapter shall be collected on behalf of the legal representatives by the competent collective management body. (3) Proceeds from private copying of printed works shall be shared equally among the authors, the publishers and the cultural policy support fund provided for in Section 5(4) above.

#### Art. 13 to 17 of Decree No. 2001/956/PM of November 1, 2001 implementing Law No. 2000/11 of December 19, 2000 on Copyright and Neighboring Rights

Chapter VI Remuneration for private copying

**Article 13:** Remuneration for private copying of phonograms and videograms shall be determined by order of the Minister of Culture.

**Article 14:** The length of a recording, in the absence of proof to the contrary, shall be that declared by the manufacturer or importer.

**Article 15:** Remuneration shall apply to the blank recording media referred to in Article 70 of the aforementioned Law.

**Article 16:** Remuneration for private copying of printed works shall be five per cent (5%) of the sale price of the reproduction equipment.

**Article 17:** Any equipment for the reproduction of printed works shall be subject to the remuneration referred to in Article 16 above.



## COMMENTS/DEVELOPMENTS

Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no information has been uncovered regarding the effective implementation of the system in Cameroon.

Under the obligations imposed by the Bangui agreement, Cameroon appears to fail to meet the requirements to impose, collect and distribute remuneration for private copying.





**AFRICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS**

# CHAD



15,477,751

GDP: 9.5 billion EUR

1/3

## CONTACT INFORMATION

<b>COUNTRY</b>	Chad
<b>CURRENCY</b>	CFA Franc (XAF)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: No Media: Yes, the levy is only applicable to private reproductions of videograms and phonograms, while the exception is wider and covers more categories of works.
<b>TARIFFS</b>	Laid down in regulations. The levy shall be at least ten per cent of the price of the material.
<b>BENEFICIARIES</b>	Authors (music, audiovisual), performers, phonogram and audiovisual producers
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	Professional uses (rules laid down in Council of Ministers Decree).
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Laid down in regulations.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION

The levy shall be at least ten per cent of the price of the material. The amount of the remuneration shall be based on the type of medium and the length of recording that it allows. It shall be assessed according to the lump sum method.

## EXEMPTION AND REFUND

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

Professional uses (rules to be laid down in Council of Ministers Decree).

### REFUND AFTERWARDS

A reimbursement system is in place for audiovisual communication companies, phonograms and videograms producers, and assistance for visual or auditory handicaps.



# CHAD

2/3

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

The types of medium, the remuneration rates and the procedures for payment of the remuneration shall be laid down in regulations; such remuneration may not be less than 10 per cent of the price of the medium. Remuneration for private copying shall be collected on behalf of the successors in title by the Chadian Copyright office. No information has been gathered concerning the effective implementation of the system.

### ARE EXPORTS EXEMPTED?

No

## DISTRIBUTION PROCESS

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No

### WHICH RIGHTSHOLDERS ARE INCLUDED?

Authors (music, audiovisual), performers, phonogram and audiovisual producers

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

No



## LEGAL BASIS

### EXCEPTION

Art. 34 of Law No 005/PR/2003 of May 2, 2003 on Protection of Copyright, Neighbouring Rights and Expressions of Folklore

Where a work has been lawfully disclosed, the author may not prohibit: Chapter II. Limitation of the rights of authors: (...) 2. copies or reproductions reserved strictly for the private use of the copier and not intended for collective use, with the exception of copies of works of art intended to be used for purposes identical to those for which the original work was created;

### LEVY

Art. 113-118 of law no 005/Pr/2003 of May 2, 2003 on Protection of Copyright, neighbouring rights and expressions of folklore

Part 3 - Common provisions

Chapter 1 - Remuneration for private copying

Single section



## CHAD

3/3



## LEGAL BASIS

## ...LEVY

**Article 113:** The authors and performers of works fixed in phonograms or videograms and the producers of such phonograms or videograms shall be entitled to remuneration for the reproduction of such works intended for strictly personal and private use, not for collective use, and produced pursuant to Article 34 of the present Law.

**Article 114:** Remuneration for private copying shall be paid by the manufacturer or importer of recording media that can be used for the reproduction for private use of works fixed in phonograms or videograms, when such media are put into circulation in the Republic of Chad. The amount of the remuneration shall be based on the type of medium and the length of recording that it allows. It shall be assessed according to the lump sum method.

**Article 115:** The types of medium, the remuneration rates and the procedures for payment of the remuneration shall be laid down in regulations; such remuneration may not be less than 10 per cent of the price of the medium.

**Article 116:** Remuneration for private copying shall be collected on behalf of the successors in title by the Chadian Copyright office. Remuneration for the private copying of phonograms shall be shared out as follows: half to the authors, one quarter to the performers and one quarter to the producers. Remuneration for the private copying of videograms shall be shared out equally among the authors, performers and producers.

**Article 117:** Remuneration for private copying shall be reimbursable where the recording medium is acquired for their own use or production by:

- 1 audiovisual communication companies;
- 2 producers of phonograms and videograms and persons who or which reproduce phonograms or videograms on behalf of the producers thereof;
- 3 legal persons or organizations, a list of which shall be drawn up by the Ministry responsible for culture, that use recording media for the purpose of assisting visually or aurally impaired persons.

**Article 118:** The manufacture, assembly, sale, exchange, hire or making available to the public in any way of any digital audio recording apparatus that does not have a digital audio anti copying device shall be subject to prior authorization by the Ministry responsible for culture. The same authorization shall be required for any apparatus, process, device or service, the purpose of which is to remove, bypass, deactivate and more generally make inoperative a digital audio anti copying device or a device for limiting the possibility of copying orrecopying. A regulatory text shall lay down the rules exempting certain digital audio recording apparatuses from the preceding provisions, where such apparatuses are intended exclusively for lawful professional purposes. The present Article and any provisions that may be enacted under the foregoing paragraphs shall not impede the implementation of the provisions of Chapter 1 of this part of the Law concerning recording media that can be used by means of digital processes.

## COLLECTION AND DISTRIBUTION SYSTEMS

Art. 115-116 of law no 005/Pr/2003 of May 2, 2003 on Protection of Copyright, neighbouring rights and expressions of folklore

**Article 115:** The types of medium, the remuneration rates and the procedures for payment of the remuneration shall be laid down in regulations; such remuneration may not be less than 10 per cent of the price of the medium.

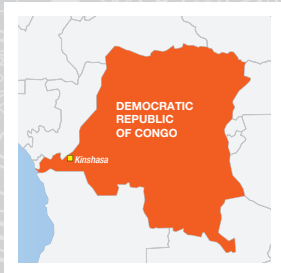
**Article 116:** Remuneration for private copying shall be collected on behalf of the successors in title by the Chadian Copyright office. Remuneration for the private copying of phonograms shall be shared out as follows: half to the authors, one quarter to the performers and one quarter to the producers. Remuneration for the private copying of videograms shall be shared out equally among the authors, performers and producers.



## COMMENTS/DEVELOPMENTS

Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no information has been gathered concerning the effective implementation of the system.





AFRICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# CONGO, DEM. REP.



84,068,091

GDP: 39.7 billion EUR

1/2

## CONTACT INFORMATION

**COUNTRY** Congo (Democratic Republic)

**CURRENCY** Congolese franc (CDF)



## OVERVIEW

### EXCEPTION

Yes. The Section on limitations of the Ordinance-Law no. 86-033 of April 5, 1986 does not include expressly a private copying exception, but the same law provides for a levy for personal use (art. 68).

### LEVY

Equipment: Yes  
Media: Yes

### TARIFFS

The amount shall be calculated in proportion to the retail revenues.  
No mention of the procedure.

### BENEFICIARIES

Not specified in the Law

### LIABLE

Producers, importers

### EXEMPTION

No

### SOCIAL AND CULTURAL DEDUCTIONS

No

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The amount shall be calculated in proportion to the retail revenues.  
No mention of the procedure.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

No

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

No

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

The law only specifies that the levy for personal use shall be paid to the national body responsible for copyright management and protection.  
No information has been gathered regarding the collection of the levy.



# CONGO, DEM. REP.

2/2

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

No



## LEGAL BASIS

### LEVY

Art. 68 Ordinance-Law No. 86-033 of April 5, 1986 on the Protection of Copyright and Neighboring Rights

Chapter 4 Exploitation of economic rights

Section 1 – Transfer of economic rights

(3) Provisions on hire, loan and reproduction for personal and private use

**Art.68.** Any person who produces or imports into the Democratic Republic of the Congo devices able to manufacture productions and the media intended for sound and visual recordings shall be required to pay a royalty to the national body responsible for copyright management and protection. The amount shall be calculated in proportion to the retail revenues.

### COLLECTION AND DISTRIBUTION SYSTEMS

N. The law only specifies that the levy for personal use shall be paid to the national body responsible for copyright management and protection. No information has been gathered regarding the collection of the levy.





AFRICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# CÔTE D'IVOIRE



25,069,229

GDP: 48.9 billion EUR

1/3

## CONTACT INFORMATION

<b>COUNTRY</b>	Côte d'Ivoire
<b>CURRENCY</b>	CFA France
<b>NAME ORGANISATION</b>	BURIDA
<b>WEB SITE</b>	<a href="http://www.buridaci.com/web/">www.buridaci.com/web/</a>
<b>E-MAIL</b>	<a href="mailto:info@buridaci.com">info@buridaci.com</a>
<b>ADDRESS</b>	B.P. V 258
<b>CITY</b>	Abidjan
<b>PHONE</b>	+225 22 41 22 11



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	<p>Equipment: Yes, the levy is only applicable to commercial videograms and phonograms, while the exception is wider and covers more categories of works.</p> <p>Media: Yes, the levy is only applicable to commercial videograms and phonograms, while the exception is wider and covers more categories of works.</p>
<b>BENEFICIARIES</b>	Authors (music, audiovisual), performers, phonogram and audiovisual producers
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	<p>Yes. Certain digital audio recording apparatus for Professional uses (rules laid down in Council of Ministers Decree).</p> <p>A reimbursement system is in place for audiovisual communication companies, phonograms and videograms producers, and assistance for visual or auditory handicaps.</p>
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	Part of the remuneration will finance a fund managed by collecting CMos to promote cultural and social activities in favour of authors, performers and producers.

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The media or devices subject to the levy, the rates and the terms of payment thereof are determined by decree of the Council of Ministers.



# CÔTE D'IVOIRE

2/3

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Yes. Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no distribution is currently operative. The decree implementing the provisions of Law No. 2016-555 of 26 July 2016 relating to copyright and neighbouring rights for private copying is currently under way.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no distribution is currently operative.



## LEGAL BASIS

### EXCEPTION

#### Art. 24, of law no. 2016-555 of July 26, 2016, on Copyright and related rights

Section 3 : limitations et exceptions au droit d'auteur

Lorsque l'oeuvre a été licitement rendue accessible au public, l'auteur ne peut interdire :

- les représentations ou exécutions privées effectuées exclusivement dans un cercle de famille, si elles ne donnent lieu à aucune forme de recette ;
- les reproductions ou copies destinées à un usage strictement personnel et privé, et non affectées à une utilisation collective, à l'exception des copies d'œuvres d'art destinées à être utilisées pour des fins identiques à celles pour lesquelles l'œuvre originale a été créée et des programmes d'ordinateur, en dehors des copies de sauvegarde, ainsi que les copies ou des reproductions d'une base de donnée électronique.
- (...)

### LEVY

#### Art. 101 - 102 of law no. 2016-555 of July 26, 2016, on Copyright and related rights

Section 1 : rémunération pour copie privée.

#### Article 101:

L'auteur et l'artiste-interprète des œuvres fixées sur phonogramme ou vidéogramme, ou de fixation audiovisuelle, ainsi que le producteur de ce phonogramme ou vidéogramme ou de fixation audiovisuelle ont droit à une rémunération dite rémunération pour copie privée au titre de la reproduction des œuvres destinée à un usage strictement personnel et privé et non destinée à une utilisation collective desdits phonogramme, vidéogramme ou fixation audiovisuelle réalisés dans les conditions mentionnées aux articles 24, 25, 26, 27, 28, 29, 30, 32, 33, 34 et 90 de la présente loi.

La rémunération pour copie privée est, dans les conditions ci-après définies, évaluée selon un mode forfaitaire.

#### Article 102 :

La rémunération prévue à l'article 101 de la présente loi est versée par le fabricant ou l'importateur des supports ou dispositifs d'enregistrement utilisables pour la reproduction à usage privé d'œuvres, interprétations ou exécutions fixées sur des phonogrammes, des vidéogrammes ou des fixations audiovisuelles, lors de la mise en circulation en Côte d'Ivoire de ces supports.

Les types de support ou dispositifs, les taux de rémunération et les modalités de versement de celle-ci sont déterminés par décret pris en Conseil des Ministres.



# CÔTE D'IVOIRE

3/3



## LEGAL BASIS

### COLLECTION AND DISTRIBUTION SYSTEMS

Art. 103 – 104 of law no. 2016-555 of July 26, 2016, on Copyright and related rights

#### Article 103 :

La rémunération prévue à l'article 101 de la présente loi est perçue pour le compte des ayants droit par un organisme de gestion collective habilité.

Elle est répartie entre les personnes citées à l'article 101 du présent projet de loi après déduction des prélèvements destinés à la couverture des frais de gestion et à l'alimentation du fonds spécial prévu à l'article 127 de la présente loi et du fonds de soutien à la culture et à la création artistique.

L'ensemble des prélèvements prévus au présent article, ne peuvent excéder vingt-cinq pour cent du montant global de la rémunération pour copie privée. Les modalités de répartition entre les ayants droit et le taux de chacun des prélèvements sont fixées par voie réglementaire.

Sous réserve des conventions internationales, le droit à rémunération pour copie privée est réparti entre les auteurs, les artistes-interprètes ou exécutants et les producteurs de phonogrammes et de vidéogrammes fixés pour la première fois en Côte d'Ivoire.

#### Article 104 :

La rémunération pour copie privée donne lieu à remboursement lorsque le support d'enregistrement ou de stockage est acquis à titre professionnel pour leur propre usage ou production par :

- les entreprises de communication audiovisuelles,
- les producteurs de phonogrammes ou de vidéogrammes ou de fixations audiovisuelles et les personnes qui assurent, pour le compte des producteurs de phonogrammes ou de vidéogrammes la reproduction de ceux-ci ;
- les personnes morales ou organismes qui utilisent les supports d'enregistrement ou de stockage à des fins d'aide aux handicapés visuels ou auditifs.

Les modalités de remboursement ainsi que la liste des personnes et organismes mentionnés au troisième tiret du présent article sont précisées par voie réglementaire.



## COMMENTS/DEVELOPMENTS

The new law is currently available only in French. The decree implementing the provisions of Law No. 2016-555 of 26 July 2016 relating to copyright and neighbouring rights for private copying is currently under way.





**AFRICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS**

# DJIBOUTI



958,920

GDP: 2.6 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Djibouti
<b>CURRENCY</b>	Djiboutian Franc (DJF)
<b>NAME ORGANISATION</b>	ODDA



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: No Media: Yes
<b>TARIFFS</b>	N/A
<b>BENEFICIARIES</b>	Authors, performers and phonograms producers.
<b>LIABLE</b>	Producers, importers
<b>EXEMPTION</b>	A reimbursement system is in place for audiovisual communication companies, phonograms producers, and assistance for visual or auditory disabilities.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	Levies from the sale of blank cassettes or magnetic tape intended for recording for private purposes made in Djibouti or imported are one of the funds that would finance the Welfare and Cultural Fund.

## RATE SETTING

<b>HOW ARE LEVIES/REMUNERATION DETERMINED?</b>	To be laid down by Decree of the Council of Ministers.
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<b>WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION</b>	To be laid down by Decree of the Council of Ministers.
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## EXEMPTION AND REFUND

<b>REFUND AFTERWARDS</b>	A reimbursement system is in place for audiovisual communication companies, phonograms producers, and assistance for visual or auditory disabilities.
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# DJIBOUTI

2/2

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

Levies from the sale of blank cassettes or magnetic tape intended for recording for private purposes made in Djibouti or imported are one of the funds that would finance the Welfare and Cultural Fund.



### LEGAL BASIS

#### EXCEPTION

##### Article 54 of Law No. 154/AN/06

Chapter 7 – Limitations to copyright

Notwithstanding the provisions of Article 10, the following uses of a protected work shall be permissible without the author's consent in the case of a protected work that has been lawfully published:

(a) the reproduction, translation, adaptation, arrangement or other transformation of such a work exclusively for the producer's own personal or private use;

#### LEVY

##### Articles 66-67-68 of Law No. 154/AN/06

TITLE 3 – Payment for private copies

**Art.66.** Reproduction using sound, visual or audiovisual recording on physical media of works, performances by performers or phonograms protected under this Law, intended for strictly personal and private use as provided for in Articles 54(A) and 65(D) above shall result in remuneration for Djiboutian authors, performers and phonogram producers, of a sum to be based on the nature and recording length of these physical media. The remuneration shall be paid to the Djiboutian Office of Copyright and Neighboring Rights provided for in Article 75 of this Law by the natural or legal persons who produce or import these physical media, on presentation of documents suitable for defining the remuneration and checking the amount.

**Art.67.** The rates of remuneration and means of payment of the remuneration shall be laid down by Decree of the Council of Ministers.

**Art.68.** Remuneration for private copying shall be repayable where the recording material is acquired for their own use or production by:

1. audiovisual communication companies;
2. the producers of phonograms or the persons who carry out the reproduction of phonograms on behalf of phonogram producers;
3. persons, whether natural persons or legal entities, of whom a list shall be drawn up by the Minister responsible for culture, and who make use of recording material for the purpose of assisting persons with visual or auditory disabilities.



### COMMENTS/DEVELOPMENTS

Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no information has been uncovered regarding the specificities of the mechanism in effect in Djibouti.





**AFRICA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# GABON



2,119,275

GDP: 14.3 billion EUR

1/3

## CONTACT INFORMATION

<b>COUNTRY</b>	Gabon
<b>CURRENCY</b>	CFA Franc (XAF)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	5% of the price per device at the time of importation (according to the Décret n° 000453/PR/MCAEP du 23 mai 2006, fixant la tarification des redevances relatives aux droits d'auteur et aux droits voisins).
<b>BENEFICIARIES</b>	Authors, performers, phonogram or videogram producers and radio or television producers
<b>LIABLE</b>	Producers, importers
<b>EXEMPTION</b>	No
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	The remuneration shall be assigned to a special fund established for cultural and welfare purposes for the benefit of Gabonese authors.

## RATE SETTING

<b>HOW ARE LEVIES/REMUNERATION DETERMINED?</b>	N/A
--	-----

<b>WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION</b>	5% of the price per device at the time of importation
--	---

## EXEMPTION AND REFUND

<b>ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?</b>	No
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<b>ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES</b>	No
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# GABON

2/3

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

The remuneration shall be collected by ANPAC (National Artistic and Cultural Promotion Agency) and shall be assigned to a special fund established for cultural and welfare purposes for the benefit of Gabonese authors. No information has been gathered concerning the effective implementation of this system.

### HOW FREQUENTLY IS PAYMENT DUE?

No information has been gathered concerning the effective implementation of this system.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS

No information

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

The remuneration shall be assigned to a special fund established for cultural and welfare purposes for the benefit of Gabonese authors.



## LEGAL BASIS

### EXCEPTION

Art. 33 of law no. 1/87 of July 29, 1987, instituting Protection for Copyright and neighboring rights

When the work has been lawfully made available to the public, the author may not prohibit:

(...)

-reproductions, translations and adaptations intended for strictly personal and private use.

### LEVY

Art. 89 of law no. 1/87 of July 29, 1987, instituting Protection for Copyright and neighboring rights

TITLE III-rights in blank mediums

Any copy or reproduction reserved for the private use of the copier of works fixed on a phonogram or videogram shall entitle the authors, performers, phonogram or videogram producers and radio or television producers to remuneration. The remuneration shall be collected prior to any marketing of the product from the person who manufactures, causes to be manufactured or imports the blank mediums referred to in the first paragraph of this Article. The amount of the remuneration shall be fixed at 10% of the retail selling price, including all taxes, of the blank medium. The remuneration shall be collected by ANPAC (National Artistic and Cultural Promotion Agency) and shall be paid into the special fund referred to in Article 77 above.

Décret n° 000453/Pr/mCAeP du 23 mai 2006, fixant la tarification des redevances relatives aux droits d'auteur et aux droits voisins.

Tarif concernant la reproduction d'oeuvres littéraires et artistiques aux moyens des supports vierges, d'appareils d'enregistrement, de photocopieurs et assimilés : 5% par exemplaire, sur le prix d'achat à l'importation.



# GABON

3/3



## COMMENTS/DEVELOPMENTS

Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no information has been uncovered regarding the specificities of the mechanism in effect in Gabon.





**AFRICA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# MADAGASCAR



26,262,368

GDP: 11.7 billion EUR

1/4

## CONTACT INFORMATION

<b>COUNTRY</b>	Madagascar
<b>CURRENCY</b>	Ariary (MGA)
<b>NAME ORGANISATION</b>	Office Malagasy du Droit d'Auteur
<b>WEB SITE</b>	www.omda.mg
<b>E-MAIL</b>	omda@moov.mg
<b>ADDRESS</b>	Il F 62 rue Fredy Rajofera - Antaninandro
<b>POSTCODE</b>	101
<b>CITY</b>	Antananarivo
<b>PHONE</b>	+261 34 05 533 70



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	In progress. The Government is setting up the Commission that will be in charge of setting the rates.
<b>BENEFICIARIES</b>	Authors, performers and producers of phonograms and videograms
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	Products imported by embassies. Reimbursement where the recording medium is acquired for own use or production by: - audiovisual communication companies, - producers of phonograms or videograms, - legal entities or bodies assisting persons with visual or auditory disabilities
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	10%

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

By a Commission presided by the Minister of Culture and Communication.



# MADAGASCAR

2/4

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Embassies

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

Products imported by embassies

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

The importer sends a request to OMDA. After payment of fees, OMDA issues an authorization that the importer will present to Customs.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Exports are exempted

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS

OMDA (Malagasy Copyright Office)

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No

### FREQUENCY OF DISTRIBUTION

Not yet

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Authors, Performers and Producers of phonograms and videograms

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Article 122 : half to the authors, one quarter to the performers and one quarter to the producers ( Law N°94-036 of 18 September 1995 on Literary and Artistic Property)

### DISTRIBUTION KEYS

1/2 authors  
1/4 performers  
1/4 producers



# MADAGASCAR

3/4

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

**IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?**

10 %

**WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT**

Members



## LEGAL BASIS

### EXCEPTION

Law no. 94-036 of 18 September 1995 on literary and Artistic Property

Book I Copyright

TITLE II The rights of authors

Chapter III Limitation of proprietary rights

**Article 42** – Notwithstanding the provisions of Title II, Chapter II, on proprietary rights, and subject to the provisions of paragraph 2 of this article and the provisions of Book III, Title I, it shall be permitted, without authorization from the author, to reproduce a work lawfully published exclusively for the private use of the user.

Paragraph 1 shall not apply:

- 1) to the reproduction of works of architecture in the form of buildings or other similar reconstructions;
- 2) to the reprographic reproduction of limited-edition works of fine art, to the graphic presentation of musical works (scores) or to exercise manuals that are used only once;
- 3) to the reproduction of the whole or large parts of databases;
- 4) to the reproduction of computer programs, save in the cases referred to in Article 51.

### LEVY

Law no. 94-036 of 18 September 1995 on literary and Artistic Property

TITLE III Exploitation of rights- Chapter One - General Provisions

**Article 63** – The author may assign his rights in his work in whole or in part. This assignment must include a proportional share of the proceeds of the sale or exploitation for the benefit of the author. The remuneration of the author may, however, be assessed as a lump sum in the following cases:

- 2) where there are no means of monitoring the application of the share;

Book III – General provisions

Title One – Remuneration for private copying and reprography

SINGLE CHAPTER

**Article 116** – The authors and performers of works fixed on phonograms or videograms, and the producers of these phonograms or videograms, are entitled to remuneration for the reproduction of the said works carried out under the conditions specified in Article 43(4) and Article 115(2). Authors are entitled to remuneration for the reprographic reproduction of their works carried out under the conditions specified in Article 43(4).

**Article 117** – Subject to international agreements, the right to remuneration referred to in Articles 108 and 116 is shared between the authors, performers and producers of phonograms or videograms for phonograms and videograms fixed for the first time in Madagascar.



# MADAGASCAR

4/4



## LEGAL BASIS

### ...LEVY

**Article 118** – Remuneration for private copying and reprography, under the conditions specified below, shall be assessed in accordance with the lump-sum method provided for in Article 63(2).

**Article 119** – The remuneration specified in Article 118 shall be paid by the manufacturer or importer of reproduction machines, including reproduction machines and recording media that can be used for the reproduction for private use of works and objects protected by related rights fixed on phonograms or videograms, at the time of entry at the border for importers and at the time of putting into circulation in Madagascar for local manufacturers. The amount of the remuneration shall be based on the type of the reproduction machine, including reprographic machines, and for phonograms and videograms it shall be based on the medium and the length of the recording it allows.

**Article 120** – The types of medium, the remuneration rates and the procedures for paying the remuneration shall be determined by a commission presided over by the Minister for Culture and Communication and composed in addition as follows:

– half shall consist of persons appointed by organizations representing the beneficiaries of the remuneration right, – one-sixth shall consist of persons representing the body administering copyright and related rights, – one-sixth shall consist of persons appointed by the organizations representing the manufacturers or importers of the machines and media referred to in the first paragraph of the preceding article, – one-sixth shall consist of persons appointed by organizations representing consumers.

**Article 121** – The remuneration provided for in Article 116 shall be paid for and on behalf of the author's successors in title by the body referred to in Title II of this book.

It shall be shared out among the successors in title by the body referred to the preceding paragraph, on the basis of the private reproductions made of each work.

**Article 122** – Remuneration for the private copying of phonograms shall be shared out as follows: – half to the authors, – one quarter to the performers, and – one quarter to the producers as reimbursement under the conditions set out in Article 123 below. Remuneration for the private copying of videograms shall be distributed in equal shares to the authors, performers and producers as reimbursement under the conditions set out in Article 123.

Remuneration for reprography shall be shared out as follows: – three-quarters to the authors, and – one quarter for the subsidy fund for the publication of literary works.

The aforementioned remuneration and the administration of the reimbursement fund shall be allocated to the body referred to in Article 124 which shall establish the operating rules.

**Article 123** – Remuneration for private copying shall give rise to a reimbursement where the recording medium is acquired for their own use or production by:

- 1) legally constituted audiovisual communication companies;
- 2) legally constituted producers of phonograms or videograms and the persons who reproduce these phonograms or videograms for or on behalf of their producers;
- 3) legal entities or bodies, a list of which shall be drawn up by the Minister for Culture and Communication, that use the recording media for the purpose of assisting visually or aurally impaired persons.

## COLLECTION AND DISTRIBUTION SYSTEMS

Law no. 94-036 of 18 September 1995 on literary and Artistic Property

TITLE II collecting societies

**Article 124** – The collection and sharing out of copyright fees and the defence of the material interests of authors shall be entrusted to a public body comprising authors and holders of related rights, which shall be created by decree and shall be the only one allowed to operate on the territory of the Republic of Madagascar. This body shall substitute as of right for any professional body of authors and holders of related rights in the execution of outstanding contracts with users or users' associations on the territory of the Republic of Madagascar.





**AFRICA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# MALI



19,077,690

GDP: 14.5 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Mali
<b>CURRENCY</b>	CFA Franc (XOF)
<b>NAME ORGANISATION</b>	BUMDA
<b>WEB SITE</b>	<a href="http://bumda.ml/">http://bumda.ml/</a>
<b>E-MAIL</b>	<a href="mailto:bumda@afribonameli.net">bumda@afribonameli.net</a>
<b>ADDRESS</b>	Avenue OUA Faladié Sokoro- Cité des Coopérants- Porte 4980 BP. E 2735
<b>CITY</b>	Bamako
<b>PHONE</b>	223 20 20 98 70



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Not specified Media: Not specified
<b>TARIFFS</b>	No
<b>BENEFICIARIES</b>	Authors and performers of works fixed on phonograms or videograms and producers of such phonograms or videograms.
<b>LIABLE</b>	Not defined
<b>EXEMPTION</b>	No
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	50 % (National Fund for Cultural Promotion)

## EXEMPTION AND REFUND

**ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?** No

**ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES** No

## COLLECTION PROCESS

**HOW IS COLLECTION ORGANIZED?**

Remuneration is collected by CMOs on behalf of the rightsholders. Despite the law provides a detailed distribution mechanism, no information has been uncovered regarding calculation of the levy to be collected.



## MALI

2/2



## LEGAL BASIS

## EXCEPTION

Loi n° 08 - 024 / du 23 juillet 2008 fixant le régime de la propriété littéraire et artistique en République du Mali

TITRE I : du droit d'auteur

CHAPITRE IV : limitations des droits patrimoniaux

Section I: Limitations permanents

**Article 24 :** Lorsque l'œuvre a été licitement rendue accessible au public, l'auteur ne peut en interdire, sous réserve du respect de son droit moral : (...)

b) les reproductions, traductions, et adaptations destinées à un usage strictement personnel et privé de la personne qui les réalise ;

**Article 25 :** Le droit de reproduction pour usage privé mentionné dans le point b de l'article 24 de la présente loi ne s'applique pas à :

1) la reproduction d'œuvres d'architecture revêtant la forme de bâtiments ou d'autres constructions similaires ; 2) la reproduction reprographique d'œuvre des beaux-arts à tirage limité de la présentation d'œuvres musicales et des manuels d'exercice et autres publications dont on ne se sert qu'une fois ; 3) la reproduction de la totalité ou de parties importantes de bases de données ; 4) la reproduction de programmes d'ordinateur sauf dans les cas prévus à l'article 28 de la présente loi ; 5) toute reproduction d'une œuvre qui porterait atteinte à l'exploitation normale de l'œuvre ou causerait un préjudice injustifié aux intérêts légitimes de l'auteur.

## LEVY

Loi n° 08 - 024 / du 23 juillet 2008 fixant le régime de la propriété littéraire et artistique en République du Mali

TITRE III : des droits voisins

CHAPITRE II : droits protégés

Section VI : La rémunération pour copie privée

**Article 131 :** Les auteurs et les artistes interprètes ou exécutants de œuvres fixées sur phonogramme ou vidéogramme, ainsi que les producteurs de ces phonogrammes ou vidéogrammes, ont droit à une rémunération au titre de la reproduction des dites œuvres destinées à un usage strictement personnel et privé et non destinées à une utilisation collective.

## COLLECTION AND DISTRIBUTION SYSTEMS

Loi n° 08 - 024 / du 23 juillet 2008 fixant le régime de la propriété littéraire et artistique en République du Mali

TITRE III : des droits voisins

CHAPITRE II : droits protégés

Section VI : La rémunération pour copie privée

**Article 132 :** La rémunération pour copie privée est perçue pour le compte des ayants droit par l'organisme professionnel de gestion collective qui doit, déduction faite des frais de gestion, affecter 50% des sommes perçues à un fonds de promotion culturelle. Le reste est redistribué de la façon suivante : a) Pour ce qui concerne les copies privées des phonogrammes, la rémunération bénéficie pour 50% aux auteurs, pour 25% aux artistes interprètes ou exécutants, pour 25% aux producteurs ; b) Pour ce qui concerne les copies privées des vidéogrammes, la rémunération bénéficie à parts égales aux auteurs, aux artistes interprètes et aux producteurs.



## COMMENTS/DEVELOPMENTS

Despite the law provides a detailed distribution mechanism, no information has been uncovered regarding calculation of the levy to be collected.

Under the obligations imposed by the Bangui agreement, Mali appears to fail to meet the requirements to impose, collect and distribute remuneration for private copying.





AFRICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# MAURITIUS



1,265,303

GDP: 12.0 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Mauritius
<b>CURRENCY</b>	Mauritian Rupee (MUR)
<b>NAME ORGANISATION</b>	MASA
<b>WEB SITE</b>	masa.intnet.mu
<b>E-MAIL</b>	copyrightsoc@intnet.mu
<b>ADDRESS</b>	3rd Floor NPF Building Douglas Sholte Street
<b>CITY</b>	Beau Bassin
<b>PHONE</b>	+ 230 467 2219 / + 230 454 7931
<b>FAX</b>	+ 230 454 0578



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: N/A Media: N/A
<b>BENEFICIARIES</b>	Authors, copyright owner or the society, as applicable
<b>LIABLE</b>	Manufacturers and importers



## LEGAL BASIS

### EXCEPTION

The Copyright Act 2014, as amended by the The Copyright (Amendment) Act 2017 (Act No. 13 of 2017)

#### Part IV- Limitation on economic rights

##### Art. 16. Private reproduction for personal purposes

(1) Subject to subsection (2), the private reproduction of a legally obtained published work in a single copy shall be permitted, without the authorisation of the author or owner of copyright, where the reproduction is made by a natural person for his own personal use.

(2) The permission under subsection(1) shall not extend to reproduction — (a) of a work of architecture in the form of building or other construction; (b) in the form of reprography of the whole or of a substantial part of a book or of a musical work in the form of notation; (c) of the whole or of a substantial part of a database in digital form; and (d) of a computer programme, except as provided in section 22. (3) Equitable remuneration shall be paid to the author or copyright owner or to the Society, as applicable.



# MAURITIUS

2/2



## LEGAL BASIS

### LEVY

The Copyright Act 2014, as amended by the The Copyright (Amendment) Act 2017 (Act No. 13 of 2017)

#### Part IV- Limitation on economic rights

Art. 16. Private reproduction for personal purposes

(3)

(a) Where a reproduction concerns an audiovisual work or a work embodied in a sound recording, other than the reproduction of a single copy by an individual exclusively for his own personal purposes, the author or owner of copyright shall be entitled to equitable remuneration to be paid to, and distributed by, the Society.

### COLLECTION AND DISTRIBUTION SYSTEMS

The Copyright Act 2014, as amended by the The Copyright (Amendment) Act 2017 (Act No. 13 of 2017)

#### Part IV- Limitation on economic rights

Art. 16. Private reproduction for personal purposes

(3)

(b) The equitable remuneration shall be paid –

1. (i) by the manufacturer of the equipment or material supports, normally used for private reproduction for personal purposes of the work, except where such equipment is, or such material supports are, exported; or
2. (ii) by the importers of such equipment or material supports, except where the importation is by a private person for his personal purposes.



## COMMENTS/DEVELOPMENTS

Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no information has been gathered regarding the effective implementation of the system in Mauritius.





**AFRICA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# MOZAMBIQUE



29,495,962

GDP: 12.5 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Mozambique
<b>CURRENCY</b>	Mozambican Metical (MZN)
<b>NAME ORGANISATION</b>	SOMAS
<b>WEB SITE</b>	<a href="http://www.somas.org.mz">www.somas.org.mz</a>
<b>E-MAIL</b>	<a href="mailto:somas@somas.org.mz">somas@somas.org.mz</a>
<b>ADDRESS</b>	Rua de Tchamba, 86 3rd floor, door 56
<b>CITY</b>	Maputo
<b>PHONE</b>	+258 844731133 / +258 21087054



## OVERVIEW

<b>EXCEPTION</b>	Free use: reproduction of lawfully published work for private purposes.
<b>LEVY</b>	Equipment: Yes Media: Yes The levy system only applies to audiovisual works and soundtrack of a work.
<b>BENEFICIARIES</b>	Not specified
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	Private purposes, export
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Agreement between CMOs and representatives of equipment/material manufacturers and importers. In the absence of agreement, implementing regulations.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION

Agreement between CMOs and representatives of equipment/material manufacturers and importers. In the absence of agreement, implementing regulations.



# MOZAMBIQUE

2/2



## LEGAL BASIS

### EXCEPTION

Law No. 4/2001 of February 27, 2001 (Copyright Law, approved by Decree-Law No. 46.980 of April 27, 1966)

Chapter III

Limitation of Economic Rights

SECTION I Free use

Reproduction for Private Purposes

**Art. 9.**—(1) It is permitted to reproduce a lawfully published work exclusively for the user's private purposes without authorization by the author or payment of remuneration. (2) The provisions of the preceding paragraph shall not apply to: (a) the reproduction of works of architecture consisting of buildings or other similar constructions; (b) the reprographic reproduction of limited editions of works of three-dimensional art and the graphic representation of musical works (scores), exercise manuals and other publications, even if they are used only once; (c) the reproduction of whole databases or large parts thereof; (d) the reproduction of computer programs, except as provided for in Article 16; (e) any other reproduction of a work that might prejudice its normal exploitation or cause unjustified harm to the legitimate interests of the author.

### LEVY

Law No. 4/2001 of February 27, 2001 (Copyright Law, approved by Decree-Law No. 46.980 of April 27, 1966)

SECTION II

Equitable remuneration

Remuneration for Reproduction for Private Purposes

**Article 21.**—(1) It is permitted, without authorization by the author but subject to payment of equitable remuneration, to reproduce a legitimately published audiovisual work or the soundtrack of a work exclusively for the private purposes of the user. (2) Equitable remuneration for reproduction for private purposes, in the cases provided for in the preceding paragraph, means payment made by producers and importers of equipment and physical material used for the reproduction, and received and distributed by the collective copyright management organization.

(3) In the absence of agreement between the representatives of the producers and importers on the one hand and the collective copyright management organization on the other, the amount of equitable remuneration and the conditions of its payment shall be fixed as provided in the implementing regulations under this Law. (4) Fair remuneration to be paid to performers and to producers of phonograms must be distributed between these groups of rightholders as provided in the implementing regulations under this Law. (5) The equipment and the physical material mentioned in paragraph (2) shall be exempt from payment of equitable remuneration: (a) if they are for export; (b) if they cannot be normally used for reproduction of works intended for private purposes.

### COLLECTION AND DISTRIBUTION SYSTEMS

Law No. 4/2001 of February 27, 2001 (Copyright Law, approved by Decree-Law No. 46.980 of April 27, 1966)

SECTION II

Equitable remuneration

Remuneration for Reproduction for Private Purposes

**Article 21.** (4) Fair remuneration to be paid to performers and to producers of phonograms must be distributed between these groups of rightholders as provided in the implementing regulations under this Law.





**AFRICA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# NIGER



22,442,948

GDP: 10.9 billion EUR

1/3

## CONTACT INFORMATION

<b>COUNTRY</b>	Niger
<b>CURRENCY</b>	CFA Franc (XOF)
<b>NAME ORGANISATION</b>	BNDA



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes Only for reproductions of published audiovisual works or soundtrack of a work (art. 21.1).
<b>TARIFFS</b>	Agreement between representatives of producers and importers and the Copyright office of Niger. In the absence of agreement, the rate shall be fixed by the ordinary courts (art. 21.2).
<b>BENEFICIARIES</b>	Authors, performers, phonogram producers
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	Yes, non-private uses and export
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No

## RATE SETTING

<b>HOW ARE LEVIES/REMUNERATION DETERMINED?</b>	Agreement between representatives of producers and importers and the Copyright Office of Niger. In the absence of agreement, the rate shall be fixed by the ordinary courts (art. 21.2).
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<b>WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION</b>	Agreement between representatives of producers and importers and the Copyright Office of Niger. In the absence of agreement, the rate shall be fixed by the ordinary courts (art. 21.2).
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## EXEMPTION AND REFUND

<b>ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?</b>	(4) The equipment and the physical material shall be exempt from payment of equitable remuneration: (a) if they are for export; (b) if they cannot be normally used for reproduction of works intended for private purposes (such as professional equipment and material supports, or dictaphones and cassettes for use therewith).
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# NIGER

2/3

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no information has been uncovered regarding any agreement/court decision referred to in article 21.2.



## LEGAL BASIS

### EXCEPTION

#### Art. 9 of Decree No. 93-027 of March 30, 1993, on Copyright, Neighbouring Rights and Folklore

Chapter IV: Restriction of Economic Rights

(A) Free uses

##### Article 9 - Free Reproduction for Private Purposes

(1) Notwithstanding the provisions of Article 8, and subject to those of paragraph (2) and those of Article 21, it shall be permitted, without the consent of the author and without payment of remuneration, to reproduce a lawfully published work exclusively for the private use of the user.

(2) Paragraph (1) shall not apply to: 6 (i) the reproduction of works of architecture in the form of buildings or other similar constructions; (ii) the reproduction of works of fine art in a limited quantity, the graphical presentation of musical works (scores) and exercise manuals and other publications used once only; (iii) the reproduction of the whole or of significant parts of databases; (iv) the reproduction of computer programs, except in the cases provided for in Article 16, and; (v) any other reproduction of a work that would prejudice the normal exploitation of the work or would cause unwarranted prejudice to the legitimate interests of the author.

### LEVY

#### Art. 21.1 of Decree No. 93-027 of March 30, 1993, on Copyright, Neighbouring Rights and Folklore

(B) Equitable remuneration

**Art. 21.** Equitable Remuneration for Reproduction for Private Purposes (1) Notwithstanding the provisions of Article 8, it is permitted, without authorization by the author but subject to payment of equitable remuneration, to reproduce a legitimately published audiovisual work or the soundtrack of a work exclusively for the private purposes of the user.

(2) Equitable remuneration for reproduction for private purposes, in the cases provided for in paragraph (1), means payment made by the producers and importers of the equipment and physical material used for the reproduction, and received and distributed by the Copyright Office of Niger. In the absence of agreement between the representatives of the producers and importers on the one hand and the Copyright Office of Niger on the other, the amount of equitable remuneration and the conditions of the payment thereof shall be fixed by the ordinary courts.

(3) The equitable remuneration to be paid to authors under this article, as well as to performers and producers of phonograms, must, in accordance with Article 46, be distributed between these three groups of right holders in accordance with the regulations in force.

(4) The equipment and the physical material mentioned in paragraph (2) shall be exempt from payment of equitable remuneration: (a) if they are for export; (b) if they cannot be normally used for reproduction of works intended for private purposes (such as professional equipment and material supports, or dictaphones and cassettes for use therewith).



# NIGER

3/3



## LEGAL BASIS

### COLLECTION AND DISTRIBUTION SYSTEMS

Art. 21.2-3-4 of Decree No. 93-027 of March 30, 1993, on Copyright, Neighbouring Rights and Folklore

(2) Equitable remuneration for reproduction for private purposes, in the cases provided for in paragraph (1), means payment made by the producers and importers of the equipment and physical material used for the reproduction, and received and distributed by the Copyright Office of Niger. In the absence of agreement between the representatives of the producers and importers on the one hand and the Copyright Office of Niger on the other, the amount of equitable remuneration and the conditions of the payment thereof shall be fixed by the ordinary courts.

(3) The equitable remuneration to be paid to authors under this article, as well as to performers and producers of phonograms, must, in accordance with Article 46, be distributed between these three groups of right holders in accordance with the regulations in force.

(4) The equipment and the physical material mentioned in paragraph (2) shall be exempt from payment of equitable remuneration: (a) if they are for export; (b) if they cannot be normally used for reproduction of works intended for private purposes (such as professional equipment and material supports, or dictaphones and cassettes for use therewith).



## COMMENTS/DEVELOPMENTS

Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no information has been uncovered regarding the effective implementation of the system. Under the obligations imposed by the Bangui agreement, Niger appears to fail to meet the requirements to impose, collect and distribute remuneration for private copying.





**AFRICA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# NIGERIA



195,874,740

GDP: 337.2 billion EUR

1/4

## CONTACT INFORMATION

<b>COUNTRY</b>	Nigeria
<b>CURRENCY</b>	Nigeria Naira (NGN)
<b>NAME ORGANISATION</b>	COSON
<b>WEB SITE</b>	<a href="http://www.cosonng.com">http://www.cosonng.com</a>
<b>ADDRESS</b>	41, Oluwaleimu Street, Off Allen Avenue, Ikeja
<b>CITY</b>	Lagos
<b>PHONE</b>	+234 817 459 0246



## OVERVIEW

<b>EXCEPTION</b>	Yes, Fair dealing for the purposes of private use
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	By Ministerial Order
<b>BENEFICIARIES</b>	Not specified (members of CMOs)
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	Exportation, institutions representing persons with disabilities.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	10% for promotion of creativity

## RATE SETTING

<b>HOW ARE LEVIES/REMUNERATION DETERMINED?</b>	By Ministerial Order
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## EXEMPTION AND REFUND

<b>ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES</b>	Institutions representing persons with disabilities
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<b>ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES</b>	Materials manufactured in Nigeria for purposes of export; Other materials which the Minister may exempt by a notice published in the Official gazette of the Federal Government from time to time.
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# NIGERIA

2/4

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

The levy shall be paid;  
 (a) in the case of materials imported into the country, at the point of entry, by the importer; or  
 (b) in the case of materials manufactured or produced or assembled in Nigeria, at the point of manufacture, production or assembly, by the manufacturer, producer or person responsible for the assembling.  
 The levies payable under this order shall be paid into the Account of the Nigerian Copyright Commission set up specifically for the purpose of the levy.

### ARE EXPORTS EXEMPTED?

Yes

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS

The Nigerian Copyright Commission will distribute part of the levies to CMOs, which will redistribute to its members.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

Yes, 10%

### WHICH RIGHTSHOLDERS ARE INCLUDED?

Not specified (Members of the CMOs)

### DISTRIBUTION KEYS

(a) Ten (10 %) percent for promotion of creativity;  
 (b) Twenty (20%) percent for anti-piracy programme of the Nigerian Copyright Commission;  
 (c) Ten (10 %) percent for administrative purposes to be shared equally among all government agencies involved in the implementation of this Order.  
 (d) The remaining sixty (60%) percent, after the distribution referred to in sub-paragraphs (1) (a) (b) & (c) of this paragraph, shall be distributed equally among all approved collecting societies.  
 (2) A special fund may be created in respect of distribution in sub-paragraph (1) (a) of this paragraph, which fund shall be managed by a joint committee of the Nigerian Copyright Commission and representatives of the creative industries to be appointed by the Honourable Minister.  
 (3) The funds allocated to the collecting societies in line with sub-paragraphs (1) (d) of this paragraph, shall be distributed to members of such societies in accordance with established rules of royalty distribution adopted by the society in accordance with the provisions of the collecting societies regulations for the time being in force.



# NIGERIA

3/4



## LEGAL BASIS

### EXCEPTION

Copyright Act (Chapter C. 28, as codified 2004)

#### Second schedule – Exceptions from copyright control

The right conferred in respect of a work by Section 6 of this Act does not include the right of control:

(a) the doing of any of the acts mentioned in the said section 6 by way of fair dealing for purposes of research, private use, review or the reporting of current events, subject to the condition that, if the use is public, it shall be accompanied by an acknowledgement of the title of the work and its authorship except where the work is incidentally included in a broadcast;

### LEVY

Copyright Act (Chapter C. 28, as codified 2004)

#### 40. Levy on copyright material

(1) There shall be paid a levy on any material used or capable of being used to infringe copyright in a work.

(2) The levy payable under subsection (1) of this section shall be as may be determined by the Minister from time to time by order published in the Gazette and different levies may be imposed on different categories of material.

(3) The levy shall be paid into the Fund of the Commission and the Commission shall have power to disburse the funds amongst approved societies in accordance with the regulations made by the Commission.

(4) The Minister shall have power to exempt any class of materials from the payment of any levy.

(5) In this section, "material" includes any object, equipment, machine, contrivances or any other device used or capable of being used to infringe copyright in a work.

#### Copyright (levy on materials) Order, 2012

##### 1. Prescription of Levies

(1) The Levy payable under section 40(1) of the Copyright Act on materials used or capable of being used for the infringement of copyright shall be as provided for in the schedule to this Order.

(2) The levy payable under this Order, shall be paid; (a) in the case of materials imported into the country, at the point of entry, by the importer; or (b) in the case of materials manufactured or produced or assembled in Nigeria, at the point of manufacture, production or assembly, by the manufacturer, producer or person responsible for the assembling.

(3) The levies payable under this Order shall be paid into the Account of the Nigerian Copyright Commission set up specifically for the purpose of the levy pursuant to section 40 (3) of the Copyright Act.

(4) Notwithstanding the provisions in the schedule to this Order, the Commission, with the prior approval of the Minister may, from time to time, vary the list of materials or the levy payable on any materials.

##### 2. Exemption from payment of levy

(1) The levy payable under this Order shall not apply to; (a) Materials manufactured in Nigeria for purposes of export; (b) Institutions that represent persons with disability as may be approved by the Minister; or (c) Other materials which the Minister may exempt by a notice published in the Official gazette of the Federal Government from time to time.

(2) A person shall be exempted from the payment of any levy stipulated in the Schedule hereto where he produces a certificate of exemption given under the hand of the Minister.

(3) The Minister may, from time to time, stipulate the conditions and fees to be paid for the issuance of an exemption certificate under this section.



# NIGERIA

4/4



## LEGAL BASIS

### 3. Record keeping by Manufacturers and Importers

(1) All persons engaged in the manufacture, assembling or importation of any material for which a levy has been prescribed in the Schedule to this order shall, (for the purpose of complying with the requirements of this Order), keep such books and make periodic returns as may be required by the Nigerian Copyright Commission.

(2) Such records referred to in sub-paragraph (1) above shall be made available for inspection by Copyright Inspectors of the Nigerian Copyright Commission or any other person authorized by the Commission, at any time.

(3) All persons engaged in the manufacture, assembling or importation of any material for which a levy has been prescribed in the Schedule to this order shall grant access to Copyright Inspectors to carry out inspection of their premises.

## COLLECTION AND DISTRIBUTION SYSTEMS

### Copyright (levy on materials) Order, 2012

### 4. Distribution of proceeds of levies paid

(1) The Nigerian Copyright Commission, with the prior approval of the Minister, shall distribute the levies collected in furtherance of this Order as follows:

- (a) Ten (10 %) percent for promotion of creativity;
- (b) Twenty (20%) percent for anti-piracy programme of the Nigerian Copyright Commission;
- (c) Ten (10 %) percent for administrative purposes to be shared equally among all government agencies involved in the implementation of this Order.
- (d) The remaining sixty (60%) percent, after the distribution referred to in sub-paragraphs (1) (a) (b) & (c) of this paragraph, shall be distributed equally among all approved collecting societies.

(2) A special fund may be created in respect of distribution in sub-paragraph (1) (a) of this paragraph, which fund shall be managed by a joint committee of the Nigerian Copyright Commission and representatives of the creative industries to be appointed by the Honourable Minister.

(3) The funds allocated to the collecting societies in line with sub-paragraphs (1) (d) of this paragraph, shall be distributed to members of such societies in accordance with established rules of royalty distribution adopted by the society in accordance with the provisions of the collecting societies regulations for the time being in force.

### 5. Confiscation and Sealing of Premises

Where no exemption has been granted as in paragraph 4(1) above, the Commission may confiscate any consignment of material for which levy is prescribed, but has not been paid by the manufacturer, or importer, and where it deems necessary, seal up any premises used for the purpose of manufacturing or assembling such materials, or any premises used for the storage of such materials imported into the country pending the payment of the prescribed levy.



## COMMENTS/DEVELOPMENTS

In 2015, the Nigerian Copyright Commission has come up with a draft revised Copyright Bill, to improve the fight against piracy in the country. The draft bill released in 2015 does not clarify which categories of rightsholders are the beneficiaries of the levy nor who is liable for payment.





**AFRICA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# SAO TOME AND PRINCIPE



211,028

GDP: 0.4 billion EUR

1/2

## CONTACT INFORMATION

**COUNTRY** Sao Tome and Principe

**CURRENCY** Dobra (STN)



## OVERVIEW

**EXCEPTION** Yes

**LEVY** Equipment: Yes  
Media: Yes

**TARIFFS** To be defined by Ministerial Decree

**BENEFICIARIES** Authors, artists, performers or performing artists and the phonographic and videographic editors and producers.

**LIABLE** Manufacturers, importers

**EXEMPTION** - Audiovisual communication organizations - Phonogram or videogram producers - exclusively for use in their own productions  
- Organisations representing the visually-aurally impaired

**SOCIAL AND CULTURAL DEDUCTIONS** No

## RATE SETTING

**HOW ARE LEVIES/REMUNERATION DETERMINED?** By Ministerial Decree

## EXEMPTION AND REFUND

**ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?** - Audiovisual communication organizations - Phonogram or videogram producers - exclusively for use in their own productions.  
- Organisations representing the visually-aurally impaired.

**REFUND AFTERWARDS** No

## COLLECTION PROCESS

**HOW IS COLLECTION ORGANIZED?** The amount of the levy, its collection and distribution shall be defined by Ministerial decree.



# SAO TOME AND PRINCIPE

2/2



## LEGAL BASIS

### EXCEPTION

Code on Copyright and Related Rights (approved by Decree-Law No. 02/2017)

Art. 75 – Scope

2. The following uses of a work without the consent of the author shall be lawful:
  - a) The reproduction for exclusively private purposes on paper or any similar medium, using any kind of photographic technique or process with similar results, with the exception of musical scores, as well as the reproduction on any medium made by a natural person for private use and without any direct or indirect commercial purpose;

### LEVY

Code on Copyright and Related Rights (approved by Decree-Law No. 02/2017)

Art. 76 – Requirements

1. The unrestricted use referred to in the preceding article shall be subject to the following conditions:  
(...)
- b) In respect of paragraphs 2 a) and e) of the preceding article, an equitable remuneration to be paid to the author and, on a similar basis, to the publisher, by the entity carrying out the reproduction;

Code on Copyright and Related Rights (approved by Decree-Law No. 02/2017)

Art. 82 – Compensation for the reproduction or recording of the works

1. The sale price of any mechanical, chemical, electric, electronic or any other device used to fix and reproduce works, as well as any material support for fixing and reproduction obtained by any such method, shall include a sum to be allocated to compensate the authors, artists, performers or performing artists and the phonographic and videographic editors and producers.
2. The amount of the sum referred to above, its collection and distribution shall be defined by Ministerial decree.
3. The provisions of paragraph 1 of this Article shall not apply when the devices and media therein referred are acquired by audiovisual communication organizations or phonogram or videogram producers exclusively for use in their own productions or by organizations which use them exclusively as aids for the visually or aurally handicapped.

### COLLECTION AND DISTRIBUTION SYSTEMS

Code on Copyright and Related Rights (approved by Decree-Law No. 02/2017)

Art. 82 – Compensation for the reproduction or recording of the works

2. The amount of the sum referred to above, its collection and distribution shall be defined by Ministerial decree.





**AFRICA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# SENEGAL



15,854,360

GDP: 19.7 billion EUR

1/4

## CONTACT INFORMATION

<b>COUNTRY</b>	Senegal
<b>CURRENCY</b>	CFA Franc (XOF)
<b>NAME ORGANISATION</b>	SODAV
<b>WEB SITE</b>	<a href="http://www.lasodav.sn/lasodav/index.php">http://www.lasodav.sn/lasodav/index.php</a> (under construction)
<b>E-MAIL</b>	yousousoumare@yahoo.fr alybathily2001@yahoo.fr
<b>ADDRESS</b>	7, Rue St Michel X Galandou DIOUF
<b>POSTCODE</b>	B.P. 126
<b>CITY</b>	DAKAR
<b>PHONE</b>	(+221)33 822 54 27/(+221) 33 889 01 86
<b>FAX</b>	(+221) 822 24 59



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	SODAV
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	N/A. At the moment, no collection is in place.
<b>BENEFICIARIES</b>	Authors performers, producers of sound recordings
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	Export/professional use
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	15%

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The list of such devices and equipments shall be determined by the committee referred to in Article 105 of Law 2008-09 (Private Copy Commission).

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION

Article 105 (a). Basis. – Remuneration shall be based on the use of blank analogue or digital recording media, whether removable or not, and on recording equipment.

The amount of remuneration shall take account of the degree of use of the technological protection measures referred to in Article 125 and of their impact on practices under the exception for private copying.



# SENEGAL

2/4

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

No

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

The Private Copy Commission has not yet ruled in this case.

### EXEMPTION UPFRONT

Organisms or individual companies concerned are listed by the law (See below) and must be qualified statutorily (prove of legal activity, payment of income tax, etc....).

### REFUND AFTERWARDS

It gives rise to a refund when the recording medium or the recording device is acquired for their own use or production by:

- (a) Broadcasting organizations;
- (b) Producers of phonograms or videograms;
- (c) Legal persons or organizations, whose list is drawn up by the Minister of Culture, who use the recording media or recording devices for the purpose of assisting the visually impaired or hearing impaired.

Only importer is qualified for refunds and not any third parties in virtue of Law 2008-09.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

In practise, customs are in charge of collecting in virtue of agreement between SODAV and Customs and importers and manufacturers have to declare their goods to customs.

### HOW FREQUENTLY IS PAYMENT DUE?

Payment is due on importation.

### HOW DO YOU MONITOR THE MARKET?

Importers and manufacturers can be audited by customs during good receipts (airport, port, etc.). They fulfil customs reports, review of the importer's documentation and inspection in retail shops.

In case of reasonable doubts concerning the correctness of reports they can ask SODAV endorsement. Customs are in charge of collecting. Inspection of customs reports, review of the importers' documentation (declaration form) and inspections in retail shops.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

SODAV and Customs authorities will jointly sign a contract to collect private copy levies. As custom administration is membership of Private Copy Commission (1 representant) it augurs a good relationship based on fair and friendly relationship.



# SENEGAL

3/4

## COLLECTION PROCESS

### ARE EXPORTS EXEMPTED?

Yes

### DEFINITION OF IMPORT

There's not a definition in copyright law but in commercial law, the importation refers to the introduction of foreign goods into the country for commercial purposes.

### WHO IS CONSIDERED IMPORTER?

The importer is the person who brings the product into the country for commercial purpose.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS

SODAV

Based on Law 2008-09, the remuneration for private copying is collected on behalf of the beneficiaries by one or more approved collective societies.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

There's no rate of administrative costs for collecting/distribution private copying remuneration in the whole chain determined by law but Senegalese copyright law only mentioned the fixed social and cultural deduction of 15% in term of statutory deduction.

### FREQUENCY OF DISTRIBUTION

Individual music, audio-visual and dramatic rightsholders.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

The remuneration for private copying shall be divided among the rightful claimants by the companies referred to in Article 108, on account of the private reproductions in which each work, each performance, each phonogram and each videogram is the subject.

### DISTRIBUTION KEYS

It shall be distributed, after deduction of the fraction referred to in Article 122 (15%), one third for each category to authors, performers and producers.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

Yes

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT

Collecting societies will use 15% of private copying remuneration in support of creation, live performance and training activities for rightsholders.



# SENEGAL

4/4



## LEGAL BASIS

### EXCEPTION

#### Law no. 2008-09 of January 25, 2008 on Copyright and related rights B

– Exceptions to the right of reproduction 1. The author may not prohibit reproduction intended for strictly personal and private use. 2. The exception set out in paragraph 1 shall not apply to: (a) the reproduction of architectural works in the form of buildings or other similar structures; (b) the reprographic reproduction of works of visual art in limited editions, musical scores and textbooks; (c) the reproduction of an electronic database; (d) the reproduction of a computer program.

### LEVY

#### Law no. 2008-09 of January 25, 2008 on Copyright and related rights Article 103. works, performances, phonograms and videograms for which remuneration is owed.

– Remuneration shall be owed for the private copying, carried out under the conditions referred to in Article 40.1, of works and performances fixed on phonograms and videograms. Article 104. Recipients. – Such remuneration shall be owed to authors, performers and producers of phonograms and videograms. Article 105. Private Copying Commission. 1. A commission called the Private Copying Commission is hereby established with responsibility for determining the basis of remuneration for private copying and the amount of and payment procedure for such remuneration. 2. The membership of the Commission shall be determined by means of regulations. Article 105 (a). Basis. – Remuneration shall be based on the use of blank analog or digital recording media, whether removable or not, and on recording equipment. The list of such media and equipment shall be determined by the Commission referred to in Article 105. Article 106. Payment amount and procedure. 1. The amount of remuneration and the procedure for the payment thereof shall be determined by the Commission referred to in Article 105. 2. The amount of remuneration shall take account of the degree of use of the technological protection measures referred to in Article 125 and of their impact on practices under the exception for private copying. Article 107. Debtors. 1. Remuneration for private copying shall be paid by the manufacturer or the importer of blank recording media and recording equipment. 2. Such remuneration shall be refunded where the recording medium or equipment is acquired for their own use or production by: (a) broadcasting organizations; (b) phonogram or videogram producers; (c) legal persons or organizations, the list of which shall be determined by the Minister of Culture, that use recording media or equipment for the purpose of assisting persons with sight or hearing disabilities. Article 108. Collection. Remuneration for private copying shall be collected on behalf of the entitled persons by one or more approved collective management societies. Title II. – Collective management

**Article 122.** Allocation for cultural purposes of a percentage of remuneration for private copying. 1. Collective management societies shall use 15 per cent of the sums obtained from remuneration for private copying for action to assist creation and promote live entertainment and for training schemes for rights owners. 2. The distribution of the corresponding sums, which shall not be to the benefit of only one single body, shall be subject to a vote at the society's general assembly, which shall decide on the basis of a two-thirds majority. In the absence of such majority, a further general assembly, convened specifically for that purpose, shall take a decision on the basis of a simple majority.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Law no. 2008-09 of January 25, 2008 on Copyright and related rights Part three

– Provisions common to copyright and neighbouring rights Title I. – Remuneration for private copying Article 109. Distribution. 1. Remuneration for private copying shall be distributed among the entitled persons by the societies referred to in Article 108, depending on what private reproductions of each work, performance, phonogram or videogram have been made. 2. After deduction of the percentage referred to in Article 122, the remuneration shall be distributed equally among each of the three categories of authors, performers and producers.



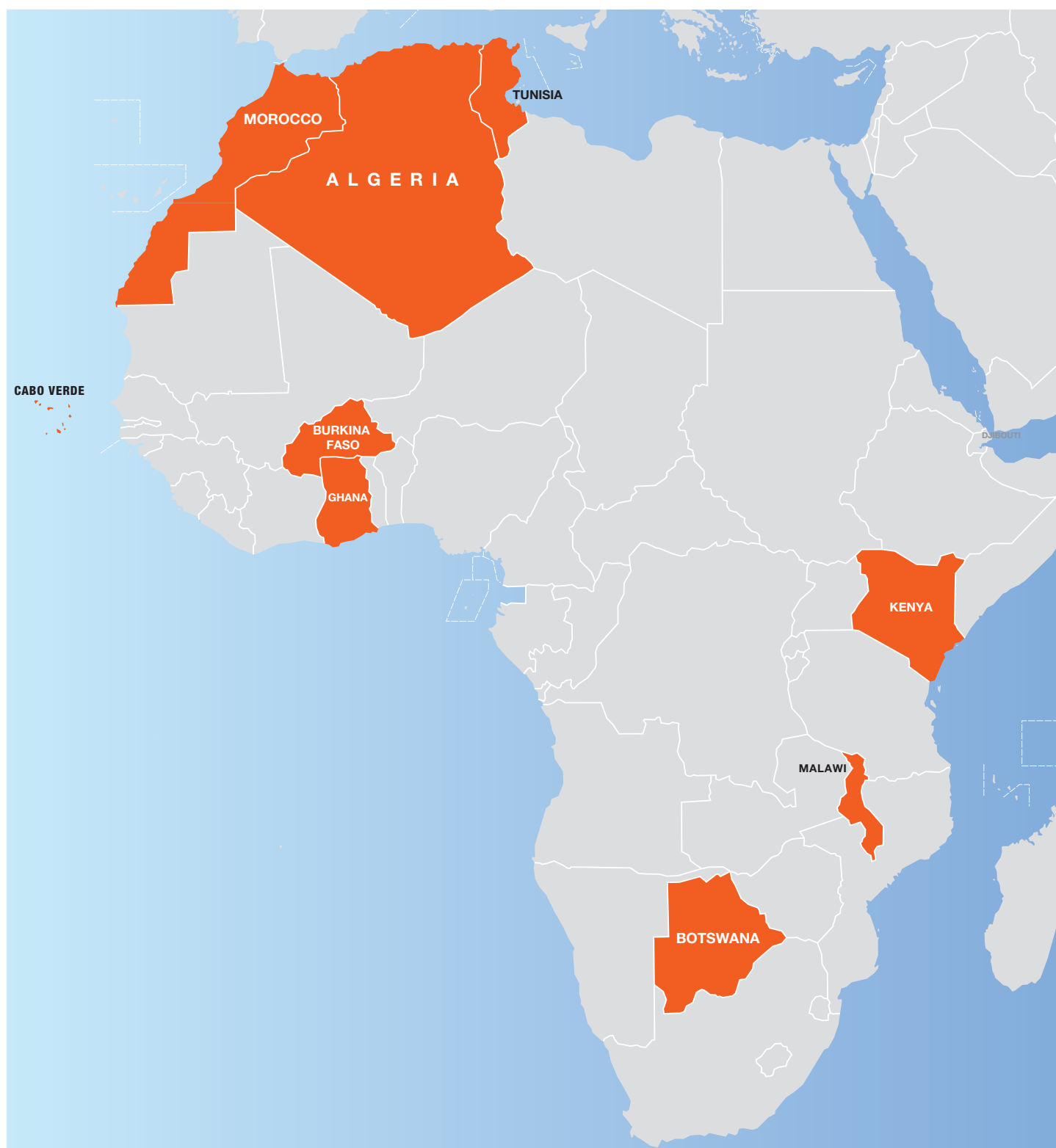
## COMMENTS/DEVELOPMENTS

A project to revise lawsuit is in progress to extend private copy beneficiary in digital area.





# **AFRICA:** **COUNTRIES WITH A PRIVATE** **COPYING REMUNERATION SYSTEM** **AND COLLECTION AND** **DISTRIBUTION MECHANISMS**







AFRICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# ALGERIA



42,228,429

GDP: 147.1 billion EUR

1 / 7

## CONTACT INFORMATION

<b>COUNTRY</b>	Algeria
<b>CURRENCY</b>	Algerian Dinar (DZA)
<b>NAME ORGANIZATION</b>	ONDA
<b>WEB SITE</b>	www.onda.dz
<b>E-MAIL</b>	Dg-onda@onda.dz
<b>ADDRESS</b>	121 rue Didouche Mourad Alger
<b>POSTCODE</b>	16000
<b>CITY</b>	Algiers
<b>PHONE</b>	0021321610267



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Law
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Yes, tariffs are in place set by decision from line ministry upon proposition from ONDA.
<b>BENEFICIARIES</b>	Authors, Producers and Performers
<b>LIABLE</b>	The manufacturer and importer of magnetic tapes or other blank media and recording devices.
<b>EXEMPTION</b>	Export / professional use article Art. 126. From ordinance 03-05 - The media and devices intended for the professional recording of works, the recording not covering works and the recording of works for the needs of specialized public establishments for the disabled and their associations, are not subject to the levy. However, the fee for private copying is due for all the quantities to be placed on the market when the taxable person has not determined precisely the number of media and devices not subject to payment of the fee in the cases provided for in the paragraph 1 of this article.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	30 %
<b>TOTAL revenues from private copying levies in local currency</b>	2015: DZA 2,891,772,000 2016: DZA 3,029,097,000 2017: DZA 2,108,525,000 2018: DZA 2,072,271,000



# ALGERIA

2/7

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Market analysis

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

Type of equipment / its performance in reproduction and storage /scale of reproduction/

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

No

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

Products not intended for commerce (media and devices for professional recording of works, recording not covering works and recording of works for the needs of specialized public establishments for the disabled and their associations)

### EXEMPTION UPFRONT

Upon justification that the equipment is not legal subject to levy.

### REFUND AFTERWARDS

No refund afterwards

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Collection is directly done by ONDA. Customs will block merchandise until importer shows proof of payment given to him by ONDA.

### DO ORGANIZATIONS HAVE TO CONTACT AND REPORT THE COLLECTING SOCIETY THEMSELVES?

Yes  
Customs do not receive the payment. They just require it to be done at ONDA by the importer.

### HOW FREQUENTLY IS PAYMENT DUE?

At each operation of custom clearance

### HOW DO YOU MONITOR THE MARKET?

Direct market analysis and customs database

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Permanent joint committee between ONDA and customs  
Information of import data from custom database



# ALGERIA

3/7

## COLLECTION PROCESS

**ARE EXPORTS EXEMPTED?**

Yes

**DEFINITION OF IMPORT**

Customs regulations

**ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?**

Marginal

## DISTRIBUTION PROCESS

**WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?**

ONDA

**IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/ DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?**

No

**FREQUENCY OF DISTRIBUTION**

Once a year

**WHICH RIGHTS HOLDERS ARE INCLUDED?**

All

**HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?**

Market analysis

**DISTRIBUTION KEYS**

Art. 129. From ordinance number 03-05 of 2003 relating to copyright and neighboring rights - The levy for private copying collected is distributed, after deduction of management costs, by the national copyright office and neighboring rights, to the categories of beneficiaries according to the following quotas: - 30% to the author and the composer; - 20% to the performer; - 20% to the producer of phonograms or videograms;

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

**IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?**

Yes, 30 %



# ALGERIA

4/7

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

Cultural activity in general of promoting the creation of intellectual works and preserving the traditional cultural heritage.



### LEGAL BASIS

#### EXCEPTION

Article 41 of Ordinance No. 03-05 (Copyrights and Neighboring Rights Act), approved by Law No. 03-17 of 2003.

"One copy of the work can be reproduced, translated, quoted or converted for personal or family purposes without prejudicing the provisions of Article 25 of this law. An exception of the provisions of the first clause herein is the reproduction of architectural works embodied in buildings or similar forms, the written reproduction of a whole book, the reproduction of a musical work in a written form, the reproduction of a database in a digital form and the reproduction of computer software other than the cases stipulated for in Article 52 herein".

#### LEVY

Articles 124 to 129 of Ordinance No. 03-05

"Article 124. The reproduction of a special copy of a work for personal use on a magnetic medium not been used before shall entail a right in a reward received by the author, performer or musician, producer, and producer of audio or audio-video recordings of the work reproduced as such as per terms specified in Articles 126-129 herein.

Article 125. Each manufacturer and importer of magnetic tapes or unused other mediums and recording devices shall pay for quantities of mediums and devices he offers to public a royalty called 'special copy royalty', in return for the possibility he allows to the user of those means and devices to reproduce in his home works for special utilization in the form of audio or audio-video recordings legally notified to the public.

Article 126. The mediums and devices prepared for professional recording of works, recording that does not include works and recording works to meet the needs of public institutions dedicated for handicapped people and their associations shall not be subject to the mentioned royalty in Article 125 above.

However, this royalty shall be payable for all quantities to be offered in the market if the royalty payer has not determined the number of mediums and devices not subject to royalty payment in accordance with the cases provided for in the first paragraph herein.

Article 127. The royalty shall be calculated on the special copy in proportion to the selling price for the unused mediums and arbitrarily calculated for reproduction devices. The Minister of Culture shall determine by a decision the proportional rates and arbitrary prices of the above-mentioned royalty after consultation with the National Bureau of Copyrights and Neighboring Rights or representatives of royalty payers. The royalty payer shall pay the above-mentioned royalty to the National Bureau of Copyrights and Neighboring Rights.

Article 128. The royalty payer on the special copy shall regularly inform the National Bureau of Copyrights and Neighboring Rights of the actual quantities of locally produced or imported mediums and devices directed towards the special use and indicate the general selling price to the public. The methods to implement this Article shall be determined by the regulation.

Article 129. The National Bureau of Copyrights and Neighboring Rights shall distribute the royalties received on the special copy after deducting enforcement expenses to beneficiaries according to the following instalments: - 30% for the author and composer - 20% for the performer or musician - 20% for the producer of audio or audio-video recordings - 30% for the activity of promoting intellectual works creation and protecting traditional cultural heritage.

#### COLLECTION AND DISTRIBUTION SYSTEMS

Articles 124 to 129 of Ordinance No. 03-05 and Implementing Decree No. 05-357 establishing formalities of declaration and control regarding the remuneration for private copying.



# ALGERIA

5/7



## TARIFFS

Blank Media	Tariff
Blank audio and video media	6% sales price
Devices	Tariff (DZA)
Device with integrated storage capacity and equipped with one (1) or two (2) cassette players / recorders	250
Device equipped with a recording mechanism equipped with one (1) cassette player / recorder and one (1) compact disc player / recorder (CD)	500
Device having a recording mechanism equipped with: "Two (2) tape recorders / players "One (1) compact disc player / recorder (CD) "One (1) compact disc player / video recorder (VCD) "One (1) MP3 player / recorder	1,200
TV with VCR	800
TV with built-in hard disk	800
video recorder	800
Digital demodulator with USB recorder	800
Device having a recording mechanism equipped with: "One (1) cassette player / recorder "One (1) compact disc player / recorder (CD) "One (1) digital player / recorder versatile disc (DVD) "One (1) MP3 player / recorder	1,500
Device having a recording mechanism equipped with: "Two (2) tape recorders / players "Five (5) compact disc players / recorders (CD) "One (1) compact disc player / video recorder (VCD) "One (1) MP3 player / recorder	2,100
Equipment equipped with a recording mechanism equipped with: "two (2) cassette players / recorders "Six (6) compact disc players / recorders (CD)	2,700
Burner at a speed less than or equal to 24 X 10 X 40	500
Burner at a speed more than or equal to 24 X 10 X 40	700
Hard disk with a capacity of 80 Gigabyte or less	270
Hard disk with a capacity greater than 80 Gigabyte and less than or equal to 500 Gigabyte	480
Hard disk with a capacity greater than 500 Gigabyte and less than or equal to 1 Terabyte	570
Hard disk with a capacity greater than 1 Terabyte	900
USB key with a capacity of 1 Gigabyte or less	60
USB key with a capacity greater than 1 Gigabyte and less than or equal to 2 Gigabyte	100



# ALGERIA

6/7



## TARIFFS

Devices	Tariff (DZA)
USB key with a capacity greater than 2 Gigabyte and less than or equal to 4 Gigabyte	150
USB key) key with a capacity greater than 4 Gigabyte and less than or equal to 8 Gigabyte	270
USB key with a capacity greater than 8 Gigabyte and less than or equal to 16 GigaByte	300
USB key with a capacity greater than 16 Gigabyte and less than or equal to 32 Gigabyte	500
USB key with a capacity greater than 32 Gigabyte	650
Digital audio player with a capacity of 1 Gigabyte or less	110
Digital audio player with a capacity greater than 1 Gigabyte and less than or equal to 2 Gigabyte	140
Digital audio player with a capacity greater than 2 Gigabyte and less than or equal to 8 Gigabyte	170
Digital audio player with a capacity greater than 8 Gigabyte and less than or equal to 16 Gigabyte	240
Digital audio player with a capacity greater than 16 Gigabyte	300
Digital audio / video player with a capacity of 1 Gigabyte or less	350
Digital audio / video player with a capacity greater than 1 Gigabyte and less than or equal to 2 Gigabyte	420
Digital audio / video player with a capacity greater than 2 Gigabyte and less than or equal to 8 Gigabyte	520
Digital audio / video player with a capacity greater than 8 Gigabyte and less than or equal to 16 Gigabyte	730
Digital audio / video player with a capacity greater than 16 Gigabyte	900
Mobile phone with internal storage capacity of 1 Gigabyte or less	60
Mobile phone with internal storage capacity greater than 1 Gigabyte and less than or equal to 2 Gigabyte	100
Mobile phone with internal storage capacity greater than 2 Gigabyte and less than or equal to 4 Gigabyte	150
Mobile phone with internal storage capacity greater than 4 Gigabyte and less than or equal to 8 Gigabyte	270
Mobile phone with internal storage capacity greater than 8 Gigabyte and less than or equal to 16 Gigabyte	300
Mobile phone with internal storage capacity greater than 16 Gigabyte and less than or equal to 32 Gigabyte	500
Video game console with a hard disk capacity of 80 Giga or less Byte	270
Video game console with a hard disk capacity greater than 80 Gigabyte and less than or equal to 500 Gigabyte	480
Video game console with a hard disk capacity greater than 500 Gigabyte and less than or equal to 1 Terabyte	570
Video game console with a hard disk capacity greater than 1 terabyte	900
Tablet PC with internal storage capacity of 1 Gigabyte or less	60
Tablet PC with internal storage capacity greater than 1 Gigabyte and less than or equal to 2 Gigabyte	100
Tablet PC with internal storage capacity greater than 2 Gigabyte and less than or equal to 4 Gigabyte	150
Tablet PC with internal storage capacity greater than 4 Gigabyte and less than or equal to 8 Gigabyte	270
Tablet PC with internal storage capacity greater than 8 Gigabyte and less than or equal to 16 Gigabyte	300
Tablet PC with internal storage capacity greater than 16 Gigabyte and less than or equal to 32 Gigabyte	500



# ALGERIA

7/7



## TARIFFS

Devices	Tariff (DZA)
Tablet PC with internal storage capacity greater than 32 Gigabyte	650
Memory card with a capacity of 1 Gigabyte or less	60
Memory card with a capacity greater than 1 Gigabyte and less than or equal to 2 Gigabyte	100
Memory card with a capacity greater than 2 Gigabyte and less than or equal to 4 Gigabyte	150
Memory card with a capacity greater than 4 Gigabyte and less than or equal to 8 Gigabyte	270
Memory card with a capacity greater than 8 Gigabyte and less than or equal to 16 Gigabyte	300
Memory card with a capacity greater than 16 Gigabyte and less than or equal to 32 Gigabyte	500
Memory card. with a capacity greater than 32 Gigabyte	650



## REVENUES

(DZA)	2015	2016	2017	2018
<b>TOTAL REVENUES</b>	<b>2.891,772,000</b>	<b>3.004,060,000</b>	<b>2.281,263,000</b>	<b>2,072,271,000</b>





# BOTSWANA



2,254,126

GDP: 15.8 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Botswana
<b>CURRENCY</b>	Pula (BWP)



## OVERVIEW

<b>COLLECTING SOCIETY</b>	The National Copyright Office manages a fund for the development of authors and publishers where the sums collected as private copying remuneration are placed.
<b>EXCEPTION</b>	Yes
<b>BENEFICIARIES</b>	Authors and publishers (through a fund to be established by the Minister of Finance). The National Copyright Office is responsible for managing this fund.



## LEGAL BASIS

### EXCEPTION

#### Copyright & Neighboring Rights Act, 2000 (Act No. 6 of 2006), Part III, ss. 12(i)-13

"12. Exceptions to exclusive right to copyright Notwithstanding the provisions of section 7, the following dealings with a work shall be permitted without the authorisation of the author or other owner of the copyright-

(i) private reproduction for personal purposes, subject to section 13;

13. Private reproduction for personal purposes

(1) Subject to subsection (2), the private reproduction of a published work in a single copy shall be permitted without the authorization of the author or owner of copyright, where the reproduction is made by any person exclusively for his own personal purposes.

(2) The permission granted under subsection (1) shall not extend to reproduction-

- (a) of a work of architecture in the form of building or other construction;
- (b) in the form of reprography of the whole or a substantial part of a book or of a musical work in the form of notation;
- (c) of the whole or a substantial part of a data base;
- (d) of a computer, except as provided in section 17; and
- (e) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or other owner of the copyright".



# BOTSWANA

2/2



## LEGAL BASIS

### LEVY

#### Copyright & Neighboring Rights Act, 2000 (Act No. 6 of 2006), Part VI, ss. 35G

"35G. Levy on technical devices (1) There shall be imposed on all imported and locally manufactured blank sound and audio visual carriers, compact discs and equipment capable of being used to copy protected materials, a levy of such sum as may be prescribed by the Minister. (2) The levy shall be collected by the Department of Customs and Excise and shall be deposited in a fund to be established by the Minister of Finance and Development Planning for the development of authors and publishers of works".

#### Copyright & Neighboring Rights Regulations, 2007, art. 8 and Fourth Schedule

8. Levy on technical devices.

The levy imposed on all imported and locally manufactured blank sound and audiovisual carriers and equipment in accordance with Section 35G of the Act shall be as set out in Fourth Schedule.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Copyright & Neighboring Rights Act, 2000 (Act No. 6 of 2006), Part VI, ss. 22B(j) and 35G(2)

22B(j). Functions of the Copyright Office.

The Copyright Office shall:

(i) administer the fund established under section 35G (2).

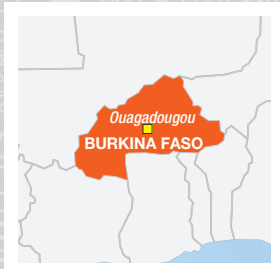
"35.G(2) The levy shall be collected by the Department of Customs and Excise and shall be deposited in a fund to be established by the Minister of Finance and Development Planning for the development of authors and publishers of works".



## COMMENTS/DEVELOPMENTS

The Government began collection of levies in 2008, but no further information has been gathered.





# BURKINA FASO



19,751,535

GDP: 13.7 billion EUR

1 / 4

## CONTACT INFORMATION

<b>COUNTRY</b>	Burkina Faso
<b>CURRENCY</b>	CFA Franc (XOF)
<b>NAME ORGANIZATION</b>	Bureau Burkinabè du Droit d'Auteur (BBDA)
<b>WEB SITE</b>	www.bbda.bf
<b>E-MAIL</b>	Burkina Faso
<b>ADDRESS</b>	Sis sect.4, au 22, rue 4.55 villa de la Victoire
<b>POSTCODE</b>	01 BP 3926
<b>CITY</b>	Ouagadougou
<b>PHONE</b>	+(226) 50 30 22 23



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Bureau Burkinabè du Droit d'Auteur (BBDA) is appointed by law.
<b>EXCEPTION</b>	Loi 032/AN of December 22nd, 1999. Importers are liable for payment. The definition of private copy according to law is valid.
<b>LEVY</b>	Remunerations are collected through a levy system.
<b>TARIFFS</b>	Yes
<b>BENEFICIARIES</b>	Authors (music, audiovisual), performers, phonogram and audiovisual producers
<b>LIABLE</b>	Importers are liable for payment.
<b>EXEMPTION</b>	Professional use, persons or institutions assisting persons with visual or auditory disabilities.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	50%

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Levies/remuneration are determined by law.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Professional use is taken into account, an upfront exemption.



# BURKINA FASO

2/4

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Customs are in charge of collecting. No control on the internal market.

### HOW FREQUENTLY IS PAYMENT DUE?

Payment is due on importation.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Bureau Burkinabè du Droit d'Auteur (BBDA) distributes the collected remunerations on a yearly basis directly to individual rightsholders.

### WHICH RIGHTS HOLDERS ARE INCLUDED?

These are music, audio-visual and dramatic rightsholders.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Schemes are set by law.

### DISTRIBUTION KEYS

#### Distribution scheme, audio:

Authors 50%; performers 25%; producers 25%

#### Distribution scheme, video:

Authors 50%; producers and performers 50%

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

There is a social and/or cultural deduction of 50% for the National Fund for Cultural Promotion.

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

Funds are allocated for all types of cultural productions. The social fund is meant mainly for health, deaths and happy events.



## LEGAL BASIS

### EXCEPTION

Article 21 of law No. 032-99/AN of December 22, 1999, on the Protection of Literary and Artistic Property

Where a work has been legally disclosed, the author may not prohibit:

- private and gratuitous performances held exclusively within the family circle;
- copies or reproductions reserved strictly for the private use of the copier and not intended for collective use, with the exception of:
  - \* copies of the works of art or architecture to be used for purposes identical to those for which the original work was created;
  - \* the total or substantial reproduction of databases;
  - \* the reproduction of computer programs subject to the provisions under Article 23 below;
- the import of a copy of a work by a natural person for personal ends;
- parody, pastiche or caricature subject to the laws of the genre.



# BURKINA FASO

3/4



## LEGAL BASIS

### LEVY

Articles 82 to 84 of law No. 032-99/AN of December 22, 1999, on the Protection of Literary and Artistic Property

#### Article 82:

The authors and performers of works fixed on phonograms or videograms, as well as the producers of such phonograms or videograms, shall be entitled to remuneration for the reproduction of the said works intended strictly for personal and private use and not intended for collective use.

Remuneration for private copying shall be collected on behalf of the successors in title by the collective management organization which must, once the management fees have been deducted, allocate 50 per cent of the sums collected to a fund for the promotion of culture.

The remainder shall be redistributed as follows:

- for private copying of phonograms, remuneration shall be shared as follows:
  - \* 50 per cent for the authors,
  - \* 25 per cent for the performers and,
  - \* 25 per cent for the producers;
- for private copying of videograms, the remuneration shall be shared equally between the authors, performers and producers.

#### Article 83:

Remuneration for private copying shall be paid by the manufacturer or importer of recording media that may be used for the reproduction for private use of works fixed on phonograms or videograms when these media enter into circulation in Burkina Faso. However, persons or institutions, the list of which shall be drawn up by decree of the Minister of Culture, may under certain conditions be exempt from paying the remuneration for private copying in the following cases:

- where recording media are acquired for professional purposes for their own use or production;
- where recording media are acquired for the purpose of assisting persons with visual or auditory disabilities.

#### Article 84:

The amount of remuneration shall depend on the type of medium and the recording time it offers. It shall be fixed as a lump sum.

The types of media, levels of remuneration and conditions of payment of such remuneration shall be determined by regulation, where such remuneration may not be less than 10 per cent of the price of the medium.

## COLLECTION AND DISTRIBUTION SYSTEMS

Decree No. 2000-575 on Collecting Remuneration for Private Copying

#### Article 1

Pursuant to Article 82 of Law No. 032/99/AN of December 22, 1999 on the Protection of Literary and Artistic Property, the Customs Service shall be authorized to collect remuneration for private copying on behalf of the National Copyright Office of Burkina Faso, when importing blank recording media into Burkina Faso. In other cases, such collection is carried out by agents of the National Copyright Office of Burkina Faso, who are lawfully authorized to do so.

#### Article 2

Under the terms of Article 84 of the abovementioned Law, the collection rate as regards remuneration for private copying shall be set at ten per cent (10%) of the CAF value of the blank recording media, regardless of type.

#### Article 3

The Customs Service shall be authorized to levy ten per cent (10%) of the collected amount as operating costs for its services. This amount shall be deducted from the authorized levy under Article 82 of Law No. 032/99/AN of December 22, 1999, as National Copyright Office of Burkina Faso management costs.

#### Article 4

Remuneration collected by the Customs Service, less the authorized levy, shall be refunded no later than the fifth (05) of every month to the National Copyright Office of Burkina Faso.



# BURKINA FASO

4/4



## COMMENTS/DEVELOPMENTS

The Burkina Faso government intends to review the law in order to levy more products, in particular digital media and equipment.



## TARIFFS

The levy is 10% of the CIF regardless of the type of product. The list of products is updated regularly.





# CABO VERDE



543,767

GDP: 1.7 billion EUR

1/5

## CONTACT INFORMATION

<b>COUNTRY</b>	Cabo Verde
<b>CURRENCY</b>	Cabo Verdean Escudo (CVE)
<b>NAME ORGANIZATION</b>	SCM
<b>WEB SITE</b>	www.scmusica.com
<b>E-MAIL</b>	Internacional.scm.cv@gmail.com
<b>ADDRESS</b>	Avenida de Santiago, Edifício Diniz Eanes, Bloco B, 3º Dtº Frente, CP 609 Palmarejo
<b>POSTCODE</b>	609
<b>CITY</b>	Praia
<b>PHONE</b>	+34 680256579 / +238 932 84 44



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Law Decree 118/VIII/2016
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Yes. Tariffs in place and effective mechanism
<b>BENEFICIARIES</b>	- Cultural Public Fund - CMO - Videogram and phonogram producers
<b>LIABLE</b>	The importers of the equipment, the consumers of internet and the responsible for paying the customs debts.
<b>EXEMPTION</b>	Export/professional use for some limited cases
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	30%
<b>TOTAL revenues from private copying levies in local currency</b>	2015: N/A 2016: N/A 2017: CVE 19,432,682.00 2018: CVE 49,642,848.00



# CABO VERDE

2/5

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

They are determined with basis on percentuals.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

For equipment and media 10% of the CIF (Cost+shipping+Insurance)  
For internet consumption 0.5% of the invoice to each consumer

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Yes

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

Yes

### EXEMPTION UPFRONT

If you fit into a category of article 7 (subjective exemptions) of the law decree you will be able to have an exemption upfront, you need evidence that you fit into one of those categories. Regarding objective exemptions (products exempt) as the list is exhaustive there are obviously not covered all the possible apparatus and media.

#### Article 7: Exemptions

1. Equipment, services and supports acquired by natural or legal persons, public or private, are exempt from payment of the Compensation Fee, under the following conditions:

- a ) Whose object of activity is support for people with disabilities.
- b) Whose main activity is the safeguarding of the mobile cultural heritage.
- c) Devices, devices or supports intended exclusively for clinical purposes, scientific research purposes and for the public missions of defense, justice and areas of internal security, as well as those used to guarantee accessibility for people with disabilities.

2. Legal persons that use equipment and storage media that are an integral part of automated document and data management process systems that do not include reproductions of protected works, without making them available to persons, are also exempt from paying the Compensation Fee. for individual use.

### REFUND AFTERWARDS

Not in the law



# CABO VERDE

3/5

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

The collection is managed by the Customs Direction for products and media and by ISPs with regards to internet consumption.

### HOW FREQUENTLY IS PAYMENT DUE?

Each 6 months the custom and the ISPs have to communicate the values charged to the supervising entity. Payment is due once a year.

### HOW DO YOU MONITOR THE MARKET?

Through the reports

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Not deep

### ARE EXPORTS EXEMPTED?

Yes

### DEFINITION OF IMPORT

Not direct, but you can reach one by combining which importers are identified in the law, as well as who is exempt.

### WHO IS CONSIDERED IMPORTER?

See above answer

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Ministry of Culture, but it will be transferred to the IGQPI.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/ DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No

### FREQUENCY OF DISTRIBUTION

Once a year

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Authors, composers, performers and interpreters through CMO and phonogram and videogram producers directly

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

A percentual to each rightsholder

### DISTRIBUTION KEYS

- Cultural Public Fund 30%
- CMO 50%
- Videogram and phonogram producers 20%



# CABO VERDE

4/5

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

Well, we can consider that those 30% identified above are a cultural deduction.

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

Of those 40%:

- 30% goes to the cultural Bank for financing cultural projects for profit (with mandatory reimburse)
- 20% to support non-profit cultural activities
- 30% to the Fund of Culture
- 10% to a mutualist fund for artists



## LEGAL BASIS

### EXCEPTION

Art. 73 of Decree Law No. 1/2009 of April 27

#### Article 73

Compensation for reproduction or recording of works

1. The reproduction of an audiovisual work, lawfully published, or a sound recording of a work, without authorization from the author, but in return for fair remuneration, shall be permitted exclusively for private use by the user.
2. Fair remuneration for reproduction for private use, in the cases set out in the preceding paragraph, shall be paid by the importers and sellers of apparatus and material carriers used for this reproduction or recording obtained by any of these methods, and shall be received and distributed by the organization for collective management of copyright.
3. In the absence of agreement between the representatives of the importers and the sellers on the one hand, and the organization for the collective management of copyright on the other, the amount of the fair remuneration and the conditions for payment thereof shall be set in regulatory terms.
4. The distribution of the fair remuneration to be paid to authors, performers, and producers of phonograms and videograms, must be carried out between these three groups of rights holders, under regulatory terms.
5. The apparatus and material carriers referred in paragraph 2 shall be exempt from payment of fair remuneration if: (a) they are intended for reexport; (b) they cannot normally be used for the reproduction of works for private use.

Law Decree 118/VIII/2016 is the implementing regulation.

### Levy

Law Decree 118/VIII/2016

#### Article 2

1. Regarding the importation of machines and apparatus listed in the table attached to this Law, which is an integral part thereof, which allow the fixation of works as a single or main purpose, as well as any and all virgin analog material supports of the fixings and reproductions that can be obtained by any of these means, a Compensation Rate is set as a contribution to Culture, based on the CIF value (Cost + Shipping + Insurance).

## COLLECTION AND DISTRIBUTION SYSTEMS

Law Decree 118/VIII/2016

#### Article 9 Collection

The Compensation Fee is charged by the General Directorate of Customs, on importers and internet service providers.



## CABO VERDE

5/5



## TARIFFS

The only criteria are for equipment and media 10% of the CIF (Cost+shipping+Insurance).  
For internet consumption 0.5% of the invoice to each consumer.  
There is no discrimination as to this table regarding the different blank media.

Blank Media	Tariff valid per 2017 (%)	
Devices/Hardware/Consumer electronics		
Machines and apparatus for printing by means of cylinder blocks and other printing elements	10	CIF
Automatic data processing machines and units thereof	10	CIF
Other printers, copying machines and facsimile machines, whether or not combined, parts and accessories	10	CIF
Magnetic or optical readers	10	CIF
Machines for recording data in coded form	10	CIF
Machines for processing such data, not elsewhere specified or included	10	CIF
Sound recording apparatus; sound reproducing apparatus; recording and reproducing apparatus; video recording or video reproducing apparatus	10	CIF
Disks tapes non-volatile semiconductor-based data storage devices	10	CIF
Smart Cards	10	CIF
Other sound recording media or similar recording, even if pre-recorded,	10	CIF
Memory and hard disks integrated in mobile telephone that allow to store, listen to musical works and see audiovisual works	10	CIF
Memory and hard drives integrated into multimedia tablet devices that have touch screens and allow the storage of musical and audiovisual works	10	CIF

Blank Media	Tariff valid per 2017 (%)
Internet consumption	0,5 of the invoice to each consumer
Other: refurbishment (or remanufactured)	If components imported fall under the list of covered products of Law Decree 118/VIII/2016, then yes



## REVENUES

(CVE)	2015	2016	2017	2018
TOTAL REVENUES	N/A	N/A	19,432,682.00	49,642,848.00

## EXPLANATION ON DEVELOPMENTS

Revenues are increasing, or they seem to be. This should be due to the better preparation of customs and ISPs in charging but as well of the constant awareness SCM is bringing to the PC law and matters.





AFRICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# GHANA



29,767,108

GDP: 55.5 billion EUR

1/5

## CONTACT INFORMATION

<b>COUNTRY</b>	Ghana
<b>CURRENCY</b>	Cedi (GHS)
<b>NAME ORGANIZATION</b>	Ghana Music Rights Organization (GHAMRO)
<b>WEB SITE</b>	www.ghamro.org
<b>E-MAIL</b>	info@ghamro.org
<b>ADDRESS</b>	PMB M41, Ministries
<b>POSTCODE</b>	00233
<b>CITY</b>	Accra
<b>PHONE</b>	233-302-228-447/573168111
<b>FAX</b>	N/A



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Ministry of Justice and Attorney General
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Twenty percent (20 %) of the cost, insurance and freight value of the devices
<b>BENEFICIARIES</b>	Rightsholders of Music/Audio-visual/Literary works
<b>LIABLE</b>	Manufacturers or importers
<b>EXEMPTION</b>	Export and professional use
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	10%
<b>TOTAL revenues from private copying levies in local currency</b>	2015: GHS 1,925,887.67 2016: GHS 2,133,789.89 2017: GHS 2,244,627.23 2018: GHS 2,463,349.65

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

A levy of twenty percent (20 %) of the cost, insurance and freight value of the devices.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

A manufacturer or importer of any of the specified devices shall at three (3) months intervals beginning from the thirty-first (31) March each year, send a copy of the statement of account to an authorized officer of the Customs Excise and Preventive Service.



## GHANA

2/5

## EXEMPTION AND REFUND

**ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?**

Yes, institutions that represent persons with disability.

**ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?**

Yes, devices manufactured in the country for the purpose of export and devices which are used to duplicate locally produced works or foreign works licensed for duplication in the country.

**EXEMPTION UPFRONT**

Yes

**REFUND AFTERWARDS**

N/A

## COLLECTION PROCESS

**HOW IS COLLECTION ORGANIZED?**

Collection is legally organized by customs.

**HOW FREQUENTLY IS PAYMENT DUE?**

Twice yearly

**HOW DO YOU MONITOR THE MARKET?**

The number of such medium that are imported into the country.

**COLLABORATION WITH TAX AUTHORITIES/CUSTOMS**

Four percent (4%) of collection is deducted upfront for tax purposes.

**ARE EXPORTS EXEMPTED?**

Yes

**DEFINITION OF IMPORT**

The trading/manufacturing of devices capable of copying or storing copyright works.

**WHO IS CONSIDERED IMPORTER?**

Traders /manufacturers of devices capable of copying or storing copyright works.

## DISTRIBUTION PROCESS

**WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?**

Local CMOs

**FREQUENCY OF DISTRIBUTION**

Twice a year

**WHICH RIGHTS HOLDERS ARE INCLUDED?**

Composers/Authors/Publishers/Performers/Producers/Writers



## GHANA

3/5

## DISTRIBUTION PROCESS

## HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

- (a) ten percent (10%) for cultural activities to be collectively administered by the collective administration societies;
- (b) ten percent (10%) for the administrative purposes of collective societies;
- (c) four percent (4%) to the Customs Excise and Preventive Service, and
- (d) six percent (6%) to the Copyright Office.

## DISTRIBUTION KEYS

- (a) for holders of audio works rights,
  - (i) twenty-eight percent (28%) to composers or publishers;
  - (ii) twenty-one percent (21%) to producers; and
  - (iii) twenty-one percent (21%) to performers;
- (b) for holders of audiovisual works rights;
  - (i) thirty-five percent (30%) to producers;
  - (ii) twenty-one percent (21%) to performers, and
  - (iii) fourteen percent (14%) to authors of audio visual works,
- (c) for holders of literary works rights,
  - (i) forty-two percent (42%) to authors including visual authors, and
  - (ii) twenty-eight percent (28%) to publishers.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

## IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

Yes, the 10%.

## WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

For the development and promotion of the creative industry.  
All industry players are entitled to benefit.



## LEGAL BASIS

## EXCEPTION

## Art. 19 of Copyright Act, 2005

## Permitted uses of Copyright

(1) Permitted use of work protected by copyright 19. (1) The use of a literary or artistic work either in the original language or in translation shall not be an infringement of the right of the author in that work and shall not require the consent of the owner of the copyright where the use involves:

- (a) the reproduction, translation, adaptation, arrangement or other transformation of the work for exclusive personal use of a person, if the user is an individual and the work has been made public.

(2) The permission under subsection (1)(a) shall not extend to reproduction

- (a) of a work of architecture in the form of building or other construction;
- (b) in the form of reprography of a whole or of a substantial part of a musical work in the form of notation;
- (c) of the whole or of a substantial part of a data base in digital form; and
- (d) of a computer program, except as provided in section 16.



# GHANA

4/5



## LEGAL BASIS

### LEVY

#### Art. 27 of Copyright Act, 2005

Levy on devices used for reproducing copyright materials

- (1) There shall be imposed on any device capable of being used to copy a copyright work a levy of a sum that shall be prescribed in Regulations made by the Minister in consultation with the Minister responsible for Finance.
- (2) The levy shall be collected by the Customs, Excise and Preventive Service at the time of importation or production.
- (3) The provisions of the Customs, Excise and Preventive Service (Management) Law, 1993 as variously amended shall apply for the purpose of the collection of the levy.
- (4) The levy shall upon collection by the Customs, Excise and Preventive Service be deposited in a fund established for the rightholders by the Minister.
- (5) The fund shall be subject to an annual audit by the Auditor-General or an auditor appointed by the Auditor-General.
- (6) The Auditor-General or an auditor appointed by the Auditor-General shall submit the audit report to the Minister and the appointed collective administration society established under section 49 of this Act.
- (7) The Minister in consultation with the executive officers of the appropriate collective administration society shall cause the distribution of the levy to the, right holders.
- (8) Any exception, quantum and modalities for the distribution of the levy shall be provided for in Regulations made under this Act.
- (9) A person shall not import any device capable of copying protected materials without payment of the levy.
- (10) A person who imports a device without payment of the levy commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units or imprisonment for a term not exceeding twelve months.

#### Art. 14-16-17 of Copyright regulations 2010

Imposition of the levy

14. There is imposed on the devices specified in regulation 15, capable of being used to copy copyright works, a levy of twenty percent of the cost, insurance and freight value of the devices.

Liability to pay levy

16. (1) A person who

- a) manufactures; or
- b) Imports

any of the devices shall pay the levies imposed in these Regulations.

Exemption from payment of levy

17. The levies imposed in Regulations 15 and 16 do not apply to:

- a) devices manufactured for purpose of export;
- b) institutions that represent persons with disabilities.
- c) devices used to duplicate locally produced works or foreign works licensed for duplication in the country;
- d) other materials that the Minister may exempt by legislative instrument.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Art. 27(2) of Copyright Act, 2005

Levy on devices used for reproducing copyright materials

(...) (2) The levy shall be collected by the Customs, Excise and Preventive Service at the time of importation or production.

#### Art. 19 of Copyright regulations 2010

Distribution of levies paid



## GHANA

5/5



## LEGAL BASIS

## ... COLLECTION AND DISTRIBUTION SYSTEMS

(1) The Minister shall distribute the levies collected in furtherance of regulation 14 as follows:

- a) ten percent for cultural activities to be collectively administered by the collective administration societies;
- b) ten percent for the administrative purposes of collective societies;
- c) four percent to the Customs Excise and Preventive Service, and
- d) six percent to the Copyright Office.

(2) The Minister shall distribute the remaining seventy percent equally among the various rights groups to be shared as follows:

- a) for holders of audio works rights,
  - (i) twenty-eight percent to composers or publishers;
  - (ii) twenty-one percent to producers; and
  - (iii) twenty-one percent to performers;
- b) for holders of audiovisual works rights;
  - (i) thirty-five percent to producers;
  - (ii) twenty-one percent to performers, and
  - (iii) fourteen percent to authors of audio visual works,
- c) for holders of literary works rights,
  - (i) forty-two percent to authors including visual authors, and
  - (ii) twenty-eight percent to publishers.



## TARIFFS

	Tariff (%)	Capacity
Blank Media	20	Cost, insurance and freight value of the devices
Devices/Hardware/Consumer electronics	20	Cost, insurance and freight value of the devices



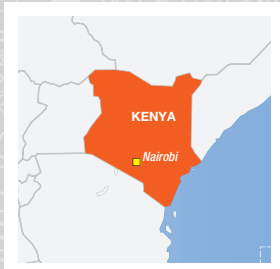
## REVENUES

(GHS)	2015	2016	2017	2018
	1,925,887.67	2,133,789.89	2,244,627,23	900,553.80
				1,562,795.85
<b>TOTAL REVENUES</b>	<b>1,925,887.67</b>	<b>2,133,789.89</b>	<b>2,244,627,23</b>	<b>2,463,349.65</b>

## EXPLANATION ON DEVELOPMENTS

Revenues have over the years decreased due to limited scope of devices captured in the law. A review of the scope of devices is ongoing to include laptops, mobile phones, etc. as well as to reduce the twenty percent (20%) of the cost, insurance and freight value of the devices to six percent (6%). It is believed that such is going to considerably influence revenues.





# KENYA



51,393,010

GDP: 74.3 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Kenya
<b>CURRENCY</b>	Kenya shilling (KES)
<b>NAME ORGANIZATION</b>	Kenya Copyright Board
<b>WEB SITE</b>	<a href="http://www.copyright.go.ke">www.copyright.go.ke</a>
<b>E-MAIL</b>	<a href="mailto:info@copyright.go.ke">info@copyright.go.ke</a> , <a href="mailto:kecobo@gmail.com">kecobo@gmail.com</a>
<b>ADDRESS</b>	P.O Box 34670
<b>POSTCODE</b>	00100
<b>CITY</b>	Nairobi
<b>PHONE</b>	+254 20 2533869/59



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>BENEFICIARIES</b>	Owners of a copyright in sound recordings
<b>LIABLE</b>	Manufacturers, importers for commercial purposes
<b>EXEMPTION</b>	No
<b>RATE SETTING</b>	Agreement between representative of manufacturers-importers and producers of sound recordings. Failing such agreement, decision by the competent authority appointed by the Minister.
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	Yes, Sound recording levies are collected by the Kenya Association of Music Producers (KAMP) and Performers Rights Society of Kenya (PRISK), Authors do not benefit from the distribution of levies.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No
<b>REVENUES</b>	N/A



## KENYA

2/2



## LEGAL BASIS

## EXCEPTION

## Chapter 130. The Copyright Act

## Article 26

(1) Copyright in a literary, musical or artistic work or audiovisual work shall be the exclusive right to control the doing in Kenya of any of the following acts, namely the reproduction in any material form of the original work or its translation or adaptation, the distribution to the public of the work by way of sale, rental, lease, hire, loan, importation or similar arrangement, and the communication to the public and the broadcasting of the whole work or a substantial part thereof, either in its original form or in any form recognisably derived from the original; but copyright in any such work shall not include the right to control - (a) the doing of any of those acts by way of fair dealing for the purposes of scientific research, private use, criticism or review, or the reporting of current events subject to acknowledgement of the source;

## LEVY

## Chapter 130. The Copyright Act

## Article 28

2) The provisions of paragraphs (a), (f), (i) and (h) of section 26 (1) shall apply mutatis mutandis to the copyright in a sound recording.

(3) Subject to subsections (4) and (5), the rights of an owner of a copyright in a sound recording are not infringed by the making of a single copy of the recording for the personal and private use of the person making the copy; and in respect of such use the owner of copyright in the sound recording shall have the right to receive fair compensation consisting of a royalty levied on audio recording equipment or audio blank tape suitable for recording and other media intended for recording, payable at the point of first sale in Kenya by the manufacturer or importer for commercial purposes of such equipment or media.

(4) The level of the royalty payable under subsection (3) shall be agreed between organizations representative of producers of sound recordings and of manufacturers and importers of audio recording equipment, audio blank tape and media intended for recording or failing such agreement by the competent authority appointed under section 48.

(5) All claims for compensation under this section shall be made through an organization representative of producers of sound recordings.

(6) Any person who, for commercial purposes, makes available any audio recording equipment for the purposes of enabling any other person to make single copies of any sound recording for his personal or private use, without payment of the royalty levied under subsection (3) shall be guilty of an offence and shall be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding four years or to both.



## COMMENTS/DEVELOPMENTS

The levies are for sound recordings but not for literary, musical, artistic or audio-visual works, indicating a different treatment between authors (of literary, musical, artistic or audiovisual works) and producers/performers (of sound recordings).

The Kenya Copyright Board (KECOBO) has proposed in 2015 a number of amendments to be submitted to Parliament to correct the legal framework for collection and distribution of the private copying/ blank tape levy to the rightful beneficiaries. According to our sources, the new proposed amendments to sections 28 and 30 empower KECOBO to designate a central collecting society which will collect the levy and distribute it to all collecting societies in the country, allowing thus the authors of musical works to receive remuneration for private copying.





# MALAWI



18,143,315

GDP: 5.9 billion EUR

1/5

## CONTACT INFORMATION

<b>COUNTRY</b>	Malawi
<b>CURRENCY</b>	Malawi Kwacha (MWK)
<b>NAME ORGANIZATION</b>	Copyright Society of Malawi
<b>WEB SITE</b>	www.cosoma.mw
<b>E-MAIL</b>	cosoma@cosoma.mw
<b>ADDRESS</b>	P.O Box 30784
<b>CITY</b>	Lilongwe 3
<b>PHONE</b>	+265 1 751 148



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Created under an Act of Parliament, Section 4 of the Copyright Act, 2016
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Yes
<b>BENEFICIARIES</b>	Music composers, authors and performers, producers of sound recording, film actors and producers, authors and publishers of literary works.
<b>LIABLE</b>	Manufacturers and importers
<b>EXEMPTION</b>	Professional use, used for the benefit of the visually impaired persons, for commercial use.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	10%
<b>TOTAL revenues from private copying levies in local currency</b>	The levy has just started in 2019. The first collections were made in April 2019. We do not have total figures as yet. However, so far, an equivalent of EUR 300,000 has been calculated.

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Through the Regulations. Each media device subjected to a levy has a specific rate that is applicable.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

The type of the equipment.



## MALAWI

2/5

## EXEMPTION AND REFUND

**ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?**

Yes, they are. Buyers, those who will use the blank media devices for commercial purposes such as use by the sound recording producers, for the visually impaired persons.

**ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?**

Yes. For instance, security cameras (CCTVs), although SIM cards re included, recorded CDs and DVDs.

## COLLECTION PROCESS

**HOW IS COLLECTION ORGANIZED?**

The Malawi Revenue Authority (MRA) is collecting the levy on behalf of COSOMA.

**HOW FREQUENTLY IS PAYMENT DUE?**

Payment is made on monthly basis. For example, payment for the previous month is due two weeks after the end of that particular month.

**HOW DO YOU MONITOR THE MARKET?**

We have not yet started monitoring how the market is performing. However, we receive reports that accompany payments from the Malawi Revenue Authority (MRA) which is collecting the levy on our behalf. In the Memorandum of Understanding that we have agreed with the MRA, we have agreed to be conducting quarterly meetings and quarterly visits to their border posts to monitor implementation of the levy. We will also be received audit reports from the Authority and COSOMA can also commission its own audits.

**COLLABORATION WITH TAX AUTHORITIES/CUSTOMS**

As stated above, in addition we have an MOU with the MRA on sharing of data and audit reports.

**ARE EXPORTS EXEMPTED?**

Yes they are.

**DEFINITION OF IMPORT**

It is not defined in the law

**WHO IS CONSIDERED IMPORTER?**

There is no definition of an importer in the law. However, it is those that import media storage devices into the country for selling to the public.

## DISTRIBUTION PROCESS

**WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS**

COSOMA will distribute the remuneration.



## MALAWI

3/5

## DISTRIBUTION PROCESS

**IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/ DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?**

Yes, determined in the Regulations.  
 5% goes to the MRA  
 5% to the Government  
 20% to COSOMA

**FREQUENCY OF DISTRIBUTION**

Once a year

**WHICH RIGHTSHOLDERS ARE INCLUDED?**

Composers, authors, performers, producers of sound recordings, authors and publishers of literary works, authors, performers and producers of audio-visual works.

**HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?**

In accordance with the Distribution Rules.

**DISTRIBUTION KEYS**

Prescribed in the Distribution Rules

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

**IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?**

10% Cultural Fund deduction

**WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?**

The Fund is established under Section 98 of the Act for the benefit of everyone in the creative industries. It shall be used for enforcement of the Law, promotion and improvement of creative and artistic skills, promotion and preservation of works which depict a cultural identity of Malawi, Civic Education on matters of copyright and related rights.



## LEGAL BASIS

**EXCEPTION****Exception (Section 38),**

The reproduction, translation, adaptation, arrangement or other transformation of a work exclusively for the user's own personal or private use of a work which has already been lawfully made available to the public, shall be permitted provided that it is made on the basis of a representation that is authorized under this Act, at the initiative of the user and not for purposes of gain and only in single copies.



## MALAWI

4/5



## LEGAL BASIS

## LEVY

Levy (Section 102),  
102.

- (1) The levy on the placing of devices for digital storage of material pursuant to section 101 shall apply regarding
  - (a) devices integrated in computers or other specialized computer equipment; and
  - (b) standalone storage devices such as compact disks and memory sticks as specified in regulations.
- (2) It shall be presumed that the placing of the said devices on the market is for consumers unless circumstances or evidence clearly proves that it is for commercial purposes.
- (3) The levy shall be paid by the manufacturers or importers of devices for the digital storage of material.
- (4) The levy shall be specified by the Minister of Finance in consultation with the Minister responsible for culture, by order published in the Gazette.

## COLLECTION AND DISTRIBUTION SYSTEMS

As stated above



## COMMENTS/DEVELOPMENTS

### Are there liable parties who deny responsibility or payment for certain media/devices? And why?

There are other interested parties who are not happy with the Levy for example the ICT Association of Malawi and other players. They have argued that the levy will increase the price of the commodities and make it unaffordable for an average Malawian to access them. Specifically, telecom operators have questioned the legality of including SIM cards for the levy.

## COURT CASES

One so far questioning the legality of Revenue Agency to collect the Levy on behalf of COSOMA and not the levy itself. COSOMA awaits its determination.



## TARIFFS

Blank Media	Tariff valid per 2019 (%) of cost price
Audio cassette	10
Video Cassette	10
Vinyl	10
Mini disc	10
HI -MD	10
CD	10
DVD	10



## MALAWI

5/5



## TARIFFS

Devices/Hardware/Consumer electronics	Tariff valid per 2019 (%) of cost price
I-pod	10
Modulator	10
MP3 player	10
Blu-Ray	10
Digital jukebox	10
USB Flash disc	10
SIM Card	10
SD memory card	10
CD/DVD copier	5
Cell phone	5
Personal computer	5
CD writer	5
Photocopier	5
Printer	5
Scanner	5
Camcorder	5
Digital camera	5
Computer external hard drive	5
Radio/TV sets enabling recording	5
Decoders/Digital receivers	5
Printing plates	5
Analogue audio recorders	5
Analogue video recorders	5

## Other: refurbishment (or remanufactured)

Products that have been returned and are sold as new so that it falls within scope because can be considered manufacturing or import of components (such as hard disks)



## REVENUES

Data is not available because the levy only started in April 2019.





AFRICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# MOROCCO



36,029,138

GDP: 99.9 billion EUR

1/6

## CONTACT INFORMATION

<b>COUNTRY</b>	Morocco
<b>CURRENCY</b>	Dirham (MAD)
<b>NAME ORGANIZATION</b>	BMDA
<b>WEB SITE</b>	www.bmda.ma
<b>E-MAIL</b>	support@bmda.ma
<b>ADDRESS</b>	6, Rue Mohammed Jazouli
<b>POSTCODE</b>	B.P. 35
<b>CITY</b>	Rabat
<b>PHONE</b>	+212 5 37 72 62 80
<b>FAX</b>	+212 5 37 72 27 07



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Ministry of Communication
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Yes
<b>BENEFICIARIES</b>	Rightsholders
<b>LIABLE</b>	Importers and local manufacturers
<b>EXEMPTION</b>	Particular professional or industrial users
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	Yes
<b>TOTAL revenues* from private copying levies in local currency</b>	2018: MAD 56,438,302 2019: MAD 52,353,262

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The tariffs were established following a commission bringing together experts from the various sectors relating to Private Copying. Collection is e at the level of regional delegations by applying the BMDA's internal procedure linked to the collection of remuneration for Private Copying.



# MOROCCO

2/6

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Exemptions:

- audiovisual communication operators;
- producers of phonograms or videograms;
- public administrations;
- public bodies concerned with people with specific needs;
- Moroccan associations concerned by people with specific needs.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

The aforementioned exemption can take place under conditions and standards fixed by regulatory means. It is operated following an agreement with the Moroccan Copyright Office.

### REFUND AFTERWARDS

None of the users can request a refund.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

BMDA collects the levies directly during user declarations.

### HOW DO YOU MONITOR THE MARKET?

The Moroccan copyright Office can audit and/or visit those liable for payment to check if obligations are met.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Yes

### ARE EXPORTS EXEMPTED?

Yes

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

BMDA

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/ DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No



# MOROCCO

3/6

## DISTRIBUTION PROCESS

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Authors, performers and producers

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

By law

### DISTRIBUTION KEYS

The percentages are determined in article 59.6 of law 2-00:

- 35% to authors;
- 35% to performers;
- 10% to producers of phonograms or videograms.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

20% intended to cover the expenses of the management of the Moroccan Copyright Office and its programs relating to the collection of copyright and neighboring rights, the fight against piracy, the social assistance of rights holders and on condition that the national artistic memory is preserved.



## LEGAL BASIS

### EXCEPTION

Law No. 2-00 on Copyright and Related Rights (promulgated by Dahir No. 1-00-20 of 9 Kaada 1420 (15 February 2000) (2006)

#### CHAPTER IV

#### Limitation of Economic Rights

#### Free Reproduction for Private Purposes

#### Article 12

Notwithstanding the provisions of Article 10 above, and subject to those in the second paragraph of this Article, it shall be permitted, without the authorization of the author or payment of a fee, to reproduce a lawfully published work solely for the private use of the user. The provisions of the previous paragraph shall not apply to:

- (a) the reproduction of architectural works in the form of buildings or other similar constructions;
- (b) the reprographic reproduction of a whole book or a musical work in graphical form (scores);
- (c) the reproduction of the whole or parts of databases in digital form;
- (d) the reproduction of computer programs apart from in the cases specified in Article 21 below;
- (e) any other reproduction of a work which appears to hamper the normal use of the work or would unjustifiably prejudice the author's legitimate interests.



# MOROCCO

4/6



## LEGAL BASIS

### ...EXCEPTION

Law No. 17-94 on the Activities of Production, Editing, Import, Distribution, Reproduction and Exploitation of Videograms Destined to Private Use of the Public (promulgated by Dahir No. 1-95-115 of 27 Muharram 1416 (June 26, 1995))

#### Article 1

The establishment or expansion of any firm for the production, edition, importing, distribution, reproduction, sale or rental of videograms intended for private use by the public shall be subject to the prior authorization of the Moroccan Cinematographic Center and to the control of that body on the conditions fixed below. For the application of this Law, "videogram" means any audiovisual program, with or without sound, fixed on a magnetic tape, disk or any other medium and reproducing recordings, in particular cinematographic films, telefilms, documentaries, programs of variety shows or sports, videoclips or television series. The provisions of this Law shall not apply to productions and reproductions of videograms which are strictly reserved for the private use of the natural person or legal entity who/which produces them or has them produced on his/its behalf and which are not intended for either collective use or commercial purposes.

### LEVY

Dahir n° 1-14-97 du 20 rejab 1435 (20 mai 2014) portant promulgation de la loi n° 79-12 complétant la loi n° 2-00 relative au droits d'auteur et droits voisins.

deuxième partie bis

Rémunération pour copie privée

**Article 59.1.-** Conformément aux articles 1 et 12 de la loi n° 2-00, les auteurs, les artistes-interprètes des œuvres fixées sur phonogrammes ou vidéogrammes, ainsi que les producteurs des ces phonogrammes ou vidéogrammes, ont droit à une rémunération au titre de la reproduction privée et légale desdites œuvres pour usage personnel.

**Article 59.2.-** La rémunération prévue à l'article 59.1 ci-dessus, ci-après dénommée "redevance pour copie privée", est payée par le fabricant local ou l'importateur en fonction des quantités d'appareils d'enregistrement et des supports d'enregistrement utilisables, lors de leur mise en circulation sur le territoire national, et qu'il met à la disposition du public pour la reproduction à usage privé d'œuvres fixées sur des phonogrammes ou vidéogrammes.

**Article 59.3.-** La redevance pour copie privée est calculée forfaitairement par le Bureau marocain du droit d'auteur pour les appareils d'enregistrement et les supports d'enregistrement selon leur nature et leurs caractéristiques techniques.

**Article 59.4.-** L'assujéti à la redevance pour copie privée est tenu de la verser au Bureau marocain du droit de l'auteur et doit lui communiquer régulièrement les quantités réelles d'appareils et de supports d'enregistrement, produits localement ou importés, destinés à l'usage privé, avec indication de leur prix de vente au public.

**Article 59.5.-** Sous réserve des dispositions de l'article 59.1 ci-dessus, sont exonérés du paiement de la redevance pour copie privée, lorsque les appareils et les supports d'enregistrement sont destinés à leur propre usage:

- les opérateurs de communication audiovisuelle;
- les producteurs de phonogrammes ou de vidéogrammes;
- les administrations publiques;
- les organismes publics concernés par les personnes à besoins spécifiques;
- les associations marocaines concernées par les personnes à besoins spécifiques.

L'exonération susvisée peut avoir lieu dans des conditions et des normes fixées par voie réglementaire. Elle est opérée suite à une convention avec le Bureau marocain du droit d'auteur.

Tarifs forfaitaires applicables à la copie privée.

**Article 59.7.-** Sont fixés par voie réglementaire la liste et les supports d'enregistrement utilisables et les appareils d'enregistrement, soumis à la rémunération pour copie privée, ainsi que les tarifs forfaitaires applicables à la copie privée en ce qui concerne les supports d'enregistrement et ce, sur proposition d'une "commission dénommée commission de la copie privée", créée au sein du Bureau marocain du droit d'auteur et dont la composition et les attributions sont fixées par voie réglementaire un an au plus de la date de publication de la présente loi au Bulletin officiel.



# MOROCCO

5/6



## LEGAL BASIS

### COLLECTION AND DISTRIBUTION SYSTEMS

Dahir n° 1-14-97 du 20 rejeb 1435 (20 mai 2014) portant promulgation de la loi n° 79-12 complétant la loi n° 2-00 relative au droits d'auteur et droits voisins.

deuxième partie bis

REMUNERATION POUR COPIE PRIVEE

**Article 59.6.-** La redevance pour copie privée est répartie par le Bureau marocain du droit d'auteur, au prorata des reproductions privées dont chaque œuvre a fait l'objet et en tenant compte des proportions suivantes:

35% aux auteurs;

35% aux artistes-interprètes;

10% aux producteurs de phonogrammes ou de vidéogrammes;

20% destinés à couvrir les dépenses de la gestion du Bureau marocain du droit d'auteur et ses programmes relatifs à la perception des droits d'auteur et droits voisins, à la lutte contre le piratage, à l'assistance sociale des ayants droits et à la condition à la préservation de la mémoire artistique nationale.



## COMMENTS/DEVELOPMENTS

The most important challenges encountered by the BMDA with regard to Private Copying is the flow of the management of files to be processed and the acceptance of payment by importers.



## TARIFFS

Blank Media	Tariff 2019, valid as of 2017 (MAD)	Capacity
CD-R; CD-RW data; Audio CD-R	0.20	unit
DVD-R; DVD-Ram; DVD-RW data; Blue ray	0.20	unit
Mini disc; 3 1/2 MFD type diskette	0.80	unit
DVHS type digital video cassette	0.80	unit
Analogue audio cassette ; analogue video cassette	0.80	unit



# MOROCCO

6/6



## TARIFFS

Devices (hardware, PC, HDD)	Tariff 2019, valid as of 2017 (MAD)	Capacity
Memory card of all types and its technical characteristics	5	unit
USB memory stick of all types and its technical characteristics	5	unit
External storage media (external hard disc), USB type, usable directly with a computer, without the need to add additional equipment, including connection and power cables	25	unit
External storage media known as multimedia which: a) have one or more audio and / or video outputs and / or computer ports allowing the reproduction of moving images and / or sound without requiring the use of a computer for this purpose. or b) additionally comprise one or more audio and / or video inputs and / or computer ports making it possible to record animated and / or sound images without requiring the use of a computer for this purpose. or c) are integrated or connected to a box ensuring the interface between the arrival of television signals and a television set and which are not exclusively dedicated to the recording of videogames (hard disk box or with multimedia storage memory)	40	unit
Televisions, recording, and other devices that have permanently installed memory and / or hard drives	20 60	8 Gb – 160 GB >160 GB
Living room devices and portable music players which have a permanent memory and / or hard disks dedicated to the reading of works fixed on phonograms (mp3)	10	unit
Living room and portable devices that have permanently installed memory and / or hard drives dedicated to both digital recording of phonograms and videogames (mp4)	30	unit`
Mobile phones with have a permanent memory able to listen to audio or watch video	1 per GB with a maximum of 30 45	<64GB >64GB
Navigation systems	30	unit
Radio device installed in cars	100	unit
Multimedia Tablets	1 per GB with a maximum of 30 45	<64GB >64GB



## REVENUES

(MAD)	2018	2019
<b>COLLECTED AMOUNTS</b>	<b>35,918,434.79</b>	<b>52,353 138.64</b>





# TUNISIA



11,565,204

GDP: 33.7 billion EUR

1/4

## CONTACT INFORMATION

<b>COUNTRY</b>	Tunisia
<b>CURRENCY</b>	Dinar (TND)
<b>NAME ORGANIZATION</b>	OTDAV
<b>WEB SITE</b>	www.otdav.tn
<b>E-MAIL</b>	otpd@planet.tn
<b>ADDRESS</b>	7, Avenue Mohamed Melki
<b>POSTCODE</b>	1005 El Omrane
<b>CITY</b>	Tunis
<b>PHONE</b>	+ 216 71 957 115
<b>FAX</b>	+ 216 71 957 083



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Yes
<b>BENEFICIARIES</b>	Rightsholders
<b>LIABLE</b>	Importers
<b>EXEMPTION</b>	Particular professional or industrial users
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	Yes
<b>TOTAL revenues* from private copying levies in local currency</b>	For 2018 and 2019 approx. TND 100,000

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The national legal framework relating to private copying (creation incentive tax) states:

- A tax is created to encourage creation, which is due to importation and locally, on non-recorded audio and audiovisual media, as well as on recording and reproduction devices and equipment.
- The tax is locally set at 1% of the turnover of manufacturers of products subject to this tax.



# TUNISIA

2/4

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

No. A bill is being prepared to define exemption from private copying levies.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

The tax is collected locally on the basis of a monthly declaration by importers.

### HOW FREQUENTLY IS PAYMENT DUE?

Monthly

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Yes

### ARE EXPORTS EXEMPTED?

A bill is being prepared to define exemption from private copying levies.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

The OTDAV distributes the remuneration received to the rightsholders.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

The management fee is 10%.

### FREQUENCY OF DISTRIBUTION

Yearly

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Authors, performers and producers

### DISTRIBUTION KEYS

- 40% to the author and composer,
- 30% to the performer,
- 30% to the producer of audio or audio-visual recording.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

A special treasury fund entitled "Fund for the encouragement of literary and artistic creation" is opened in the writings of the General Treasurer of Tunisia, this fund is financed in particular by resources from the tax instituted by article 37 of Law n° 94-36 of February 24, 1994 relating to literary and artistic property.



# TUNISIA

3/4



## LEGAL BASIS

### EXCEPTION

Law No. 2009-33 of 23 June 2009 amending and supplementing Law No. 94 36 of 24 February 1994 on literary and artistic property

#### Article 10 (new)

Are licit, without authorization of the author or counterpart, the hereafter indicated uses of the protected works which were made available to the public, subject to the provisions of article 37 of the law herein:

a) the reproduction of the work intended for the private use, provided that this reproduction does not violate the normal exploitation of work, nor causes an unjustified prejudice to the legitimate material interests of the author.

### LEVY (Tax on incentive to creation)

Law No. 2009-33 of 23 June 2009 amending and supplementing Law No. 94 36 of 24 February 1994 on literary and artistic property

#### Article 37 (new)

A tax of incentive to the creation is instituted, which is due on the importation and locally, on the not recorded audio and audiovisual supports, as well as on the apparatuses and equipment of recording and reproduction. The list of products submitted to this tax is fixed by decree. The tax is fixed locally at 1% of the sales turnover of the manufacturers of products submitted to this tax, taking into account the value - added tax or the customs value on the importation. This tax is perceived locally on the basis of a monthly declaration, according to a model established by the administration and deposited at the relevant tax office, within the given deadlines in the field of the value - added tax and customs taxes on the importation. Are applied to this tax, for the perception, control, report of the infringements, the sanctions, litigations, prescription and reimbursement, the same rules provided for in the field of customs taxes on the importation or those provided for in the tax rights and procedures code in the internal regime.



## COMMENTS/DEVELOPMENTS

The most important challenges faced by OTDAV with regard to Private Copying are:

- Products registered in the list are no longer used;
- The expansion of the list of products subject to the creation encouragement tax with the integration of new media and devices;
- Development of distribution rules (carrying out surveys,).

To further develop private copying in Tunisia, OTDAV has implemented an action plan for the coming years, focusing on:

- The modification of national law in order to further clarify the concepts of private copying and its management rules;
- The expansion of the list of products that are attributable to be collected under Private Copying in Tunisia (the insertion of new products such as smartphones, digital tablets, ...);
- Modification of tariffs.

Among the main axes of OTDAV's objective for the next 5 years is to improve its private copying management system, and to develop the amounts collected. And also to face the digital challenges in this area.



# TUNISIA

4/4



## TARIFFS

### Blank Media/devices

The devices which are attributable to be collected are defined by Decree n ° 2011-1068 of July 29, 2011, fixing the list of products subject to the tax for the encouragement of creation. such as :

- Sound recording and reproducing devices
- Video recording and reproducing apparatus incorporating a receiver of video signals.
- Disks, tapes, storage devices retaining data based on semiconductors, "smart cards" and other media for recording sound or similar recordings, not recorded.

### Tariff 2019

The tax is locally set at 1% of the turnover of manufacturers of products subject to this tax.



## REVENUES

### TND

Collected amounts

### 2018 and 2019

The amount distributed in 2018 is the sum of several years of collection, so we cannot decide on the question of increase or decrease in these years.

The amount collected in 2018 and 2019 is approximately TND 100,000

## EXPLANATION ON DEVELOPMENTS

Products registered in the list subject to tax of encouragement to creation are no longer used.





# NORTH & SOUTH AMERICA INTRODUCTION

1 / 1

The American continent has a very low level of development of private copying remuneration. This is mainly due to the traditional doctrine of “fair use” or “fair dealing” largely implemented across the continent and strongly supported by consumers and importers.

The numbers speak for themselves. Of the 35 countries studied, 12 do not provide any private copying exception (Argentina, Belize, Bolivia, Chile, Cuba, Ecuador, Guatemala, Guyana, Jamaica, Saint Lucia, Salvador and Uruguay).

Of the 23 countries with a private copying exception, only 5 countries have implemented a compensation system (US, Canada, Paraguay, Dominican Republic and Peru) and the Dominican Republic does not even seem to have an effective collection and distribution mechanism.

This means that 17 countries (Antigua and Barbuda, Bahamas, Barbados, Brazil, Colombia, Costa Rica, Dominica, Grenada, Haiti, Honduras, Mexico, Nicaragua, Panama, Saint Christophe and Nevis, Saint Vincent and the Grenadines, Trinidad and Tobago and Venezuela) have a private copying exception in their legislation but do not foresee a remuneration system in favor of rightsholders. In most of these countries, the private copying exception is limited to a “time-shifting” exception.

This low level shall be put into perspective of the efforts that are undertaken across the region to improve or implement effective private copying levies.

In North America, even if compensation systems exist, they are very limited and outdated. In the US and Canada, the scope of the levy is limited to blank audio recording media and thus, collections have been decreasing for many years and do not generate much income for rights owners. In Canada, rightsholders strongly support a technology-neutral approach in order to extend the private copying regime to digital devices. As an interim solution, rightsholders have also continued to advocate for the implementation of an annual compensation fund until a more permanent regime can be found through legislative change to the Copyright Act. In light of the continuing effort made by Canadian rightsholders and the potential of collection if they succeed in their advocacy, a specific focus has been made on Canada in the economic part of this Study (*see Box: Revenue potential for selected countries in section 6*). In the US, private copying is regulated by the Audio Home Recording Act of 1992, which has a very limited scope in terms of works and devices covered, as well as regarding beneficiaries of the exception. Considering the new digital uses, the collection of private copying revenues will logically continue to decrease in the next years in these two countries if the law does not extend the scope of the remuneration.

In Latin America, due to the increasing awareness of the economic importance of the cultural and creative industries, copyright protection has been strengthened in the region, in particular through the development of the private copying regime. Paraguay and Peru continue to grow their collections and are seen as examples for the rest of the Latin American countries. Also, two countries are making progress towards the implementation of an effective private copying regime. First in the Dominican Republic, the different collective management organizations representing authors’ rights and neighboring rights have signed a strategic cooperation agreement that will enforce and complete the decree for the implementation and administration of the private copy levy for which the presidential signature is expected for the end of 2020. Also, in Mexico, private copying remuneration has recently been included in the reform package of four laws, including the Federal Law on Copyright, as a stimulus and support for the cultural sector. Collective management organizations are lobbying for the incorporation of the private copy remuneration into the law and are already collaborating to define the legal mechanisms to apply this exception. To support this initiative, the economic part of the study is also dedicated to the collection potential in Mexico (*see Box: Revenue potential for selected countries in section 6*).





# NORTH & SOUTH AMERICA: COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION







# NORTH & SOUTH AMERICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM







# ANTIGUA & BARBUDA



96,286

GDP: 1.4 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Antigua & Barbuda
<b>CURRENCY</b>	Eastern Caribbean Dollar (XCD)
<b>NAME ORGANISATION</b>	ECCO
<b>WEB SITE</b>	<a href="http://www.eccorights.org">www.eccorights.org</a>
<b>E-MAIL</b>	<a href="mailto:ecco@eccorights.org">ecco@eccorights.org</a>
<b>ADDRESS</b>	Julian Charles Road, Sans Soucis
<b>POSTCODE</b>	P. O. Box CP5380
<b>CITY</b>	Castries, St Lucia
<b>PHONE</b>	+ 1 758 451 64 36



## OVERVIEW

<b>EXCEPTION</b>	Yes, time-shifting and fair dealing exceptions
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 52 of the Copyright Act of 2003

Subject to section 54, fair dealing with a literary, dramatic, musical or artistic work for the purposes of research or private study does not infringe copyright in the work or, in the case of a published edition, in the typographical arrangement.

#### Article 84 of the Copyright Act of 2003

The making for private and domestic use of a recording of a broadcast or cable program solely for the purpose of enabling it to be viewed or listened to at a more convenient time does not infringe any copyright in the broadcast or cable program or in any work included in it.





# BAHAMAS



385,640

GDP: 10.5 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Bahamas
<b>CURRENCY</b>	Bahamian Dollar (BSD)



## OVERVIEW

<b>EXCEPTION</b>	Yes, there is a "time-shifting" exception which allows a person to record a television or radio broadcast and watch or listen to it later.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

The fixing of a transmission in a copy or phono recorder for private and domestic use solely for the purpose of enabling it to be viewed or listened to at a more convenient time is not an infringement of copyright.





# BARBADOS



286,641

GDP: 4.3 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Barbados
<b>CURRENCY</b>	Barbados Dollar (BBD)
<b>NAME ORGANISATION</b>	COSCAP
<b>WEB SITE</b>	<a href="http://www.coscap.org">http://www.coscap.org</a>
<b>E-MAIL</b>	<a href="mailto:coscapinfo@coscap.org">coscapinfo@coscap.org</a>
<b>ADDRESS</b>	No. 11, 8th Avenue Belleville
<b>CITY</b>	St. Michael
<b>PHONE</b>	+1 246 435 1777



## OVERVIEW

<b>EXCEPTION</b>	Yes, time-shifting and fair dealing exceptions
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 51 of the Copyright Act of 1998 (as amended in 2006)

Subject to section 53, fair dealing with a literary, dramatic, musical or artistic work for the purposes of research or private study does not infringe copyright in the work or, in the case of a published edition, in the typographical arrangement.

#### Article 83 of the Copyright Act of 1998 (as amended in 2006)

The making for private and domestic use of a recording of a broadcast or cable program solely for the purpose of enabling it to be viewed or listened to at a more convenient time does not infringe any copyright in the broadcast or cable program or in any work included in it.





NORTH & SOUTH AMERICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# BRAZIL



209,469,333

GDP: 1,596.6 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Brazil
<b>CURRENCY</b>	Real (BRL)
<b>NAME ORGANISATION</b>	ABRAMUS/ SOCINPRO/ UBC
<b>WEB SITE</b>	<a href="http://www.abramus.org.br/">www.abramus.org.br/</a> <a href="http://www.socinpro.org.br/">www.socinpro.org.br/</a> <a href="http://www.ubc.org.br/">http://www.ubc.org.br/</a>
<b>E-MAIL</b>	<a href="mailto:bia.nascimento@abramus.org.br">bia.nascimento@abramus.org.br/</a> <a href="mailto:lenira.bittencourt@socinpro.org.br">lenira.bittencourt@socinpro.org.br/</a> <a href="mailto:sydney@sanches.adv.br">sydney@sanches.adv.br</a>



## OVERVIEW

<b>EXCEPTION</b>	Yes, the reproduction of one copy of an extract from a work for the private use of the copier, without commercial purpose.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 46 of the Law on Copyright and Neighboring Rights of 1998

The following shall not constitute violation of copyright:

(...)

II. the reproduction in one copy of short extracts from a work for the private use of the copier, provide that it is done by him and without gainful intent;

(...)



## COMMENTS/DEVELOPMENTS

Brazil has not yet instituted the Private Copy Law, although the matter has been the subject of debates for many years. The Brazilians CMOs are lobbying in order to introduce a levy in the law, in compensation of the exception.





NORTH & SOUTH AMERICA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# COLOMBIA



49,648,685

GDP: 282.5 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Colombia
<b>CURRENCY</b>	Colombian Pesos (COP)
<b>NAME ORGANISATION</b>	DASC SAYCO REDES
<b>WEB SITE</b>	<a href="http://directorescolombia.com.co/">http://directorescolombia.com.co/</a> <a href="http://www.sayco.org">www.sayco.org</a> <a href="http://www.redescritorescolombia.org/es/">www.redescritorescolombia.org/es/</a>
<b>E-MAIL</b>	<a href="mailto:contacto@directorescolombia.org">contacto@directorescolombia.org</a> <a href="mailto:internacional@sayco.org">internacional@sayco.org</a>



## OVERVIEW

<b>EXCEPTION</b>	Yes, a reproduction of one copy of a literary or scientific work for private use and without gainful intent is authorized.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTIONS

#### Article 37 of the law on Copyright of 1982 (as amended until 2011)

It shall be lawful to reproduce, by any means, a literary or scientific work, such reproduction having been arranged or effected by the party concerned in one copy for his private use and without gainful intent.





# COSTA RICA



4,999,441

GDP: 51.3 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Costa Rica
<b>CURRENCY</b>	Costa Rican Colon (CRC)
<b>NAME ORGANISATION</b>	Asociación de Compositores y Autores Musicales de Costa Rica
<b>WEB SITE</b>	<a href="http://www.acam.cr">www.acam.cr</a>
<b>E-MAIL</b>	<a href="mailto:info@acam.cr">info@acam.cr</a>
<b>ADDRESS</b>	San José, Barrio Escalante Ave 15, calles 23-33 casa 3110
<b>POSTCODE</b>	10101
<b>CITY</b>	San José
<b>PHONE</b>	2524-0686
<b>FAX</b>	2524-0680



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 73 of the law no. 6683 of October 14, 1982 on Copyright and Related Rights (as amended up until 2008)

Theatrical or musical performances that have been lawfully made available to the public shall be free when they take place in the home for the sole benefit of the family circle. They shall also be free when they take place by way of illustration solely for educational purposes, to the extent justified by the educational purpose, provided that said performances do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the rightsholders.

In addition, the source and author's name shall be mentioned, if this name is given in the source. It shall also be lawful to utilize or reproduce, to the extent justified by the purpose sought, works by way of illustration for teaching via publications such as anthologies, radio broadcasts or sound or audio recordings, provided that such utilization is in accordance with fair use and mentions the source and author's name, if this name is given in the source.

#### Article 73bis of the law no. 6683 of October 14, 1982 on Copyright and Related Rights (as amended up until 2008)

The following exceptions to the protection established in this Law shall be permitted for the exclusive rights of performers, producers of phonograms and broadcasting bodies, provided that this does not conflict with a normal exploitation of the performance or unreasonably prejudice the legitimate interests of the rightsholders:

- (a) in the case of utilization for private use;
- (b) where brief fragments have been used to provide information on current affairs;
- (c) where an ephemeral fixation is produced by a broadcasting body by its own means and for its own broadcasts;
- (d) in the case of use exclusively for teaching or scientific research purposes.





# DOMINICA



71,625

GDP: 0.5 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Dominica
<b>CURRENCY</b>	East Caribbean Dollar (XCD)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 16 of the Copyright Act of 2003

A person who, for private and domestic purposes, commissions the taking of a photograph or the making of a film, has, where the resulting work is a protected work, the right not to have - (a) copies of the work issued to the public; (b) the work exhibited or shown in public; or (c) the work broadcast or included in a cable program service.

#### Article 63 of the Copyright Act of 2003

Notwithstanding the provisions of section 10(1)(a), and subject to the provisions of subsection (2), the private reproduction of a published work in a single copy shall be permitted without the authorization of the author or owner of copyright where the reproduction is made by any person exclusively for his own personal purposes.





# GRENADA



111,454

GDP: 1.0 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Grenada
<b>CURRENCY</b>	East Carabbean Dollar (XCD)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 9 of the Copyright Act of 2011

(1) Notwithstanding section 8(1)(a) and subject to subsection (2) the private reproduction of a published work in a single copy shall be permitted without the authorization of the owner of copyright, where the reproduction is made by a natural person exclusively for his own personal purposes.

(2) The permission under subsection (1) shall not extend to reproduction

- (a) of a work of architecture in the form of a building or other construction;
- (b) in the form of reprography of the whole or a substantial part of a book, or of a musical work in the form of notation;
- (c) of the whole or a substantial part of a data base;
- (d) of a computer program, except as provided in section 17; and
- (e) of any work in cases where reproduction would conflict with a normal exploitation of the work, or would otherwise unreasonably prejudice the legitimate interests of the owner of copyright.





# HAITI



11,123,176

GDP: 8.2 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Haiti
<b>CURRENCY</b>	Gourde (HTG)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 8 of the Decree of 2005 on the Creation of the Office of Haitian Copyright (BHDA)

(1) Notwithstanding section 7 and subject to subsection (2) the private reproduction of a published work in a single copy shall be permitted without the authorization of the owner of copyright, where the reproduction is made by a natural person exclusively for his own personal purposes.

(2) The permission under subsection (1) shall not extend to reproduction

- (a) of a work of architecture in the form of a building or other construction;
- (b) in the form of reprography of the whole or a substantial part of a book, or of a musical work in the form of notation;
- (c) of the whole or a substantial part of a data base;
- (d) of a computer program, except as provided in section 16; and
- (e) of any work in cases where reproduction would conflict with a normal exploitation of the work, or would otherwise unreasonably prejudice the legitimate interests of the owner of copyright.





# HONDURAS



9,587,522

GDP: 20.3 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Honduras
<b>CURRENCY</b>	Lempira (HNL)
<b>NAME ORGANISATION</b>	AACIMH
<b>WEB SITE</b>	<a href="http://www.aacimh.org.hn">www.aacimh.org.hn</a>
<b>E-MAIL</b>	<a href="mailto:aacimh@aacimh.org.hn">aacimh@aacimh.org.hn</a>
<b>ADDRESS</b>	Colonia La Granja, Casa No. 343 29 calle, 3 avenida, esquina opuesta a Traumacentro
<b>POSTCODE</b>	4055
<b>CITY</b>	Tegucigalpa, M.D.C.
<b>PHONE</b>	+ 504 22 25 07 26
<b>FAX</b>	+ 504 22 25 04 94



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 34 of the Copyright and neighbouring rights law of 1999

Technical documentation and user manuals for a program will have the same protection as those programs. Any reproduction of the program will require the authorization of the right holder with the exception of the backup copy. It is allowed to make a reproduction or adaptation of a computer program only if that copy or adaptation is essential for:

- 1) The use of the computer program; 2) The use of the program for the purposes for which it has been legally obtained; and
- 3) For archiving, if necessary, in the event that those copies are lost, destroyed or rendered unusable for the replacement of the legally obtained copy. The aforementioned copies or adaptations must be destroyed in the event that the continued possession of the computer program ceases to be legitimate.

#### Article 47 of the Copyright and neighbouring rights law of 1999

Regarding copies of a work legally acquired by a person, it is allowed without authorization of the author and without remuneration, to reproduce a copy of the work for personal and exclusive use of that person, made by himself, with his own means, provided that such reproduction is limited to special cases, does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author.





# MEXICO



126,190,788

GDP: 1,033.7 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Mexico
<b>CURRENCY</b>	Mexican peso (MXN)
<b>NAME ORGANISATION</b>	SACM
<b>WEB SITE</b>	<a href="http://www.sacm.org.mx">www.sacm.org.mx</a>
<b>E-MAIL</b>	<a href="mailto:direccion.internacional@sacm.org.mx">direccion.internacional@sacm.org.mx</a>
<b>ADDRESS</b>	Real de Mayorazgo 129, Colonia Xoco, Delegación Benito Juárez
<b>POSTCODE</b>	03330
<b>CITY</b>	Ciudad de Mexico
<b>PHONE</b>	+52 (55) 5623-6000
<b>FAX</b>	+52 (55) 5604-7923



## OVERVIEW

Exception	Yes, a private reproduction of one copy of a published work for personal use is authorized.
Levy	No



## LEGAL BASIS

### EXCEPTION

#### Article 148 of the 'Ley Fededal del Derecho de Autor' (as amended up to 2014)

Literary and artistic works that have already been disclosed may only be used in the following cases without the consent of the owner of the economic rights and without remuneration, provided that the normal exploitation of the work is not adversely affected thereby and provided also that the source is invariably mentioned and that no alteration is made to the work:

(...)

lv. Reproduction of a literary or artistic work once, and in a single copy, for the personal and private use of the person doing it, and without gainful intent.



## COMMENTS/DEVELOPMENTS

This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.

CMOs are working together to define the legal mechanisms to apply this exception, in particular how the private copying will be distributed among the rightholders and push for the incorporation into the law.

Recently, private copying has been included in the package of reforms of four laws, including the Federal Law on Copyright, as a stimulus and support for the cultural sector. Once the Chamber of Deputies is satisfied with the bill that will established the private copying remuneration, it will move to the Mexican Senate.





# NICARAGUA



6,465,513

GDP: 11.1 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Nicaragua
<b>CURRENCY</b>	Cordoba (NIO)



## OVERVIEW

<b>EXCEPTION</b>	Yes, a private reproduction of one copy of a published work for personal use is authorized.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 31 of the Law on Copyright and Neighboring Rights of 1999 (updated until 2006)

31. It is permitted without permission of the author and exclusively for the personal use the reproduction on one copy of a disclosed work.

The above provision does not apply to:

- 1) The reproduction of works of architecture that take the form of buildings or other similar constructions.
- 2) The reprographic reproduction of a whole book or of a musical work in a graphic form (sheet music).
- 3) The reproduction of a whole database or of a main part of it in numerical form.
- 4) The reproduction of computer programs, except in cases provided for in Article 39 of this Law.
- 5) Any other reproduction of a work that could affect the normal exploitation of the work or could unreasonably prejudice the legitimate interests of the author.





# PANAMA



4,176,873

GDP: 55.1 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Panama
<b>CURRENCY</b>	Balboa (PAB)



## OVERVIEW

<b>EXCEPTION</b>	Yes, a private reproduction for a domestic use and without profit-making purpose is authorized.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 68 of the Law No. 64 of October 2012 on Copyright and Neighboring Rights

Regarding the works, services or products which have been already lawfully disclosed, it is permitted without authorization:

1. The reproduction of the original or a copy of the work in the form of audio or video recording for personal and exclusive use of the user.
2. The reprographic reproduction of a legitimate copy for personal and exclusive use, provided that such a copy is limited to small parts of a protected work or to works in the public domain.

The expression "unlawful" refers to any use of works reproduced by any means or process for purposes other than personal, which affects the exclusive right of reproduction.



SAINT KITTS  
AND NEVIS

Basseterre

## ST KITTS &amp; NEVIS



52,441

GDP: 0.9 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	St Kitts & Nevis
<b>CURRENCY</b>	East Caribbean Dollar (XCD)



## OVERVIEW

<b>EXCEPTION</b>	Yes, there is a "time-shifting" exception which allows a person to record a television or radio broadcast and watch or listen to it later.
<b>LEVY</b>	No



## LEGAL BASIS

## EXCEPTION

## Article 84 of the Copyright Act of 2008

Where a recording of a broadcast or cable programme is made for private and domestic use solely for the purpose of enabling it to be viewed or listened to at a more convenient time, the recording shall not infringe any copyright in the broadcast or cable programme or in any work included in it.





**NORTH & SOUTH AMERICA:** COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# ST VINCENT & THE GRENADINES



110,210

GDP: 0.7 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	St Vincent and the Grenadines
<b>CURRENCY</b>	East Caribbean Dollar (XCD)



## OVERVIEW

<b>EXCEPTION</b>	Yes, there is a "time-shifting" exception which allows a person to record a television or radio broadcast and watch or listen to it later.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 79 of the Copyright Act of 2008

The making for private and domestic use of a recording of a broadcast or cable programme solely for the purpose of enabling it to be viewed or listened to at a more convenient time does not infringe any copyright in the broadcast or cable programme or in any work included in it.





# SURINAME



575,991

GDP: 2.9 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Suriname
<b>CURRENCY</b>	Surinam Dollar (SRD)
<b>NAME ORGANISATION</b>	SASUR
<b>WEB SITE</b>	<a href="http://www.sasur.org">www.sasur.org</a>
<b>E-MAIL</b>	<a href="mailto:info@sasur.org">info@sasur.org</a>
<b>ADDRESS</b>	Jagdeiweg 18 - Kwatta
<b>CITY</b>	Paramaribo
<b>PHONE</b>	+597 436394
<b>FAX</b>	+597 533060



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 17 Copyright Law of 1913 (as amended up to 1981)

The reproduction which is limited to single copies and serves exclusively for personal practice, study or use is not considered as infringement of Authors' Rights in a work of literature, science or art and when it applies to a work as referred to in Article 10, 6°, it shows a clear difference from the original work by means of its size or by the method by which it is manufactured. This provision does not apply to the rebuilding of construction works.





# TRINIDAD & TOBAGO



1,389,858

GDP: 20.2 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Trinidad and Tobago
<b>CURRENCY</b>	Trinidad and Tobago Dollar (TTD)



## OVERVIEW

<b>EXCEPTION</b>	Yes, a private reproduction of one copy of a published work for personal use is authorized.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 9 of the Copyright Act, 1997 (as amended by Act No. 18 of 2000)

(1) Notwithstanding the provisions of section 8(1)(a) and subject to the provisions of subsection (2) the private reproduction of a published work in a single copy shall be permitted without the authorization of the owner of copyright, where the reproduction is made by a natural person exclusively for his own personal purposes.

(2) The permission under subsection (1) shall not extend to reproduction

- (a) of a work of architecture in the form of a building or other construction;
- (b) in the form of reprography of the whole or a substantial part of a book or of a musical work in the form of notation;
- (c) of the whole or a substantial part of a data base;
- (d) of a computer program, except as provided in section 14; and
- (e) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the owner of copyright.





# VENEZUELA



28,870,195

GDP: 258.7 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Venezuela
<b>CURRENCY</b>	Bolivar (VEF)



## OVERVIEW

<b>EXCEPTION</b>	Yes, a private reproduction of one copy of a published work for personal use is authorized.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

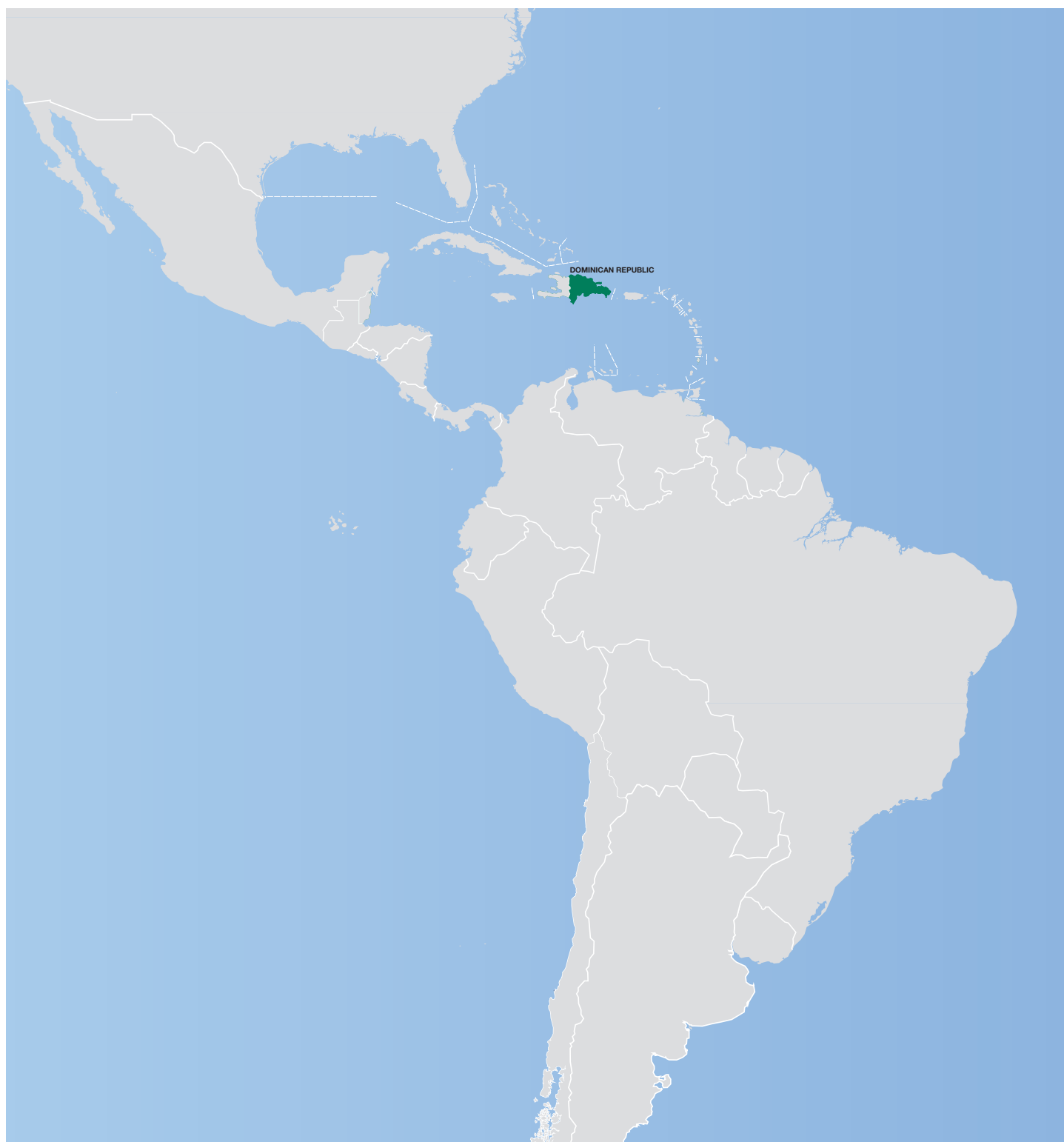
The following shall be considered lawful reproductions:

1. the reproduction in one copy of a printed, sound or audiovisual work, except in the case of a computer program, which shall be governed by subparagraph 5 of this Article, provided that the copy is made for the exclusive personal use of the user, and is made by the person concerned with his own facilities;
  2. photomechanical reproduction for exclusive personal use, as by photocopying and microfilm, provided that it is confined to small parts of a protected work or works that are out of print, and without prejudice to the equitable remuneration that the companies, institutions and other organizations offering the service to the public have to pay to the owners of the right of reproduction; any use of the reproduced material for other than personal purposes that is made in competition with the author's exclusive right to exploit his work shall be deemed equivalent to unlawful reproduction;
- (...)





# **NORTH & SOUTH AMERICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS**







**NORTH & SOUTH AMERICA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# DOMINICAN REPUBLIC



10,627,165

GDP: 72.4 billion EUR

1/3

## CONTACT INFORMATION

<b>COUNTRY</b>	Dominican Republic
<b>CURRENCY</b>	Dominican Peso (DOP)
<b>NAME ORGANISATION</b>	SGACEDOM
<b>WEB SITE</b>	<a href="http://www.sgacedom.com">www.sgacedom.com</a>
<b>E-MAIL</b>	<a href="mailto:lpimentel@sgacedom.com">lpimentel@sgacedom.com</a>
<b>ADDRESS</b>	AV. Bolivar No. 14 Gascue
<b>POSTCODE</b>	10205
<b>CITY</b>	Santo Domingo, D.N.
<b>PHONE</b>	809-689-6132 EXT. 236
<b>FAX</b>	809 – 689-6155



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Yes
<b>BENEFICIARIES</b>	Authors, performers, phonogram producers, producers of audiovisual work
<b>LIABLE</b>	Manufacturer, Importer
<b>EXEMPTION</b>	N/A
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 37 of the law no. 65-00 on Copyright of 2000

It shall be lawful to reproduce once and in a single copy a literary or scientific work for personal use and not for profit-making purposes, without prejudice to the right of the right holder to obtain equitable remuneration for the reprographic reproduction or for the private copying of a sound or audiovisual recording, in the manner established under the Regulations.

Computer programs shall be governed by the guidelines expressly established in the special provisions of this Law relating to such works.



# DOMINICAN REPUBLIC

2/3



## LEGAL BASIS

### LEVY

#### Article 1 of the regulation on the private copying levy of 2004 - decree No. 548 of 2004

Reproduction carried out exclusively for personal use, and non-profit, as authorized by Article 37 of Law No. 65-00 of August 21, 2000 on Copyright, by devices or technical instruments or typographical, of works disclosed in the form of books or other publications, as well as phonograms, videograms or other sound, visual or audiovisual media, will generate a single equitable remuneration for each of these modes of reproduction, intended to compensate the rights not received on behalf of the said reproduction.

This amount will benefit to authors, performers, phonogram producers, producers of audiovisual works expressed in videograms and publishers, as appropriate.

#### Article 2 of the regulation on the private copying levy of 2004 - decree No. 548 of 2004

The remuneration in the preceding article shall be determined by the physical media, equipment, and materials suitable for such reproduction and manufactured in Dominican Republic or imported into Dominican territory:

1. The tapes, CDs or other material capable of embodying a sound, visual or audiovisual fixation.
2. material or digital media capable of embodying literary or graphic works.
3. The players or storage, no typographical equipment, works disclosed in the form of books or other publications, as well as phonograms, videograms or other sound, visual or audiovisual media indicated in the previous article.
4. units for the copying of sound and audiovisual media included in a personal computer or manufactured or imported for use in a peripheral manner, excluding the hard drives that are part of the equipment.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Article 3 of the regulation on the private copying levy of 2004 - decree No. 548 of 2004

The remuneration is distributed as follows: 50% to authors and composers; 25% to performers and 25% to the respective producers, in the case of phonograms and audiovisual works included in videograms; and also equal to the authors and publishers in the case of the reproduction of works expressed graphically parties.

The collection and distribution of the remuneration will be effective by manufacturers and importers in the first sale, or in its absence, by the distributors, whose liability for payment will be in solidarity with those, only through collecting societies constituted depending on the category of works, performances and productions concerned, in accordance with the provisions of Title XII of Law No. 65-00 of August 21, 2000, Copyright.



# DOMINICAN REPUBLIC

3/3



## COMMENTS/DEVELOPMENTS

The collective management organisations of the Dominican Republic (SGACEDOM, SODAIE, SODIMPRO and EGEDA DOMINICANO) have signed a strategic cooperation agreement for the implementation and administration for the private copy levy.

The objective is to adapt the Decree No. 548 of 2004, based on the Article 52 of the Constitution of the Dominican Republic, the Law 65-00 on Copyright and the Decree No. 362-01 that establishes the Law Enforcement Regulations. The model has been based on the private copy system of Paraguay, and on an econometric study commissioned from the Autonomous University of Santo Domingo (UASD).

This private copy project is at a very advanced stage, the Decree is pending approval by the President and could be signed during the first semester of 2020.

The levies will be estimated on the value of entry into the national territory of equipment, products and devices suitable for reproduction according to administrative and customs records, according to the invoice of origin. The amount will be paid by the importers, before the clearance of the goods, supports, products or devices by the General Directorate of Customs. In the case of national manufacturers, the indicated percentage will be paid before proceeding to the first sale of the equipment, devices or products capable of reproducing content protected by law, the payment will be made before the private copy management entity (SODAIE).

The collective management organisations of the Dominican Republic agreed to distribute the remuneration according to the following percentages:

Authors and composers: 35%

Artists: 25%

Phonographic producers: 20%

Audiovisual producers: 20%





# **NORTH & SOUTH AMERICA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS**







**NORTH & SOUTH AMERICA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# CANADA



37,057,765

GDP: 1,453.3 billion EUR

1 / 7

## CONTACT INFORMATION

<b>COUNTRY</b>	Canada
<b>CURRENCY</b>	Canadian Dollar (CAD)
<b>NAME ORGANIZATION</b>	Canadian Private Copying Collective
<b>WEB SITE</b>	cpcc.ca
<b>E-MAIL</b>	lfreeman@cpcc.ca
<b>ADDRESS</b>	1235 Bay Street, Suite 900
<b>POSTCODE</b>	M5R 3K4
<b>CITY</b>	Toronto, Ontario
<b>PHONE</b>	+1 416 486 6832
<b>FAX</b>	+1 416 486 3064



## OVERVIEW

### COLLECTING SOCIETY APPOINTED BY

Canadian Private Copying Collective (CPCC).  
The CPCC is a non-profit corporation that represents songwriters, recording artists, music publishers and record companies through its member collectives. It has been mandated by its member collectives to collect and distribute private copying levies. The CPCC has also been designated as the collecting body by the Copyright Board pursuant to subsection 83(8) of the Copyright Act. The CPCC is a non-profit corporation and only withholds those funds necessary to defray its costs of administration.

### EXCEPTION

Yes

### LEVY

Equipment: No  
Media: Yes  
The private copying levy applies to blank CD-R, CD-RW, CD-R Audio and CD-RW Audio.

### TARIFFS

Levies are paid pursuant to tariffs certified by the Copyright Board of Canada. Tariffs have been in place since 1999.

### BENEFICIARIES

Eligible performers, makers, authors and publishers.

### LIABLE

The levy is payable by manufacturers or importers of blank media upon first sale or disposition in Canada.



# CANADA

2/7



## OVERVIEW

### EXEMPTION

Companies may register in the CPCC's Zero-Rating program by entering into agreements with the CPCC. The Zero-Rating program is run voluntarily by the CPCC in recognition of the fact that companies and organizations use leviable blank media for their business purposes. The program allows companies registered in it to purchase and/or sell blank audio recording media at a 'zero-rate' from authorized sellers.

The levy is not payable on blank audio recording media sold to associations that represent persons with a perceptual disability.

No levy is payable on blank audio recording media that is exported.

### SOCIAL AND CULTURAL DEDUCTIONS

No

### TOTAL revenues from private copying levies in local currency

2015: CAD 3,521,174

2016: CAD 2,628,808

2017: CAD 2,091,960

2018: CAD 1,454,134 (estimate)

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The Copyright Board of Canada sets the levy rate after considering evidence submitted by the CPCC and other parties at tariff hearings. The CPCC has commissioned Circum Network Inc. to conduct surveys that collect information about the private copying of music in Canada.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

The private copying levy applies to blank audio recording media that are ordinarily used for private copying. The Copyright Board applies a discount to the rate of the levy to reflect that the media is used for other purposes such as data storage and professional use. The Copyright Board has also always applied a discount to exclude the value of copies that have been authorized through other tariffs or agreements.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Companies may register in the CPCC's Zero-Rating program by entering into agreements with the CPCC. The Zero-Rating program is run voluntarily by the CPCC in recognition of the fact that companies and organizations use leviable blank media for their business purposes. The program allows companies registered in it to purchase and/or sell blank audio recording media at a 'zero-rate' from authorized sellers.

The levy is not payable on blank audio recording media sold to associations that represent persons with a perceptual disability.



# CANADA

3/7

## EXEMPTION AND REFUND

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

On November 7, 2012, the Government of Canada published a regulation exempting microSD electronic memory cards from the private copying levy effective as of October 18, 2012.

The Copyright Board determines the media that are ordinarily used to copy music after considering evidence submitted by the CPCC and other parties at the tariff hearings.

### EXEMPTION UPFRONT

The only upfront exemption is the one in the Copyright Act - sales to individuals with perceptual disabilities.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Manufacturers and importers are responsible for remitting private copying levies to the CPCC upon sale of the blank media in Canada. The manufacturer is responsible for paying the levy if the media is manufactured in Canada; otherwise the importer is responsible for paying the levy. For each reporting period, manufacturers and importers must report the type of media sold, quantity of units sold, brand information for each media and accurate contact information. The scope and nature of the information reported is defined by the Copyright Board of Canada.

### HOW FREQUENTLY IS PAYMENT DUE?

Pursuant to the Private Copying tariffs, manufacturers and importers of blank audio recording media are required to submit reports and levy payments on a bi-monthly basis. Any manufacturer or importer who paid less than CAD 2,000 in the previous six-month period may choose to make payments bi-annually after having notified the CPCC.

### HOW DO YOU MONITOR THE MARKET?

Pursuant to the Private Copying tariffs, the CPCC may audit the records of manufacturers and importers to verify the accuracy and completeness of the reports and payments submitted to the CPCC. Manufacturers and importers must keep records, from which the CPCC can readily ascertain the amounts payable and the information required under the tariff, for a period of six years.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

No

### ARE EXPORTS EXEMPTED?

No levy is payable on blank audio recording media that is exported.



# CANADA

4/7

## COLLECTION PROCESS

### DEFINITION OF IMPORT

82 (1) Every person who, for the purpose of trade, manufactures a blank audio recording medium in Canada or imports a blank audio recording medium into Canada

(a) is liable, subject to subsection (2) and section 86, to pay a levy to the collecting body on selling or otherwise disposing of those blank audio recording media in Canada; and

(b) shall, in accordance with subsection 83(8), keep statements of account of the activities referred to in paragraph (a), as well as of exports of those blank audio recording media, and shall furnish those statements to the collecting body.

No levy for exports.

(2) No levy is payable where it is a term of the sale or other disposition of the blank audio recording medium that the medium is to be exported from Canada, and it is exported from Canada.

### WHO IS CONSIDERED IMPORTER?

See above

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

The Copyright Board of Canada sets the percentage allocated to each rights holder group after considering evidence submitted by the CPCC at Tariff hearings.

The CPCC's member collectives submit claims to the CPCC for the rights holders that they represent. The CPCC distributes the levies to its member collectives which then pass them on the rights holders.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No

### FREQUENCY OF DISTRIBUTION

The CPCC's member collectives distribute the levy to the rightsholders that they represent.

### WHICH RIGHTS HOLDERS ARE INCLUDED?

The CPCC distributes the levy to the CPCC's member collectives upon receipt of claims submitted by the member collectives.

The CPCC's member collectives represent eligible performers, makers, authors and publishers.



# CANADA

5/7

## DISTRIBUTION PROCESS

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

The Copyright Board of Canada sets the distribution scheme after considering evidence submitted by the CPCC at tariff hearings.

### DISTRIBUTION KEYS

#### Audio

58.2% - SOCAN (Composers, Authors and Music Publishers), CMRRA (Publishers) and SODRAC (Authors, Composers and Publisher);

23.8% - Re:Sound Music Licensing Company (Eligible Performers); and

18.0% - Re:Sound Music Licensing Company (Eligible Makers).

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

No



## LEGAL BASIS

### EXCEPTION

#### Copyright Act of Canada as amended in 1997.

Since December 1999, in accordance with section 83 of the Copyright Act, the Copyright Board has certified Private Copying tariffs determining which blank audio recording media are subject to the payment of levies and the amount of levies payable during the tariff periods.

The private copying levy is payable regardless of whether the source copy is legally or illegally obtained.

Pursuant to section 80 of the Copyright Act, a copy made onto an audio recording medium for the private use of the person who makes the copy does not constitute an infringement of the copyright in the musical work, the performer's performance or the sound recording.

Pursuant to section 80(2) of the Copyright Act, the act of making a copy does constitute an infringement of the copyright in the musical work, the performer's performance, or the sound recording if the copy is made for the purpose of doing any of the following:

- (a) selling or renting out, or by way of trade exposing or offering for sale or rental;
- (b) distributing, whether or not for the purpose of trade;
- (c) communicating to the public by telecommunication; or
- (d) performing or causing to be performed, in public.

### LEVY

Since December 1999, in accordance with section 83 of the Copyright Act, the Copyright Board has certified Private Copying tariffs determining which blank audio recording media are subject to the payment of levies and the amount of levies payable during the tariff periods. The private copying levy is payable regardless of whether the source copy is legally or illegally obtained.



# CANADA

6/7



## LEGAL BASIS

### COLLECTION AND DISTRIBUTION SYSTEMS

Pursuant to section 82(8)(d), the Copyright Board must designate the collecting body that will best fulfil the objects of the legislation. The Board has never varied from its designation of the CPCC as the collecting body.

Pursuant to section 84, the collecting body is to distribute levies to the collective societies representing eligible authors, eligible performers and eligible makers, in the proportions fixed by the Board.



## COMMENTS/DEVELOPMENTS

The federal government began a review of the Copyright Act in December 2017 it has now been concluded, and the responsible committees reported to the government in June 2019. The request for a technologically neutral private copying regime was extremely widely supported in testimony and written submissions, but the committees were non-committal, proposing the government should continue to 'extensively assess the opportunity to extend the private copying regime to digital devices' and to 'look to other jurisdictions to determine, notably, how these regimes impact the retail prices of the digital devices on which they apply'. No official government response to the committee reports was provided before an October federal election and there is therefore still no clear path forward for legislative change. The CPCC and its members have also continued to advocate for the implementation of an annual compensation fund as an interim measure, until a more permanent solution can be found through legislative change to the Copyright Act, without success.

The CPCC's proposed tariffs for 2020 and 2021 were certified by the Copyright Board of Canada on December 13, 2019, maintaining the current levy rate of CDN\$0.29 on CD-R media. As a result of the limitation to CD-R media, revenue from the levy continues to decline.

The Copyright Board of Canada issued the 2018 and the 2019 private copying tariffs on December 1, 2017, maintaining the levy on CD-R media at the existing rate of CAD 29 cents.

On December 1, 2017, the Copyright Board published the private copying tariffs for 2018 and 2019, maintaining the levy on CD-R media at the existing rate of CAD 29 cents per unit.

On December 13, 2014, the Copyright Board published the private copying tariffs for 2015 and 2016, maintaining the levy on CD-R media at the existing rate of CAD 29 cents per unit.

On August 31, 2013, the Copyright Board published the private copying tariffs for 2012, 2013 and 2014, maintaining the levy on CD-R media at the existing rate of CAD 29 cents per unit.

On November 7, 2012, the government of Canada published a regulation exempting microSD electronic memory cards from the private copying levy effective as of October 18, 2012. On August 30, 2013 the Copyright Board concluded that as a result of the circumstances arising from the regulation issued by the federal government in November 2012, it would not be possible to set a levy on microSD memory cards for the period of January 1, 2012 to October 17, 2012 that would be fair and equitable.

On June 29, 2012 the Copyright Modernization Act received royal assent and on November 7, 2012 a majority of the Act was brought into force. The Copyright Modernization Act amends the Copyright Act, such that it is not an infringement of copyright if individuals reproduce a musical work for private purposes if the work was legally obtained and if the individual, in order to make the reproduction, did not circumvent a technological protection measure. This exception does not apply to copies of musical works made onto an 'audio recording medium' as defined in section 79 of the Copyright Act. Section 79 defines 'audio recording medium' as a recording medium, regardless of its material form, onto which a sound recording may be reproduced and that is of a kind ordinarily used by individual consumers for that purpose, excluding any prescribed kind of recording medium. The Copyright Board has ruled that blank CD-R media meet the criteria of audio recording media stipulated in the Copyright Act.



# CANADA

7/7



## COMMENTS/DEVELOPMENTS

In December 2003, the Copyright Board certified a levy on the memory permanently embedded in digital audio recorders. This decision was appealed by hardware and software manufacturers as well as a group representing retailers, and in December 2004, the Federal Court of Appeal ruled that the tariff approved by the Copyright Board was invalid. The CPCC sought leave to appeal this decision to the Supreme Court of Canada. In July 2005, the Supreme Court of Canada denied the CPCC's application for leave to appeal. In February 2007, the CPCC applied to the Copyright Board for a levy on digital audio recorders in its proposed 2008-2009 tariff. The Copyright Board held that it could hear evidence relating to this proposal. The decision of the Copyright Board was appealed, and in January 2008, the Federal Court of Appeal ruled that the Copyright Board could not hear evidence in support of a private copying levy on digital audio recorders.

## COURT CASES

Litigation is commenced by the CPCC in order to enforce compliance with the Copyright Act and the private copying tariffs.



## TARIFFS

Blank Media	Tariff (CAD)	Capacity
CD-R/RW	0.29	Per unit
Audio CD-R/RW	0.29	Per unit



## REVENUES

(CAD)	2015	2016	2017	2018 (estimate)
CD-R/CD-RW	3,391,707	2,575,815	2,049,299	1,413,776
CD-RA/CD-RWA	129,467	52,993	42,661	40,358
Tape				
Mini Disc				
<b>TOTAL BLANK MEDIA</b>	<b>3,521,174</b>	<b>2,628,808</b>	<b>2,091,960</b>	<b>1,454,134</b>

## EXPLANATION ON DEVELOPMENTS

As a result of the limitation to CD-R media, revenue from the levy continues to decline rapidly.





**NORTH & SOUTH AMERICA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# PARAGUAY



6,956,071

**GDP: 34.2 billion EUR**

1/6

## CONTACT INFORMATION

<b>COUNTRY</b>	Paraguay
<b>CURRENCY</b>	Guaraní (PYG)
<b>NAME ORGANIZATION</b>	SGP, Sociedad de Gestión de Productores Fonográficos del Paraguay
<b>WEB SITE</b>	www.sgp.com.py
<b>E-MAIL</b>	mariaelenaojeda@sgp.com.py
<b>ADDRESS</b>	sgp@sgp.com.py
<b>POSTCODE</b>	Av. España 2221
<b>CITY</b>	1438
<b>PHONE</b>	Asuncion
<b>FAX</b>	+595 21 - 233787



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	AIE-Paraguay: by agreement of the three entities, the regulatory decree states that the society of performers is the collecting agency. Appointed by rightsholders.
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	The rates are applied correctly and appropriately, as they have been established. The mechanism is effective because the tariffs are paid before proceeding to the withdrawal of the merchandise from the customs. The payment is a condition for the customs authorities to authorize the withdrawal of the merchandise
<b>BENEFICIARIES</b>	Authors of works, Performers and Producers of Phonograms, in three equal parts of the net amount collected. Before this distribution, twenty percent of the gross amount collected is destined to DINAPI, Direccion Nacional of Intellectual Property, as provided in the regulatory decree.
<b>LIABLE</b>	Importers and manufacturers are liable for payment
<b>EXEMPTION</b>	Export/professional use.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No
<b>TOTAL revenues from private copying levies in local currency</b>	2015: PYG 5,196,049,079 2016: PYG 20,805,667,566 2017: PYG 26,728,774,108 2018: PYG 26,232,656,583



# PARAGUAY

2/6

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Law 1328/98 provides that the State shall regulate the right. Therefore, the rates have been determined in the Regulatory Decree 4212 Oct 12, 2015.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

We believe that the authority has taken into account the harm caused by the copy. The larger the size of the copy, the higher the rate.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Professional users are exempted.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

Article 35o. - Exemptions from payment of the above compensation apply to: equipment and materials to be used by producers of audio-visual works, phonograms and publishers, or by their respective licensee and (based on compulsory studies of sync sound or sounds and images) companies working on behalf of any of them, for legitimate production or reproduction of those works, provided that such equipment is used exclusively for these activities.

### EXEMPTION UPFRONT

The importer declares the purpose of the import, which of course is a small.

### REFUND AFTERWARDS

There has not been a case.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

The collection is legally organized by customs.

### HOW FREQUENTLY IS PAYMENT DUE?

The mechanism is established in the decree. No country can import the devices and players without payment. The decree only obliges importers and domestic manufacturers to pay compensation. The importer is the person or company that brings the merchandise into the country.

### HOW DO YOU MONITOR THE MARKET?

It is not necessary. Payment must be made prior to release.



# PARAGUAY

3/6

## COLLECTION PROCESS

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

It is organized through ministerial resolutions.

The merchandise cannot leave customs without first having paid, since it is an unavoidable requirement of the Sofia System (tax payment software and other customs contributions that must be paid before authorizing the exit of the merchandise from the customs).

### ARE EXPORTS EXEMPTED?

No

### WHO IS CONSIDERED IMPORTER?

The importer is the person or company that brings the merchandise into the country.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

The Society of Artists distributes monthly to the Societies of Authors and of Producers. They then distribute the funds to their members (authors, artists and producers of phonograms).

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

Yes, 15%, by decree.

### FREQUENCY OF DISTRIBUTION

Each month, the collection of the previous month.

### WHICH RIGHTS HOLDERS ARE INCLUDED?

According to the decree only producers of musical works, musical performances and phonographic productions are compensated. Each society decides how to distribute. The Artists' Society's and the Producers' Society's income is distributed according to airplay.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

The regulatory decree establishes in equal parts for Authors, Artists and Producers.

### DISTRIBUTION KEYS

Each of the three entities determines the distribution scheme. For the time being, 100% is generally allocated to audio.



# PARAGUAY

4/6

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

The Society of Authors and the Society of Artists are subject to a social and/or cultural deduction. The producers do not. The maximum rate is 10% according to law 1328/98.

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

The partners of the entities of authors and interpreters.  
Payment of medical consultations, assistance for medical studies, help magnifying glasses, prosthetic aids, help sanatoria internment. Support for cultural ventures, such as launching new recordings or festival productions.



## LEGAL BASIS

### EXCEPTION

#### Article 34 of the Law No. 1.328/98 on Copyright and Neighboring Rights of 1998

##### Chapter IV

##### Rights to Compensatory Remuneration

34. The owners of the rights in works published in graphic form or in the form of videograms or phonograms or any kind of sound or audiovisual recording shall have the right to a share in the compensatory remuneration for reproductions of those works or products that are made exclusively for personal use by means of non-typographical technical apparatus.

### LEVY

#### Articles 34-35-36-37 of the Law No. 1.328/98 on Copyright and Neighboring Rights of 1998

##### Chapter IV

##### Rights to Compensatory Remuneration

34. The owners of the rights in works published in graphic form or in the form of videograms or phonograms or any kind of sound or audiovisual recording shall have the right to a share in the compensatory remuneration for reproductions of those works or products that are made exclusively for personal use by means of non-typographical technical apparatus. The remuneration shall be determined according to the equipment, apparatus and materials used for making the reproduction. Payment shall be proved by an identifying mark on the recording or reproduction apparatus and on the physical materials used for the duplication, as appropriate. Copyright owners may incorporate anti-copying technology and oversee the reproduction of their work.

35. The foregoing remuneration shall not be payable for equipment and materials that are used by the producers of audiovisual works and phonograms and publishers or their licensees, neither shall it be payable by studios concerned with sound recordings or the post synchronization of sound and images, or companies that work under contract to any of them, with respect to the legitimate production or reproduction of their works and products, provided that the equipment or media in question are intended solely for such activities.

36. The collection and distribution of the remuneration referred to in this Chapter shall take place through the appropriate collective management bodies, which shall centralize collection either by delegating it to one of their number or by setting up a collecting agency with its own legal personality.

37. Within the six months following the entry into force of this Law the Executive, on a proposal by the National Directorate of Copyright, shall specify the owners entitled to remuneration and shall regulate the procedure for determining the equipment and material for which it is payable, its amount and the methods of collection and distribution. The National Directorate of Copyright shall decide what exemptions are appropriate and may also broaden the liability for payment of remuneration referred to in Article 34 to include those who distribute the material mentioned therein to the public.



# PARAGUAY

5/6



## LEGAL BASIS

### ...LEVY

#### Article 44 of the Law No. 1.328/98 on Copyright and Neighboring Rights of 1998

The exclusively personal copying of works published in graphic form or in the form of sound or audiovisual recordings shall be lawful where the compensatory remuneration referred to in Chapter IV of Title IV of this Law has been paid. The reproductions allowed under this Article shall not however extend to the following:

1. reproduction of a work of architecture in the form of a building or other construction.
2. reproduction of the whole of a book or musical work in graphic form, or of the original or a copy of a work of fine art executed and signed by the author;
3. a database or compilation of data.

#### Decree No. 6.780/11 regulating Chapter IV 'Rights to Compensatory Remuneration' of Law No. 1.328/98 'on Copyright and Neighboring Rights'

The Decree No. 6780/11 determines the equipment and media subject to the levy as well as the rates.

Exemptions from payment of the compensations apply to:

- Professional uses;
- Equipments and materials to be used by producers of audio-visual works, phonograms and publishers, or by their respective licensees and companies working on behalf of any of them, for legitimate production or reproduction of those works, provided that such equipment is used exclusively for these activities.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Decree No. 6.780/11 regulating Chapter IV 'Rights to Compensatory Remuneration' of Law No. 1.328/98 'on Copyright and Neighboring Rights'

AIE – Paraguay (the society representing artists) is in charge of collecting and distributing, on a monthly basis, the collected remuneration to the 3 national CMOs authorized by the Copyright National Office –DINAPI- (one-third for each). Each of the three entities determine the distribution scheme.



## COMMENTS/DEVELOPMENTS

### Are there liable parties who deny responsibility or payment for certain media/devices? And why?

It does not exist because the tariff items are established in the customs regulation and incorporated into the regulatory decree.



# PARAGUAY

6/6



## TARIFFS

	Tariff valid per 1 Oct 2015
Hard disk drives	0.50% on all products/devices' import price
Smartphone	0.50% on all products/devices' import price
Laptop / PC	0.50% on all products/devices' import price
Audio recording devices	0.50% on all products/devices' import price
Video recording devices	0.50% on all products/devices' import price
Media players	0.50% on all products/devices' import price
CD-R, DVD-R, DVD + R	0.50% on all products/devices' import price
CDR/DVDR recorders	0.50% on all products/devices' import price
Memory cards	0.50% on all products/devices' import price
Portable mp3/mp4 player	0.50% on all products/devices' import price

The tariff is determined in the decree, the 0.50% applied to the import bill, of each tariff item to which the merchandise belongs.



## REVENUES

(PYG)	2015	2016	2017	2018
<b>TOTAL</b>	<b>5,196,049,079</b>	<b>20,805,667,566</b>	<b>26,728,774,108</b>	<b>26,232,656,583</b>

### EXPLANATION ON DEVELOPMENTS

Revenues have increased from 2015 because the new decree has included new devices and customs controls were increased by the DINAPI enforcement unit, Art. 11 Decreto 4212.





**NORTH & SOUTH AMERICA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# PERU



31,989,256

GDP: 188.0 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Peru
<b>CURRENCY</b>	New sol (PEN)
<b>NAME ORGANISATION</b>	UNIMPRO
<b>WEB SITE</b>	www.unimpro.org
<b>E-MAIL</b>	info@unimpro.org
<b>ADDRESS</b>	Av. José Galvez Barrenechea 145, Urb. Córpac – San Isidro
<b>POSTCODE</b>	Lima 27
<b>CITY</b>	Lima
<b>PHONE</b>	+(51-1) 421-2626



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	UNIMPRO (Peruvian Union of Phonographic Producers) is in charge of collection and distribution of private copy income, on mandate of the following CMOs: SONIEM, APDAYC, APSAV and EGEDA
<b>EXCEPTION</b>	Yes: a private reproduction for a domestic use and without profit-making purpose is authorized.
<b>LEVY</b>	Equipment: No Media: Yes
<b>TARIFFS</b>	N/A
<b>BENEFICIARIES</b>	Performer, the author and the producer of the videogram and/or phonogram
<b>LIABLE</b>	Manufacturer, distributors and importers
<b>EXEMPTION</b>	Professional reproduction of duly authorized producers of videograms or phonograms as well as broadcasting companies.
<b>RATE SETTING</b>	A regulation shall state the rates, compensation is based on the retail price.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No
<b>TOTAL revenues from private copying levies in local currency</b>	N/A (see Comments/Developments)



# PERU

2/2



## LEGAL BASIS

### EXCEPTION

#### Article 48 of the Copyright Law (Legislative Decree No. 822 of April 23, 1996)

It shall be lawful to make copies for exclusively personal use of works, performances or productions published as sound or audiovisual recordings. The reproductions permitted by this Article shall not however include the following:

- (a) the reproduction of a work of architecture in the form of a building or any other structure;
- (b) the reproduction of the whole of a book, a musical work in written form or the original or a copy of a three-dimensional work made and signed by the author;
- (c) a data base or compilation of data.

### LEVY

#### Article 20 of the Law on Performers (Law No. 28131 of 2003) – Compensation for private copying

**20.1** Reproduction that is carried out exclusively for private use of works or artistic performances in the form of videograms or phonograms, on media or materials capable of embodying them, shall lead to the payment of compensation for private copying, which is to be shared between the performer, the author and the producer of the videogram and/or phonogram, in the form and percentages established by the Regulations.

**20.2** Compensation for private copying shall not constitute a tax. The income derived for that purpose shall be governed by the applicable tax regulations.

**20.3** This compensation shall be paid by the domestic manufacturer and the importer of suitable media or materials that permit the reproduction referred to in the preceding paragraph.

**20.4** Duly authorized producers of videograms or phonograms as well as broadcasting companies shall be exempt from payment in respect of media or materials for the reproduction of phonograms and videograms for purposes of their activities.

**20.5** Compensation shall be determined according to the appropriate media, whether existing or yet to be created, for making that reproduction in accordance with the provisions of the Regulations.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Article 20 of the Law on Performers (Law No. 28131 of 2003) – Compensation for private copying

**20.6** The form of collection and other aspects not provided for in this Law shall be established in the Regulations.



## COMMENTS/DEVELOPMENTS

Rightholders attempts to fix levies on devices in particular on digital devices, but they were challenged as unlawful before the Peruvian Copyright Authority and a decision of Supreme Court - Cassation judgement N°4534-2011:

*"The payment of a compensation for private copying has been regulated as an obligation to redress an act that truly affects rights (through the reproduction with private purposes), not as a tax or pecuniary payment that objectively affects an activity (e.g. manufacture or sale items to carry out reproduction acts) with the purpose of compensate the economic rights prejudice suffered – in abstract by authors, artists or producers, for individualized acts. In such way, under this regulatory model producers or sellers of these item couldn't be obligated to the payment of a compensation for private copying by this mere fact (because it's evident that nowadays this kind of hardware are not destined only for the reproduction of works, but also as a storage device of any other kind of information), but for the fact of being the cause in a production and sale that finally took to reproduce the work".*

**NB:** Information on revenue collections has not been received. However, in the CISAC Income and Expenditure declaration which only covers the authors share of the collection, it is mentioned that PEN 191,928 (about EUR 50,000) have been collected in 2018 in payment for compensation of CD support for the periods from 1st January 2008 to 31th October 2018.





**NORTH & SOUTH AMERICA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# UNITED STATES OF AMERICA



326,687,501

GDP: 17,383.4 billion EUR

1/5

## CONTACT INFORMATION

<b>COUNTRY</b>	United States
<b>CURRENCY</b>	US Dollar (USD)
<b>NAME ORGANISATION</b>	Alliance of Artists and Recording Companies ('AARC')
<b>WEB SITE</b>	<a href="http://www.aarcroyalties.com">www.aarcroyalties.com</a>
<b>ADDRESS</b>	700 N. Fairfax Street, Suite 601
<b>POSTCODE</b>	22314
<b>CITY</b>	Alexandria, Virginia
<b>PHONE</b>	+1 703.535.8101
<b>FAX</b>	+1 703.535.8105



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Alliance of Artists & Recording Companies is a non-profit, tax-exempt private organization. Featured artists and producers contractually sign up with AARC.
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	The Audio Home Recording Act of 1992 ("AHRA") sets the fees for manufacturers/ distributors or importers/distributors of equipment and media to pay.
<b>BENEFICIARIES</b>	AARC represents Featured Artists and Sound Recording Copyright Owners (Producers). AARC distributes directly to rights holders and through collectives based on bilateral agreements.
<b>LIABLE</b>	Under AHRA, royalties must be distributed based on sales in the US during the year for which the royalties are collected – the royalty year. Royalties must be paid by requires importers/distributors or manufacturers/ distributors of certain digital audio recording devices, digital audio recording media and digital audio interface devices manufactured or imported and distributed in the United States.
<b>EXEMPTION</b>	Export/professional use
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No
<b>TOTAL revenues from private copying levies in local currency</b>	2015: USD 146,460.24 2016: USD 7,806.81 2017: USD 7,497.05 2018: USD 3,759.19 (provisional)



# UNITED STATES OF AMERICA

2/5

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

AHRA establishes the rate. Devices: 2% of the distribution price with a maximum of USD 8 per device and USD 12 in the case of a physically integrated unit containing more than 1 device and USD 1 minimum. Media: 3% for media.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

If a device or media falls within the definitions in AHRA, the percentage fees specified in the law must be paid.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Professional devices are exempt. Refunds are therefore not applicable.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

The importers/distributors or manufacturers/distributors of devices and media that fall within the definition of a Digital Audio Recording Device ("DARD"), Digital Audio Recording Medium ("DARM") and Digital Audio Interface Devices ("DAIDs") must pay the fees upon distribution.

### EXEMPTION UPFRONT

Professional devices.

### REFUND AFTERWARDS

Adjustments can be made, for equipment or media for which fee was paid but which was not distributed because of returns, in the annual statement filed with the Copyright Office.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Under the AHRA, the fees are paid to the Copyright Office and there is a complicated annual legal process for collecting the fees for the rightsholders from the Copyright Office.

### HOW FREQUENTLY IS PAYMENT DUE?

Payments are made annually if the fees have been received from the Copyright Office.

### HOW DO YOU MONITOR THE MARKET?

AARC conducts enforcement activities to ensure payments are made by the importers/distributors or manufacturers/distributors of DARDs, DARMs and DAIDs.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

AARC must collect certain Tax Identification information from the rightsholder and keep this information on file.



# UNITED STATES OF AMERICA

3/5

## COLLECTION PROCESS

### ARE EXPORTS EXEMPTED?

Yes, because the DARDs, DARMs and/or DAIDs must be distributed in the United States.

### DEFINITION OF IMPORT

AHRA covers the manufacturer or importer, whichever party distributes the DARDs, DARMs and/or DAIDs in the United States for ultimate transfer to consumers in the US. There is no definition for importer.

### WHO IS CONSIDERED IMPORTER?

Not covered under the AHRA.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Alliance of Artists and Recording Companies distributes annually to Featured Recording Artists and Sound Recording Copyright Owners (Producers). Distribution methods are determined by the AHRA.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No

### FREQUENCY OF DISTRIBUTION

AARC distributes annually contingent on having received the royalties from the federal government.

### WHICH RIGHTS HOLDERS ARE INCLUDED?

AARC represents Featured Artists and Sound Recording Copyright Owners (Producers). AARC distributes directly to rights holders and through collectives based on bilateral agreements.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Under the Audio Home Recording Act of 1992, the royalties must be distributed based on sales of music during the year for which the royalties were collected.



# UNITED STATES OF AMERICA

4/5

## DISTRIBUTION PROCESS

### DISTRIBUTION KEYS

Distribution scheme for Audio under AHRA

Sound Recordings Fund (SRF) – 2/3 of total DART fund

AHRA require allocation of 96% to Sound Recording Copyright Owners and Featured Recording Artists, as follows:

Sound Recording Copyright Owners' Subfund – 60%

Featured Recording Artists' Subfund – 40%

The AFM & SAG-AFTRA Intellectual Property Fund

Non-Featured Artists – 4% of SRF

Musical Works Fund (MWF) – 1/3 of total DART fund

Writers' Subfund – 50% of MWF

Publishers' Subfund – 50% of MWF

Distribution scheme for video: no private copy for video.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

There is no deduction for collective (social and/or cultural) purposes.



## LEGAL BASIS

### EXCEPTION

Audio Home Recording Act of 1992. Pub. L. No. 102-563. 106 Stat. 4237 (Oct. 28. 1992). codified at 17 U.S.C. §1001 et seq.

AHRA requires the payment of fees upon distribution of certain digital audio recording devices and digital audio recording media and the inclusion of a serial copy management system (SCMS) in all digital audio recording devices and digital audio interface devices imported, manufactured or distributed in the United States. Such a system allows unlimited first-generation digital copying of sound recordings but prevents the making of digital copies from copies.

### LEVY

AHRA establishes the rate. Devices: 2% of the distribution price with a maximum of USD 8 per device and USD 12 in the case of a physically integrated unit containing more than 1 device and USD 1 minimum. Media: 3% for media.

### COLLECTION AND DISTRIBUTION SYSTEMS

Under AHRA, royalties must be distributed based on sales in the US during the year for which the royalties are collected – the royalty year. Royalties must be paid by importers/distributors or manufacturers/distributors of certain digital audio recording devices, digital audio recording media and digital audio interface devices manufactured or imported and distributed in the United States.



# UNITED STATES OF AMERICA

5/5



## COMMENTS/DEVELOPMENTS

Are there liable parties who deny responsibility or payment for certain media/devices? And why?

Parties who refuse to pay do so by claiming that their devices or media do not fall under the definitions in the AHRA.

## COURT CASES

AARC has filed suit against certain car manufacturers who offer music recording devices in their cars.



## TARIFFS

	Tariff (USD)	Capacity
Blank Media	3% of the transfer price for media	Per unit
Devices: Digital Audio Recording Device ("DARD"), Digital Audio Recording Medium ("DARM") and Digital Audio Interface Devices ("DAIDs")	2% of the transfer price for devices*	Per unit
	Maximum USD 8 per device or USD 12 per multi-integrated device and minimum USD1 per device.	
Other: refurbishment (or remanufactured)		No because a fee would have already been paid.



## REVENUES

(USD)	2015	2016	2017	2018 (estimate)
TOTAL	146,460.24	7,806.81	7,497.05	3,759.19

## EXPLANATION ON DEVELOPMENTS

Revenues have decreased because devices and media sold changes and the car manufacturers have not been paying.





# ASIA INTRODUCTION

1 / 1

Asia is the broadest and the most populated region in the world.

In a large part of this region, although there are copyright/authors' right protection frameworks, private copying exception with remuneration is not part of the legal tradition, and rightsholders are adversely affected by private copying.

Out of the 47 countries and the territory studied, no reference to an exception for private copying is mentioned in the law of 15 countries. Such reference can be found in 23 additional countries (Afghanistan, Armenia, Bahrain, Bangladesh, Bhutan, Cambodia, China, Democratic People's Republic of Korea, India, Iran (Republic of), Jordan, Kuwait, Lebanon, Maldives, Mongolia, Nepal, Qatar, Saudi Arabia, South Korea, Sri Lanka, Tajikistan, Thailand and United Arab Emirates) and in the territory of Taiwan albeit extremely limited as only a single copy made for personal use is allowed, without the consent of the rightsholders and without any remuneration attached. This means that only 8 countries in the region have introduced a private copying levy scheme in their domestic legislation (Azerbaijan, Kazakhstan, Kyrgyz Republic, Uzbekistan, Turkmenistan, Turkey, Israel and Japan), but only the last two have an effective collection and distribution system; however, the system in Japan must be updated to cover equipment and devices actually used for private recording.

It is therefore clear that no levy is currently collected and distributed in much of this region, notwithstanding the existence of legal provisions providing for such a levy. The wording of the exception does not leave much room for hope in a short-term consideration by the local authorities whatsoever in the implementation of additional regulation that will allow local creators to receive a fair compensation (specific decree or decision by courts to be issued for appointing an organization in charge of the private copying levy, or fixing tariffs, etc.).

Asia has a great potential in markets such as China, India and Indonesia. It is of the greatest importance that governments increase awareness and acceptance of copyright in general. So far, they fail to respond to widespread infringement of creative works in their region. Thus, they did not have effective means to promote awareness of copyright law.

Moreover, the introduction of a levy scheme would entitle Asian creators to a share of income from private copying levies collected in other jurisdictions that apply the reciprocity principle.

In this sense, some interesting initiatives are to be encouraged and sustained:

- in South Korea, a levy system was proposed in a bill some years ago, but unfortunately, the bill was not passed during the term of the National Assembly. Local authors' societies are lobbying the government and the National Assembly to reintroduce this initiative;
- in Japan, one of the two countries having an effective system in place, the scope of the levy has been outdated for many years and compensation revenues are declining dramatically. Local collective management society, JASRAC is lobbying to review the current regime.

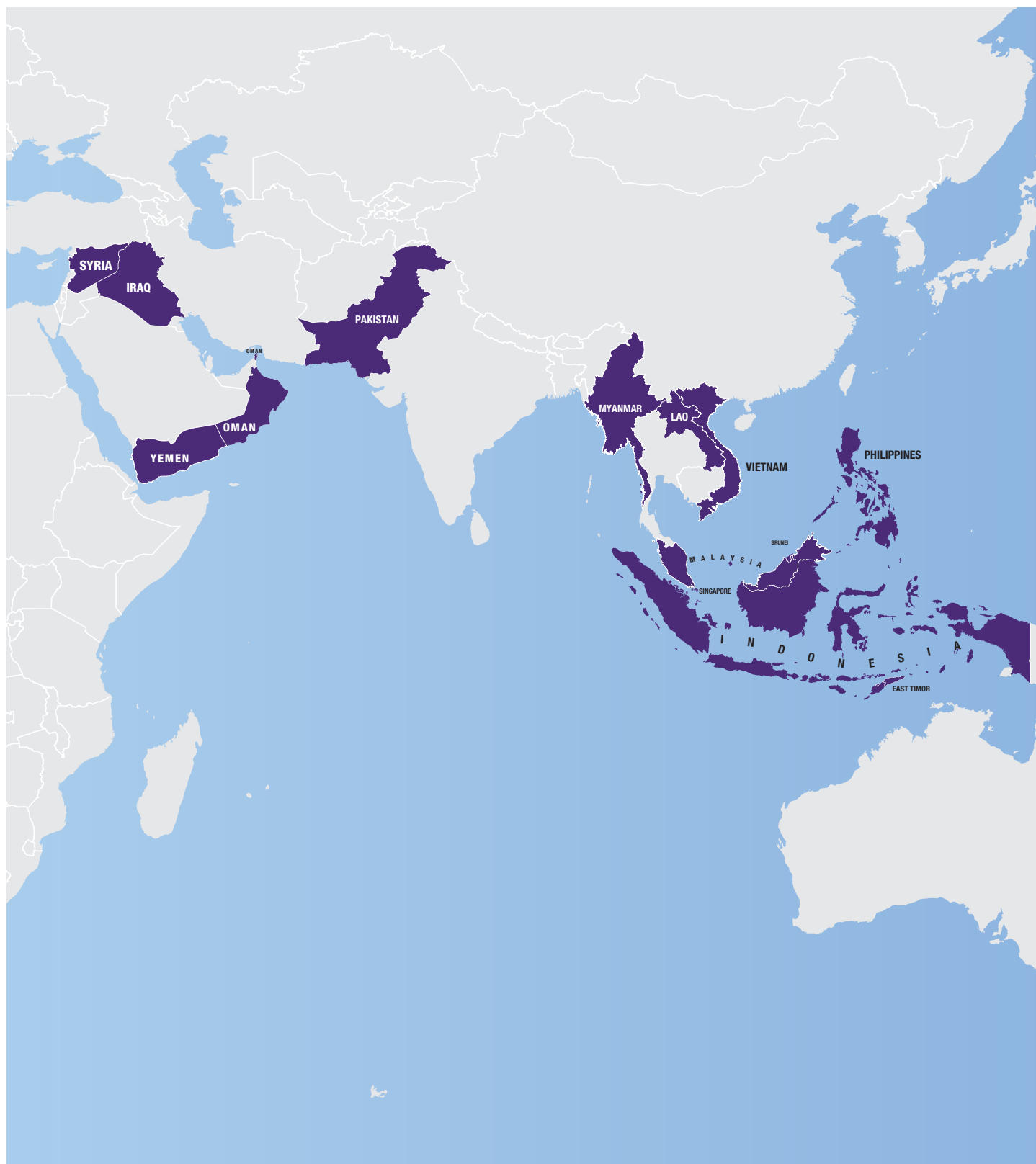
By way of examples of potential revenue in the case of a full and extended implementation of a levy system, the economic analysis is provided for these two last countries (see Box: *Revenue potential for selected countries in section 6*).





# ASIA:

## COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION

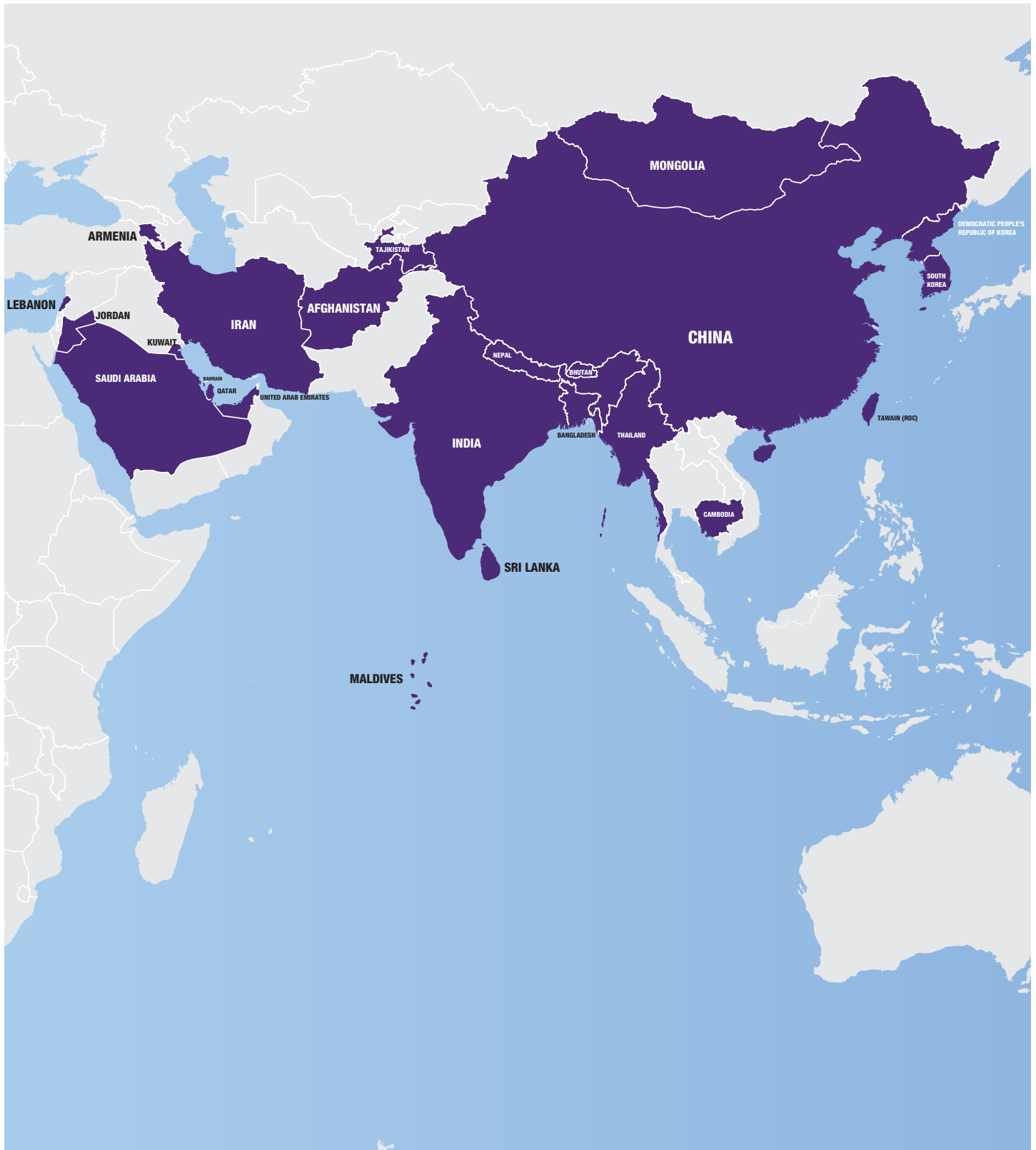






# ASIA:

## COUNTRIES/TERRITORIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM







# AFGHANISTAN



37,172,386

GDP: 16.5 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Afghanistan
<b>CURRENCY</b>	Afghani (AFN)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 39 of the Copyright Law of 2008

(1) Reproduce of published Work is permitted by a natural person without the Author's authorization provided that it is exclusively for the personal use, the followings are exceptions:

- 1 Reproduction of architecture Work in the form of a building or construction.
- 2 Reproducing in copy form of copying documents (Reprography) or photography of all or an important part of book of musical Work.
- 3 Reproducing all or part of database digitally. Reproduction [adaptation] of a computer program mentioned in the (2) paragraph of this Article is not included.





# ARMENIA



2,951,776

GDP: 10.5 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Armenia
<b>CURRENCY</b>	Dram (AMD)
<b>NAME ORGANISATION</b>	ARMAUTHOR
<b>WEB SITE</b>	<a href="http://www.armauthor.am/">http://www.armauthor.am/</a>
<b>E-MAIL</b>	<a href="mailto:info@armauthor.am">info@armauthor.am</a> <a href="mailto:international@armauthor.am">international@armauthor.am</a>
<b>ADDRESS</b>	19a Koryun str.
<b>POSTCODE</b>	375009
<b>CITY</b>	Yerevan
<b>PHONE</b>	374 10 52 94 92
<b>FAX</b>	374 10 52 94 92



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

Article 23 of the Copyright and related rights law dated 15 June 2006 (last amended on 30 September 2013) - Reproduction of a Work for Private Purposes:

The reproduction of a work lawfully made public shall be permitted without the consent of the author and without remuneration exclusively for private, non-commercial use, which does not prejudice the legitimate interests of the author. This provision shall not apply to the reproduction of constructions and architectural works of similar structure, machine-readable databases or their substantial parts, computer programs, as well as to the reproduction of whole books and graphic editions of musical works, unless otherwise provided by this Law.



## COMMENTS/DEVELOPMENTS

A draft law is currently under review but still does not foresee any remuneration or compensation and distribution system for Private Copying uses.





# BAHRAIN



1,569,439

GDP: 31.9 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Bahrain
<b>CURRENCY</b>	Bahraini dinar (BHD)



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a legally published original work or a legal copy of work for personal use is authorized
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 19 of Act No. 22 of the Year 2006 relating to the Protection of Copyright and Neighboring Rights

It is lawful to make a single copy of a legally published original work, or of a legal copy thereof, for purely personal use without the consent of the author and without paying compensation. This does not apply to the following:

- (a) Reproducing works of architecture in the form of buildings or any other construction.
- (b) Making a photocopied reproduction of a (written) work, either in its entirety or a fundamental part thereof.
- (c) Making a photocopied reproduction of a work of sheet music, either in its entirety or a large part thereof.
- (d) Making a total or partial reproduction of databases in digital format.
- (e) Reproducing computer programs, unless pursuant to the provisions of article 26 of this Act.





# BANGLADESH



161,356,039

GDP: 232.0 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Bangladesh
<b>CURRENCY</b>	Bangladeshi Taka (BDT)



## OVERVIEW

<b>EXCEPTION</b>	Yes, fair use of a literary, dramatic, musical or artistic work for private study or private use
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

Article n°72 of the Copyright Act of 2000

- (1) The following acts shall not constitute infringement of copyright, namely:
- (1) Fair use of a literary, dramatic, musical or artistic work for the purpose of:
    - (i) private study or private use including research;
  - (...)



## COMMENTS/DEVELOPMENTS

The Copyright Act does not provide an explicit private copying exception, but it recognizes the private use of a work as "fair use" which does not constitute an infringement to copyright.





# BHUTAN



754,394

GDP: 2.1 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Bhutan
<b>CURRENCY</b>	Bhutanese Ngultrum (BTN)



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a published work for personal purposes is permitted
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 10 of Copyright Act of the Kingdom of Bhutan, 2001

(1). Notwithstanding the provisions of Section 8(1) (a), and subject to the provision of subsection (2), the private reproduction of a published work in a single copy, where the reproduction is made by a physical person exclusively for his own personal purposes, shall be permitted, without the authorization of the author of, or other owner of the copyright in, the work.

(2) The permission under subsection (1) shall not extend to the reproduction :

- a. of a work of architecture in the form of building or other construction;
- b. where the reproduction is reprographic reproduction, or an entire book, or a substantial part thereof, or of a musical work in graphic form;
- c. of a data base;
- d. of a computer program, except as provided in Section 15; and
- e. of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author of, or other owner of the copyright in, the work.



## COMMENTS/DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not specified that the copy should be made for non-commercial purpose. Even if this provision recalled the 3 test steps, this provision deserves to be enhanced and completed by a compensation levy for rightsholders benefits.





# CAMBODIA



16,249,798

GDP: 20.8 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Cambodia
<b>CURRENCY</b>	Cambodian Riel (KHR)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 24 of law on Copyright and Related Rights of 2003

The private reproduction of a published work in a single copy shall be permitted without the authorization of the author or the right-holder, where the reproduction is made by a natural person exclusively for his own personal purposes.

The permission under the preceding paragraph of this article shall not extend to the reproduction:

- (a) Of a work of architecture in the form of building or other construction;
- (b) In the form of reprography of the whole or a substantial part of a book, and of a musical work in the form of musical notation;
- (c) Of the whole or of a substantial part of a database in digital form;
- (d) Of a computer program, other than a backup-copy.
- (e) Of any work, in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or the right-holder.



## COMMENTS/DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not specified that the copy should be made for non-commercial purpose. Even if this provision recalled the 3 test steps, this provision deserves to be enhanced and completed by a compensation levy for rightsholders benefits





ASIA: COUNTRIES/TERRITORIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# CHINA



1,392,730,000

GDP: 11,765.8 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	China
<b>CURRENCY</b>	Yuan Renminbi (CNY)
<b>NAME ORGANISATION</b>	MCSC
<b>WEB SITE</b>	<a href="http://www.mcsc.com.cn">www.mcsc.com.cn</a>
<b>ADDRESS</b>	5F Jing Fang Building 33 Dong Dan San Tiao Dong Chen District
<b>POSTCODE</b>	100005
<b>CITY</b>	Beijing
<b>PHONE</b>	+86 10 6523 2656
<b>FAX</b>	+86 10 6523 2657



## OVERVIEW

<b>EXCEPTION</b>	Yes, use of another person's published work for purposes of the user's own personal study, research or appreciation.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article n°22 of Copyright Law of the People's Republic of China of 26 February 2010

In the following cases, a work may be used without permission from, and without payment of remuneration to, the copyright owner, provided that the name of the author and the title of the work are mentioned and the other rights enjoyed by the copyright owner in accordance with this Law are not prejudiced:

(1) use of another person's published work for purposes of the user's own personal study, research or appreciation;

(...)



## COMMENTS/DEVELOPMENTS

China is working on a reform of its copyright law, but the draft bill doesn't provide at this stage any addition of private copying levy.





ASIA: COUNTRIES/TERRITORIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA



25,549,819

GDP: 38.4 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Democratic People's Republic of Korea
<b>CURRENCY</b>	North Korean Won (KPW)



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a work for personal or family purposes is permitted.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

Article 32 of the Copyright Law of the Democratic People's Republic of Korea (as amended by Decree No. 1532 of February 1, 2006)

A copyrighted work may be used without the permission of the copyright holder in the following cases:

1. when a copyrighted work is reproduced or translated for use by an individual or within the family;

(..)



## COMMENTS/DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not specified that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightsholders' benefits.





ASIA: COUNTRIES/TERRITORIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# INDIA



1,352,617,328

GDP: 2,297.4 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	India
<b>CURRENCY</b>	Indian Rupees (INR)
<b>NAME ORGANISATION</b>	The Indian Performing Right Society Limited
<b>WEB SITE</b>	<a href="http://www.iprs.org">www.iprs.org</a>
<b>ADDRESS</b>	208, Golden Chambers, New Andheri Link Road, Andheri (W)
<b>POSTCODE</b>	4000 53
<b>CITY</b>	Mumbai
<b>PHONE</b>	+91 22 26733748-50
<b>FAX</b>	+91 22 26733758



## OVERVIEW

<b>EXCEPTION</b>	Yes, fair dealing for any work (musical, literary, dramatic, etc.; exception computer program) for personal and private use.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article n° 52 of the Copyright Act of 1957 (as amended in 2012)

The following acts shall not constitute an infringement of copyright, namely:

1. A fair dealing with any work, not being a computer program, for the purposes of:
  - a. Private or personal use, including research;

(...)



## COMMENTS/DEVELOPMENTS

The Indian Copyright Act does not provide an exception per se, it considers that a fair dealing of works for private or personal use does not constitute an infringement of copyright.





# IRAN



81,800,269

GDP: 394.2 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Iran (Republic of)
<b>CURRENCY</b>	Iranian Rial (IRR)



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a work for private and non-commercial use is permitted.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article n° 11 of the Copyright Law of 1970

Reproduction of works protected by this law, as mentioned in Article 2, Section 1, and the recording of radio and television programmes are permissible, but only for private and non-commercial use.



## COMMENTS/DEVELOPMENTS

The Copyright Law is very old and hasn't been reviewed since 1970.





ASIA: COUNTRIES/TERRITORIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# JORDAN



9,956,011

GDP: 35.8 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Jordan
<b>CURRENCY</b>	Jordanian Dinar (JOD)



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a published work for personal purposes is permitted
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article n° 17 of The Copyright Protection Law No. (22) of 1992 (as amended up to 2005)

Published works may be used without the author's permission subject to the following conditions and in the following cases:

(..)

- b) Employing the work for private personal use through making one copy thereof by reproduction, recording, photographing, translation or musical distribution provided that the foregoing does not conflict with normal exploitation of the work and does not cause unjustified injury to the legitimate interests of the author.





# KUWAIT



4,137,312

GDP: 119.1 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Kuwait
<b>CURRENCY</b>	Kuwaiti Dinar (KWD)



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a published work for personal purposes is permitted
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 8 of the decree-law N. 5 of 1999 on intellectual property rights

If a person has made a single copy of a classified work already published, or he has translated, adapted, modified or altered the same for his personal use in any other manner whatsoever, the author may not prevent him from doing so, provided that the publishing of such works may not be made, unless the permit of its owner and the author is obtained.



## COMMENTS/DEVELOPMENTS

Kuwait has issued a new copyright law, Law no. 22 of 2016 (on Copyrights and Related Rights) but the English translation is not available yet. Even if the law tends to increase the level of protection for creators, it seems that nothing concerns the private copying exception.





# LEBANON



6,848,925

GDP: 46.5 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Lebanon
<b>CURRENCY</b>	Lebanese Pound (LBP)



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a published work for personal and private uses is permitted
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 23 of the Law N.75 of 1999 on the Protection of Literary and Artistic Property

Without prejudice to the provisions of Article 24 of this Law, any natural person may, for his personal and private use, copy, record or make a single copy of any work protected under this Law without the authorization or consent of the copyright holder and without having to pay him any compensation, provided that the work has been legally published.

The use of a copy copied or reproduced inside a company or at any other work place shall not be considered as personal and private use.

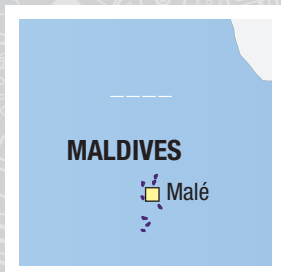


## COMMENTS/DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not specified that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightsholders' benefits.





# MALDIVES



515,696

GDP: 4.5 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Maldives
<b>CURRENCY</b>	Rufiyaa (MVR)



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a published work for personal purposes is permitted
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 12 of the Copyrights and Related Rights Act of 2010

(a) Notwithstanding the provisions of Section 10 (a) (1), and subject to the provisions of Subsection (b), the private reproduction of a published work in a single copy shall be permitted without the authorization of the author or owner of copyright, where the reproduction is made by a person exclusively for his own personal purposes.

(b) The permission under Subsection (a) shall not extend to the following:

- (1) to the reproduction of a work of architecture in the form of building or other construction;
- (2) to reproduction in the form of the whole or a substantial part of a book or of a musical work in the form of notation;
- (3) to reproduction of the whole or a substantial part of a database in digital form;
- (4) to reproduction of a computer program, except as provided in Section 18 of this regulation; And
- (5) to reproduction of any work in cases where reproduction would affect the normal proceedings the work may generate and could prejudice the legitimate interests of the author or other owner of the copyright.
- (6) to reproduction of feature films, documentary, films, dramas, video songs and other audiovisual presentations created for commercial use.



## COMMENTS/DEVELOPMENTS

This private copying exception is narrowed to one copy of a work.

Moreover, it is not specified that the copy should be made for non-commercial purpose.

Even if this provision recalled the 3 test steps, this provision deserves to be enhanced and completed by a compensation levy for rightsholders' benefits.





# MONGOLIA



3,170,208

GDP: 11.1 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Mongolia
<b>CURRENCY</b>	Tugrik (MNT)
<b>NAME ORGANISATION</b>	MOSCAP
<b>WEB SITE</b>	<a href="http://moscap.mn">http://moscap.mn</a>
<b>E-MAIL</b>	<a href="mailto:MoscapMongolia@gmail.co">MoscapMongolia@gmail.co</a>
<b>ADDRESS</b>	P.O. Box - 327
<b>POSTCODE</b>	15160
<b>CITY</b>	Ulaanbaatar
<b>PHONE</b>	976 9 911 22 81
<b>FAX</b>	976 1 132 33 78



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a published work for personal purposes is permitted as soon as it is on a non-for-profit basis.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 24 of Mongolia on Copyrights and Related rights of 1993 (as amended until 2006)

24.1. The following circumstances where the works were used without contradicting the normal exploitation of published works and without affecting the legal interests of the rightsholders shall not be deemed as copyright infringement:

(...)

24.1.8. To reproduce works for private use;

(...)

24.2. The following conditions shall be considered in determining the circumstances provided in Section 24.1 of this law:

24.2.1. To have a non-profit purpose;

24.2.2. The extent of use and the importance of the used parts;

24.2.3. The value of the work and the effect of the used part on the market.

24.3. The name of the author and source must be mentioned when a work is used under Section 24.1 of this law."





# NEPAL



28,087,871

GDP: 24.7 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Nepal
<b>CURRENCY</b>	Nepalese Rupee (NPR)
<b>NAME ORGANISATION</b>	CPSN
<b>ADDRESS</b>	GPO Box No. 1115 C/O Music Nepal Shanti Galli, Anamnagar
<b>POSTCODE</b>	-
<b>CITY</b>	Kathmandu
<b>PHONE</b>	977 1 426 73 57
<b>FAX</b>	977 1 422 94 25



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 16 of the Copyright Act of 2002

(1) Notwithstanding anything contained in Clause (a) of Section 7, no authorization shall be required from the author or the copyright owner to reproduce some portions of any published work for personal use.

(2) Notwithstanding anything contained in Sub-section (1), no reproduction of an architectural design erected as a building and other construction related design or a significant portion of any book or of a musical work as notation of all or significant portion of a database through digital transmission shall be allowed in a manner to be prejudicial to the economic right of the author or the copyright owner.



## COMMENTS/DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not specified that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightsholders' benefits.





# QATAR



2,781,677

GDP: 162.0 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Qatar
<b>CURRENCY</b>	Qatari Riyal (QAR)



## OVERVIEW

<b>EXCEPTION</b>	Yes reproduction of a work for personal use is permitted
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 18 of the law No. 7 of 2002 on the Protection of Copyright and Related Rights

The following uses of a protected work are permitted without the Author's authorization:

(1) using the work exclusively for personal use, through reproduction, translation, quotation, musical arrangement, acting, broadcast listening, television viewing, photography or by any other means;  
(...)

The uses provided for in the two preceding items shall not conflict with a normal exploitation of the work or unreasonably prejudice the legitimate interests of the author;  
(...)



## COMMENTS/DEVELOPMENTS

It is not specified that the copy should be made for non-commercial purpose. Even if this provision recalled the 3 test steps, this provision deserves to be enhanced and completed by a compensation levy for rightsholders' benefits.





ASIA: COUNTRIES/TERRITORIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# SAUDI ARABIA



33,699,947

GDP: 666.0 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Saudi Arabia
<b>CURRENCY</b>	Saudi Arabian Riyal (SAR)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

Copyright Law issued by Royal Decree No. M / 41 dated 2/7/1424 AH amended by the Decision of the Council of Ministers No. 536 dated 19/10/1439 AH

Article 15: Exceptions

The following uses of the copyrighted work, in its original language or in translation, are lawful without obtaining the permission of the copyright owner. These forms of use are:

- 1- Copying the work for personal use, excluding computer software, audio and audio-visual.



## COMMENTS/DEVELOPMENTS

The exception has only recently been introduced and excludes audio and audiovisual works.





ASIA: COUNTRIES/TERRITORIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# SOUTH KOREA



51,606,633

GDP: 1,456.9 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Republic of Korea
<b>CURRENCY</b>	Korean Won (KRW)
<b>NAME ORGANISATION</b>	KOMCA
<b>WEB SITE</b>	<a href="http://www.komca.or.kr">www.komca.or.kr</a>
<b>E-MAIL</b>	<a href="mailto:inter05d@komca.or.kr">inter05d@komca.or.kr</a>
<b>ADDRESS</b>	332 Gonghang-daero, Gangseo-gu, Seoul, 07647
<b>POSTCODE</b>	07647
<b>CITY</b>	Seoul
<b>PHONE</b>	+82 2 2660 0432
<b>FAX</b>	+82 2 2660 0509



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article n°30 of the Copyright Act of 1957 (as amended up to 2013)

A user may reproduce in private a work already made public without any commercial purposes, provided that the foregoing shall not be applied to reproduction by a photocopier set up for public use.



## COMMENTS/DEVELOPMENTS

A levy system was proposed in a bill few years ago, but it was lapsed because the bill was not passed during the term of the National Assembly. KOMCA (the Korean music society) and KORRA (the Korean reprographic and visual art society) are trying to find another member of the National Assembly to propose a new bill.





# SRI LANKA



21,670,000

GDP: 74.9 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Sri Lanka
<b>CURRENCY</b>	Sri Lankan rupee (LKR)



## OVERVIEW

<b>EXCEPTION</b>	Yes, fair use for private reproduction of a published work in a single copy.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 12 of the Intellectual Property Act No. 36 of 2003

(1) Notwithstanding anything contained in paragraph (a) of subsection (1) of section 9 and subject to the provisions of subsection (2) of this section, the private reproduction of a published work in a single copy shall be permitted without the authorization of the owner of the copyright, where the reproduction is made by a physical person from a lawful copy of such work exclusively for his own personal purposes.

(2) The permission under subsection (1) of this section shall not be extended to the reproduction:

- (a) of a work of architecture in the form of a building or other constructions ;
- (b) in the form of reprography of the whole or a substantial part of a book or of a musical work in the form of notations ;
- (c) of the whole or a substantial part of a data base ;
- (d) of a computer program, except as provided in subsection (7) ; and
- (e) of any work, in case the reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the owner of the copyright.



## COMMENTS/DEVELOPMENTS

It is not specified that the copy should be made for non-commercial purpose.  
Even if this provision recalled the 3 test steps, this provision deserves to be enhanced and completed by a compensation levy for rightsholders' benefits.





ASIA: COUNTRIES/TERRITORIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# TAIWAN (ROC)



23,588,932

GDP: 515.8 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY/TERRITORY</b>	Taiwan, Republic of China
<b>CURRENCY</b>	New Taiwanese Dollar (TWD)
<b>NAME ORGANISATION</b>	MÜST
<b>WEB SITE</b>	<a href="http://www.must.org.tw">www.must.org.tw</a>
<b>E-MAIL</b>	<a href="mailto:international@must.org.tw">international@must.org.tw</a>
<b>ADDRESS</b>	4F, N°71, Section 2, Nanjing East Road, Zhongshan Dist.
<b>POSTCODE</b>	10457
<b>CITY</b>	Taipei City
<b>PHONE</b>	886 2 2511 0869
<b>FAX</b>	886 2 2511 0759



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Art 51 of the Copyright Act (1<sup>st</sup> May 2019)

Within a reasonable scope, where for non-profit use by an individual or a family, a work that has been publicly released may be reproduced by a machine that is either located in a library or is not provided for public use.





# TAJIKISTAN



9,100,837

GDP: 6.4 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Tajikistan
<b>CURRENCY</b>	Somoni (TJS)



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a published work for exclusively personal purposes is permitted.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 19 of the Law on copyright and related rights of 1998 (as amended up to 2009)

The reproduction of a lawfully published work for exclusively personal purposes which shall apply insofar as the uses in question do not unjustifiably prejudice the normal exploitation of the work and do not without valid reason violate the legitimate interests of the author shall be authorized without need for the author's consent or payment of remuneration, except in the cases provided for in Article 39 of this Law.

The provisions of paragraph 1 of this Article shall not apply:

- 1) to the reproduction of works of architecture in the form of comparable buildings and structures;
- 2) to the reproduction of data bases or substantial parts of data bases;
- 3) to the reproduction of computer programs, except in the cases provided for in Article 24 of this Law;
- 4) to the reproduction of books (in their entirety) and musical scores.



## COMMENTS/DEVELOPMENTS

It is not specified that the copy should be made for non-commercial purpose. Even if this provision recalled the 3 test steps, this provision deserves to be enhanced and completed by a compensation levy for rightsholders' benefits.





# THAILAND



69,428,524

GDP: 428.9 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	THAILAND
<b>CURRENCY</b>	Baht (THB)
<b>NAME ORGANISATION</b>	Music Copyright (Thailand) Limited
<b>WEB SITE</b>	<a href="http://www.mct.in.th">www.mct.in.th</a>
<b>E-MAIL</b>	<a href="mailto:info@mct.in.th">info@mct.in.th</a>
<b>ADDRESS</b>	282/9 Unit E, 3rd Floor, TC Green Office Building, Rama9 Road., Huaykwang, Bangkok
<b>POSTCODE</b>	10310
<b>CITY</b>	Bangkok
<b>PHONE</b>	+662 105 3705
<b>FAX</b>	+662 105 3706



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a published work for exclusively personal purposes is permitted
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 32 of the Copyright Act b.e. 2537 of 1994 (as amended up to 2015)

An act against a copyright work under this Act of another person which does not conflict with normal exploitation of the copyright work by the owner of copyright and does not unreasonably prejudice the legitimate rights of the owner of copyright shall not be deemed an infringement of copyright.

Subject to the provision in the first paragraph, the following acts in relation to a copyright work shall not be deemed an infringement of copyright:

- (1) research or study of the work which is not for profit;
- (2) use for personal benefit or for the benefit of the user and his family members or close relatives;
- (...)



## COMMENTS/DEVELOPMENTS

The Thailand Copyright Act does not provide an exception per se, it considers that a fair use of works for personal benefit does not constitute an infringement of copyright. This is a very broad exception, and it creates legal risks both for consumers and rightsholders, while not remunerating the latter.

No change in law is expected shortly.





ASIA: COUNTRIES/TERRITORIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# UNITED ARAB EMIRATES



9,630,959

GDP: 357.5 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	United Arab Emirates
<b>CURRENCY</b>	United Arab Emirates Dirham (AED)



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a published work for personal and non-commercial purposes is permitted.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

Article 22 of the Federal Law No. 7 of the Year 2002 amended by law No. 32 for the year 2006 Regarding Copyright & Related Rights

Without prejudice to the moral rights of the Author under this Law, the Author may not once his work has been published prevent another person from doing any of the following:

1. Making a single copy of the work for non-commercial personal use. Excluded are works of fine or applied art unless they are placed in the public domain, with the approval of the copyright holder or his successors. Architectural works are also excluded other than in accordance with para 7 of this Article. Other exclusions are computer software and applications and databases except in accordance with para 2 of this Article.



## COMMENTS/DEVELOPMENTS

The Section 16 of the UAE Copyright Law enables the creation of collecting societies and provides for the undertaking of collective rights administration, and the Ministerial Decision No. 133 of 2004 concerning the Collective Management of Copyrights and Neighboring Rights established the basis on which licenses permitting collective management activities would be granted by the Ministry of Economy.

In 2004, based on the Copyright Law and the Ministerial Decision, the recording industry took steps to establish Emirates Music Rights Society ("EMRS") in the UAE to serve as a collecting society. But the Ministry of Economy has not yet promulgated regulations that would permit the approval of such collecting society. Without such approval, there is no practical way for rightsholders to protect and enforce their rights.





# ASIA:

## COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS







**ASIA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# AZERBAIJAN



9,939,771

GDP: 39.9 billion EUR

1/3

## CONTACT INFORMATION

<b>COUNTRY</b>	Azerbaijan
<b>CURRENCY</b>	Azerbaijan Manat (AZN)
<b>NAME ORGANISATION</b>	AAS
<b>WEB SITE</b>	<a href="http://www.authors.az">www.authors.az</a>
<b>E-MAIL</b>	<a href="mailto:contact@authors.az">contact@authors.az</a>
<b>ADDRESS</b>	Narimanov district, King Hussein str. 65B,
<b>POSTCODE</b>	AZ1069
<b>CITY</b>	Baku
<b>PHONE</b>	+994 12 437 83 16
<b>FAX</b>	+994 12 437 83 16



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes (audio and videotapes, other equipment) Media: Yes (audio and video cassettes, laser discs and other material media)
<b>BENEFICIARIES</b>	Authors, performers and audiovisual work producers with respect to audiovisual work; performers and phonogram producers with respect to phonogram.
<b>LIABLE</b>	Manufacturer, importer
<b>EXEMPTION</b>	Export, Professional use
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No

## RATE SETTING

**HOW ARE LEVIES/REMUNERATION DETERMINED?**

Special executive body



# AZERBAIJAN

2/3



## LEGAL BASIS

### EXCEPTION AND LEVY

**Article n° 17 of the Law of the Republic of Azerbaijan on Copyright and Related Rights (as amended up to Law of April 30, 2013)**

1. It shall be permissible to reproduce one copy of works previously published lawfully for personal purposes without the consent of author or other copyright owner and without payment of author's remuneration, on non-profit base.
2. The provisions of paragraph 1 of this Article shall not be applied to followings:
  - reproduction of works of architecture in the form of buildings and structures;
  - reproduction of databases or substantial parts thereof;
  - reproduction of computer programs, except for the cases provided for in Article 24 of this Law;
  - reprographic reproduction of books (on the whole), sheet music and original works of fine art;
  - reproduction of work without the consent which communicated to the public interactively;
  - any reproduction of work prejudicing normal use or unreasonably limiting author's interests communicated to the public interactively.

### LEVY

**Article n° 17 of the Law of the Republic of Azerbaijan on Copyright and Related Rights (as amended up to Law of April 30, 2013)**

3. While reproducing audiovisual work or phonogram for personal and without commercial purpose, authors, performers and audiovisual work producers with respect to audiovisual work, performers and phonogram producers with respect to phonogram shall be entitled to receive remuneration. Indicated remuneration shall be paid by manufacturer or importer of equipment used for reproduction (audio and videotapes, other equipments) and material media (audio (or) video cassettes, laser discs and other material media). Minimum amount, portion and procedure for paying the remuneration indicated in this Article shall be determined by relevant executive body.

(...)

5. In case the equipment and material media indicated in third paragraph of this Article are exported and are professional and not designed for use for recording in home conditions, no remuneration shall be paid for them. When indicated equipment and materials are imported by natural persons for personal purposes only, no remuneration shall be paid.

### COLLECTION AND DISTRIBUTION SYSTEMS

**Article n° 17 of the Law of the Republic of Azerbaijan on Copyright and Related Rights (as amended up to Law of April 30, 2013))**

4. The collection and portion of remuneration indicated in third paragraph of this Article shall be carried out by organization managing economic rights of authors, performers and phonogram producers collectively, in accordance with the contract concluded among them. Unless otherwise stipulated in indicated contract, the remuneration shall be divided in following portion: 40%-to authors, 30%-to performers, 30%-to phonogram producers.

The amount and procedure for paying the remuneration shall be determined by contract concluded between indicated manufacturer or importer on the one hand, and authors, performers and audiovisual work and phonogram producers or collective management organizations managing their economic rights on the other hand. In case parties cannot agree, indicated amount and procedure shall be determined by relevant executive body of the Republic of Azerbaijan acting in the field of copyright.

Portion of remuneration for personal purposes as indicated in first paragraph of this Article, shall be implemented among authors or other owners of rights, performers and phonogram producers in ordinary way.



# AZERBAIJAN

3/3



## COMMENTS/DEVELOPMENTS

The State Copyright Agency is not taking any actions regarding the application of the private copying levy system. There is no working mechanism for collecting royalties and no management body. In 2015, AAS (the Azerbaijan CMO) wrote a letter to the State Copyright Agency and required information on the implementation and adoption of a Regulation in this regard, but they did not get any answer from Copyright Agency.

CISAC could be of help to lobby the government for the establishment of an effective mechanism of collection and distribution of the levy.





ASIA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# KAZAKHSTAN



18,276,499

GDP: 151.9 billion EUR

1/2

## CONTACT INFORMATION

COUNTRY	Kazakhstan
CURRENCY	Tenge (KZT)
NAME ORGANISATION	Eurasian Rightsholders' Union



## OVERVIEW

EXCEPTION	Yes, reproduction of an audiovisual work and sound recording for private use is permitted.
LEVY	Equipment: Yes (sound recording equipment, videocassette recorders, etc.) Media: Yes (tape and cassettes for sound or video recording, compact discs, etc.).
TARIFFS	Set by Governmental Decree
BENEFICIARIES	Authors, performers, producers of phonograms and film makers
LIABLE	Importer
EXEMPTION	Export, Professional Use
SOCIAL AND CULTURAL DEDUCTIONS	No

## RATE SETTING

HOW ARE LEVIES/REMUNERATION DETERMINED?	Negotiation between CMOs and manufactures/importers. If the parties fail to agree, by a statutory body of the Republic of Kazakhstan.
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## LEGAL BASIS

### EXCEPTION

#### Art. 26 of Law on Copyright and Neighboring Rights 1996

(1) The reproduction for personal purposes of an audiovisual work or of the sound recording of a work shall be permissible without the consent of the author of the work, the performer or the phonogram producer, but subject to payment of remuneration to them.



# KAZAKHSTAN

2/2



## LEGAL BASIS

### LEVY

#### Art. 26 of Law on Copyright and Neighboring Rights 1996

(2) The remuneration for reproduction as referred to in paragraph (1) shall be paid by the manufacturers or importers of the equipment (sound recording equipment, videocassette recorders, etc.) and of the recording material (tape and cassettes for sound or video recording, compact discs, etc.) used for the reproduction.

(..)

(5) The amount of the remuneration and the conditions for its payment shall be determined by agreement between the aforementioned manufacturers and importers, on the one hand, and the organizations that manage the property rights of authors, phonogram producers and performers on a collective basis, on the other hand, and, if the parties fail to agree, by a statutory body of the Republic of Kazakhstan.

(6) No remuneration shall be paid for the recording equipment and material referred to in paragraph (2) that are exported or that constitute professional equipment and material not intended for use in home recording.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Art. 26 of Law on Copyright and Neighboring Rights 1996

3) The collection and distribution of such remuneration shall be carried out by one of the collective management organization of the rights of authors, of phonogram producers and performers in accordance with an agreement between these organizations (Article 43 of this Law).

(4) Unless otherwise agreed, the said remuneration shall be distributed as follows: forty percent to the authors, thirty percent to the performers and thirty percent to the phonogram producers.



## COMMENTS/DEVELOPMENTS

Improvements should be made in order to establish an effective and functioning mechanism of collection and distribution of the private copying levy.





ASIA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# KYRGYZ REPUBLIC



6,322,800

GDP: 7.0 billion EUR

1/2

## CONTACT INFORMATION

**COUNTRY** Kyrgyz Republic

**CURRENCY** Som (KGS)



## OVERVIEW

### EXCEPTION

Yes, reproduction of a visual work or sound recording for personal purposes is permitted.

### LEVY

Equipment: Yes (audio and video recorders, other equipment).  
Media: Yes (audio and (or) videotapes and cassettes, laser discs, compact discs and other material carriers)

### BENEFICIARIES

Authors, performers and producers of phonograms

### LIABLE

Manufacturer, Importer

### EXEMPTION

Export, professional equipment

### SOCIAL AND CULTURAL DEDUCTIONS

No

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Government of the Kyrgyz Republic



## LEGAL BASIS

### EXCEPTION

Art. 26 of Law of the Kyrgyz Republic on Copyright and related rights (as amended up to 2011)

1. Notwithstanding the provisions of Articles 16, 37 and 38 of this Act shall be allowed without the author's consent, performers and phonogram producers, but with payment of their remuneration, visual work or sound recording works solely for personal purposes.

### LEVY

Art. 26 of Law of the Kyrgyz Republic on Copyright and related rights (as amended up to 2011)

1. Notwithstanding the provisions of Articles 16, 37 and 38 of this Act shall be allowed without the author's consent, performers and phonogram producers, but with payment of their remuneration visual work or sound recording works solely for personal purposes.



# KYRGYZ REPUBLIC

2/2



## LEGAL BASIS

### ...LEVY

2. Award for reproduction referred to in paragraph 1 of this Article shall be paid by the manufacturers or importers of equipment (audio and video recorders, other equipment) and media (audio and (or) videotapes and cassettes, laser discs, compact discs and other material carriers) used for such reproduction.

List of equipment and media, as well as the size and procedure for collecting appropriate means approved by the Government of the Kyrgyz Republic.

(...)

3. Remuneration shall not be paid for the equipment and material referred to in the first subparagraph of paragraph 2 of this article, which are subject to export, as well as professional equipment, not intended for home use.

### COLLECTION AND DISTRIBUTION SYSTEMS

Art. 26 of Law of the Kyrgyz Republic on Copyright and related rights (as amended up to 2011)

2. (...)

Collection and distribution of remuneration effected by one of the organizations managing the property rights of authors, performers and phonogram producers on a collective basis, in accordance with agreements between these organizations (Article 45 of this Law). If this agreement provides otherwise, the remuneration shall be distributed as follows: 40 percent - authors, 30 percent - performers, 30 percent - producers of phonograms.



## COMMENTS/DEVELOPMENTS

Action is needed for the establishment of an effective mechanism of collection and distribution of the levy.

A law improvement could be made on equipment and medias covered by the private copying levy, in particular to adapt the scheme to the digital environment.





**ASIA:** COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# TURKEY



82,319,724

GDP: 653.2 billion EUR

1/3

## CONTACT INFORMATION

<b>COUNTRY</b>	Turkey
<b>CURRENCY</b>	Turkish Lira (TRY)
<b>NAME ORGANISATION</b>	Phonogram Producers Collecting Society (IFPI national group Turkey)
<b>WEB SITE</b>	www.mu-yap.org
<b>ADDRESS</b>	Turnacibasi Cad.Kuloglu
<b>POSTCODE</b>	Mahallesi No10. Beyoglu
<b>CITY</b>	Istanbul
<b>PHONE</b>	+90 212 292 46 13
<b>FAX</b>	+90 212 292 46 17



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	None. Collection of remunerations is done by the Minister of Culture and Tourism (MOCT). Ministry of Culture and Tourism has the legal monopoly.
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>BENEFICIARIES</b>	Ministry of Culture and Tourism
<b>LIABLE</b>	Legal liability moment for importers: before the custom declaration of devices and blank carriers upon CIF amount. For manufacturers: within 15 days after distribution of the devices and carriers to the local market. with an amount based upon the manufacturing prices.
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	Yes, there is an effective collection mechanism but there is no distribution to rightsholders, all revenues are directly collected and used by the MOCT.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No, the MOCT collects private copying levy and is free to distribute the amount to cultural purposes of its choice (after a deduction of 1/4 which goes to state budget).



# TURKEY

2/3



## LEGAL BASIS

### EXCEPTION

#### Article 38 of the Law No. 5846 of 1951 on Intellectual and Artistic Works (as last amended by Law No. 5728 of 2008)

It is permitted to reproduce all intellectual and artistic works for personal use without pursuing profit. However, such reproduction may not prejudice the legitimate interests of rightholders without good reason or conflict with the normal exploitation of the work.

### LEVY

#### Article 44 of the Law No. 5846 of 1951 on Intellectual and Artistic Works (as last amended by Law No. 5728 of 2008)

For the purpose of protection and effective pursuit of intellectual property rights, places which manufacture materials serving the fixation or reproduction of intellectual and artistic works and/or carry out the recording, reproduction and sale of such materials or distribute and supply to the public in any way, excluding places that only print periodicals, shall be given a certificate by the Ministry against a fee. Places that are determined by the Ministry are obliged to maintain software approved by the Ministry and hardware complying with criteria to be set by the Ministry, to form the necessary infrastructure and to inform to the Ministry transactions they carry out in each calendar year. Such places and economic rights holders are also jointly obliged to maintain codes complying with international standards and marks and serial numbers that are deemed necessary by the Ministry, on the materials carrying works.

Natural and legal persons who manufacture or import for commercial purposes any kind of materials carrying works such as blank video cassettes, audio cassettes, computer discs, CDs, DVDs and all kinds of technical equipment which serve the reproduction of intellectual and artistic works are obliged to collect every month and deposit, until the middle of the following month at the latest, in a special account to be opened with a national bank in the name of the Ministry of Culture and Tourism, an amount to be determined by the Council of Ministers not exceeding 3% of the manufacturing or importation costs.

(...)

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Article 44 of the Law No. 5846 of 1951 on Intellectual and Artistic Works (as last amended by Law No. 5728 of 2008)

(...)

A quarter of the amounts collected in the special account shall be transferred to the account of the Ministry of Culture Central Accounting Office and shall be recorded as revenue in the budget.

The amounts remaining in this account shall be used the purpose of strengthening the intellectual property system and the execution of cultural and artistic activities. The rules and procedures concerning the distribution and use of these monies shall be determined with a by-law to be issued by the Ministry of Culture and Tourism. The allowance which is necessary for activities concerning the protection of the cultural heritage within and outside the country shall be placed in the budget of the Ministry.

Rules and procedures regarding the application of this article and the fees to be collected shall be determined with a by-law to be issued by the Ministry of Culture.



# TURKEY

3/3



## COMMENTS/DEVELOPMENTS

Private copying is regulated by the Turkish Copyright Law but fair compensation is not included. Levies are not explicitly regulated. There is an obligation on manufacturers and importers to pay an amount (not exceeding 3% of the manufacturing price or importing fee) from the blank media and devices, but these are not levies in the Copyright Law.

Articles 38 and 44 have to be amended according to the Copyright Directive 2001/29 and international agreements. The articles are provided below, for your information:

Art. 38. (Amendment: 7.6.1995 - 4110/14; 21.2.2001 - 4630/19): It is permitted to reproduce all intellectual and artistic works for personal use without pursuing profit. However, such reproduction may not prejudice the legitimate interests of rights holders without good reason or conflict with the normal exploitation of the work.

Art.44 (second and other related paragraph). (Amendment: 21.2.2001 - 4630/23): Natural and legal persons who manufacture or import for commercial purposes any kind of materials carrying works such as blank video cassettes, audio cassettes, computer discs, CDs, DVDs and all kinds of technical equipment which serve the reproduction of intellectual and artistic works are obliged to collect every month and deposit, until the middle of the following month at the latest, in a special account to be opened with a national bank in the name of the Ministry of Culture and Tourism, an amount to be determined by the Council of Ministers not exceeding 3% of the manufacturing or importation costs. (Addition: 14.7.2004 - 5217/17): A quarter of the amounts collected in the special account shall be transferred to the account of the Ministry of Culture Central Accounting Office and shall be recorded as revenue in the budget.

(Amendment: 21.2.2001 – 4630/23; 14.7.2004 - 5217/17): The amounts remaining in this account shall be used for the purpose of strengthening the intellectual property system and the execution of cultural and artistic activities. The rules and procedures concerning the distribution and use of these monies shall be determined with a by-law to be issued by the Ministry of Culture and Tourism. The allowance which is necessary for activities concerning the protection of the cultural heritage within and outside the country shall be placed in the budget of the Ministry.

(Amendment: 3.3.2004 - 5101/15): Rules and procedures regarding the application of this article and the fees to be collected shall be determined with a by-law to be issued by the Ministry of Culture.





ASIA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# TURKMENISTAN



5,850,908

GDP: 34.5 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Turkmenistan
<b>CURRENCY</b>	Turkmenistan Manat (TMT)



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a single copy of a lawfully published work by a private person solely for private use.
<b>LEVY</b>	Equipment: Yes (audio- and (or) video recorders or other equipment) Media: Yes (audio and (or) video tapes, compact discs and other material carriers)
<b>BENEFICIARIES</b>	Authors, Performers, Producers of phonograms and audiovisual producers
<b>LIABLE</b>	Manufacturers and Importers
<b>EXEMPTION</b>	Export, Professional use
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The rates are fixed by an agreement between the producers and importers on the one hand, and the CMOs representing the rights of the authors, producers of phonograms or videograms and performers on the other hand. In the case where the parties cannot reach such agreement, the rates are fixed by the authorized state administration body on intellectual property.



## LEGAL BASIS

### EXCEPTION AND LEVY

Article 18 of the Law of Turkmenistan No. 257-IV of January 10, 2012 on Copyright and Related Rights (Translation from Russian version)

1. Reproduction of a single copy of a lawfully published work by a private person solely for private use and without commercial purpose is authorised without the author's or any other copyright holder's consent and without author's remuneration.

2. Paragraph one of the present article is not applied in relation to:

- 1) Reproduction of architectural works in the form of buildings and similar objects;
- 2) Reproduction of databases or their substantial parts;
- 3) Reproduction of computer programs, except the cases listed in the Article 21 of this Law;
- 4) Reprographic reproduction of books (entirely), sheet music and original works of fine art.



# TURKMENISTAN

2/2



## LEGAL BASIS

### LEVY

#### Article 18 of the Law of Turkmenistan No. 257-IV of January 10, 2012 on Copyright and Related Rights

3. Reproduction of an audiovisual work, phonogram or videogram by a private person for private use and without commercial purpose is authorised without the copyright holder's consent, but with a payment of remuneration: in relation to reproduction of an audiovisual work – to the authors, performers and producer of the audiovisual work; in relation to reproduction of a phonogram (videogram) – to the authors, performers and producer of the phonogram (videogram).

Remuneration is paid to the manufacturers and importers of the equipment (audio- and (or) video recorders or other equipment) and material information carriers (audio and (or) video tapes, compact discs and other material carriers) used for such reproduction.

The amount of remuneration and the conditions of its payment are determined by an agreement between the manufacturers and importers on the one hand, and the organisations managing the economic rights of the authors, producers of phonograms or videograms and performers on a collective basis on the other hand, and in the case if the parties cannot reach such agreement – by the authorised state administration body on intellectual property.

It is taken into account that if the rightholders apply technical means of protection, access to such works, phonograms and videograms with the purpose of reproduction for private use can also be limited by payment of remuneration.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Article 18 of the Law of Turkmenistan No. 257-IV of January 10, 2012 on Copyright and Related Rights

3. (..)

The collection and distribution of this remuneration is carried out by collective management organisations that deal with economic rights. The remuneration is subject to distribution according to the following proportion: 40% - to the authors, 30% - to the performers, 30% - to the producers of phonograms (videograms) in relation to works and phonograms (videograms), when it can be assumed that that they were reproduced for private use.

4. Remuneration is not paid for the equipment and material carriers listed in the second part of this article that are:

- a) Export commodities;
- b) Professional equipment not intended for household use.

Remuneration is not paid when the indicated equipment is imported by private persons solely for private use.



## COMMENTS/DEVELOPMENTS

There is no information available on an existing and functioning collection and distribution system.





ASIA: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# UZBEKISTAN



32,956,100

GDP: 42.7 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Uzbekistan
<b>CURRENCY</b>	Uzbekistan Sum (UZS)



## OVERVIEW

<b>EXCEPTION</b>	Yes: reproduction of a published work for personal purposes is permitted.
<b>LEVY</b>	Equipment: Yes (audio or video tape recorders, and other equipment) Media: Yes (audio and (or) video tapes and cassettes, CDs, and other tangible mediums)
<b>BENEFICIARIES</b>	Authors, Performers, Producers of phonograms and audiovisual manufacturers
<b>LIABLE</b>	Manufacturer, Importer
<b>EXEMPTION</b>	Export, Professional use
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No

## RATE SETTING

<b>HOW ARE LEVIES/REMUNERATION DETERMINED?</b>	Cabinet of ministers of the Republic of Uzbekistan
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## LEGAL BASIS

### EXCEPTION AND LEVY

#### Article 25 of the Law on Copyright and Related rights of 2006

Admitted without consent of author or another legal owner, and without payment of remuneration of reproduction of disclosures work in personal purposes, except for the cases, provided in article 33 of this law.

Rules of first part of this article are not applied regarding the following cases:

- reproduction of architectural works in form of buildings and constructions;
- reproduction of databases or their essential parts, reproduction of computer software programs, except for the cases, specified by law;
- reprographic reproduction of books (in whole) and musical texts.



# UZBEKISTAN

2/2



## LEGAL BASIS

### LEVY

#### Article 33 of the Law on Copyright and Related rights of 2006

It is admitted without the consent of author of work, executor, producer of phonorecord, and manufacturer of audiovisual work, but with the payment to him the remuneration, the reproduction of audiovisual work or phonorecord in personal purposes without extraction of revenue.

The remuneration is paid by the producer and the equipment importers (audio or video tape recorders, and other equipment) and tangible mediums (audio and (or) video tapes and cassettes, cd, and other tangible mediums), used for such reproduction.

List of manufactured and imported equipment and tangible mediums, as well as the rates of collecting remuneration, terms and procedure of its collection are established by the cabinet of ministers of the Republic of Uzbekistan.

(..)

Control and supervision over the procedure of collection and distribution of remunerations, stated with this article are implemented by the designated authority collection is not made and remuneration is not paid with respect to equipment and tangible mediums that the subject matters of export, as well as professional equipment that is not destined for use in domestic conditions.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Article 33 of the Law on Copyright and Related rights of 2006

(...)

Collection and distribution of remuneration stated in this article are implemented by the one of organizations, controlling the property rights of authors, producers of phonorecords, and executors on collective basis, in accordance with the agreement concluded between these organizations. Unless otherwise is stated by this agreement, the indicated remuneration is distributed in following proportion: Forty percent - to authors, thirty percent - to executors, thirty percent - producers of phonorecords and (or) manufacturers of audiovisual works.

Control and supervision over the procedure of collection and distribution of remunerations, stated with this article are implemented by the designated authority collection is not made and remuneration is not paid with respect to equipment and tangible mediums that the subject matters of export, as well as professional equipment that is not destined for use in domestic conditions.



## COMMENTS/DEVELOPMENTS

The cabinet of ministers of the Republic of Uzbekistan has not appointed a "designated authority collection", neither the list of manufactured and imported equipment and tangible mediums, as well as the rates of collecting remuneration. Therefore, there is no effective collection and distribution of the levy.

*Position of the Agency for Intellectual Property of Republic of Uzbekistan, approved by the Cabinet of Ministers dated November 24, 2016 №394:*

Tax is not made, and the remuneration is not paid for the equipment and material that are exported, as well as professional equipment, not intended for home use.





# **ASIA:**

## **COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS**







# ISRAEL



8,882,800

GDP: 313.8 billion EUR

1 / 4

## CONTACT INFORMATION

<b>COUNTRY</b>	ISRAEL
<b>CURRENCY</b>	New Israeli Shekel (NIS)
<b>NAME ORGANIZATION</b>	ACUM
<b>WEB SITE</b>	<a href="https://acum.org.il/en/">https://acum.org.il/en/</a>
<b>E-MAIL</b>	marylina@acum.org.il
<b>ADDRESS</b>	9 Tuval St.
<b>POSTCODE</b>	5211701
<b>CITY</b>	Ramat-Gan
<b>PHONE</b>	972 3 6113442
<b>FAX</b>	972 3 6122629



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	ACUM is a collective society for collection & distribution of royalties owned by its members i.e. authors, composers and publishers of musical works.
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: No Media: Yes (only blank audio and video tapes)
<b>TARIFFS</b>	No
<b>BENEFICIARIES</b>	Authors, performers and producers
<b>LIABLE</b>	Government (Ministry for culture)
<b>EXEMPTION</b>	No
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No
<b>TOTAL revenues for all beneficiaries from private copying levies in local currency</b>	2015: NIS 1,284.00 + VAT 2016: NIS 1,284.00 + VAT 2017: NIS 1,284.00 + VAT 2018: NIS 1,284.00 + VAT



# ISRAEL

2/4

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Law set the sum (5% of the retail price of all blank audio & video cassettes sold in the preceding year).

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

A Committee composed of representatives of different ministers should determine the final data required for the final determination of the amount. In fact, a fixed amount is paid to the relevant collecting societies.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

No

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

No

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Article 3 d of the Copyright ordinance of 1911 -  
Payment to owners of Copyright and Performers' rights

(b) The Government shall transmit to the royalties' companies every year an amount equal to 5% of the retail price without VAT of all cassettes sold in Israel for private and domestic use during the preceding year.

(c) The amount said in subsection (b) shall be divided equally between the three royalties' companies enumerated in paragraphs (1), (2) and (3) of section 3B.

### HOW FREQUENTLY IS PAYMENT DUE?

Once a year

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Each collecting society (Authors, Producers & Performers) distributes the remuneration to its own rightsholders.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/ DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No



# ISRAEL

3/4

## DISTRIBUTION PROCESS

### FREQUENCY OF DISTRIBUTION

ACUM – once a year

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

By ACUM BOARD

### DISTRIBUTION KEYS

ACUM - The remuneration received from the government is distributed to rightsholders relative to their income from ACUM for public performances, records, new media, cinema and Managers performances and concerts in the relevant year. No information on how the other organizations than ACUM distribute the remuneration.



## LEGAL BASIS

### EXCEPTION

#### Article 3 C of the Copyright ordinance of 1911- Private and domestic use

Recording or copying a work on recordable media for private and domestic, but not commercial, uses shall not be a violation of copyright and performers' rights.

### LEVY

#### Article 3 D of the Copyright ordinance of 1911 - Private and domestic use

(a) The Government shall compensate the copyright owners and the owners of performers' rights for the loss of income and violation [damage] of rights caused to them by the recording and copying for private and domestic use under section 3C.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Article 3 D of the Copyright ordinance of 1911 - Payment to owners of Copyright and Performers' rights.

(b) The Government shall transmit to the royalties' companies every year an amount equal to 5% of the retail price without VAT of all cassettes sold in Israel for private and domestic use during the preceding year.

(c) The amount said in subsection (b) shall be divided equally between the three royalties' companies enumerated in paragraphs (1), (2) and (3) of section 3B.

(d) A committee composed of a representative of the Minister of Finance, a representative of the Minister of Justice and a representative of the Minister of Education, Culture and Sport shall determine the data required for the determination of the said amount.

#### Article 3 E of the Copyright ordinance of 1911 - division of Compensation

In the case of disagreement on the division of compensation amount, the Court shall decide on the matter; to the Court hearings shall be summoned, in ways to be prescribed by regulations, representatives of the royalties' companies, a representative of the Ministry of Education, Culture and Sport and the author or performer, in respect of whose compensation there is disagreement, as the case may be; the Court's decision shall bind all royalties' companies and all holders of copyright and performers' rights, even if they were not parties to the proceeding before the Court.



## ISRAEL

4/4



## TARIFFS

Blank Media	Tariff valid per 2004
MC	5% of the retail price according to Law, but in fact the amount is fixed.
VHS	5% of the retail price according to Law, but in fact the amount is fixed.



## REVENUES

(NIS)	2015	2016	2017	2018
ACUM (authors)	428	428	428	428
<b>TOTAL REVENUES</b>	<b>1,284</b>	<b>1,284</b>	<b>1,284</b>	<b>1,284</b>

## EXPLANATION ON DEVELOPMENTS

The above amount refers to ACUM revenues only. NIS 1,284 is the amount for the 3 beneficiaries (Producers, performers and authors). One third NIS 428 refers only to ACUM revenues o/b/o the authors. The amount has not changed since 2004. No information on the split between MC & VHS is available.





# JAPAN



126,529,100

GDP: 4,195.6 billion EUR

1/10

## CONTACT INFORMATION

<b>COUNTRY</b>	Japan
<b>CURRENCY</b>	Yen (JPY)
<b>NAME ORGANIZATION</b>	SARAH Society for the Administration of Remuneration for Audio Home recording
<b>WEB SITE</b>	<a href="http://www.sarah.or.jp">www.sarah.or.jp</a> (SARAH)
<b>ADDRESS</b>	3F, Kazumigaski 3-chome Bldg., 3-6-5, Kasumigaseki, Chiyoda-ku,
<b>POSTCODE</b>	100-0013
<b>CITY</b>	Tokyo
<b>PHONE</b>	+81-3-6205-4701(SARAH)
<b>FAX</b>	+81-3-6205-4702(SARAH)



## OVERVIEW

### COLLECTING SOCIETY APPOINTED BY

Audio: SARAH  
(Society for the Administration of Remuneration for Audio Home recording)  
For your information, SARVH (Soc. for Administration of Remuneration for Video Home Recording) disbanded by 31 March 2015 due to the termination of video compensation collection by the loss of the court case (see "Court Cases").  
The designated management association which collects compensation for private recording is appointed by the government (by the Commissioner of the Agency for Cultural Affairs). No government funding.

### EXCEPTION

Yes

### LEVY

Yes  
Any person who, for the purpose of private use, makes sound recording on digital recording machines / media shall pay compensation to the copyright owners concerned.

### TARIFFS

#### The calculation of the compensation amount:

The compensation rate is set per medium and per machine by multiplying the fixed rate by based price (a portion of the price indicated on the catalogue).

#### The amount of remuneration:

- For the machine: the amount corresponding to 2% of a portion of the standard price (65%) indicated on the catalogue, with a maximum limit of JPY 1,000.
- For the medium: the amount corresponding to 3% of a portion of the standard price (50%) indicated on the catalogue.



# JAPAN

2/10



## OVERVIEW

### BENEFICIARIES

- Copyright owners.
- Performers.
- Producers of the phonogram.

### LIABLE

Importers and manufacturers.

### EXEMPTION

- analogue recording media or machine.
- machines having special efficiency generally not for private use but for business use, such as that for broadcasting.
- machines having sound or visual recording functions incidental to the primary functions, such as telephones with sound recording function.

### SOCIAL AND CULTURAL DEDUCTIONS

20 % of the compensation paid.

### TOTAL revenues from private copying levies in local currency

2015: JPY 91,323,774  
2016: JPY 53,584,331  
2017: JPY 41,881,279  
2018: JPY 33,270,697

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

After consultation with manufacturers, SARAH makes a plan of the compensation and applies to the Commissioner of the Agency for Cultural Affairs for his approval. The Commissioner of the Agency for Cultural Affairs shall approve the amount of compensation applied for only when it is deemed appropriate. Before approving the amount of compensation, the Commissioner of the Agency for Cultural Affairs shall consult the Culture Council.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

Market circumstances are being considered in market prices. No consideration on damages, harm or copying behavior as rates are not reviewed on regular basis.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

N/A



# JAPAN

3/10

## EXEMPTION AND REFUND

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

Products exempt from levies

- analogue recording media or machine
- machines having special efficiency generally not for private use but for business use, such as that for broadcasting
- machines having sound or visual recording functions incidental to the primary functions, such as telephones with sound recording function

Types of media and machines subject to levy payment have to be assigned by the Cabinet Order. Only specified media or machines with labelling of 'for audio' 'for video' are subject to compensation.

### REFUND AFTERWARDS

Any person who has paid such compensation may claim its refund from SARAH, by certifying that he or she uses such a specified recording machine or medium exclusively for the purpose other than that of private recording, such as (i) when he or she uses them under other limitation to copyright owners of Copyright Law, (ii) when he or she records under license from the copyright owner, (iii) when he or she records only other than copyright work, and (iv) when he or she exports specified recording machine or medium which are purchased in Japan.

With regard to the judgment of whether to refund or not, it is decided, based on the return standard, considering various matters such as the entity of purchase and the condition of use etc., but there are few examples.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

The designated association (SARAH) has the right to claim compensation to the end user of the specified media or machine. On the other hand, because manufacturer or importer of specified recording machines or media shall cooperate with the designated association in claiming and receiving such compensation under the law, the end users shall purchase machines or media on which the compensation has been added. Customs is not involved.

### HOW FREQUENTLY IS PAYMENT DUE?

Every half-year basis.

### HOW DO YOU MONITOR THE MARKET?

Basically, SARAH relied on the good faith of manufacturers. Sometimes they communicate with manufacturers to question about reasonable ground if there is a remarkable change in the reporting.



# JAPAN

4/10

## COLLECTION PROCESS

### ARE EXPORTS EXEMPTED?

Those who export specified machine or media sold in Japan are not liable to pay compensation, because only the people who make sound or visual recording are liable to pay compensation. If the exporter has paid compensation, he or she can claim refund.

### DEFINITION OF IMPORT

Although there is no definition provided under the Copyright Law, it is said that "import" means "To receipt goods from the area where Japanese laws and regulations cannot be covered into the area covered by Japanese laws and regulations."

### WHO IS CONSIDERED IMPORTER?

There is no definition provided under the Copyright Law. Normally an entity (corporation) who imports recording media or machines subject to levy is considered 'importer.' Because the law does not exempt private importation, those who imports the specified machines or media and makes sound or visual recording on them in private have to pay compensation, but in practical sense it is difficult to collect levy from individual persons.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Distribution is done by the collecting societies (SARAH) themselves. SARAH distributes compensation to 3 rightsholder organizations (i.e. JASRAC<sup>1</sup>, GEIDANKYO<sup>2</sup> and RIAJ<sup>3</sup>) and after that those 3 organizations re-distribute received money to each member person/company who are entitled to receive compensation as follows.

In addition, with regard to distribution to rightsholders who do not belong to these organizations, it is paid on request from among money which has distributed to each organization.

- Copyright owners (through JASRAC):36%
- Performers (through GEIDANKYO):32%
- Producers of the phonogram (through RIAJ):32%

<sup>1</sup> Japanese Society for Rights of Authors, Composers and Publishers

<sup>2</sup> Japan Council of Performers' Rights and Performing Arts Organisations

<sup>3</sup> Recording Industry Association of Japan

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/ DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

20%. SARAH are unable to split admin costs into collection costs and distribution costs.



# JAPAN

5/10

## DISTRIBUTION PROCESS

### FREQUENCY OF DISTRIBUTION

Every half-year basis

### WHICH RIGHTS HOLDERS ARE INCLUDED?

- Copyright owners
- Performers
- Producers of the phonogram

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

By negotiation in the past. Not reviewed on regular basis.

### DISTRIBUTION KEYS

#### Distribution scheme, audio:

SARAH creates distribution materials with the highest possible accuracy by methods such as sampling surveys of broadcasting and rental records, production results surveys such as CDs, and methods guided by specialist statisticians such as questionnaire surveys from users, etc.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

20% of the compensation received. This rate is fixed by the Cabinet Order based on the Copyright Law.

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT

It is decided that the amount corresponding to 20% of the compensation is allocated for such activities as contributing to the protection of copyright and neighboring rights as well as to the promotion of the creation and dissemination of works. This system is grounded in the idea that allocating 20% to such activities is beneficial for all rightsholders, including unidentifiable rightsholders, and it would serve as indirect distribution.



# JAPAN

6/10



## LEGAL BASIS

### EXCEPTION

#### Copyright Law

##### (Reproduction for private use)

"Article 30. (1) It shall be permissible for a user to reproduce by himself a work forming the subject matter of copyright (hereinafter in this Subsection referred to as a "work") for the purpose of his personal use, family use or other similar uses within a limited circle (hereinafter referred to as "private use"), except in the case:

(i) where such reproduction is made by means of automatic reproducing machines ("automatic reproducing machine" means a machine having reproducing functions and in which all or main parts of reproducing devices are automatic) placed for the use by the public;

(ii) where such reproduction is made by a person who knows that such reproduction becomes possible by the circumvention of technological protection measures or it ceases to cause obstruction, by such circumvention, to the results of acts deterred by such measures ("circumvention" means to enable to do acts prevented by technological protection measures or to stop causing obstruction to the results of acts deterred by such measures, by removal or alteration of signals ...mentioned in Article 2, paragraph (1), item (xx)...; ("removal" or "alteration" does not include such removal or alteration as is conditional upon technology involved in the conversion of recording or transmission systems)...or by reversion of such works, performances, phonograms, or sounds or images of broadcasts or wire diffusions as converted in accordance with a specific conversion required mentioned in that item ("reversion" does not include that made based upon the will of a person who has copyright, etc.);...the same shall apply in Article 120bis, items (i) and (ii))

(iii) where a digital sound or visual recording is made by a person who knows that such recording is made upon reception of an interactive transmission which infringes copyright (including an interactive transmission which is made outside this country and which would constitute an infringement on copyright if it was made in this country);

(2) Any person who, for the purpose of private use, makes sound or visual recording on such a digital recording medium as specified by Cabinet Order by means of such a digital recording machine as specified by Cabinet Order (excluding a machines having special efficiency generally not for private use but for business use, such as that for broadcasting, and b machines having sound or visual recording functions incidental to the primary functions, such as telephones with sound recording function) shall pay a reasonable amount of compensation to the copyright owners concerned.

### LEVY

#### Copyright Law

##### (Exercise of the right to claim compensation for private recording)

"Article 104bis. (1) Where there is an association, which is established for the purpose of exercising the right to claim compensation as mentioned in Article 30, paragraph (2) (including the case where its application mutatis mutandis is provided for under the provision of Article 102, paragraph (1); the same shall apply hereinafter in this Chapter.) (hereinafter in this Chapter referred to as "compensation for private recording") on behalf of the owners of such right (hereinafter in this Chapter referred to as "the owners of the right") and which is designated, with its consent, by the Commissioner of the Agency for Cultural Affairs as the only one association throughout the country for each of the following two categories of compensation for private recording (hereinafter in this Chapter referred to as "the designated association"), the right to claim compensation for private recording shall be exercised exclusively through the intermediary of the designated association: (i) compensation for sound recording made for the purpose of private use (excluding such sound recording as made exclusively with visual recording; hereinafter in this Chapter referred to as "private sound recording"); (ii) compensation for visual recording made for the purpose of private use (including such visual recording as made exclusively with sound recording; hereinafter in this Chapter referred to as "private visual recording").

(2) The designated association shall have the authority to deal, on behalf of the owners of the right and in its own name, with juridical and non-juridical matters in regard to the right to claim compensation for private recording.



# JAPAN

7/10



## LEGAL BASIS

### ... LEVY

#### (Exceptional provisions for the payment of compensation for private recording)

Article 104quater. (1) Any purchaser of a recording machine or a recording medium which is specified by Cabinet Order in accordance with the provision of Article 30, paragraph (2) (hereinafter in this Chapter referred to as "a specified recording machine" and "a specified recording medium" respectively) (limited to the initial purchasers of such retailed recording machines or media) shall pay, at the time of the purchase and on the claim by the designated association, a lump-sum compensation for private recording the amount of which is fixed, for such recording machine and medium respectively, in accordance with the provision of Article 104sexies, paragraph (1).

(2) Any person who has paid such compensation may claim its repayment from the designated association, by certifying that he or she uses such a specified recording machine or medium exclusively for the purpose other than that of private recording.

(3) Notwithstanding the provision of Article 30, paragraph (2), any person who makes private recording on a specified recording medium, for which compensation has been paid, by means of a specified recording machine, for which compensation has been paid, shall not be required to pay compensation for private recording, provided that compensation has not been repaid for such a specified recording machine or medium concerned in accordance with the provision of the preceding paragraph.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Copyright Law

##### (Cooperation by manufacturers and importers)

Article 104quinquies. When the designated association claims compensation for private recording in accordance with the provision of paragraph (1) of the preceding Article, any manufacturer or importer of specified recording machines or media shall cooperate with the designated association in claiming and receiving such compensation.

##### (Amount of compensation for private recording)

Article 104sexies. (1) Before exercising the right to claim compensation for private recording in accordance with the provision of Article 104bis, paragraph (1), the designated association shall fix the amount of such compensation and obtain the approval thereof from the Commissioner of the Agency for Cultural Affairs. The same shall apply when the designated association intends to change such amount.

(2) When the approval mentioned in the preceding paragraph is given, the amount of compensation for private recording shall, notwithstanding the provision of Article 30, paragraph (2), be that as approved.

(3) Before applying for such approval, the designated association shall consult with associations which are composed of manufacturers and importers of specified recording machines or media and which are deemed to represent their opinions.

(4) The Commissioner of the Agency for Cultural Affairs shall approve the amount of compensation applied for only when it is deemed appropriate by taking into account the spirit of the provisions of Article 30, paragraph (1) (including the case where its application mutatis mutandis is provided for under the provision of Article 102, paragraph (1)) and Article 104quater, paragraph (1), the ordinary rate of sound or visual recording royalty and other circumstances.

(5) Before approving the amount of compensation, the Commissioner of the Agency for Cultural Affairs shall consult the Culture Council.

##### (Rules on the conduct of the business related to compensation)

Article 104septies. (1) When initiating the business related to compensation, the designated association shall establish rules on the conduct of such business and report those rules to the Commissioner of the Agency for Cultural Affairs. The same shall apply when the designated association intends to amend such rules.

(2) The rules mentioned in the preceding paragraph shall include the matters relating to the distribution of compensation for private recording (limited to such compensation as paid in accordance with the provision of Article 104quater, paragraph (1)), and the designated association shall take into account the spirit of the provision of Article 30, paragraph (2) when establishing the rules on such matters.



# JAPAN

8/10



## LEGAL BASIS

### ... COLLECTION AND DISTRIBUTION SYSTEMS

#### (Allocation for such activities as contributing to the protection of copyright, etc.)

Article 104octies. (1) The designated association shall allocate an amount corresponding to the rate fixed by Cabinet Order within 20% of the compensation received (limited to such compensation as paid in accordance with the provision of Article 104quater, paragraph (1)) for such activities as contributing to the protection of copyright and neighboring rights as well as to the promotion of the creation and dissemination of works.

(2) When intending to draft the Cabinet Order mentioned in the preceding paragraph or to draft its amendment, the Commissioner of the Agency for Cultural Affairs shall consult the Culture Council.

(3) The Commissioner of the Agency for Cultural Affairs may issue to the designated association an order necessary for supervising the business relating to the activities mentioned in paragraph (1) when it is deemed necessary for assuring an proper execution of such business.

## COURT CASES

### Video:

Japan decided to complete the transition from analogue to digital terrestrial television broadcasting by July 2011. In 2009, the Japanese manufacturer Toshiba has denied cooperation obligation under the provision of Article 104quinquies of the Copyright Law for its DVD recording machines without analogue tuner, insisting that such machines were not covered by the provisions specified by Cabinet Order. Other manufacturers which manufacture the same kind of machines followed Toshiba's example.

The designated association for visual private recording (SARVH) negotiated with Toshiba but could not reach an agreement. Therefore, SARVH sued Toshiba for damages in violation of the cooperation obligation under Article 104quinquies of the Copyright Law. The court of the first instance dismissed the SARVH's claims that although Toshiba's machine falls under the category of specified machine, the cooperation obligation in the same article is merely an abstract obligation without legal force. The court of appeal dismissed the SARVH's claims because the content of the cooperation obligation was not clear and the Toshiba machine did not fall under the specified machine, and the court decision was finalized. As a result, under the current Cabinet Order, it became difficult to collect compensation for machines for terrestrial television broadcasts by SARVH, and the private recording compensation system for video substantially stopped, and SARVH disbanded by 31 March, 2015.



## COMMENTS/DEVELOPMENTS

Japan had an effective collection and distribution system in place; however, the scope of the levy has been outdated for many years. It should be updated to cover equipment and devices actually used for private recording.

Local collective management society, JASRAC is lobbying to review the current regime.

Discussions on the reform of the current compensation system have been continuing in the subcommittee of the Culture Council led by the Agency for Cultural affairs. No conclusions have been reached.



## JAPAN

9/10



## TARIFFS

Blank Media		Tariff (Effective on 18/Dec/2000)	Capacity
Audio			
MD	the amount corresponding to 3% of a portion of the standard price (50%) indicated on the catalogue		Per unit
CR-R/RW	the amount corresponding to 3% of a portion of the standard price (50%) indicated on the catalogue		Per unit
DAT	the amount corresponding to 3% of a portion of the standard price (50%) indicated on the catalogue		Per unit
Digital Compact Cassette			Per unit
Devices Audio		Tariff (Effective on 18/Dec/2000)	Capacity
MD recorder	the amount corresponding to 2% of a portion of the standard price (65%) indicated on the catalogue, with a maximum limit of JPY 1,000		Per unit
CD recorder	the amount corresponding to 2% of a portion of the standard price (65%) indicated on the catalogue, with a maximum limit of JPY 1,000		Per unit
Digital Compact Cassette recorder	the amount corresponding to 2% of a portion of the standard price (65%) indicated on the catalogue, with a maximum limit of JPY 1,000		Per unit
DAT recorder	the amount corresponding to 2% of a portion of the standard price (65%) indicated on the catalogue, with a maximum limit of JPY 1,000		Per unit
Other: refurbishment (or remanufactured)		Those who has the obligation to pay compensation is the end user. If the remanufactured product corresponds to a specific machine or media, it may be subject to obligation of compensation, when the remanufactured product is sold as a new product.	



## JAPAN

10/10



## REVENUES

(JPY)	2015	2016	2017	2018
Blank Media		37,888,004	30,195,540	27,904,581
Audio				
MD	15,142,648	510,354	625,743	792,558
CR-R/RW	75,911,270	15,185,973	11,059,996	4,573,558
DAT	269,856			
Digital Compact Cassette				
<b>TOTAL 'AUDIO MEDIA'</b>	<b>91,323,774</b>	<b>53,584,331</b>	<b>41,881,279</b>	<b>33,270,697</b>

## EXPLANATION ON DEVELOPMENTS

The machines/media subject to compensation are specified by Cabinet Order, but they do not reflect the products actually being used for private recording. Consequently, compensation revenue is declining dramatically.





# EUROPE INTRODUCTION

1 / 1

Private copying compensation systems are most common in Europe and especially amongst EU member states. 21 of the 27 EU member states have a fully functioning private copying system with collection and distribution, as well as 8 of the other European countries introduced in the Study. Only the United Kingdom and Monaco have no private copying exception in the law. The remaining European countries have an exception but have not (yet) introduced levies and/or a corresponding collection and distribution scheme.

The origin of the private copying exception lies in Germany where it was first introduced in the law in 1966 and expanded throughout Europe during the following decades.

In the EU efforts have been made to harmonize part of the private copying regime. Article 5(2) of the InfoSoc Directive of 2001 allows member states to establish copyright exceptions subject to remuneration. Since the adoption of the Directive, there have been many developments in private copying in the EU. The Court of Justice of the European Union (ECJ) has demarcated boundaries and clarified many issues regarding the explanation, enforcement and modalities of private copying systems in the last 19 years in which the world of private copying adapted to the digital environment and transitioned from analogue use and copying of content towards a world of streaming, up- and downloading and practically completely digitalized use of content.

These technological developments lead to an array of questions before the ECJ concerning how to adapt the rules on collecting private copying remunerations and establishing corresponding levies to compensate rightsholders.

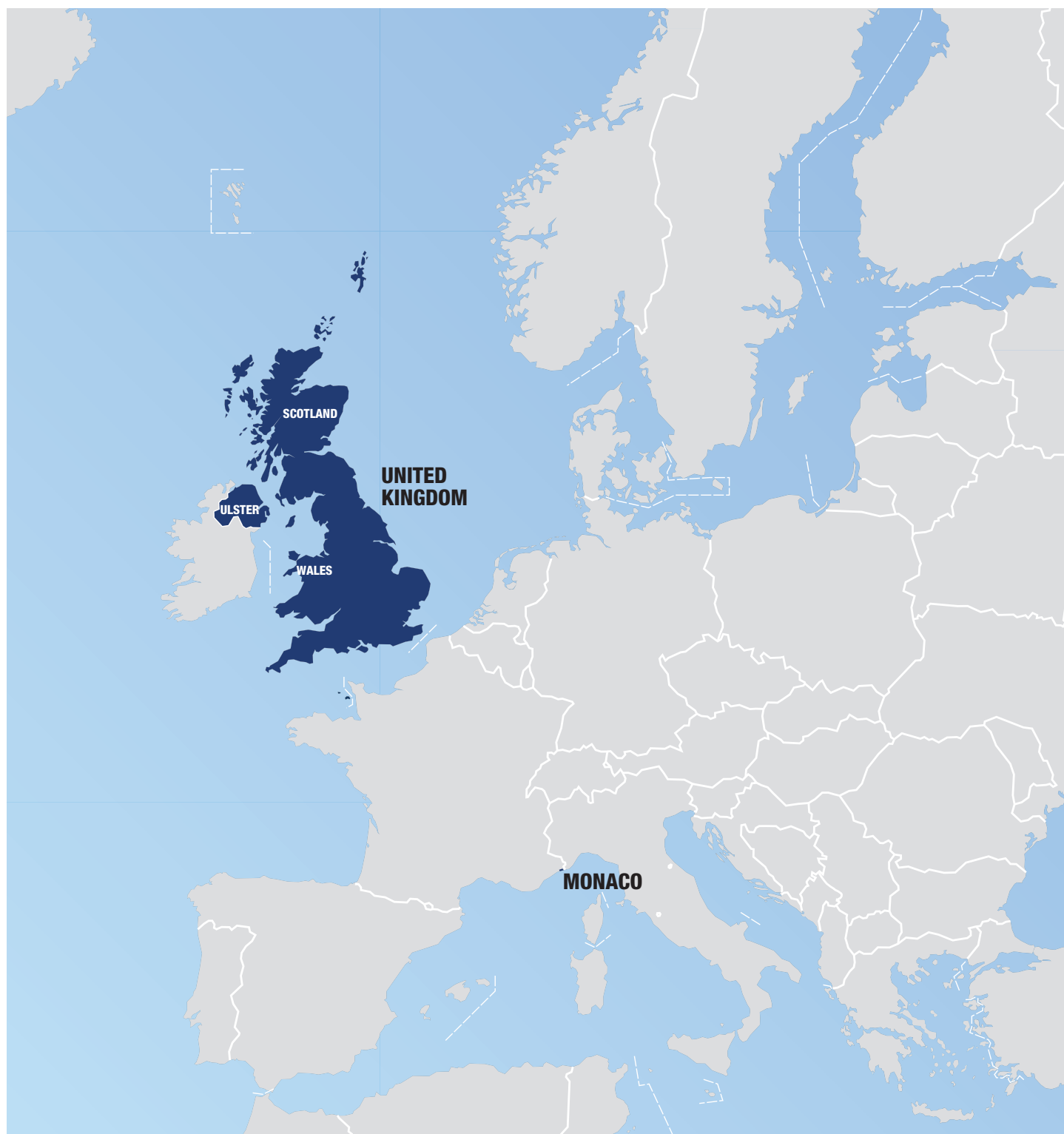
Copyright reform remains a hot topic for the European Commission as laws and business models are being adapted to the digital environment. Some countries abandon levy systems altogether and turn towards state-funded remuneration systems as a mean of compensating rightsholders for private copying.

In 2019, the Directive on Copyright in the Digital Single Market, amending the InfoSoc Directive was adopted. It is intended to ensure "a well-functioning marketplace for copyright". It was highly debated on some important issues for rightsholders but leaves the current legal framework for private copying intact.





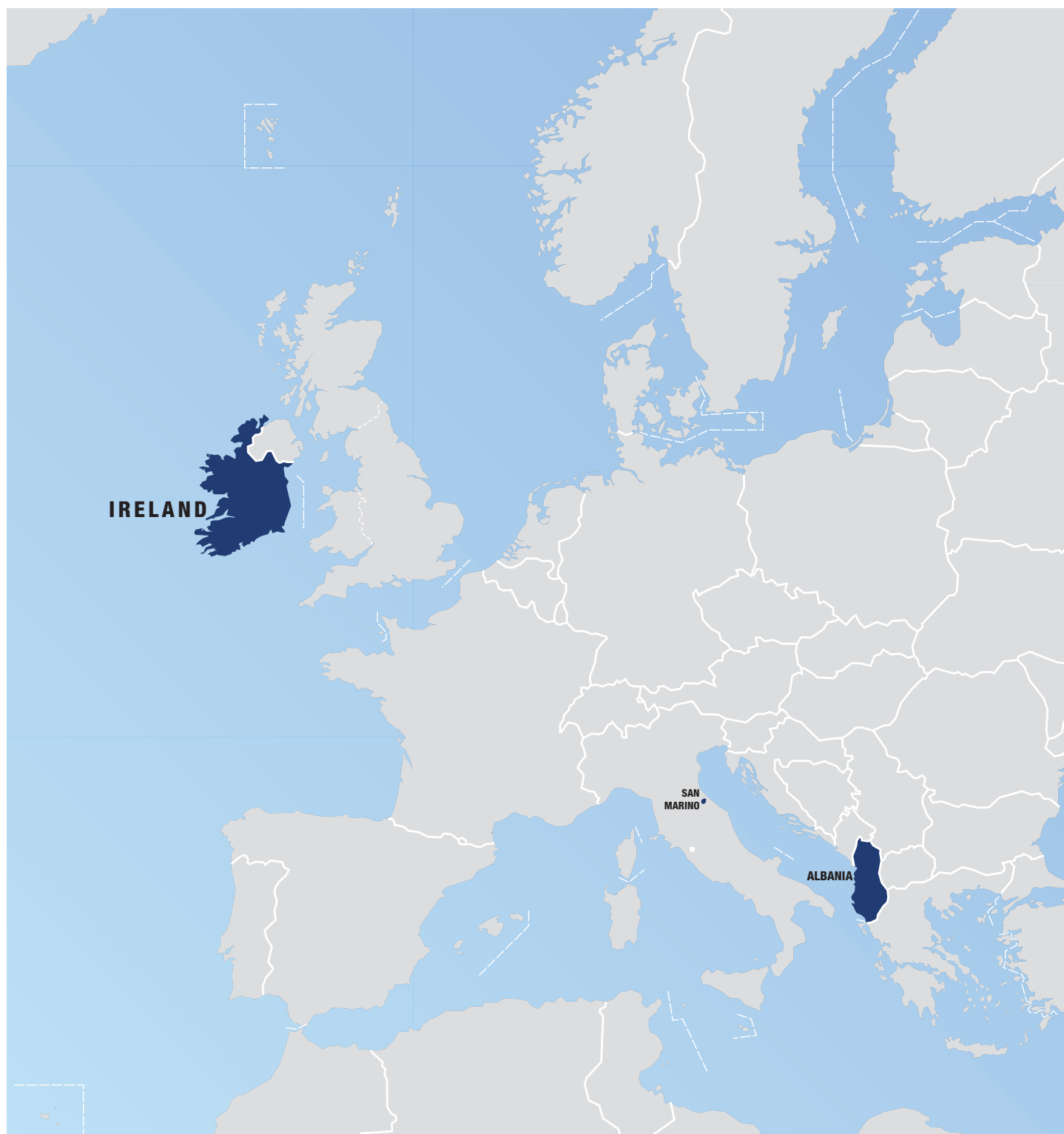
# EUROPE: COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION







# **EUROPE: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM**







# ALBANIA

 2,866,376 GDP: 12.8 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Albania
<b>CURRENCY</b>	ALL
<b>NAME ORGANISATION</b>	ALBAUTOR
<b>WEB SITE</b>	www.albautor.net
<b>E-MAIL</b>	info@albautor.net
<b>ADDRESS</b>	Bulevardi "Bajram Curri" Nr. 114, Kati II, Ap. 1, Njesia Bashkiake nr. 5
<b>POSTCODE</b>	1006
<b>CITY</b>	Tirane
<b>PHONE</b>	+ 355 4 452 97 97



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a work for private use is permitted on the condition that it does not prejudice the commercial exploitation of the work.
<b>LEVY</b>	Equipment: No Media: No
<b>TARIFFS</b>	None



## LEGAL BASIS

### EXCEPTION AND LEVY

Article n°26 of law no. 9380 of April 28, 2005, on Copyright and related rights restrictions of the copyright usage of the work without the permission of the author

The usage of a work is permitted, without the prior approval of the author and without any remuneration, on the condition that these usages do not prejudice the copyright or the rightsholders' rights on the work. These cases include the following: Published works may be used without the author's permission subject to the following conditions and in the following cases:

(..)

d) Reproduction of the entire work or parts of works for private use on the condition that it does not prejudice the commercial exploitation of the work.



## COMMENTS/DEVELOPMENTS

Disposition on private copy contained in the law should be executed through a Decision of the Council of Ministers (DCM). It is the only DCM for the Copyright law which remains unapproved since 2016.





EUROPE: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# IRELAND



4,867,316

GDP: 324.0 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Ireland
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANISATION</b>	organisation Irish Music Rights Organisation
<b>WEB SITE</b>	<a href="http://www.imro.ie">www.imro.ie</a>
<b>E-MAIL</b>	<a href="mailto:sean.donegan@imro.ie">sean.donegan@imro.ie</a>
<b>ADDRESS</b>	Copyright House, Pembroke Row, Lower Baggot Street
<b>POSTCODE</b>	Dublin 2
<b>CITY</b>	Dublin
<b>PHONE</b>	01 644 4844



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 101 of the Copyright and Related Rights Act, 2000

(1) The making for private and domestic use of a fixation of a broadcast or cable programme solely for the purpose of enabling it to be viewed or listened to at another time or place shall not infringe the copyright in the broadcast or cable programme or in any work included in such a broadcast or cable programme.

(2) Subject to subsection (3), the making by an establishment for private and domestic use of a fixation of a broadcast or cable programme solely for the purpose of enabling it to be viewed or listened to at another time or place shall not infringe the copyright in the broadcast or cable programme or in any work included in such a broadcast or cable programme.

(3) The Minister may specify by order establishments for the purposes of this section.

(4) Where a fixation which would otherwise be an infringing copy is made under this section and is subsequently sold, rented or (otherwise than to a person's family member or friend for private and domestic purposes) lent, or offered or exposed for sale, rental or loan, or otherwise made available to the public, it shall be deemed to be an infringing copy for those purposes and for all subsequent purposes.



# IRELAND

2/2



## COMMENTS/DEVELOPMENTS

As soon as the time shifting exception authorized a person to make a copy of a protected work for its personal use, it should entered in the scope of the private copying exception and as such, according to the EU Directive 2001/29/CE, it should be accompanied by a levy system. The Irish Copyright and Related Rights Act of 2000 does not provide a private copying levy despite being a member of the EU and as such, is infringing the EU Directive 2001/29/CE.





EUROPE: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# SAN MARINO



33,785

GDP: 1.4 billion EUR

1/1

## CONTACT INFORMATION

COUNTRY	San Marino
CURRENCY	Euro



## OVERVIEW

### EXCEPTION

Yes, it is authorized to make copies of a published work for private use for non-collective purposes, with the exception of copies of works intended for purpose which are the same to those for which the work was made.

### LEVY

No



## LEGAL BASIS

### EXCEPTION

Art. 98 della Legge n. 8 del 25 gennaio 1991 - Tutela del diritto d'autore

E' libera, a condizione che l'opera sia stata precedentemente divulgata: (...)

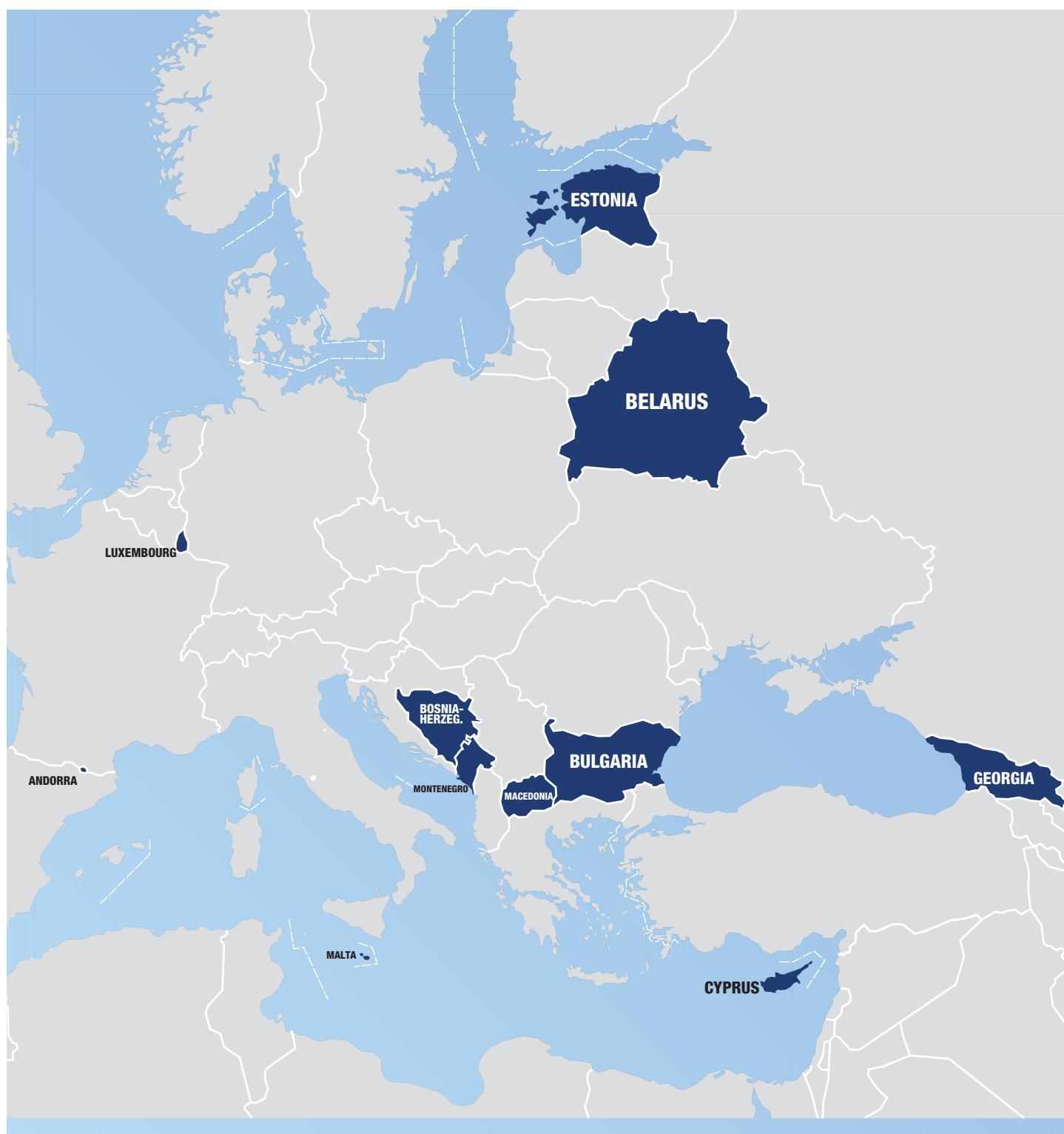
b) le copie o riproduzioni strettamente riservate all'uso privato del copista e non destinate ad un'utilizzazione collettiva, ad eccezione delle copie di opere destinate ad essere usate per fini identici a quelli per cui è stata creata l'opera originale;





# EUROPE:

## COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS







EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# ANDORRA



77,006

GDP: 2.7 billion EUR

1/2

## CONTACT INFORMATION

COUNTRY	Andorra
CURRENCY	Euro (EUR)
NAME ORGANIZATION	SDADV
WEB SITE	www.sdadv.ad
E-MAIL	www.sdadv.ad
ADDRESS	Camí de la Grau s/n Edifici Prat del Rull - 1era planta Despatx num. 1.6
POSTCODE	AD500
CITY	Andorra la Vella
PHONE	376 32 88 29



## OVERVIEW

EXCEPTION	Yes, it is authorized that a physical person makes a single copy of a published work for his/her private and personal use.
LEVY	Equipment: Yes Media: Yes
BENEFICIARIES	Authors, Performers and Producers of audiovisual work or a work embodied in a phonogram.
LIABLE	Manufacturers, importers
EXEMPTION	No
SOCIAL AND CULTURAL DEDUCTIONS	No

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Levies are negotiated between representatives of rightsholders, and manufacturer/importers. In the absence of agreement, they may be fixed by the arbitration commission of the Copyright Office.



# ANDORRA

2/2



## LEGAL BASIS

### EXCEPTION AND LEVY

#### Article 7 of Law on copyright and neighboring rights

##### Private Reproduction for Personal Purposes

(1) Notwithstanding the provisions of Article 5(1) (a), and subject to the provisions of paragraphs (2) to (6), the private reproduction in a single copy of a published work, where the reproduction is made by a physical person exclusively for his own private and personal use, including such use within the normal circle of his family and its social acquaintances, shall be permitted without the authorization of the author or other owner of the copyright in the work.

(2) The permission under paragraph (1) shall not extend to the reproduction (a) of a work of architecture in the form of building or other construction; (b) where the reproduction is reprographic reproduction, of an entire book, or a substantial part thereof, or of a musical work in graphic form; (c) of a computer program, except as provided in Articles 12 and 13; (d) of an electronic data base, except as provided in Article 14; (e) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or, other owner of the copyright in, the work.

### LEVY

#### Article 7 of Law on copyright and neighboring rights

##### Private Reproduction for Personal Purposes

(3) Where the reproduction referred to in paragraph (1) concerns an audiovisual work or a work embodied in a phonogram, the author or other owner of copyright along with the performers and producers of phonograms or their successors-in-title as provided in Article 32(2) shall be entitled to equitable remuneration.

(4) An equitable remuneration shall be paid (a) by the manufacturer of equipment or material supports normally used for private reproduction for personal purposes of works mentioned in paragraph (3), except where such equipment is, or such material supports are, exported, or (b) by those who import such equipment or material, except where the importation is by a private person for his personal purposes.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Article 7 of Law on copyright and neighboring rights

##### Private Reproduction for Personal Purposes

(5) The equitable remuneration, referred to in paragraph (4) of this article, shall be collected by a collective management organization. In the absence of agreement between the representatives of the manufacturers and importers, on the one hand, and the collective management organization, on the other, the amount of the equitable remuneration and the conditions of its payment may be fixed by the arbitration commission of the Copyright Office.

(6) The collective management organization shall distribute the remuneration, referred to in paragraph (5) of this article, to the authors of, or other owners of copyright in, those works mentioned in paragraph (3) in respect of which, under the given circumstances, it may be presumed that they have been the subject of private reproduction mentioned in paragraph (1) and to the performers and producers of phonograms or their successors-in-title mentioned in Article 32(2). In the absence of agreement between the various groups of authors and other owners of copyright and/or performers and producers of phonograms or their successors-in-title concerning the proportions of the shares from the equitable remuneration to be distributed to them, those proportions may be fixed by the arbitration commission of the Copyright Office.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# BELARUS



9,483,499

GDP: 50.8 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Belarus
<b>CURRENCY</b>	Belarusian ruble (BYR)
<b>NAME ORGANIZATION</b>	National Center of Intellectual Property (NCIP)
<b>WEB SITE</b>	<a href="http://www.ncip.by">www.ncip.by</a>
<b>E-MAIL</b>	<a href="mailto:icd@ncip.by">icd@ncip.by</a>
<b>ADDRESS</b>	20 Kozlov Street
<b>POSTCODE</b>	220034
<b>CITY</b>	Minsk
<b>PHONE</b>	375 17 272 46 96
<b>FAX</b>	375 17 272 98 79



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of legally published works by individuals for personal purposes is permitted. This does not apply to works of architecture, databases, computer programs, notation texts and books.
<b>LEVY</b>	Equipment: Yes (sound recording equipment, videocassette recorders, etc.) Media: Yes (tape and cassettes for sound or video recording, compact discs, etc.)
<b>BENEFICIARIES</b>	Authors, performers and producers of phonograms
<b>LIABLE</b>	Manufacturer, Importers
<b>EXEMPTION</b>	Export
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Negotiation between CMOs and manufacturers/importers. If the parties fail to agree, rates are set by a statutory body (Council of Ministers of the Republic of Belarus).



# BELARUS

2/2



## LEGAL BASIS

### EXCEPTION AND LEVY

Art. 18 of Law of the Republic of Belarus No. 370-XIII of May 16, 1996, on Copyright and Related Rights (as amended by Law of the Republic of Belarus No. 396-3 of July 14, 1998)

#### *Chapter 3. Limitations of Ownership Rights*

Article 18. Reproduction of the Work for Personal Purposes

1. In exception from provisions of Article 16 of the present Law and under condition of observance of provisions of clauses 3, 4 and 5 of the present Article, it is allowed to reproduce, without the permit of the author (other right-owner) and without payment of any reward, legally published works in single copies by an individual exclusively in personal purposes.
2. Clause 1 of the present Article is not applied to reproduction of the following: works of architecture in the form of buildings or other structures; databases or essential parts of them; computer programs, except for cases envisaged by Article 21 of the present Law; notation texts and books (completely) through copying.

### LEVY

Art. 18 of Law of the Republic of Belarus No. 370-XIII of May 16, 1996, on Copyright and Related Rights (as amended by Law of the Republic of Belarus No. 396-3 of July 14, 1998)

#### *Chapter 3. Limitations of Ownership Rights*

3. For reproduction of audio-visual works and works embodied in soundtracks, the author (other right-owner), and performers and producers of soundtracks (their assignees) have the right to receive the reward. The reward is paid by: manufacturers of the equipment (audio- and videotape recorders and other equipment) and material carriers (films, cassettes, laser disks, compact discs and other material carriers), usually used for reproduction of works in personal purposes, except for the equipment and material carriers exported abroad, and importers of the above equipment and material carriers, except for cases when the import is executed by a private person in his/her personal purposes.

### COLLECTION AND DISTRIBUTION SYSTEMS

Art. 18 of Law of the Republic of Belarus No. 370-XIII of May 16, 1996, on Copyright and Related Rights (as amended by Law of the Republic of Belarus No. 396-3 of July 14, 1998)

#### *Chapter 3. Limitations of Ownership Rights*

4. Collection of the above reward shall be executed by the organization for collective control of ownership rights. At absence of the agreement between representatives of the manufacturers and importers indicated above in clause 3, on the one hand, and the organization for collective control of ownership rights, on the other hand, the size of the above reward and the conditions of payment of it are determined by the Council of Ministers of the Republic of Belarus.
5. The organization for collective control of ownership rights shall distribute the reward between the authors (other right-owners) of the works indicated above in clause 3 of the present Article and performers and producers of sound tracks indicated above in clause 2 of Article 36 of the present Law, in relation to which it is possible to suppose that they were reproduced for personal purposes pursuant to clause 1 of the present Article. At absence of the agreement between different groups of authors (other right-owners) and (or) performers and producers of sound tracks (their assignees) concerning proportion of distribution of the reward due to them, such proportion is determined by the Council of Ministers of the Republic of Belarus.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# BOSNIA-HERZEGOVINA



3,323,929

GDP: 17.1 billion EUR

1/3

## CONTACT INFORMATION

<b>COUNTRY</b>	Bosnia-Herzegovina
<b>CURRENCY</b>	Convertible Mark (BAM)
<b>NAME ORGANIZATION</b>	AMUS
<b>WEB SITE</b>	www.amus.ba
<b>E-MAIL</b>	international@amus.ba
<b>ADDRESS</b>	Skenderpašina 1
<b>POSTCODE</b>	71000
<b>CITY</b>	Sarajevo
<b>PHONE</b>	+ 387 33 25 53 05
<b>FAX</b>	+ 387 33 21 82 58



## OVERVIEW

<b>EXCEPTION</b>	Yes, the reproduction in one copy of a disclosed work by a natural person is permitted: <ul style="list-style-type: none"><li>- on paper or similar medium, by means of photocopying or other photography technique making;</li><li>- on any other media, provided that copies are made for private use and that the reproduction is not aimed at gaining direct or indirect economic advantage.</li></ul>
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>BENEFICIARIES</b>	Authors, performers and producers of phonograms/films, publishers
<b>LIABLE</b>	Manufacturer and importer
<b>EXEMPTION</b>	No
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Rates fixed by the Council of Ministers of Bosnia and Herzegovina, separately for different categories of devices and media.



# BOSNIA-HERZEGOVINA

2/3



## LEGAL BASIS

### EXCEPTION AND LEVY

#### Article 46 of the Copyright and Related Rights Laws

(Private and other Internal Reproduction)

(1) Without prejudice to the rights referred to in paragraph (1) of Article 36 of this Law, the reproduction of a disclosed work shall be free if only one copy has been made and if the conditions referred to in paragraphs (2) and (3) of this Article have been met.

(2) A natural person may reproduce a work freely: (...)

b) on any other media, provided that he does it for private use, provided that the copies are not intended for or accessible by the public and provided that such reproduction is not aimed at gaining direct or indirect economic advantage.

(...)

(4) Unless otherwise provided by this Law or a contract, and independently of the provisions of paragraphs (1), (2) and (3) of this Article, the reproduction of the following shall not be permitted: a) written works to the extent of the whole book – unless the copies of such book are out of print for a minimum of two years; b) graphic editions of musical works (sheet music) – except by means of handwritten transcription, c) electronic databases and computer programs, d) works of architecture, in the form of building an architectural structure, e) any work if such reproduction would be contrary to the ordinary exploitation of a work and detrimental to the legitimate interests of the author or copyright holder to an unreasonable extent.

### LEVY

#### Articles 36-37-38 of the Copyright and Related Rights Laws

##### Article 36 (Right to Remuneration for Private and Other Internal Use)

(1) If, under the provisions of Article 46 of this Law, a work may be reproduced without author's consent, the author of the works which, due to their nature, may be expected to be reproduced by photocopying or recording them on sound, video or text recording media for private or other internal use shall have the right to remuneration for such use.

(2) The remuneration, referred to in paragraph (1) of this Article, for sound and visual recording shall be payable: a) at the first sale or importation of new technical devices for sound and visual recording and b) at the first sale or importation of new blank sound, video or text recording media.

(3) The remuneration for photocopying referred to in paragraph (1) of this Article shall be payable: a) at the first sale or importation of new photocopying devices, b) on made photocopies intended for sale.

(4) For the purposes of this Law, the importation into Bosnia and Herzegovina shall mean any release into circulation and any bringing of goods into the territory of Bosnia and Herzegovina, with the exception of small quantities intended for private and non-commercial use, which are brought into as a part of personal luggage or sent in small consignments. (5) Equal to photocopying shall be considered all other reproduction techniques, and equal to sound and visual recording devices shall be considered all other devices allowing for the achievement of the same effect. (6) The right to remuneration under the provision of paragraph (1) of this Article may not be subject to waiver, disposal with during lifetime and execution.

##### Article 37 (Persons Liable to Pay Remuneration)

(1) The remuneration referred to in paragraph (2) and item a) of paragraph (3) of Article 36 of this Law shall be paid by the manufacturers of sound and visual recording devices, manufacturers of photocopying devices and manufacturers of blank audio and video recording media.

(2) If the devices and blank media referred to in paragraph (1) of this Article are imported into Bosnia and Herzegovina, the remuneration referred to in Article 36 of this Law shall be paid by the importer.

(3) The manufacturers referred to in paragraph (1) of this Article shall not pay remuneration for the devices and blank media which are exported from Bosnia and Herzegovina.

(4) The remuneration referred to in item b) of paragraph (3) of Article 36 of this Law shall be paid by natural persons and legal entities rendering photocopying services against payment.



# BOSNIA-HERZEGOVINA

3/3



## LEGAL BASIS

### ...LEVY

#### Article 38 (Amount of Remuneration)

(1) The amounts of individual remunerations for private and other internal reproduction, belonging collectively to all right holders under this Law, shall be fixed by the Council of Ministers of Bosnia and Herzegovina.

(2) The amounts referred to in paragraph (1) of this Article shall be fixed separately for different categories of devices and media as follows: a) for any sound recording device – dependent on the technology (analogue, digital) and the fact whether such devices are intended exclusively for the reproduction of sound recordings or not, b) for any audiovisual recording device – dependent on the technology (analogue, digital) and the fact whether such devices are intended exclusively for the reproduction of audiovisual or video recordings or not, c) for any blank audio or video recording media – dependent on the technology (analogue, digital) and maximum duration of sound or picture reproduction, d) for any photocopying device or other device with similar reproduction technique (fax, printer, photo printer and the like) – dependent on the maximum number of copies per minute and the possibility of color reproduction, e) for every single photocopy made for sale to natural persons.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Article 22 of the Law on the Collective Management of Copyright and Related Rights in Bosnias

(Special Cases of the Distribution of Remunerations)

(1) The remuneration received on the basis of the right to remuneration for private and other internal use which is paid, according to the law governing copyright and related rights, at the first sale or importation of new technical devices for sound and visual recording and new blank sound, picture or text fixation media, shall be divided among authors, performers and phonogram producers or film producers in the ratio of 40:30:30.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# BULGARIA



7,025,037

GDP: 56.1 billion EUR

1 / 7

## CONTACT INFORMATION

<b>COUNTRY</b>	Bulgaria
<b>CURRENCY</b>	Lev (BGN)
<b>NAME ORGANIZATION</b>	MUSICAUTOR
<b>WEB SITE</b>	<a href="http://www.musicautor.org/">http://www.musicautor.org/</a>
<b>E-MAIL</b>	musicautor_bg@musicautor.org
<b>ADDRESS</b>	17 Budapest Str.
<b>POSTCODE</b>	1000
<b>CITY</b>	Sofia
<b>PHONE</b>	(+359) 2 980 10 35; 989 02 64
<b>FAX</b>	(+359) 2 9800253



## OVERVIEW

### COLLECTING SOCIETY APPOINTED BY

COPY BG is appointed by its members – the respective CMOs of authors, performers, sound recording and film producers.

The activity of Copy BG has been frozen since 2012 due to a variety of amendments in the Law on Copyright and Neighboring Rights from 2011.

In 2018 Copy BG has been complied with the new regulations for CMOs of the Law on Copyright and Neighboring Rights. The organization has new managing authorities, but at this moment in time it does not work actively. This is the reason why MUSICAUTOR lodged a complaint before the European Commission (please find more information below).

### EXCEPTION

Yes

### LEVY

Equipment: No  
Media: Yes

### TARIFFS

There is tariff in place, but there is no effective mechanism.

### BENEFICIARIES

Authors of works, performers, producers of phonograms and producers of initial recordings of movies or other audio-visual works.

### LIABLE

Manufacturers and importers

### EXEMPTION

Export/professional use

### SOCIAL AND CULTURAL DEDUCTIONS

30% cultural deduction



# BULGARIA

2/7

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Pursuant to Law on Copyright and Neighboring Rights the remuneration rate should vary from 1% to 1,5% of the delivery price of the imported blank information carriers (formerly 5% for carriers and 2% for devices).

The type of carriers subject to remuneration and the rate for each of them are set in a tariff, negotiated between Copy BG and the respective representative organization of manufacturers and importers and approved by the Minister of Culture.

The tariff may provide for additional discounts.

In case no agreement on the tariff is reached between the CMO and the representative organizations within 3 months from the beginning of the negotiations, the Minister of Culture appoints a commission to decide on the tariff.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

There are two criteria: the capacity of the carrier and to what extent the carrier is used by natural persons for non-commercial reproduction for their personal use only.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Exempt from payment of remuneration, or subject to refund, if collected, are:

- Information carriers purchased by legal entities or physical persons, exercising liberal professions, whose activities do not presume the use of the carriers for private copying;
- Information carriers purchased by RTV operators, sound recording and film producers;
- Information carriers purchased by hospitals, social institutions, prisons.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

The 2011 amendments of the Law provide that private copy remuneration is due only on blank information carriers and not on reproduction devices.

The type of carriers subject to remuneration and the rate for each of them are set in a tariff, negotiated between Copy BG and the respective representative organization of manufacturers and importers and approved by the Minister of Culture.

Additionally, the remuneration applies only on information carriers "predominantly intended" for reproduction for private use.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

No

### DO ORGANIZATIONS HAVE TO CONTACT AND REPORT THE COLLECTING SOCIETY THEMSELVES?

Yes



# BULGARIA

3/7

## COLLECTION PROCESS

<b>HOW FREQUENTLY IS PAYMENT DUE?</b>	The Law says that payment is due twice a year.
<b>COLLABORATION WITH TAX AUTHORITIES/CUSTOMS</b>	No
<b>DEFINITION OF IMPORT</b>	In the Law on Copyright and Neighboring Rights there is no definition of importer.
<b>WHO IS CONSIDERED IMPORTER?</b>	Excluded from the application of the remuneration are: <ul style="list-style-type: none"> <li>- Deliveries from Member States of the European Union;</li> <li>- Deliveries from countries not part of the EU or Member State of the EU, where private copying remuneration has been calculated with no option for refund under the respective national legislation.</li> </ul>

## DISTRIBUTION PROCESS

<b>WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?</b>	It is a two-level process. Copy BG distributes to its CMO-members which subsequently distribute to the individual right holders.
<b>IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?</b>	No
<b>WHICH RIGHTSHOLDERS ARE INCLUDED?</b>	Authors, performers, sound recording and film producers
<b>HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?</b>	The distribution scheme is determined by law.
<b>DISTRIBUTION KEYS</b>	The distribution scheme is 1/2 for authors, 1/4 for performers, 1/4 for producers. Formerly, before the 2011 amendments in the Law, it was 1/3 for each category of rightsholders.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

<b>IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?</b>	Yes, 30% from the collected amount is transferred to the National Cultural Fund. This percentage is set in the Law on Copyright and Neighboring Rights.
<b>WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?</b>	National Cultural Fund is a legal entity created with the Law on the Protection and Promotion of Culture. It is budgeted by the State and is managed by a board with the Minister of Culture as a chairman.



# BULGARIA

4/7



## LEGAL BASIS

### EXCEPTION

#### Art. 25 of the Law on Copyright and Neighboring Rights of 1993 (as amended in 2011)

(Without consent of the owner of the copyright but upon payment of fair compensation shall be admissible:

(...)

2. reproduction of works, regardless of the carrier, by a natural person for personal use unless done with commercial purposes. The provision of para 1, item 2 shall not refer to computer software and architectural works.

### LEVY

#### Art. 26 of the Law on Copyright and Neighboring Rights of 1993 (as amended in 2011)

(1) Authors of works, performers, producers of phonograms and producers of initial recordings of movies or other audio-visual works shall be entitled to a compensatory remuneration, where the recordings are reproduced for personal use as set out in Art. 25, Para 1, Item 2. A right to compensatory remuneration shall also have the authors and publishers of any kind of print works, when such works are reproduced in reprographic manner for personal use under the conditions of Art. 25, Para 1, Item 1.

(2) Any waiver of the right to compensatory remuneration by the rightsholders referred to in Para 1 shall be invalid.

(3) The remuneration referred to in Para 1 shall be due by the persons who:

1. manufacture blank information carriers;
2. import from third countries blank information carriers.

(4) The remuneration referred to in Para 1 shall be due by the persons referred to in Para 3 for sales of information carriers on the territory of the Republic of Bulgaria, primarily intended for reproduction of works for personal use by natural persons under Art. 25, Para 1, Item 2.

(5) The types of information carriers, which primary use is reproduction in the sense of Art. 25, Para 1, for which remuneration under Para 1 is due, and the amount of the remuneration shall be determined annually by the organizations referred to in Para 8, agreed upon with representative organizations of the persons under Para 3 and 4, as well as with other interested persons. In negotiating the types of carriers and the amount of remunerations shall be taken into account the recording capacity of the carriers and the extent of their use for reproduction in the sense of Art. 25, Para 1.

The amount of remuneration shall not be lower than 1.0 percent or exceed 1.5 percent of the supply value according to the accounting standard for processing the stock reserves of the respective blank information carriers.

For the persons referred to in Para 3 may be negotiated discounts, which amounts and conditions of use shall be determined in the negotiation procedure set for determining the amount of the basic remuneration.

(6) Where the negotiations referred to in Para 5 result in agreement between the parties, the provisions referred to in Art. 40f, Para 6, 7 and 8 shall apply respectively.

(7) Where no agreement between the parties have been achieved, the provisions of Art. 40f, P 9-14 shall apply respectively.

(...)

(10) Compensatory remunerations for blank information carriers shall not be due, or, if collected, restored, when:

1. delivered from the territory of another Member State of the European Union;
2. delivered from the territory of a third country and already levied, without possibility for restoration, with a compensatory remuneration for reproduction, equivalent to the remuneration referred to in Art. 25, Para 1 according to the legislation of the said Member State of the European Union or the third country;
3. they are subject to transaction for export to third countries or delivery to another Member State of the European Union;
4. purchased in the country by a person that has legally obtained the right to make such recordings and has arranged the authors rights and related rights questions related to the recording;
5. purchased by a provider of audio-visual media services/radio services, legally carrying out his activity;
6. purchased in the country by manufacturers of movies or other audio-visual works;



# BULGARIA

5/7



## LEGAL BASIS

### ...LEVY

7. purchased by medical establishments, specialized rehabilitation hospitals, social establishments and penitentiary establishments;
8. purchased by legal persons, sole entrepreneurs or natural persons - freelancers, whose activity does not presuppose their use for reproduction in the sense of Art. 25, Para 1.

(11) When compensatory remunerations have been collected and are subject to restoration, the facts and circumstances justifying the right to restoration shall be proved by the persons claiming it. The requests, accompanied by the evidence, shall be submitted to the respective organizations referred to in Para 8 within the time limits referred to in Para 12. The organizations referred to in Para 8 shall pronounce on the requests within one month from their submission.

The amounts subject to restoration shall be paid by the organizations referred to in Para 8 within one month from the date of the protocol for granting the requests with the evidence.

(12) The persons, which under Para 4 are due compensatory remunerations, shall be obliged within one month from the end of every calendar six months to provide to the organization under Para 8 a summary of the types and total supply value according to the accounting standard for processing the stock reserves of sold carriers of each type, for which compensation is due. No further detailed information may be requested than the information required for the purpose of allocating the remunerations referred to in Para 1 by the organizations referred to in Para 8. The received information shall not be made public or used for any other purpose except for collecting and allocating the remunerations. The remunerations shall be paid to the organizations collecting them within one month from the end of the accounting period.

## COLLECTION AND DISTRIBUTION SYSTEMS

### Art. 26 of the Law on Copyright and Neighboring Rights of 1993 (as amended in 2011)

(..)

(8) The remunerations referred to in para 1, first sentence, and para 1, second sentence, shall be paid to organizations which shall be different for the two separate categories of rights, established as set out in Chapter Seven, Section Ia, by associations, representing the different categories of rightsholders regarding their right to compensatory remuneration and having a mechanism for individual allocation of those remunerations among their members. These organizations shall allocate the remunerations among their members.

Before allocation 30 percent of the collected amounts shall be deduced and deposited to the account of the National Fund "Culture".

The persons referred to in Para 3 shall be deemed to have fully performed their obligations under this article with the payment of the remunerations referred to in Para 1 to an organization under the first sentence.

(9) The allocation of the collected amounts among the individual categories of rightsholders shall be carried out in the following way:

1. regarding remunerations under para 1, first sentence:

- a) a half - for the authors;
- b) a quarter - for the performers;
- c) a quarter - for the producers;

2. regarding remunerations under para 1, second sentence:

- a) 50% - for the authors;
- b) 50% - for the publishers.

(...)



# BULGARIA

6/7



## COMMENTS/DEVELOPMENTS

Musicautor has provided variety of public companies, which call on urgent actions and amendments to the current private copying legislation. Unfortunately, all efforts have been neglected by Bulgarian authorities so far.

In the end of 2018 MUSICAUTOR lodged a complaint before the European Commission regarding Bulgaria's incompliance with Articles 5.2(a) and (b) of the Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society (i.e., InfoSoc Directive). The complaint points out certain provisions, which contradict with the EU Information Society Directive. In particular:

1. In contrast with the former law the adopted amendments provide for application of the remuneration only on blank information carriers and not on reproduction devices. The remuneration applies only on separate information carriers which are intended predominantly for reproduction for private use.
2. The private copying remuneration is due for the carriers sold, but is calculated on their delivery price, not on the sale price.
3. Excluded from the application of the remuneration are intra-community deliveries.
4. The Law does not oblige the liable persons to present any information or documentation in proof of the aforementioned exemptions, except when they claim refund.
6. Liable persons have to provide only general information on the kind of carriers sold during a half year period and the total delivery price for each kind of carrier. Besides, the collecting society may not request more detailed information out of that needed for the distribution of the remuneration.
7. The amended law does not provide instruments for exercising any effective control on the liable persons, thus leaving the fulfilment of their obligations to their discretion and good will.

The complaint has been supported officially by 10 international organizations such as CISAC, GESAC, BIEM, etc. which has insisted on European Commissioner Mariya Gabriel taking all the necessary measure to redress the private copying and reprography situation in Bulgaria.



## TARIFFS

Blank Media	Tariff valid per 1 Oct 2015 (%)
Audiocassette	1.5
Minidisc	1.5
Hi-MD	1.25
Floppy Disc	1.0
"Videocassette: VHS, BETAMAX"	1.5
Digital Videocassette (DVC)	1.5
CD-R	1.25
CD-RW	1.25
DVD-R, DVD+R	1.25
DVD-RW, DVD+RW	1.25
DVD-RAM	1.25



# BULGARIA

7/7



## TARIFFS

Blank Media	Tariff valid per 1 Oct 2015 (%)
DVD Double-layer	1.25
Blu-Ray Disc (BD): BD-R	1.25
Blu-Ray Disc (BD): BD-RE	1.25
Mini Blu-Ray	1.25
HD DVD-R, HD DVD+R	1.25
HD DVD-RW, HD DVD+RW,	1.25
HD DVD-RAM	1.25
Memory card (Flash card)	1.1
USB Flash Drive	1.1
Standard external Hard Disc	1.1
Multimedia external Hard Disc with Audio/Video OUT plugs	1.4
Multimedia external Hard Disc with Audio/Video IN and OUT plugs	1.4
External Solid-State Drive (SSD)	1.1

The levy is on the integrated memory / hard disc, not on the device.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# CYPRUS



1,189,265

GDP: 21.1 billion EUR

1 / 1

## CONTACT INFORMATION

### COUNTRY

Cyprus

### CURRENCY

Euro (EUR)



## OVERVIEW

### EXCEPTION

Yes, it is authorized to make a copy of a work for private use for non-commercial purposes.

### LEVY

Yes, a levy is planned in the law but has never been implemented.



## LEGAL BASIS

### EXCEPTION

Article 7.2 of Copyright Act of 1993 (which is the renumbered article 7(1)(a) of the English version of the Law) as amended up to law 2004

Copyright shall not include the right to control:

(...)

(o) the reproduction in any medium carried out by a natural person for personal use not for direct or indirect commercial purposes, provided that the right holders receive fair compensation which takes into account the use or not of technological means in the particular work or other material.



## COMMENTS/DEVELOPMENTS

The Cyprus Act indirectly refers to a levy system but there are no provisions in the Act as to how such a system should be set up or administered or how the compensation should be calculated.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# ESTONIA



1,321,977

GDP: 26.0 billion EUR

1/6

## CONTACT INFORMATION

COUNTRY	Estonia
CURRENCY	Euro (EUR)
NAME ORGANISATION	Estonian Author's Society
WEB SITE	<a href="http://www.eau.org">www.eau.org</a>
E-MAIL	<a href="mailto:eau@eau.org">eau@eau.org</a>
ADDRESS	Lille13
POSTCODE	10614
CITY	Tallinn
PHONE	3726684360
FAX	3726684361



## OVERVIEW

COLLECTING SOCIETY APPOINTED BY	Estonian Author's Society, appointed by the Ministry of Justice.
EXCEPTION	Yes
LEVY	Effective mechanism, but collection has not been made in many years because the cost of collecting the PC exceeded the collected amounts (see more information below).
LIABLE	Importers
EXEMPTION	Export/professional use

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The amount of remuneration is calculated on the basis of § 27 subsections 7 of the Copyright Act.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION

Copying behaviour according to a survey of people.



# ESTONIA

2/6

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

The remuneration shall be repaid on the storage media and recording devices:

- 1) which, due to their technical characteristics, do not enable the reproduction of audio visual works and sound recordings of works as single copies;
- 2) exported or transported from Estonia into the Community customs territory;
- 3) which are used in the course of the activities specified in the articles of association of the undertaking;
- 4) which are used in an activity in the case of which the result of the main activity of the person who makes the recording requires the manufacture of an audio or video recording as an intermediate stage;
- 5) which are intended for recording activities in educational and research institutions for the purpose of teaching or scientific research;
- 6) used for making recordings for the benefit of disabled persons.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Any manufacturer, importer and person who brings recording devices and storage media from the customs territory of the European Community into Estonia is to inform the organization appointed to collect remuneration of the quantity and purchase price of recording devices and storage media, within a period of 20 days from the end of each calendar month, in writing or in a form that is capable of being reproduced in writing. The organization appointed to collect the remuneration can negotiate a different fee.

### HOW FREQUENTLY IS PAYMENT DUE?

The collective management organisation which is appointed as the collector of remuneration has the right to obtain necessary information from customs authorities and statistical organisations and manufacturing and importing organisations and sellers. The information submitted is confidential, and the collector of remuneration has the right to use and disclose the information only in connection with such collection.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Yes

### ARE EXPORTS EXEMPTED?

Exports are exempted by law. The remuneration shall be repaid on the storage media and recording devices exported or transported from Estonia into the Community customs territory.



# ESTONIA

3/6

## COLLECTION PROCESS

### WHO IS CONSIDERED IMPORTER?

Manufacturers, importers, sellers of storage media and recording devices are responsible for payment.

The seller shall pay the remuneration when the manufacturer, importer, or the person who brings storage media and recording devices from the Community customs territory into Estonia has not paid such remuneration

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

The remuneration shall be distributed on the basis of a distribution plan for the preparation of which the Minister of Justice shall appoint a committee every year, which is proportionally composed of collective management organisations representing the authors, performers and producers of phonograms and a representative of the Ministry of Justice.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

The Minister of Justice shall appoint a collective management organisation (Estonian Author's Society) as the collector of remuneration and the organisation has the right to deduct expenses related to the collection and payment of remuneration from the remuneration collected.

### FREQUENCY OF DISTRIBUTION

Yearly

### WHICH RIGHTS HOLDERS ARE INCLUDED?

The remuneration shall be distributed among authors, performers and producers of phonograms according to the use of works and phonograms.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Distribution schemes are set and approved by the Ministry of Justice, after consultations with a working group of rights owners.

### DISTRIBUTION KEYS

Distribution scheme, audio: 33.33 % - authors; 33.33% - performers; 33.33% - producers of phonograms.

Distribution scheme, video: 63% authors; 27% performers; 10% producers of phonograms.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

Remuneration may also be paid to organisations for the development of music and film culture and in order to finance educational and research programmes or for use thereof for other similar purposes, but only in an amount not exceeding 10% of the remuneration subject to distribution.



# ESTONIA

4/6



## LEGAL BASIS

### EXCEPTION

**Article 26 of the Copyright Act of 1992 (as amended up to 2014) + Government Regulation No. 67 of 2002 on the establishment of Collection and Payment of Remuneration for Private Use of Audiovisual Works and Sound Recordings of Works.**

(1) Audiovisual works or sound recordings of such works may be reproduced for the private use (scientific research, studies, etc.) of the user without the authorisation of the author. The author as well as the performer of the work and the producer of phonograms have the right to obtain equitable remuneration for such use of the work or phonogram.

(2) Subsection (1) of this section does not apply to legal persons.

### LEVY

**Article 27 of the Copyright Act of 1992 (as amended up to 2014) + Government Regulation No. 67 of 2002 on the establishment of Collection and Payment of Remuneration for Private Use of Audiovisual Works and Sound Recordings of Works.**

(1) The manufacturers, importers, sellers of storage media and recording devices, persons who bring storage media and recording devices from the Community customs territory into Estonia within the meaning of the Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 302, 19.10.1992, pp. 1–50) shall pay the remuneration specified in § 26 of this Act.

(2) The seller shall pay the remuneration in the case when the manufacturer, importer, or the person who brings storage media and recording devices from the Community customs territory into Estonia has not paid the remuneration.

(3) The seller has the right to reclaim the remuneration from the manufacturer, importer and the person who brings storage media and recording devices from the Community customs territory into Estonia.

(4) Natural persons shall pay remuneration in the case when the importing of storage media and recording devices or bringing of the storage media and recording devices from the Community customs territory into Estonia is carried out for commercial purposes.

(5) The remuneration shall be repaid on the storage media and recording devices:

- 1) which, due to their technical characteristics, do not enable the reproduction of audiovisual works and sound recordings of works as single copies;
- 2) exported or transported from Estonia into the Community customs territory;
- 3) which are used in the course of the activities specified in the articles of association of the undertaking;
- 4) which are used in an activity in the case of which the result of the main activity of the person who makes the recording requires the manufacture of an audio or video recording as an intermediate stage;
- 5) which are intended for recording activities in educational and research institutions for the purpose of teaching or scientific research;
- 6) used for making recordings for the benefit of disabled persons.

(6) A collective management organisation shall repay the remuneration to the persons specified in subsection (5) of this section within one month after submission of a corresponding written application.

(7) The amount of the remuneration is:

- 1) 3 per cent of the value of the goods in the case of recording devices;
- 2) 8 per cent of the value of the goods in the case of storage media.



# ESTONIA

5/6



## LEGAL BASIS

### COLLECTION AND DISTRIBUTION SYSTEMS

**Article 27 of the Copyright Act of 1992 (as amended up to 2014) + Government Regulation No. 67 of 2002 on the establishment of Collection and Payment of Remuneration for Private Use of Audiovisual Works and Sound Recordings of Works.**

(8) The remuneration shall be distributed among authors, performers and producers of phonograms according to the use of works and phonograms.

(9) The remuneration shall be distributed on the basis of a distribution plan for the preparation of which the Minister of Justice shall appoint a committee every year, which is proportionally comprised of collective management organizations representing the authors, performers and producers of phonograms and a representative of the Ministry of Justice.

(10) Remuneration may also be paid to organizations for the development of music and film culture and in order to finance educational and research programs or for use thereof for other similar purposes, but only in an amount not exceeding 10 per cent of the remuneration subject to distribution.

(11) The Minister of Justice shall approve the distribution plan not later than three months after the end of the budgetary year, having previously obtained the approval of the representatives of authors, performers and producers of phonograms.

(12) The Minister of Justice shall appoint a collective management organization as the collector of remuneration and the organization has the right to deduct expenses related to the collection and payment of remuneration from the remuneration collected.

(13) The collective management organization which is appointed as the collector of remuneration has the right to obtain necessary information from customs authorities and statistical organizations and manufacturing and importing organizations and sellers. The information submitted is confidential and the collector of remuneration has the right to use and disclose the information only in connection with the collection of remuneration.

(14) The Government of the Republic shall establish by a regulation:

- 1) the procedure for payment of remuneration to compensate for private use of audio-visual works and sound recordings of works and the list of storage media and recording devices;
- 2) the procedure for application for the remuneration specified in subsection (10) of this section.



## COMMENTS/DEVELOPMENTS

The situation in private copying is unclear in Estonia at the moment. The „old system“ does not work anymore because it concerns the analogues equipment only. And the „new one“ does not exist yet because the old government made a proposal to move on to the „state budget payment“ system but did not have enough time for that due to the Parliament elections on March 3rd 2019. At the moment everything is absolutely unclear, and waiting for new government to resume with the process.



# ESTONIA

6/6



## TARIFFS

Blank Media	Tariff (%)	Capacity
Audio cassettes	8	Per unit
Video cassettes	8	Per unit
CD-R, CD-RW, DVD-R and DVD-RW discs	8	Per unit
Minidiscs (MD)	8	Per unit

Devices	Tariff (%)	Capacity
VHS and DVD recording devices	3	Per unit
Audio cassette, CD-R and CD-RW recording devices	3	Per unit





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# GEORGIA



3,726,549

GDP: 14.9 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Georgia
<b>CURRENCY</b>	Lari (GEL)
<b>NAME ORGANISATION</b>	Georgian Copyright Association (GCA)
<b>WEB SITE</b>	<a href="http://www.gca.ge">www.gca.ge</a>
<b>E-MAIL</b>	<a href="mailto:contact@gca.ge">contact@gca.ge</a>
<b>ADDRESS</b>	63 Kostava str. Old Tbilisi district
<b>POSTCODE</b>	0171
<b>CITY</b>	Tbilisi
<b>PHONE</b>	+995 322 237887 (14)



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	GCA
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Tariffs are determined by Copyright act.
<b>BENEFICIARIES</b>	Authors, performers and producers of audiovisual work and phonogram
<b>LIABLE</b>	Manufacturer, importer
<b>EXEMPTION</b>	Export, Professional equipment
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	10% (GCA internal regulation)



# GEORGIA

2/2



## LEGAL BASIS

### LEVY

#### Article 21 of the law of Georgia on copyright and neighboring right of 1999 (as amended in 2010)

3. In the case of reproduction of an audiovisual work or a work fixed in a phonogram by a natural person for personal use, the author or other copyright owner thereof, shall, in contrast to the rule provided for in paragraph one of this Article, be entitled to the receipt of respective remuneration.

4. The remuneration for the reproduction for personal use, shall be paid by producers and importers of the equipment (audio- and video recorders and other equipment) and of material carriers (audio and video tapes, cassettes, laser disks, compact disks, and other material carriers).

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Article 21 of the law of Georgia on copyright and neighboring right of 1999 (as amended in 2010)

5. The remuneration shall be collected and distributed by one of the organizations that administer the economic rights of authors, performers and phonogram producers on a collective basis, under an agreement concluded between these organizations. Unless the agreement provides otherwise, the remuneration shall be distributed as follows: 40 percent - to the authors, 30 percent - to the performers, and 30 percent - to the phonogram producers. The said organizations may request information concerning production and importation of the equipment and material carriers referred to in paragraph 4 of this Article from natural and legal persons as well as from governmental organizations and institutions.

6. The amount and the payment procedure of the remuneration shall be determined by an agreement between the said producers and importers on the one hand and with one of the organizations that administer the economic rights of authors, performers and phonogram producers on a collective basis on the other hand. If the parties fail to agree, the amount of the remuneration, its calculation and payment procedure shall, subject to the request by any party or the parties, be determined by "Sakpatenti". The decision by "Sakpatenti" may be appealed against in court within 2 months of its making.

7. The remuneration shall be distributed among the authors of the works and other owners of copyright and related rights, referred to in paragraphs 3 and 5 of this Article.

8. The remuneration shall not be distributed in respect to the equipment and material carriers provided for by paragraph 4 of this Article, which represent:

- a. the subject of export;
- b. the professional equipment not intended for domestic use.

9. The remuneration shall not be also paid in the case of importation of the said equipment and material carriers by natural persons for personal purposes.

10. The right of reproduction of the copyrighted works provided for by this Law shall not apply to a temporary copy.



## COMMENTS/DEVELOPMENTS

Private Copying is under GCA mandate and relevant tariffs had been elaborated, though the users have applied to the constitutional court and they are appealing the articles of the Law regarding the private copying. Unfortunately, the final decision of the constitutional court is awaited, before starting to operate in this fields.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# LUXEMBOURG



0,607,950

GDP: 60.1 billion EUR

1 / 1

## CONTACT INFORMATION

COUNTRY	Luxembourg
CURRENCY	Euro (EUR)
NAME ORGANISATION	SACEM Luxembourg
WEB SITE	<a href="http://www.sacem.lu">www.sacem.lu</a>
E-MAIL	<a href="mailto:Marc.nickts@sacemlux.lu">Marc.nickts@sacemlux.lu</a>
ADDRESS	76-78, rue de Merl
POSTCODE	L-2146
CITY	Luxembourg
PHONE	+352 47 55 59
FAX	+352 48 02 76



## OVERVIEW

### EXCEPTION

Yes, it is authorized to make a single copy of a work for private use for non-commercial purposes, and from a legally source.

### LEVY

Yes, a levy is planned in the law but has never been implemented.



## LEGAL BASIS

### EXCEPTION

#### Article 10 of Law of 2001 on Copyright, Neighbouring Rights and Databases (as amended up to 2004)

Lorsque l'œuvre, autre qu'une base de données, a été licitement rendue accessible au public, l'auteur ne peut interdire : (..) 4° la reproduction sur tout support par une personne physique pour son usage privé et à des fins non directement ou indirectement commerciales, à condition que les titulaires de droits reçoivent une compensation équitable, qui prend en compte l'application des mesures techniques visées aux articles 71ter à 71quinquies de la présente loi aux œuvres concernées. Les conditions de fixation et de perception, ainsi que le niveau de cette compensation sont fixées par règlement grand-ducal.



## COMMENTS/DEVELOPMENTS

The Copyright Act refers to a compensation system but does not include provisions as to how such system should be set up and administered.

A governmental regulation that must determine the tariffs is still under discussion.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# MACEDONIA



2,082,958

GDP 10.7 billion EUR

1/3

## CONTACT INFORMATION

COUNTRY	Macedonia
CURRENCY	Macedonian denar (MKD)
NAME ORGANISATION	ZAMP MACEDONIA
WEB SITE	www.zamp.com.mk
E-MAIL	zamp@zamp.com
ADDRESS	Metropolit Teodosij Gologanov 28
POSTCODE	1000
CITY	Skopje
PHONE	389 2 312 2301
FAX	389 2 312 2301



## OVERVIEW

EXCEPTION	Yes, it is defined as a reproduction on any medium, made by a natural person for private use, without direct or indirect commercial advantage.
LEVY	Equipment: Yes Media: Yes
TARIFFS	Effective mechanism
BENEFICIARIES	Authors, performers, producers (musical works, audiovisual works, visual art and literary works)
LIABLE	Manufacturers, importers
EXEMPTION	No
SOCIAL AND CULTURAL DEDUCTIONS	No

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Levies are fixed by the National Government.

Tariffs: determined separately for each type of equipment for audio and visual fixation, based on the recording capacity and according to the fluctuation of prices and the costs of living.

## DISTRIBUTION PROCESS

### DISTRIBUTION KEYS

40% to authors, 30% to performers, 30% to producers



# MACEDONIA

2/3



## LEGAL BASIS

### EXCEPTION AND LEVY

#### Art. 54 of Law on Copyright and Related Rights

PART 4. Exceptions and limitations

Use with compensation.

#### Article 54

The use of a copyright work with fair compensation shall apply to the following cases: (...)

2. Reproduction on any medium, made by a natural person for private use, without direct or indirect commercial advantage;

### LEVY

#### Art. 46-47-48 of Law on Copyright and Related Rights

Subsection 3. Right of compensation for reproduction for private use Right of fair compensation

#### Article 46 – Right of Fair Compensation

(1) The reproduction for private purpose shall be subject to payment of fair compensation.

(2) The compensation under paragraph 1 of this Article for reproduction of phonograms and video grams shall be paid at the time of the first sale or import of equipment for sound and visual fixation and new blank sound or sound and image carriers.

(3) The compensation under paragraph 1 of this Article for photocopying shall be paid at the time of the first sale or import of photocopying equipment, and upon making photocopies intended for sale, on a monthly basis, according to the possible number of photocopies.

(4) As equipment for sound and visual fixation shall be considered all other devices which enable to achieve the same effect, and as photocopying shall be considered other reproduction techniques, as well.

(5) The author shall have the right to a share of the compensation under paragraph 1 of this Article for the reproduction of phonograms and video grams and for the photocopying of his work, which is carried out for private use.

(6) The right of compensation under paragraph 1 of this Article may not be subject to waive, disposal or judicial execution.

#### Article 47 - Entities obliged to make payment

(1) Producers and importers of equipment for sound and visual fixation, photocopying equipment, blank sound or sound and image carriers, as well as persons carrying out photocopying services, shall be obliged to pay the compensation under Article 46 of this Law.

(2) The entities under paragraph 1 of this Article shall be obliged, upon request by the relevant society for collective management of copyright and related rights, to submit data concerning the type and number of sold or imported equipment and sound or sound and image carriers, as well as data concerning the produced photocopies.

#### Article 48 - Amount of the compensation

(1) The amount of the compensation under Article 46 of this Law shall be determined by the Government of the Republic of Macedonia.

(2) The compensation under paragraph 1 of this Article shall be determined separately for each type of equipment for audio and visual fixation, for each fixation equipment which, due to its construction, does not require any special material to function (in an amount twice as much as the usual), for each sound or sound and image carrier based on the recording time, for each photocopying equipment based on the possible number of copies per minute and based on the possibility to copy in color (in an amount twice as much as the amount for black and white photocopying), as well as for each photocopy intended for sale.

(3) The Government of the Republic of Macedonia shall harmonize the amounts of the compensations under paragraph 1 of this Article according to the fluctuation of the prices and the costs of living in the Republic of Macedonia.



# MACEDONIA

3/3



## LEGAL BASIS

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Art. 131-145 of Law on Copyright and Related Rights

##### Article 131 - Rights managed collectively

Rights that can be managed collectively shall be, in particular: (...)

8. The author's, the performer's and phonogram producer's right of fair compensation for reproduction of the phonogram for private use;

9. The author's, the performer's and film producer's right for the reproduction of the video gram for private use;

##### Article 145 - Special cases of distribution of remuneration

The distribution of the single equitable remuneration/ fair compensation duly determined with Articles 46, 105, 111, 114 and 116 of this Law shall be carried out in the following proportion:

1. The compensation collected for reproduction for private use of phonograms or video grams according to this Law, shall be distributed to the authors in 40%, to the performers 30% and to the phonogram or film producers 30%.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# MALTA



484,630

GDP: 12.4 billion EUR

1/1

## CONTACT INFORMATION

COUNTRY	Malta
CURRENCY	Euro (EUR)



## OVERVIEW

EXCEPTION	Yes, it is authorized to make a single copy of a work for private use for non-commercial purposes.
LEVY	Yes, a levy is planned in the law but has never been implemented.



## LEGAL BASIS

### EXCEPTION

#### Article 9 of Copyright Act of 2000 (Chapter 415) as amended up to 2011

(1) Copyright in an audio-visual work, a database, a literary work other than in the case of a computer program, a musical or artistic work shall not include the right to authorize or prohibit:

(...)

(c) reproductions on any medium made by a natural person for private use and for ends that are neither directly nor indirectly commercial, on condition that the right holders receive fair compensation which takes account of the application or non-application or technological measures to the work or subject-matter concerned;

(...)

(3) The exceptions and limitations provided for in this article shall only be applied in such particular cases which do not conflict with a normal exploitation of the work or other subject-matter and do not unreasonably prejudice the legitimate interests of the right holder.



## COMMENTS/DEVELOPMENTS

The “on condition that the right holders receive fair compensation” is referring indirectly to a levy system, however Malta does not operate any levy systems and the Copyright Act does not contain any specific details on a levy – not to how a levy should be collected nor to how it should be administered (or who should do that). There is no guidance from the Courts on this point either.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS

# MONTENEGRO



0,622,227

GDP: 4.7 billion EUR

1/4

## CONTACT INFORMATION

<b>COUNTRY</b>	MONTENEGRO
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANIZATION</b>	PAM CG
<b>WEB SITE</b>	<a href="http://www.pam.org.me">http://www.pam.org.me</a>
<b>E-MAIL</b>	<a href="mailto:office@pam.org.me">office@pam.org.me</a>
<b>ADDRESS</b>	Dr Vukasina Markovica Street, n° 112
<b>POSTCODE</b>	81000
<b>CITY</b>	Podgorica
<b>PHONE</b>	382 20 291 035
<b>FAX</b>	382 20 291 035



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a disclosed work by a natural person in not more than three copies for its private use is permitted if the copies are not available to the public and if the reproduction is not done for direct or indirect economic advantages.
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	The levies are published In the Official Gazette of Montenegro after agreement between stakeholders (right holders and liable).
<b>BENEFICIARIES</b>	Authors, performers, publishers, phonogram and audiovisual producers
<b>LIABLE</b>	Importer and Manufacturer
<b>EXEMPTION</b>	Export: commercial reproduction of copyright works for which the acquirement of an authorization by the rightsholders is prescribed; persons with disability; import for personal and non-commercial use, as part of one's personal luggage.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

The Society for the collective administration of copyright and related rights should be in charge of the collection of the levy but actually, there is no effective mechanism.



# MONTENEGRO

2/4



## LEGAL BASIS

### EXCEPTION

**Art. 52 of Law No. 07-1/11-1/15 of July 12, 2011, on Copyright and Related Rights (promulgated by Decree No. 01-933/2 of July 25, 2011)**

Reproduction for private and other internal needs Article 52

Subject to Article 36 of this Act, the reproduction of a disclosed work in not more than three copies shall be permitted without acquirement of the corresponding economic right and without payment of a remuneration, with regard to:

1) a natural person:

(...)

b) on other medium if the reproduction is done for private use, if the copies are not available to the public and if the reproduction is not done for direct or indirect economic advantage;

(...)

Reproduction under Par. (1) of this Article shall not be permitted with respect to entire books, sheet music, electronic databases, computer programs, as well as to the execution of architectural objects according to the design; with the exception if:

1) the reproduction of entire books is done by an entity under the conditions set out in Par. (1), subparagraph 2 of this Article or if copies of such book have been out of print for a minimum of two years;

2) the reproduction of sheet music is done by an entity in accordance with Par. (1), subparagraph 2 of this Article or if transcripts are made in handwriting.

### LEVY

**Art. 36-37-38 of Law No. 07-1/11-1/15 of July 12, 2011, on Copyright and Related Rights (promulgated by Decree No. 01-933/2 of July 25, 2011)**

#### Article 36 - Right to remuneration

The author has a right to a portion of a remuneration for making a sound or visual fixation and for photocopying of his work done under Article 52 of this Act. Remuneration with respect to sound or visual fixation shall be paid upon the first sale or importation of new:

1) appliances for sound or visual fixation, and

2) blank audio or video fixation mediums. Importation as used in Par. (2) and (3) of this Article shall be understood to mean the release of goods into free circulation in accordance with customs regulations. The author may not waive or assign the right to remuneration under Par. (1) of this Article, neither may it be subject to civil execution.

#### Article 37 - Persons jointly liable

Liable to pay remuneration under Article 36, Par. (1) of this Act shall be the manufacturer and importer of appliances and audio or video fixation media respectively. The manufacturer and importer shall be jointly liable to pay the remuneration under Article 36 of this Act. The persons referred to in Par. (1) of this Article shall not be liable to pay remuneration for appliances and fixation mediums intended for:

1) export;

2) commercial reproduction of copyright works for which the acquirement of an authorization by the rightsholders is prescribed;

3) reproduction of copyright works for the needs of persons with a disability;

4) import for personal and non-commercial use, as part of one's personal luggage.

The person referred to in Par. (1) of this Article shall submit, quarterly in the course of a calendar year, reports to the Society for the collective administration of copyright and related rights on the type and number of manufactured or imported appliances and media. The Society for the collective administration of copyright and related rights may use the information obtained under Par. (4) of this Article only for the purpose of administration of the rights under this Act.



# MONTENEGRO

3/4



## LEGAL BASIS

### Article 38 - Amount of remuneration

The remuneration under Article 36 of this Act, which belongs to all rightsholders entitled under this Act, shall be set by an agreement entered into by the societies for the collective administration of rights and by producers and importers, in accordance with Article 172 of this Act. The amounts of remuneration referred to in Par. (1) of this Article shall be set for:

- 1) each sort of appliance per piece for sound fixation and each appliance for visual fixation;
- 2) each appliance which operates without audio and visual fixation media in a double amount of the amount set for appliances referred to in subparagraph 1 of this paragraph;
- 3) each audio and visual fixation medium per piece depending on the duration of the fixation;
- 4) each photocopying appliance depending on its capacity (number of copies per minute), and its capacity to make color copies (for which the amount may be set as the double of the amount for black-and-white copying), etc. When setting the remuneration under Par. (2) of this Article the amounts may be increased or reduced depending on whether the technological measures referred to in Article 186 of this Act are applied.



## COMMENTS/DEVELOPMENTS

Since the Intellectual Property Office of Montenegro adopted the Tariff pertaining to the special sound recording fee to be paid from the first sale or import of new technical sound recording devices and empty sound carriers, PAM CG has identified the ten companies (importers or sellers of recorded and blank audio carriers) liable for the payment of fee. PAM CG has been very active in educating the companies on their liability but did not succeed to get paid by all of them.

PAM CG considers starting court proceedings against the one not complying with the law by 2020.



## TARIFFS

GROUP IV IT	Fee per piece (EUR)
Hard drive internal and external	0.40
CD/DVD recorder internal and external	0.53
Computer, desktop, laptop	1.60
Tablet	2.65



# MONTENEGRO

4/4



## TARIFFS

GROUP V Other devices	Fee per piece (EUR)
Digital audio player with internal memory	1.85
Digital video player with internal memory	1.85
Mobile phone with MP3 player and Smart phone	2.65
Analog audio recorder	0.80
Analog video recorder	1.33
HI-FI CD recorder	2.65
H I-FI DVD recorder	3.98
HI-FI HD recorder	5.30
Set top box — Internal memory TVs/ smart TVs	3.70
Internal memory TV/ Smart TV	3.70
Video camera with internal memory	3.70





# EUROPE:

## COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS







EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# AUSTRIA



8,840,521

GDP: 385.7 billion EUR

1/9

## CONTACT INFORMATION

<b>COUNTRY</b>	Austria
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANISATION</b>	Austro-Mechana Gesellschaft zur Wahrnehmung mechanisch-musikalischer Urheberrechte GmbH
<b>WEB SITE</b>	www.aume.at
<b>E-MAIL</b>	smv@akm.at
<b>ADDRESS</b>	Baumannstraße 10
<b>POSTCODE</b>	1030
<b>CITY</b>	Vienna
<b>PHONE</b>	+431 717 87
<b>FAX</b>	+431 712 71 36



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Austro-Mechana has a legal monopoly and special authorisation as a collective management society in line with the EU-Directive 2014/26 on CMOs and is supervised by the Special Authority for Collective Societies installed within the Ministry of Justice. As for the collection of the digital private copying levy, it is additionally contractually mandated and authorized by all other Austrian CMOs having a legal claim to private copying levies.
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Electronic Equipment (memories only): Yes Blank Media: Yes
<b>TARIFFS</b>	Yes, autonomous tariffs for non-members to the Austrian Chamber of Commerce are published, and tariffs based on an umbrella agreement are valid for most of the trade, and both tariff schemes are effective.
<b>BENEFICIARIES</b>	The remuneration is collected through levies on the media - integrated memory, memory cards or hard disc included - not on devices.
<b>LIABLE</b>	<p>The manufacturer, the importer or direct seller is responsible for payment from the time of the first distribution in Austria. The obligation for reporting and payment may be contractually transferred to the supplier or a distributor.</p> <p>Retailers are liable as bail. Small retailers are exempt from liability (either not selling storage media with more than 10,000 hours per half year or having a net turnover of less than EUR 30,000 per year).</p>



## AUSTRIA

2/9



## OVERVIEW

## EXEMPTION

Exports and professional use are exempted either upfront (professional use only) or the respective persons can apply for reimbursement of paid levies. Any person showing the prerequisites may apply for reimbursement, not only the first distributor.

## SOCIAL AND CULTURAL DEDUCTIONS

50 %

## TOTAL revenues from private copying levies in local currency

2015: EUR 10,191,741.70

2016: EUR 76,156,877.10\*

2017: EUR 21,071,734.27

2018: EUR 24,688,010.60

\*including revenues for 2012-2015 for certain media due to a settlement.

## RATE SETTING

## HOW ARE LEVIES/REMUNERATION DETERMINED?

Levies are set in free negotiations between rights owners and the Chamber of Commerce or set by the *Urheberrechtssenat*, a specialized copyright tribunal foreseen for such cases, if negotiations fail.

## WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION

For the tariffs, the following criteria are relevant according to the law:

1. the comparable tariffs for levies hitherto in force and the total volume of the levy, whereas inadequate changes shall be avoided;
2. the comparable tariffs for levies and their volumes in Member States of the European Union or the Contracting Parties to the EEC;
3. effects on the common exploitation of works and the justified interests of authors;
4. the advantage of the reproducer, and the advantage of the person liable for payment, under consideration of the market development of the respective commercial sector, including the turnover with appliances and storage media;
5. the scope in which storage media and appliance are used on average for reproductions for personal or private use and the total amount of such uses, under consideration of the effects of the application of technical protective measures on the use of the respective works for reproductions due to the levy;
6. the attributes of storage media and appliances with respect to their use, in particular the productivity of appliances and the storage capacity as well as the ability for re-writing of storage media;
7. the commercial interests of manufacturers, merchants and importers of appliances and storage media, which must not be affected unacceptably;
8. an economically adequate relation between the levy and the typical price level of appliances, whereas the appliance levy shall not exceed 11 percent of the price level of such appliances; as far as empirical proof shows a nearly total use of an appliance for uses according to para. 2, this threshold may be exceeded.



# AUSTRIA

3/9

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES

There is a legal exemption for professional use, with the counter-exemption of educational facilities and public collections since they are liable for personal use. There is no exemption for private users, including no exemption for mixed use of e.g. single entrepreneurs.

### EXEMPTION UPFRONT

In case there is a stable business connection between a professional end user and a distributor, the professional end user may declare such exclusive professional use with respect to the media purchased at the respective distributor, who is then exempted upfront for those amounts.

There is no upfront exemption for exports.

### REFUND AFTERWARDS

Any party may apply for refund in case it shows that the media was exported (purchase and sale invoices are needed as well as a confirmation of payment of the customer, additional export documents such as shipping papers may be requested in unsure cases) or used for professional purposes and not resold. The latter is certified by a declaration of the professional end users within the application on refund. We are authorized to examine the facts in both cases, e.g. by looking into the books of an exporter and checking the delivery chain. Only levies paid to Austro Mechana can be refunded. Since the export of mobile phones poses a big problem at the moment, we are currently trying to install an automatized IMEI No. check.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Importers (who sells the media as the first in Austria), distant direct sellers to Austrian private end consumers and manufacturers have to report the amounts themselves to Austro-Mechana.

### HOW FREQUENTLY IS PAYMENT DUE?

The law sets the reporting deadline with 15 days from the last quarter in which media has been distributed for the first time in Austria. The payment is due, as determined in the Umbrella Agreement with the Chamber of Commerce, by the end of the reporting month.

### HOW DO YOU MONITOR THE MARKET?

Austro-Mechana is authorized to check the reports made in accordance with the Umbrella Agreement.

We may also request from any whole- or retailer to report any amounts of levied media sold and who is their supplier.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS ARE EXPORTS EXEMPTED?

None at the moment (Austria has no external borders to countries outside the EU, with the exception of Switzerland and Liechtenstein).

Professional exports are exempted, and a refund can be obtained by presenting the purchase invoice, export invoice, confirmation of payment and other export documents.



# AUSTRIA

4/9

## COLLECTION PROCESS

### DEFINITION OF IMPORT

There is no definition in the law.

### WHO IS CONSIDERED IMPORTER?

Austro-Mechana always holds liable the first distributor in Austria, regardless whether he sells to whole-, retailers or end consumers. In case of direct distant sellers to Austrian private end consumers, that seller is hold liable. The act of first sale from an Austrian trader to another Austrian is the relevant act that triggers the reporting and payment obligations, not the physical delivery of the product to Austria. Whenever assessing the seat of a seller or purchaser within or outside Austria, we also consider the respective invoices.

### ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?

At the moment, the only dispute in this respect remains with Amazon. They, however, entered into settlement talks after a very negative judgment by our Supreme Court in 2017.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Austro-Mechana collects the monies and distributes them to the 7 collecting societies authorized to collect the remuneration, including Austro-Mechana itself. The collecting societies involved distribute the monies to their respective rights holders in their own discretion.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

Depends on the various regulations laid down by each collecting society for its own rights holders.

### FREQUENCY OF DISTRIBUTION

Distribution to other Austrian collective management societies having mandated Austro-Mechana happens on a quarterly basis. Depends on the various distribution plans, In Austro-Mechana, distribution is once a year.

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Austro-Mechana represents the rights of composers, scriptwriters for music and music publishers, and distributes the revenues to the participating companies. Other societies represent music or movie producers, broadcasting companies as producers, visual artists, writers, actors and directors, among others.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

By multilateral negotiations



# AUSTRIA

5/9

## DISTRIBUTION PROCESS

### DISTRIBUTION KEYS

The distribution scheme for 2015 (including digital storage media) onwards is not yet finalised. The last distribution scheme stems from 2014 and looks as follows:

#### Distribution schemes for various media and devices:

Audio: 54%

Video: 46%

#### Distribution scheme, audio:

47.92 % Austro Mechana (musical works)

1.58 % Literar Mechana

49.50 % LSG (neighbouring rights)

1.0% VGR (broadcast)

#### Distribution scheme, video:

14.87% Austro Mechana (music creators and publishers)

13.63% Literar Mechana (writers and publishers)

6.25% LSG (music producers and performers)

23.50% VAM (movie producers)

23.50% VDFS (actors. directors)

1.75% Bildrecht (visual artists and photographs)

16.50% VGR (broadcasts)

#### For the four work categories and in sum, this means:

Video: 29.73%

Audio: 62.26%

Text: 7.14% (without written texts)\*

Images: 0.86% (without standalone pictures)\*

*\*The societies administering text and images have received a lump sum for written texts and standalone pictures on blank carriers.*

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

Yes, 50% is deducted for collective (social and/or cultural) purposes before distribution.

Deductions for social and cultural purposes are stipulated by law (Sec. 33 para. 2 Collective Management Society Law).

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

For social assistance and pension fund; for the organization of thematic festivals, assistance for competition participation and many other cultural activities.



# AUSTRIA

6/9



## LEGAL BASIS

### EXCEPTION

Section 42 para. 2 to 7 Copyright Act

### LEVY

Section 42b para.1 Copyright Act

### COLLECTION AND DISTRIBUTION SYSTEMS

Collection: Section 42b para. 3 to 9 Copyright Act (no law on distribution)

## COURT CASES

The Amazon case is still pending before the Commercial Court of Commerce of Austria. Amazon is still negotiating on a settlement with Austro-Mechana. It is not foreseeable at the moment whether Austro-Mechana has to continue to litigate or not.



## COMMENTS/DEVELOPMENTS

Austro-Mechana wants to introduce the obligation to report IMEI No. for mobile phones, in order to control the refunds for exports better. This may be done by a change of the umbrella agreement with the competent chamber of commerce.

The Constitutional Court of Austria, with effect of January 2019, has repealed one of the tariff criteria, namely the provision that the tariffs may not exceed 6% of the typical retailers' price of the respective storage media.

The target value limiting the annual revenues to EUR 20 Mio. will end with the end of 2019. It remains to be seen if the collective management societies will try to raise the tariffs for periods thereafter.



## TARIFFS

Blank Media	Tariff valid per 1 Oct 2015 (EUR)		Capacity
Audio			
Audiocassette	0.12		60 minutes
Minidisc	0.24		80 minutes
CD-R/-RW Audio	0.24		80 minutes/700 MB
CD-R/-RW Data	0.23		80 minutes/700 MB



## AUSTRIA

7/9



## TARIFFS

Blank Media	Tariff valid per 1 Oct 2015 (EUR)		Capacity
Video			
Videocassette	0.18		60 minutes
DVD+R/+RW	0.36	120 minutes/4.7 GB	
DVD-R/-RW	0.36	120 minutes/4.7 GB	
DVD-RAM	0.36	120 minutes/4.7 GB	
DVD DL	0.72	240 minutes/8.5 GB	
BR	1.08	120 minutes/25 GB	
Devices	Tariff	Capacity	
MP3 Audio-Player	1.50	< 512 MB	
	2.50	< 1 GB	
	5.25	< 4 GB	
MP3 / MP4-Player	3.50	<4 GB	
	6.00	< 30 GB	
	7.00	< 60 GB	
	8.00	< 90 GB	
	9.00	< 120 GB	
	10.00	< 160 GB and more	
Consumer electronics	Tariff	Capacity	
Hard disc-Receiver	6.00	< 80 GB	
(DVD-Recorder, Sat-Receiver)	10.00	< 160 GB	
	12.00	< 250 GB	
	15.00	< 400 GB	
	20.00	< 600 GB and more	
Ext. Multimedia	17.10	< 250 GB	
Hard disc with	19.40	< 500 GB	
recording function	22.50	< 750 GB	
	24.30	< 1 TB and more	
USB-Stick	0.10	< 1 GB	
	0.20	< 4 GB	
	0.20	< 8 GB	
	0.40	< 16 GB	
	0.50	< 32 GB and more	
Integrated Memory in mobile Phones with music- and/or video Playback	2.50	Per unit	



## AUSTRIA

8/9



## TARIFFS

Consumer electronics	Tariff	Capacity
External Memory Cards	0.35	Per unit
Integrated Memory in PC, Desktop Computer, Notebook SubNotebook, Ultrabook, Netbook, Laptop	5.00	Per unit
Integrated Memory in Tablets	3.75	Per unit
External HD and HD as a single storage Media	4.50	Per unit
Smartwatches with integrated Memory	1.00	Per unit
Digital photo frame with integrated Memory	2.00	Per unit
Refurbishment or remanufactured	Same tariff as relevant new product	



## REVENUES

AUDIO REVENUES (EUR)	2015	2016	2017	2018
Audiocassette	8,161.14	6,260.66	3,795.96	3,759.51
CD-R/RW Audio	54,916.96	50,655.24	83,716.08	81,182.59
CD-R/RW Data	713,816.14	439,725.36	514,572.11	229,247.56
MP3-Player	509,903.75~	375,751.54	328,099.11	134,974.41
Audio digital (e.g. mini-disk)	284.49	4,461.38	12.60	29.51
<b>TOTAL 'AUDIO'</b>	<b>1,287,082.48</b>	<b>876,854.18</b>	<b>930,195.86</b>	<b>611,121.62</b>

VIDEO REVENUES (EUR)	2015	2016	2017	2018
Video cassettes	52,263.23	26,117.97	25,780.33	510.87
DVD (all types)	1,113,893.91	1,264,449.36	1,006,947.29	494,814.51
Hard Disc Recorder	1,035,696.60	3,323,812.15	2,729,615.67	1,832,136.08
Camera cassettes	5,894.78	2,219.13	1,112.20	424.68
<b>TOTAL 'VIDEO'</b>	<b>2,207,748.52</b>	<b>4,616,598.61</b>	<b>3,763,455.49</b>	<b>2,327,886.14</b>



## AUSTRIA

9/9



## REVENUES

DEVICE REVENUES (EUR)	2015	2016	2017	2018
USB Stick	669,870.30	680,198.43	1,041,724.72	773,854.41
Storage in mobile phones	3,321,277.50#	39,334,342.50*	6,476,464.49	8,356,113.57
Storage in digital picture frames	5,616.00#	11,596.00	6,248.85	2,444.76
Memory cards (all types)	135,859.15#	478,258.57	372,953.68	366,618.37
Smartwatches	11,182.00#	29,143.00	45,988.26	51,789.85
Tablets	597,761.25#	6,195,206.31*	1,554,444.59	2,051,006.08
Storages in Computers (all kinds)	1,307,250.00#	16,496,751.00*	4,568,036.15	4,766,884.84
External and substitute hard disks	648,094.50#	7,437,928.50*	2,312,222.18	5,380,290.96
<b>TOTAL 'DEVICES'</b>	<b>6,696,910.70#</b>	<b>70,663,424.31*</b>	<b>16,378,082.92</b>	<b>21,749,002.84</b>
~incl AV players and MP3 players #collections for Q4 2015 only		*incl supplementary compensation for previous years		*incl supplementary compensation for previous years
<b>TOTAL REVENUES</b>	<b>10,191,741.70</b>	<b>76,156,877.10*</b>	<b>21,071,734.27</b>	<b>24,688,010.60*</b>

## EXPLANATION ON DEVELOPMENTS

In 2016, Austro-Mechana settled with nearly all traders of so-called new media in Austria and received supplementary compensation for the years 2012-Q3/2015. From 2016 onwards, annual revenues are more or less stable around the 20 Mio benchmark.

There is, however, a significant decrease in sales of physical media with the exception of mobile phones. People are more and more relying on the cloud for private copying and/or streaming services. A levy for cloud private copying is therefore the immediate strategic aim of Austro-Mechana.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# BELGIUM



11,427,054

GDP: 459.5 billion EUR

1/9

## CONTACT INFORMATION

<b>COUNTRY</b>	Belgium
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANIZATION</b>	Auvibel
<b>WEB SITE</b>	<a href="http://www.auvibel.be">www.auvibel.be</a>
<b>E-MAIL</b>	<a href="mailto:auvibel@auvibel.be">auvibel@auvibel.be</a>
<b>ADDRESS</b>	Havenlaan 86c 201a / Avenue du Port 86c 201a
<b>POSTCODE</b>	1000
<b>CITY</b>	Brussels
<b>PHONE</b>	(+32) 02 650 09 50
<b>FAX</b>	(+32) 02 650 09 58



## OVERVIEW

### COLLECTING SOCIETY APPOINTED BY

Auvibel is responsible for the collection and distribution of private copying remunerations for all rights owners. Legal monopoly. Royal Decree of January 21, 1997 appointed Auvibel for the collection and distribution of the levies for private copying.

### EXCEPTION

Yes

### LEVY

Equipment: Yes  
Media: Yes

### TARIFFS

Tariffs fixed by Royal Decree that have been updated in 2013. The mechanism is effective but Auvibel would like the tariffs to be modified in order to be able to equitably compensate the damage suffered by the rightsholders as a consequence of the private copying exception.

### BENEFICIARIES

Auvibel is based on a structure that serves its 20 members, all of them being management companies that represent the four categories of claimants (authors/composers, producers, performing artists, publishers) for each category of works (sound, audiovisual, literary, graphic or plastic) as provided by the law:

Board of Authors/Composers of works recorded on a sound medium (deAUTEURS, JAM, SABAM, SACD, SCAM)

Board of Producers of works recorded on a sound medium (PROCIBEL, SIMIM)

Board of Performing Artists of works recorded on a sound medium (PLAYRIGHT)

Board of Authors/Composers of works recorded on an audiovisual medium (deAUTEURS, JAM, SABAM, SACD, SCAM, SOFAM)



# BELGIUM

2/9



## OVERVIEW

### BENEFICIARIES

Board of Producers of works recorded on an audiovisual medium (BAPV, IMAGIA, PROCIBEL)

Board of Performing Artists of works recorded on an audiovisual medium (PLAYRIGHT)

Board of Authors of literary and graphic or plastic works (ASSUCOPIE, deAUTEURS, JAM, SABAM, SACD, SCAM, SOFAM, VEWA)

Board of Publishers of literary and graphic or plastic works (COPIEBEL, COPIEPRESSE, Librius, LICENSE2PUBLISH, REPRO PP, REPROPRESS, SABAM, SEMU)

### LIABLE

Manufacturers, importers, intra EU-purchasers and foreign web shops are liable for payment.

### EXEMPTION

Export/professional use

### SOCIAL AND CULTURAL DEDUCTIONS

0%

### TOTAL revenues from private copying levies in local currency

2015: EUR 24,986,441.56

2016: EUR 22,428,642.97

2017: EUR 20,270,809.98

2018: EUR 18,413,397.05

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Levies are set by the Belgian federal Government/Ministry of Economy, advised by the Private Copy Commission regrouping all stakeholders: industry, consumers, distribution and rights holders.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

Levies are based on Market analysis. Monthly sales report: units, price per unit, total value of the market.

Furthermore, a study of the copying behavior of consumers is being conducted in order to determine the devices and media that are clearly being used for the reproduction for private use of works and performances on any medium other than paper or similar media.

In this study we only aim at copies subsequent to a purchase, legal download, broadcast or any other way of acquiring a work protected by copyright.

Auvibel would like the tariffs to be modified in order to be able to equitable compensate the damage suffered by the rightholders as a consequence of the private copying exception. Both Auvibel and the government (FOD/SPF Economie) have conducted a study to calculate the damage.

Professional use

Media and equipment that are clearly professional are not selected to be submitted to levies.



# BELGIUM

3/9

## RATE SETTING

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION

As for the remaining media and equipment that are submitted to the levy for private copying, professional use is taken into account by calculating a percentage of 'use as private copy' for each media/equipment. Professional use is part of the "a contrario" percentage. The percentage used for private copying is taken as basis for the level of remuneration (the levy), thus professional use is excluded.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

No consumers or buyers are exempt from paying the levies. Nevertheless, limited categories of professional users are designated by law to be refunded : producers of sound and audiovisual works; broadcasting organizations; institutions officially recognized and subsidized by the government for the purpose of preserving sound or audiovisual material; the blind, people with poor eyesight, the deaf and hard-of-hearing and the recognized institutions established for the benefit of such persons; recognized educational institutions which use sound and audiovisual material for didactic or scientific purposes; recognized hospitals, prisons and institutions for youth welfare work.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

No

### REFUND AFTERWARDS

Furthermore, the levy on certain media and devices is refundable within the framework of the strict professional use of these media and devices, provided that the following conditions are met:

- a written request to be refunded for professional use must be submitted by a professional entity (holder of a company registration number or an equal ID nr in Belgium or Europe);
- a signed declaration of honor must be provided in which the concerned person states that the purchased media and devices subject to the Auvibel levy are clearly intended for other purposes than for private copying and the requestor must assure the strict professional use of these media and devices.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Organizations have to contact and report the collecting society themselves. The law provides the possibility for Auvibel to ask necessary information to the customs to accomplish the mission.



# BELGIUM

4/9

## COLLECTION PROCESS

### HOW FREQUENTLY IS PAYMENT DUE?

The liable party is obliged to send a declaration to Auvibel each month.

For manufacturers, importers and intra EU-purchasers who are listed as wholesalers, declaration is due before the 20th of the month following the first sale.

For importers and EU-purchasers who are listed as retailers, declaration is due before the 20th of the month following the first purchase

For foreign webshops selling to Belgian web users, declaration is due before the 20th of the month following the first sale.

Manufacturers and wholesalers pay the remuneration for private copying within 60 days.

Retailers pay the remuneration for private copying within 15 days.

### HOW DO YOU MONITOR THE MARKET?

Part of the mission of Auvibel is to undertake regular checks on the declaration by auditing the reporting process and the accounting of the legally responsible parties.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

The law provides the possibility for Auvibel to ask necessary information to accomplish the mission.

### ARE EXPORTS EXEMPTED?

Exports are exempted by law. Exports from wholesalers or manufacturers are exempted as their responsibility starts only upon the first sale in Belgium. For retailers, article 4 of the Royal Decree of 18 October 2013 imposes reimbursement of the levy for export or sales in foreign countries. The following documents are requested by Auvibel : purchase and sales invoices of the liable goods and every other document that provides reasonable evidence that the goods were effectively exported abroad. Previous payment to Auvibel is required for any refund.

### DEFINITION OF IMPORT

The Royal decree of 18 October 2013 gives definitions.

### WHO IS CONSIDERED IMPORTER?

The Royal Decree of 18 October 2013 defines the importer as someone who provides devices and blank media on the Belgian market which are subject to the levy for private copying and coming from a non-EU country and the intra-EU purchaser as someone who provides devices and blank media on the Belgian market which are subject to the levy for private copying and coming from a country that is a member of the European Union.

With regard to e-commerce, the Belgian court has pronounced as follows on this matter:

"Anyone who offers products liable for the remuneration for private copying via a website and who thereby aims expressly at Belgian customers, makes specific advertising, takes the initiative of and bears responsibility for importing those products into Belgium, which is also presented in the general conditions of sale thereof".



# BELGIUM

5/9

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Auvibel is also responsible for distribution to rightsholders. The remuneration is distributed through 'rights holders' organizations.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

Yes, maximum 15% of the average of perceptions over the three last years.

### FREQUENCY OF DISTRIBUTION

Once a year

### WHICH RIGHTS HOLDERS ARE INCLUDED?

All members of Auvibel (see supra). The editors have been excluded in the Law of 22 December 2016 until present, but a modification of the law that will entry into force on the first of September 2019 will reintroduce the editors in the field of application of the private copy exception.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

First, the total amount to be paid to the Boards by the General Assembly will be divided by category of works between audio, video and multimedia. This distribution occurs on the one hand according to a key based on the actual collection on products, specifically used for audio and audiovisual purposes, and on the other hand, regarding multimedia products, according to an allocation key determined by Belgian studies and / or by comparison with neighboring countries if these data are available.

Once the final share of audio and audiovisual works is defined, the legal allocation formula will be applied to distribute the two amounts among the respective colleges - i.e., regarding the audio and audiovisual works, 1/3 for the authors/composers, 1/3 for the producers and 1/3 for the performing artists and regarding the literary and graphic or plastic works, 1/2 for the authors and 1/2 for the publishers.

Subsequently each category of rights holders for each category of works sets up its own distribution rules, which are submitted to governmental approval. The approved rules are then applied by the rights holders.

### DISTRIBUTION KEYS

#### Distribution scheme - AUDIO:

For 2005: 40.79 %  
 For 2006: 40.88 %  
 For 2007: 40.01 %  
 For 2008: 40.36 %  
 For 2009: 43.59 %  
 For 2010: 46.33 %  
 For 2011: 43.00 %  
 For 2012: 43.50 %  
 For 1->11/2013: 43.50 %  
 12/2013: 41.76 %  
 For 2014: 44.80 %  
 For 2015: 45.00 %



# BELGIUM

6/9

## DISTRIBUTION PROCESS

### DISTRIBUTION KEYS

#### Distribution scheme - VIDEO:

For 2005: 59.21 %  
 For 2006: 59.12 %  
 For 2007: 59.99 %  
 For 2008: 59.64 %  
 For 2009: 56.41 %  
 For 2010: 53.67 %  
 For 2011: 57.00 %  
 For 2012: 56.50 %  
 For 1->11/2013: 56.50%  
 12/2013: 54.24 %  
 For 2014: 47.49 %  
 For 2015: 45,50 %

#### Distribution scheme – LITERARY & GRAPHIC or PLASTIC WORKS

For 12/2013: 4.01 %  
 For 2014: 7.71 %  
 For 2015: 9.50 %

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

There is currently no deduction for collective (social and/or cultural) purposes.



## LEGAL BASIS

### EXCEPTION

1. Book XI on "Intellectual Property" of the Code of Economic Law and provisions related to Book XI in Books I, XV and XVII of the same Code
2. Royal Decree of 18 October 2013 on the right to remuneration for private copying.  
 Private use is defined as the use within, and reserved to, the family circle. The exception does not apply when the source is illegal.

### LEVY

Remuneration is collected through levies on media and/or equipment.



## COMMENTS/DEVELOPMENTS

1. On 24 October 2013, the Royal Decree of 18 October 2013 on the right to remuneration for private copying was published in the Belgian Official Journal and entered into force on 1 December 2013.  
 This Royal Decree, which repealed completely the Royal Decree of 28 March 1996, introduced several modifications concerning the products subject to the remuneration and the tariffs applied (introduction of tablets and reduced rates for USB sticks, memory cards and external hard drives) and extends the scope of the remuneration for private copying to new works and to new beneficiaries, more specifically to authors and publishers of literary and graphic or plastic works.



# BELGIUM

7/9



## COMMENTS/DEVELOPMENTS

2. Since 1 January 2015, the provisions registered in the law of 30 June 1994 on author's rights and neighboring rights were transposed into a Book XI on "Intellectual Property" of the Code of Economic Law by the Law of 19 April 2014 introducing Book XI on "Intellectual Property" in the Code of Economic Law, and introducing provisions related to Book XI in Books I, XV and XVII of the same Code.

3. Modification of the law adopted on 25 April 2019 harmonizing Belgian terminology with the wordings of the European directive: "made by a natural person for private use and for ends that are neither directly nor indirectly commercial".

4. Modification of the law that will entry into force on the first of September 2019 to reintroduce the editors in the field of application of the private copy exception.



## TARIFFS

Blank Media	Tariff valid from 2013-12-01 (EUR)	Capacity
Audio cassette analogue	0.12	
Audio cassette DAT	0.12	
Video cassette analogue	0.40	
Optical Storage media		
Minidisc	0.12	
CD-R/RW Audio	0.12	
CD-R/RW data	0.12	
DVD	0.40	
Flash Media	Tariff valid from 2013-12-01 (EUR)	Capacity
Memory Card and USB stick	0.15	From 0 to 4GB
	0.50	More than 4GB to 16GB
	1.35	More than 16GB
Mobile Phones	Tariff valid from 2013-12-01 (EUR)	Capacity
MP3 player, MP4 player, mobile phone with MP3 and/or MP4 function, tablets	1.00	From 0 to 2GB
	2.50	More than 2GB to 16GB
	3.00	More than 16GB



# BELGIUM

8/9



## TARIFFS

Devices	Tariff valid from 2013-12-01 (EUR)	Capacity
External hard disk drive	1.30	From 0 to 500GB
	6.75	More than 500GB to 1TB
	9.00	More than 1TB
Home devices with integrated hard <sup>1</sup> disks	3.30	From 0 to 256GB
	10.75	More than 256GB to 1TB
	13.00	More than 1TB
Recording devices, possibly integrated, without internal support	2.00	
Other: refurbishment (or remanufactured)	Yes	

<sup>1</sup> The term "integrated system" refers to a system that combines a reproduction function for sound or audio-visual works with at least a reception function for sound or audio-visual works or a function that offers the possibility of reading only media different from those used for the reproduction function of sound and audio-visual works and which is sold only as a single product. Integrated systems are made in one piece (block base) or consist of various elements that are sold only as a single product (element base). These are devices that are generally known as micro-systems, mini-systems, midi-systems, radio-recorders and TV-video combinations.



# BELGIUM

9/9



## REVENUES

BLANK MEDIA (EUR)	2015	2016	2017	2018
Media audio	43,249.80	47,023.20	32,348.64	24,056.52
Media video	24,714.00	10,195.20	5,354.00	2,536.40
CD-R/RW data	458,138.16	380,766.72	274,794.84	160,461.48
DVD	1,006,857.70	796,598.80	548,235.20	400,008.80

FLASH MEDIA (EUR)	2015	2016	2017	2018
Memory Card and USB stick	2,498,631.55	2,704,972.40	2,414,194.35	2,438,103.50

DEVICES (EUR)	2015	2016	2017	2018
Hardware, PC, HDD				
External hard disk drive	2,712,419.40	2,534,564.00	2,468,373.90	2,409,164.15
Multimedia center	49,268.70	38,173.15	32,475.35	86,186.55
Devices audio	85,614.60	154,048.60	71,802.15	135,379.15
Devices video	7,153,268.65	4,419,320.40	3,972,103.05	3,565,702.00
Mobile Phones	9,028,293.50	9,527,544.00	8,847,179.50	7,474,575.00
Tablets	1,925,985.50	1,815,436.50	1,603,949.00	1,717,223.50

<b>TOTAL REVENUES</b>	<b>24,986,441.56</b>	<b>22,428,642.97</b>	<b>20,270,809.98</b>	<b>18,413,397.05</b>
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## EXPLANATION ON DEVELOPMENTS

Sales of subjected devices have decreased.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# CROATIA



4,087,843

GDP: 51.6 billion EUR

1 / 7

## CONTACT INFORMATION

<b>COUNTRY</b>	Croatia
<b>CURRENCY</b>	Croatian Kuna (HRK)
<b>NAME ORGANIZATION</b>	HDS ZAMP
<b>WEB SITE</b>	www.zamp.hr
<b>E-MAIL</b>	mediji@hds.hr
<b>ADDRESS</b>	Heinzelova 62a
<b>POSTCODE</b>	10 000
<b>CITY</b>	Zagreb
<b>PHONE</b>	+385 1 6387 000
<b>FAX</b>	+385 1 6387 001



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	HDS ZAMP is appointed in accordance with the law and license issued by State Intellectual Property Office of the Republic of Croatia.
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Yes
<b>BENEFICIARIES</b>	In accordance with the law and agreements with other rightsholders organizations HDS ZAMP collects remuneration on behalf of performers, producers of phonograms, producers and authors of audio-visual works, book publishers and writers.
<b>LIABLE</b>	In accordance with the law importers or manufacturers are liable upon first sale or import to Croatia. Since there are no producers in Croatia - only importers are paying the levy upon first sale.
<b>EXEMPTION</b>	Export/professional use/other (see details below)
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	Up to 30%
<b>TOTAL revenues from private copying levies in local currency</b>	2015: HRK 7,697,351.41 2016: HRK 7,864,436.88 2017: HRK 8,739,763.85 2018: HRK 8,637,419.47



## CROATIA

2/7

## RATE SETTING

**HOW ARE LEVIES/REMUNERATION DETERMINED?**

Levies are determined by negotiation with importers.

**WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?**

Main criteria that are taken into account for determining the levies are market circumstances, copying behavior of the consumers, harm caused by copying.

## EXEMPTION AND REFUND

**ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?**

Exemptions are made if it can be determined that, without any doubt, a copyrighted work may not be reproduced for private or other personal use.

**ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?**

Any product can be exempted if it can be determined that, without any doubt, a copyrighted work may not be reproduced for private or other personal use. If the levy for refurbished product has been paid it will not be levied twice, but if it was exempted as export then the levy will be paid upon next import.

**EXEMPTION UPFRONT**

Products are reported only after first sale (e.g. export is reported, but the levy is not applied).

**REFUND AFTERWARDS**

Importers are the only ones entitled to receive refunds. Any evidence that can be verified and proves existence of the exemption conditions without any doubt will be accepted.

## COLLECTION PROCESS

**HOW IS COLLECTION ORGANIZED?**

Importers have to contact the collecting society and sign an agreement.

**HOW FREQUENTLY IS PAYMENT DUE?**

Quarterly

**HOW DO YOU MONITOR THE MARKET?**

Control of customs reports, revision of the importers' documentation and field controls in retail shops.

**COLLABORATION WITH TAX AUTHORITIES/CUSTOMS**

Customs' office shares import data.

**ARE EXPORTS EXEMPTED?**

Yes

**DEFINITION OF IMPORT**

No direct definition, but the law emphasizes that entry of goods from other countries of EU is equal to import.

Import is commonly defined as entry of goods from a foreign country.



# CROATIA

3/7

## COLLECTION PROCESS

### WHO IS CONSIDERED IMPORTER?

Legal subject responsible for the first entrance of the products into territory of Croatia.

### ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?

Preloaded USB memory card sellers claim that the USB will not be used for copying, although it is obvious that the content of the devices can and will be copied on other media and USB can be formatted for further private use.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS

HDS ZAMP distributes to other collective organizations and they distribute the collected amounts to individual rightsholders. Regarding distribution to individual rightsholders, HDS ZAMP distributes only to authors of musical works.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

In accordance with the law maximum costs are 30%, but HDS ZAMP applies 18.5%.

### FREQUENCY OF DISTRIBUTION

Monthly to collective organizations and every half year to individual rightsholders.

### WHICH RIGHTS HOLDERS ARE INCLUDED?

HDS ZAMP (authors of musical works), HUZIP (performers), ZAPRAF (phonogram producers), DHFR (audio-visual rights), ZANA (publishers of literary works) and DHK (authors of literary works).

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

They are determined with a mutual agreement.

### DISTRIBUTION KEYS

#### Distribution scheme, audio:

HDS - authors of music - 39.67%  
 HUZIP - performers - 29.67%  
 ZAPRAF - phonogram producers - 29.67%  
 ZANA - publishers of literary works - 1%  
 DHK - authors of literary works - 1%

#### Distribution scheme, video:

DHFR - movie co-authors and movie producers - 70%  
 HUZIP - performers - 30%



# CROATIA

4/7

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

Deduction on collected remunerations is made for cultural and social needs of rightsholders and amounts 30% for music rightsholders. It is mandated by law.

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

Funds are distributed after a tender. Depending on the results of a tender, funds can be used as a support for e.g. young artists, festivals, start-up projects related to creation and distribution of new works etc.



## LEGAL BASIS

### EXCEPTION AND LEVY

(Official Gazette: Narodne Novine no. 167/03, 79/07; 80/11; 125/11; 141/13; 127/14; 62/17; 96/18)  
Implementation started on 1st of January 2007.

#### EXCEPTION

Reproduction of the work for  
Private or other personal use

#### Article 82 of Croatian Copyright Law of 2003 (as amended up to 2014)

A natural person may reproduce a copyright work in any medium if he does so for private use, or in the form of photocopying and other personal use if this copy is not intended for or accessible to the public and has no direct or indirect commercial purpose. It shall not be permitted to reproduce the whole book, unless the copies of such book have been sold out for at least two years, graphic editions of musical works (hereinafter: sheet music), electronic databases, cartographic works, nor the building of architectural structures, unless otherwise provided by this Act or a contract.

#### LEVY

Right to remuneration for  
Reproduction of a copyright work  
For private or other personal use

#### Article 32 of Croatian Copyright Law of 2003 (as amended up to 2014)

(1) Where a copyright work may be reproduced without the author's authorization pursuant to Article 82 of this Act, the author whose works are, due to their nature, expected to be reproduced without authorization, by photocopying or by recording on sound, visual or text fixation mediums, for private or other personal use, shall have the right to an appropriate remuneration upon sale of technical appliances and blank audio, video or text fixation mediums.

(2) Apart from the right referred to in paragraph (1) of this Article, the authors shall have a right to an appropriate remuneration to be obtained from a natural or legal person who provides services of photocopying against payment.

(3) Any other reproduction techniques shall be assimilated to photocopying, and any other appliances providing the same effect shall be assimilated to appliances for sound or visual recording.

(4) The remuneration referred to in paragraph (1) of this Article shall be paid by manufacturers of appliances for sound and visual recording, manufacturers of appliances for photocopying, manufacturers of blank audio, video or text fixation mediums, and jointly and severally with them importers of appliances for sound and visual recording, photocopying, blank audio, video or text fixation mediums, unless such imports concerns small quantities intended for private and non-commercial use, forming part of personal luggage. If the mentioned appliances and objects are not produced in the Republic of Croatia, the remuneration shall be paid by the importer.



# CROATIA

5/7



## LEGAL BASIS

### ...LEVY

(5) The obligation to pay the appropriate remuneration referred to in paragraph (1) shall arise:

1. in respect of the first sale in the Republic of Croatia or import in the Republic of Croatia of new appliances for sound and visual recording;
2. in respect of the first sale in the Republic of Croatia or import in the Republic of Croatia of new blank audio or video fixation media;
3. in respect of the first sale in the Republic of Croatia or import in the Republic of Croatia of new photocopying appliances.

(6) The obligation to pay the appropriate remuneration referred to in paragraph (1) of this Article shall arise also when appliances and fixation media referred to in paragraph (5) of this Article are imported in the Republic of Croatia from another Member State of the European Union.

(7) The obligation to pay the appropriate remuneration shall not arise where new appliances for sound and visual recording, new blank audio or video fixation media and new photocopying appliances are brought out of or exported from the Republic of Croatia.

(8) The remuneration referred to in paragraph (2) of this Article shall be paid in the amount depending on the information on the number of photocopies made.

(9) Authors may not renounce the rights to remuneration referred to in paragraphs (1) and (2) of this Article.

### COLLECTION AND DISTRIBUTION SYSTEMS

Collective management of rights

#### Article 156

Management of rights through the association

#### Article 158

Distribution of remunerations

#### Article 166

Administrative costs and social and cultural deductions

#### 167a

Rules relating to the distribution of remunerations

#### Article 167

## COURT CASES

Several court cases were decided against those that denied responsibility to pay the levy. No pending cases on principal matters.



## CROATIA

6/7



## COMMENTS/DEVELOPMENTS

Changes to Article 32 in 2017– export explicitly stated as a reason for exemption; levy will be applied on products imported from EU countries; probable damages done by copying are set to be a basis of tariff; market research must be finished before setting of new tariffs.



## TARIFFS

Blank Media	Tariff valid per 1 Jan 2019 (HRK)
CD	0.08
DVD	0.12
Audio tape	0.10
Video tape	0.60
Memory card	3.00
Consumer electronics/hardware	
USB stick	3.00
Hard disc	3.00
CD/DVD recorder	4.00
PC/ Laptop	6.00
Tablet	10.00
Digital audio player	14.00
Digital video player	14.00
Mobile phone with MP3 player / Smartphone	10.00
Analog audio recorder	6.00
Analog video recorder	10.00
Hi-Fi CD recorder	20.00
Hi-Fi DVD recorder	30.00
Hi-Fi HD recorder	40.00
Distant -based storage (NVPR, Cloud)	N/A

Other: refurbishment (or remanufactured)

Refurbished devices are not levied if the product was initially levied.



## CROATIA

7/7



## REVENUES

OPTICAL STORAGE MEDIA (HRK)	2015	2016	2017	2018
Audiocassette	80.10	87.33	86.66	28.80
Audio CD R/W	122,712.10	124,449.28	100,818.02	89,752.90
Videocassette	5,433.24	3,107.40	1,780.86	2,061.66
DVD R/W	135,111.67	119,577.97	86,056.40	73,923.41
FLASH MEDIA (HRK)	2015	2016	2017	2018
Memory card	446,588.91	329,041.20	289,869.37	264,720.30
USB stick	540,011.79	486,271.80	432,877.06	457,817.10
DEVICES (HRK)	2015	2016	2017	2018
Hardware, PC	1,066,336.80	711,426.90	681,891.97	668,122.50
Tablet		450,042.00	432,822.00	487,294.00
Devices with MP3 player (cell phone with MP3 player, digital audio/video player)	5,320,108.00	5,574,608.60	6,655,637.12	6,547,392.00
OTHER DEVICES (HRK)	2015	2016	2017	2018
(Analogue audio/video player, Hi-Fi CD recorder, CD recorder, DVD recorder, DVD hard disc recorder)	60,968.80	65,824.40	55,924.39	46,306.80
TOTAL REVENUES	7,697,351.41	7,864,436.88	8,739,763.85	8,637,419.47

## EXPLANATION ON DEVELOPMENTS

As expected, collections of outdated products (CD, DVD, recording devices etc.) is declining. Introduction of levy on tablets has helped to stabilize overall decline. Increased smartphone penetration has increased collections in 2017 and 2018.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# CZECH REPUBLIC



10,629,928

GDP: 207.4 billion EUR

1/11

## CONTACT INFORMATION

<b>COUNTRY</b>	Czech Republic	
<b>CURRENCY</b>	Czech Koruna (CZK)	
<b>NAME ORGANIZATION</b>	INTERGRAM	OSA
<b>WEB SITE</b>	www.intergram.cz	www.osa.cz
<b>E-MAIL</b>	Tereza.landova@intergram.cz, martin.skalak@intergram.cz	tomas.matejicny@osa.cz ondrej.kacer@osa.cz
<b>ADDRESS</b>	Klimentská 10	Cs. armady 20
<b>POSTCODE</b>	110 00	160 56
<b>CITY</b>	Prague 1	Prague 6
<b>PHONE</b>	+420 221 871 970	+420 220 315 111



## OVERVIEW

### COLLECTING SOCIETY APPOINTED BY

OSA collects for the authors of musical works, lyrics and publishers. (OSA collects some remuneration also for DILIA, OOA-S, OAZA and INTERGRAM\*)

INTERGRAM - performers and producers

DILIA - theatre, literary, and audio-visual agency\*\*

OOA-S - fine arts and architecture

OAZA – sound engineers

\*OSA only collects remuneration for smartphones

\*\* DILIA collects remunerations for printers separately

### EXCEPTION

Yes

### LEVY

Equipment: Yes

Media: Yes

### TARIFFS

Yes – tariffs are provided by the decree within Copyright Act.

### BENEFICIARIES

Authors of music and texts, publishers, performers and producers, authors of literary works, authors of works of art and architecture.



## CZECH REPUBLIC

2/11



## OVERVIEW

## LIABLE

The person liable to pay remuneration is:

- the manufacturer of the devices for making audio or audio-visual reproductions and/or recordings, importer of such devices from third countries (hereinafter the 'importer') or consignee of such devices from member states of the European Communities (hereinafter the 'consignee');
- the manufacturer, importer or consignee of technical devices for making printed reproductions.
- the manufacturer, importer or consignee of blank record carriers;
- the carrier or forwarder in lieu of the liable person pursuant to Paragraphs (a) to (c), unless that person informed the relevant collective rights manager without undue delay upon written request about the details necessary for the identification of the importer, consignee or producer;
- the provider of paid reproduction services, in the case of printed reproductions; provider of paid reproduction services shall also mean the person who makes available, for a consideration, the device for making printed reproductions.

## EXEMPTION

Export

## SOCIAL AND CULTURAL DEDUCTIONS

None

**TOTAL** revenues from private copying  
levies in local currency  
(rounding – hundreds of thousands)

## INTERGRAM:

2015: CZK 75,600,000

2016: CZK 82,800,000

2017: CZK 93,500,000

2018: CZK 91,300,000

## OSA:

2015: CZK 104,937,560

2016: CZK 108,158,844

2017: CZK 111,810,102

2018: CZK 153,189,000

## RATE SETTING

## HOW ARE LEVIES/REMUNERATION DETERMINED?

Levies are determined by law.

## WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

Levies of devices and PC components are determined by their prices. Levies of blank record carriers are fixed by pieces on audio tapes, video tapes, CDs, DVDs, minidiscs or determined by capacity on electronic media such as USB flash disks, memory cards, external HDD's, SSD's.



# CZECH REPUBLIC

3/11

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

There is no legal exemption for professional use.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

The remuneration shall not apply to digital camcorders, digital cameras, mobile telephones and cordless telephones. Where such devices are supplied with an embedded memory medium, the remuneration shall be paid only for the capacity of the embedded medium.

Refurbished products are not exempt from levies.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

The organizations themselves report to INTERGRAM imported or manufactured equipment. INTERGRAM also cooperates with the Directorate General of Customs and controls imports on the basis of their information. Some of the remunerations are also collected via OSA (authors CMO) which is authorized for collection (tablets and smart phones memory capacity only).

### HOW FREQUENTLY IS PAYMENT DUE?

Twice a year – report is due half yearly by the end of upcoming month.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Directorate General of Customs. ITG has also tried to commence cooperation with Czech Statistical Office.

### ARE EXPORTS EXEMPTED?

The exports are exempted if are done directly by the importer.

### DEFINITION OF IMPORT

Based on Section 25 (3) of the Copyright Act: Entitlement to remuneration to be paid by the persons defined in Paragraph (2) (a) to (d) in connection with the reproduction of a work for individual use shall pertain to the author at the time of the import, receiving or first sale of:

- a) Device for making reproductions of fixations;
- b) Device for making printed reproductions;
- c) Blank record carriers.

### WHO IS CONSIDERED IMPORTER?

The person or company who imports the good to the territory of the Czech Republic from countries outside EEA.

### ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?

The most discussed products are tablets, smartphones and record TVs. Some parties refuse to pay the remuneration (e.g. 3% of the price of notebook – they are only willing to pay (if at all) 3 % of the component price. It's HDD, SSD and optical disc drive and their price is less than one-tenth of notebook's one).



# CZECH REPUBLIC

4/11

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

INTERGRAM and OSA distribute collections directly to individual rightsholders (performers and producers).

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

INTERGRAM: 15.4%

OSA: 8%

Varying one-half of percentage point depends on many parameters and detailed description is beyond this questionnaire.

### FREQUENCY OF DISTRIBUTION

INTERGRAM: Once a year.

OSA: quarterly.

### WHICH RIGHTS HOLDERS ARE INCLUDED?

INTERGRAM: Performers and producers.

OSA: Music composers, lyricist and publishers.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

General Assembly decides by way of Distribution Rules.

### DISTRIBUTION KEYS

#### INTERGRAM DISTRIBUTION

##### PERFORMING ARTISTS:

(Accounting Rules A, II, d), (Method of distribution: A,II,1,3)

II. Unidentifiable income:

d) Incomes from the rental of copies of the recorded performances

##### - Method of distribution:

1. Incomes collected in the audio field shall be distributed as a share proportional to the amount of the identifiable incomes collected for the use in radios and in other fields of use of audio and incomes collected in the audio-visual field shall be distributed as a share proportional to the amount of the identifiable incomes collected for use in television broadcasting and in other fields of audio-visual use.

3. Incomes from blank audio-visual carriers and technical devices for making reproductions of the audio-visual fixations, incomes from making the performances available to the public by means of a television broadcast and incomes from the rental of video carriers are distributed according to point 1; for the purpose of assessing their share of the unidentifiable incomes specified in this point, the performing artists (in particular actors, musicians, singers, dubbing directors and theatre play directors, if these theatre plays are recorded on an audio-visual fixation) may substantiate the amount of their income by submitting a Statutory Declaration. The Statutory Declaration may be used by performing artists only for their recorded performances in the audio-visual field which were provably used in the territory of the Czech Republic. This involves the substantiation of the incomes received in connection



# CZECH REPUBLIC

5/11

## DISTRIBUTION PROCESS

### ...DISTRIBUTION KEYS

with the creation of the artistic performances and with granting a license for the use of performances created in the audio-visual field (e.g. film, television, and dubbing) in the corresponding calendar year, with the exception of such performances created for use in advertising; the Statutory Declaration and the incomes stated therein must be substantiated by a contract with the producer of the audio-visual work. In the event that the contract does not substantiate the amount of the incomes claimed in the Statutory Declaration, the amount claimed in the Statutory Declaration must be supported by some other conclusive document (e.g. an acknowledgment from the producer, a receipt, or a bank statement). During the review of the Statutory Declarations by the INTERGRAM Control Commission, INTERGRAM has the right to request that the performing artist substantiate the said amounts declared in the Statutory Declaration with additional documents (an expenditure document from the producer, a postal money order slip etc.). From the amount of the remunerations stated in these contracts, 70 % will be figured in for the purpose of determining the share of the unidentifiable incomes if the performing artist had provided an exclusive license for the whole period of protection of his/her rights for all types of use of the performance to the producer of the audio-visual fixation in such a contract and if the amount of the remunerations includes also the remuneration for the license provided thus. In other cases, only 30 % of the remunerations shall be figured in (with the effect from the statement of account for 2006). If the common contract of the dubbing director (or theatre play director) for the creation and use of a performing artist's performance and an author's work does not determine the share of the total remuneration for the performing artist and for the author, 15 % of the total remuneration substantiated by the performing artist (the dubbing director) shall be figured in.

#### PRODUCERS OF PHONOGRAM:

- private copy levies = unidentifiable income (Accounting Rules B, II, e), (Method of distribution: B, II, e)

##### II. Unidentifiable incomes:

e) incomes connected to the reproduction of fixations for personal use

##### - Method of distribution:

100 % of the incomes – based on the amount of incomes connected to the sale of phonogram carriers distributed for the purpose of a separate sale or connected to direct retail sale to end customers in the territory of the Czech Republic, including the incomes from such a sale in an electronic form (downloading), incomes from making the phonograms available to the public by means of on-demand streaming and 1/2 of the incomes from making the phonograms available to the public through audio-visual on-demand streaming (e.g. through Youtube), based on the affirmation of the producer;

#### PRODUCERS OF AUDIOVISUAL FIXATION

– private copy levies = unidentifiable income (Accounting Rules C), (Method of distribution: C)

##### Unidentifiable incomes

- the incomes connected to reproduction of audio-visual fixations for personal use



# CZECH REPUBLIC

6/11

## DISTRIBUTION PROCESS

### ...DISTRIBUTION KEYS

#### - Method of distribution:

88% of collection for blank carriers video is distributed according to the affirmation of the producer.

12% of collection for blank carriers video is distributed according to the identifiable income from the use of videoclips.

#### OSA DISTRIBUTION

One scheme for both audio and video, please find below the statement from OSA Distribution Rules:

5.10. Royalties for reproductions of musical works for personal use.

The royalties collected from blank carriers and from devices used to make reproductions will be distributed proportionately among the domestic copyright holders and foreign collective managers of mechanical rights that have concluded reciprocal agreements with OSA.

The royalties will be distributed to the domestic copyright holders proportionately in accordance with their distributed incomes for the past two calendar years as follows:

- (a) 90% in line with the incomes from mechanical rights (incl. mechanical rights from on-line uses).
- (b) 10% in line with the incomes from public performance of live music.

The royalties will be distributed to foreign societies proportionately in accordance with the amounts received from OSA distributions for the past two years as follows:

- (a) 90% in line with the amounts for mechanical rights (incl. mechanical rights from on-line uses).
- (b) 10% in line with the amounts for public performance of live music.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

None

OSA: There is no deduction from blank levies (otherwise there is). The general assembly (based on Czech Copyright Act) decided on 0% from blank levies.



### LEGAL BASIS

#### EXCEPTION AND LEVY

Act No. 121/2000 Coll. as amended by Act No. 81/2005, Act No. 61/2006, Act No. 216/2006. and Act No. 168/2008. Decree of The Ministry of Culture No. 488/2006 Coll., as amended by Decree No. 408/2008 Coll.

Article 30 of Copyright Act (Consolidated Version of Act No.121/2000 Coll.)

(2) Copyright shall therefore not be infringed by whoever:

- a) for his own personal use makes a recording, reproduction or imitation of a work; a reproduction or imitation of a work of fine arts must be clearly labelled as such,



# CZECH REPUBLIC

7/11



## LEGAL BASIS

(..)

A reproduction made for personal use may not be used for any other purpose.

**Article 25 of the Copyright Act Consolidated Version of Act No. 121/2000 Coll. (+ decrees of The Ministry of Culture n° 488/2006 Coll. & n°408/2008 Coll.)**

- (1) In the case of works made public which can be reproduced for personal use on the basis of
  - a) an audio or audiovisual fixation,
  - b) a broadcast, or
  - c) a print or other graphic expression by their transfer by means of a technical device to empty record carriers, or by means of a technical device for making printed reproductions on paper or other similar base, the author shall be entitled to a remuneration in connection with the reproduction of the work for personal use.
- (2) The person liable for the payment of the remuneration pursuant to paragraph (1) shall be:
  - a) the producer or importer of the technical device for the making of the reproductions of audio or audiovisual fixation,
  - b) the producer or importer of technical devices for making printed reproductions,
  - c) the producer or importer of empty carriers of audio and audiovisual fixations,
  - d) the transporter or forwarder instead of the liable person pursuant to clauses a) to c), unless that person has informed, without undue delay, the relevant collective administrator of the details necessary for the identification of the importer or producer,
  - e) the provider of paid reproduction services, in the case of printed reproductions; provider of paid reproduction services shall also mean the person who makes available, for a charge, the device for the making of printed reproductions.
- (3) Entitlement to the remuneration to be paid by the persons defined in paragraph (2) a) to d) in connection with the reproduction of the work for individual use shall arise at the time of the import or of the first sale of:
  - a) the technical device for the making of the reproductions of audio or audiovisual fixations,
  - b) the technical device for the making of printed reproductions,
  - c) empty carriers of audio or audiovisual fixations.
- (4) Entitlement to the remuneration to be paid by the person defined in paragraph (2) e) shall arise in dependance on the number of printed reproductions made.
- (5) The persons referred to in paragraph (2) shall be obliged to submit to the relevant collective administrator of rights, always summarily for half of the calendar year not later than by the end of the following calendar month, in formation on the facts relevant for the stipulation of the amount of the remuneration, i.e. especially on the type and number of sold or imported technical devices for the making of the reproductions of audio or audiovisual fixations, of the technical devices for the making of printed reproductions, and of empty carriers of audio and audiovisual fixations, and also on the number of the printed reproductions made by the devices for providing paid reproduction services.
- (6) The amount of the remuneration shall be stipulated by the rate schedule attached in the annex.
- (7) Remuneration shall not be paid in the case of export of the technical devices referred to in paragraph (3) a) and b) or of export of empty carriers of audio or audiovisual fixations for the purpose of their further sale. Remuneration shall also not be paid in the case of devices and empty carriers if these are intended to be used within the country only for operational purposes by persons in their own undertaking.

Copyright shall not be infringed by anybody who for his own personal use makes a fixation, reproduction or imitation of a work without seeking to achieve direct or indirect economic benefit.



# CZECH REPUBLIC

8/11



## LEGAL BASIS

### COLLECTION AND DISTRIBUTION SYSTEMS

**INTERGRAM:** Collection is done on half-yearly bases, manufacturers and importers are obliged to fill out reports provided by INTERGRAM (can be downloaded from web page), invoicing is done based on the reports, distribution takes place once a year.

**OSA:** Payment is based on a half-year period. Liable parties are obliged to submit a report of manufactured or imported specified goods. OSA distributes the collected remunerations quarterly towards authors and publishers. The distribution rules are determined by general assembly.



## TARIFFS

Blank Media	Tariff (CZK)	Capacity
Audiotapes	0.75	
Audiotapes	1.00	
Videotapes	1.80	
Videotapes	2.40	
Minidiscs	2.10	
Optical Storage media		
CD-R	0.21	
CD-RW	1.06	
DVD-R	0.59	
DVD-RW	2.94	
Flash Media		
Devices counted based on the capacity of the memory (Memory card, flash disc, tablet, smart watch)	0.80 max. 48.15	
Devices counted based on the capacity of the memory - Smartphone	1.50 max. 90	
External HDD		
Up to 1TB	0.09	Per GB
Over 1TB	87.60 + 0.06 for each GB above 1TB	Per GB



## CZECH REPUBLIC

9/11



## TARIFFS

Devices	Tariff (CZK)	Bases
Assembled PC	1.80%	On sales price of sold devices
Notebook computer	1.80%	On sales price of sold devices
Hardware, PC, HDD		On sales price of sold devices
CD writer	1.59%	On sales price of sold devices
DVD writer	1.75%	On sales price of sold devices
Memory card writer	1.59%	On sales price of sold devices
HDD (internal only)	1.75%	On sales price of sold devices
<b>Consumer electronics</b>		
Audio device without radio	1.50%	On sales price of sold devices
Audio device with radio	0.75%	On sales price of sold devices
Video device without TV	1.80%	On sales price of sold devices
Video device with TV	0.90%	On sales price of sold devices
E-book	3.00%	On sales price of sold devices
Distant -based storage (NVPR, Cloud)	none	
Other: refurbishment (or remanufactured)	Refurbished products are not exempt from levies.	



## CZECH REPUBLIC

10/11



## REVENUES - OSA

BLANK MEDIA (CZK)	2015	2016	2017	2018
Audiotapes	27,027	50,734	23,322	25,429
Videotapes	93,530	77,374	17,607	86,093
Minidiscs	1,212	42	-	-
OPTICAL STORAGE MEDIA (CZK)	2015	2016	2017	2018
CD	1,517,203	1,745,024	871,235	947,199
DVD	3,250,599	2,718,631	1,793,542	2,039,445
FLASH MEDIA (CZK)	2015	2016	2017	2018
Memory card, flash disc	38,915,534	45,568,103	43,916,376	76,679,565
External HDD	23,861,878	21,173,788	24,650,590	35,308,787
HARDWARE. PC. HDD (CZK)	2015	2016	2017	2018
CD writer	214,741	192,157	294,287	457,873
DVD writer	9,597,144	5,153,416	4,132,681	2,989,674
Mem, card writer	281,989	109,512	73,858	134,720
HDD internal	20,661,204	23,094,779	24,123,155	22,561,430
CONSUMER ELECTRONICS (CZK)	2015	2016	2017	2018
Audio	2,005,508	1,623,139	1,833,880	1,558,114
Video	4,379,844	6,510,136	9,810,657	9,921,156
e-book	130,147	142,009	268,912	479,515
TOTAL REVENUES	104,937,560	108,158,844	111,810,102	153,189,000



## CZECH REPUBLIC

11/11



## REVENUES - INTERGRAM

(CZK)	2015	2016	2017	2018
Memory cards	30,730,000	37,990,000	34,710,000	31,400,000
External HDD	16,800,000	15,310,000	17,670,000	24,720,000
CDs and DVDs	3,570,000	3,610,000	2,050,000	2,120,000
MC and VHS	30,000	100,000	20,000	70,000
Internal HDD	13,850,000	18,000,000	17,920,000	16,890,000
Tablets	-	-	11,730,000	4,690,000
Smartphones	-	-	740,000	2,300,000
Notebooks	-	-	300,000	2,710,000
PC sets	-	-	600,000	1,610,000
PC recorder	6,540,000	2,660,000	1,630,000	1,140,000
Audio devices	1,510,000	1,710,000	1,710,000	1,530,000
Video devices	2,620,000	3,390,000	4,400,000	2,130,000
<b>TOTAL REVENUES</b>	<b>104,937,560</b>	<b>108,158,844</b>	<b>111,810,102</b>	<b>153,189,000</b>

## EXPLANATION ON DEVELOPMENTS

In 2018 OSA signed a contract with Apple for importing tablets for period 2015 - 2017. For this reason, the remunerations have increased in the year 2018.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# DENMARK



5,793,636

GDP: 301.2 billion EUR

1 / 7

## CONTACT INFORMATION

<b>COUNTRY</b>	Denmark
<b>CURRENCY</b>	Danish krone (DKK)
<b>NAME ORGANIZATION</b>	Copydan KulturPlus
<b>WEB SITE</b>	<a href="http://www.cdkp.dk/">http://www.cdkp.dk/</a>
<b>E-MAIL</b>	<a href="mailto:kontakt@copydan-kulturplus.dk">kontakt@copydan-kulturplus.dk</a>
<b>ADDRESS</b>	Bryggervangen 8, 1.
<b>POSTCODE</b>	2100
<b>CITY</b>	Copenhagen
<b>PHONE</b>	+45 35 44 14 95
<b>FAX</b>	+45 35 44 14 03



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Copydan KulturPlus has a legal monopoly upon authorization of the Ministry of Culture. Copydan KulturPlus is obliged to provide the Ministry with all requested information.
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: No Media: Yes
<b>TARIFFS</b>	Yes
<b>BENEFICIARIES</b>	Authors, performers, producers and broadcasters
<b>LIABLE</b>	Importers, manufacturers and retailers
<b>EXEMPTION</b>	Educational use and professional use and export.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	33 %
<b>TOTAL revenues from private copying levies in local currency</b>	2015: DKK 28,544,400 2016: DKK 27,824,733 2017: DKK 27,398,065 2018: DKK 26,512,620



# DENMARK

2/7

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Levies/remuneration are determined by law, only on certain detachable blank media specified by law.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

General policy considerations set according to the Government at the time of implementation.

A legislative guarantee regarding DVD's, stemming from a reduction in the levies on DVD's in 2006, entails that the rightsholders are compensated by the state for the amount that the collected levy on DVD's in a given year is lower than the collected DVD-revenue in 2005.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Professional users, including educational institutions, can be exempted through an agreement with Copydan KulturPlus. Alternatively, if payment has been made a refund can be given.

Users with visual or hearing impairments are also exempted.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

All detachable medias including usb-sticks and memory cards are levied.

Thus, all other media and devices, e.g. smartphones, hard disk recorders and laptops, are exempted.

### EXEMPTION UPFRONT

To be exempted upfront entities will have to apply to Copydan KulturPlus.

The professional users and educational institutions in question can be exempted if they use the media for internal (inhouse) purposes only or if the media cannot be used subsequently for private copying.

### REFUND AFTERWARDS

Refund 3 months back from the date of purchase is possible. An application form must be submitted to Copydan KulturPlus with a copy of the invoices in question and a receipt that the invoices has been paid.

All liable users can obtain refunds if the criteria are met.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Organizations must contact and report the collecting society. The remuneration is not considered as taxes.

### HOW FREQUENTLY IS PAYMENT DUE?

The liable entities have an obligation to report their sales during the month following the month when the blank media is sold.



# DENMARK

3/7

## COLLECTION PROCESS

### HOW DO YOU MONITOR THE MARKET?

Copydan KulturPlus may choose an external publicly authorized accountant or an administrative employee within the organization who has an undisputed right to make both announced and unannounced control visits. When making a control visit the accountant or administrative employee has the right to examine any accounting material, which is believed to have any value in relation to undertaking the control.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

N/A

### ARE EXPORTS EXEMPTED?

Exports are exempted and levies may also be refunded upon presentation of export documentation.

### DEFINITION OF IMPORT

No definition in the law.

### WHO IS CONSIDERED IMPORTER?

The importer is the person or entity who brings the media into the country.

### ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?

Nokia denied payment for the Danish levy on SD memory cards using the argument that the levy did not comply with EU law which resulted in the abovementioned court-case.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Remuneration is distributed to rights holder organizations and not to individual rightsholders – individual distribution happens through the different rightsholder organizations.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No

### FREQUENCY OF DISTRIBUTION

Annually

### WHICH RIGHTS HOLDERS ARE INCLUDED?

All categories of rightsholders in audiovisual and musical works. Distribution happens annually to more than 20 rights holder organizations.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

A distribution key has been settled between categories of rightsholders.



# DENMARK

4/7

## DISTRIBUTION PROCESS

### DISTRIBUTION KEYS

Where possible, individual distribution is based on statistical surveys of private copying, which applies to both audio and video.

#### Audio

- 1/3 – Authors
- 1/3 - Performers
- 1/3 - Producers of a phonogram

#### Video

- 1/3 – Authors
- 1/3 - Performers
- 1/3 - Producers of an audio-visual work

In advance the broadcasters are given a 5% share.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

There is a social and/or cultural deduction of 1/3, which is mandated by law.

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

The organizations representing the different categories of rightsholders are responsible for the allocation of funds to artists, cultural productions and social schemes. The funds can be used as grants, production support, support for festivals etc.



## LEGAL BASIS

### EXCEPTION AND LEVY

Consolidated Act on Copyright no. 1144 of October 23rd 2014, with later changes.

#### Article 12 - Reproduction for Private Use. This provision applies only when the source is legal.

Digital copies are restricted to the manufacturer's personal use or that of his household. In regards to analogue copies, the definition is broader in the sense that it includes the manufacturer and his closest circle of acquaintances. Article 12 does not include copying of works who have been rented or borrowed.

#### Article 12 of Consolidated Act on Copyright 2014

(1) Anyone is entitled to make or have made, for private purposes, single copies of works which have been made public if this is not done for commercial purposes. Such copies must not be used for any other purpose.

(2) The provision of subsection (1) does not provide the right to :

- (i) construct a work of architecture;
- (ii) make a copy of a work of art by casting, by printing from an original negative or base, or in any other manner implying that the copy can be considered as an original.
- (iii) make copies of computer programs in digitized form.
- (iv) make copies in digital form of databases if the copy is made based on a reproduction of the database in digital form; or
- (v) make single copies in digital form of other works than computer programs and databases unless this is done exclusively for the personal use of the copying person himself or his household.



# DENMARK

5/7



## LEGAL BASIS

(3) Notwithstanding the provision in subsection (2) (v), it is not permitted without the consent of the author to produce copies in digital form on the basis of a copy that has been lent or hired.

(4) The provision of subsection (1) does not confer a right to engage another person to make copies of :

- (i) musical works;
- (ii) cinematographic works;
- (iii) literary works if the other person assists for commercial purposes.
- (iv) works of applied art; or
- (v) works of art if the copying is in the form of an artistic reproduction.

(5) The provision of subsection (1) does not entitle the user to make copies of musical works and cinematographic works by using technical equipment made available to the public in libraries, on business premises, or in other places accessible to the public. The same applies for literary works if the technical equipment has been provided for commercial purposes.

## LEVY

Consolidated Act on Copyright no. 1144 of October 23rd 2014, with later changes.

The obligation to pay levy is regulated in article 39, subsection 1 and 2.

1) Anyone who for commercial purposes produces or imports sound tapes or videotapes or other devices on to which sound or images can be recorded shall pay remuneration to the authors of the works mentioned in subsection (2).

(2) The remuneration shall be paid for tapes, etc., which are suitable for production of copies for private use, and only for works which have been broadcast on radio or television, or which have been published on phonogram, film, videogram, etc.

The actual volume of the levies is determined in article 40.

## COLLECTION AND DISTRIBUTION SYSTEMS

Consolidated Act on Copyright no. 1144 of October 23rd 2014, with later changes.

The authorization to establish said systems are regulated in Article 39, subsection 4.

### Article 39 of Consolidated Act on Copyright 2014

(..)

(3) Administration and control, including collection, shall be carried out by a joint organization representing a substantial number of authors, performers and other rightsholders, including record producers, etc., and photographers, whose works, performances, etc., are used in Denmark. The organization shall be approved by the Minister for Culture. The Minister may demand to be supplied with all information about collection, administration and distribution of the remuneration.

(4) The organization lays down guidelines for payment of the remuneration to the beneficiaries so that to the greatest possible extent distribution will take place in accordance with the copying actually made. One third of the annual amount for payment shall, however, be used to support purposes common to the authors and others within the groups represented by the organization, cf. subsection (3).

(5) The Minister for Culture stipulates detailed provisions on the procedure for approval of the joint organization, mentioned in subsection (3).



# DENMARK

6/7

## COURT CASES

The Danish Court of Appeals gave its judgment in the case between Copydan KulturPlus and Nokia Denmark (now Microsoft Denmark) on October 12, 2016.

The Court of Appeals only took into consideration whether the Danish levy on SD memory cards was in violation with EU law and found that the levy is compliant with EU law, noting that the copying in question could not be characterized as minimal. As a consequence, the Court of Appeals found Nokia liable for the payment of levy for SD cards in the period 2004-2014.

Nokia has appealed the case to the Supreme Court of Denmark. The Supreme Court gave its judgment on September 4th 2017, however, the ruling of the Court of Appeals was final in respect to Nokias/Microsofts liability, as the Supreme Court only gave its judgement regarding interests.

Thus Nokia/Microsoft is found liable for the payment of levy for SD cards in the period 2004-2014.

The ECJ indicated in C-463/12 “Båndkopi” that the Danish implementation of article 5(2)(b) of the InfoSoc Directive was not in conformity with EU-law since the Danish remuneration system only carries levies on detachable media and not on integrated media (non-detachable media).



## COMMENTS/DEVELOPMENTS

On the 5th of March 2015, the ECJ gave its judgement in C-463/12 – “Båndkopi”.

The central issue in the case was whether the Danish implementation of article 5 (2) (b) of the infosoc directive was in conformity with EU Law. Nokia Denmark (now Microsoft Denmark) had argued that the Danish levy on SD-cards was in violation with EU Law. The main arguments from Nokia was:

1. Copying on SD-cards constitute minimal harm, especially because they are multifunctional, so implementing a levy is not allowed
2. The fact that there is a levy on SD-cards used in mobile phones, but not on internal memory in mobile phones, constitutes a violation of the principles of equal treatment.

Firstly, the ECJ ruled that the fact that a device can be used for private copying, is enough to justify a levy and that the actual copying or the fact that a device is multifunctional can only influence the size of the levy.

Secondly, the ECJ ruled that the courts in the member states must determine whether there are legitimate objective reasons for not subjecting internal memory in mobile phones to a levy. The ECJ did however in no way indicate that the lack of levy on internal memory of mobile phones would make the particular levy on SD-cards incompatible with EU Law. On the contrary, the ECJ hinted that a levy should also be implemented on internal memory of mobile phones.

In addition to the central issues of the case, the ECJ gave and reiterated a lot of opinions which strengthen the European remuneration schemes.

The ECJ referred the case to the Danish Court of Appeals for the final judgment, see below.



# DENMARK

7/7



## TARIFFS

(DKK)	Tariff valid per 2019	Capacity
Analogue audiocassette	0.0803	Per. Minute
Analogue videocassette	0.1120	Per. Minute
Mini-disc	2.52	Per. Unit
CD R/RW	2.52	Per. Unit
DVD, Blu-Ray, HD DVD	4.00	Per. Unit
Distant -based storage (NVPR, Cloud)	No	



## REVENUES

BLANK MEDIA (DKK)	2015	2016	2017	2018
Analogue audiocassette	5,757	11,101	11,230	5,924
Analogue videocassette	15,544	1,427	3,437	3,690
Mini discs	833	607	1,977	618
CD R/RW	1,313,892	810,094	436,099	312,739
DVD, Blu-Ray, HD DVD	1,190,124	702,315	566,665	396,657
DVD compensation	19,710,000	20,300,000	21,010,000	21,570,000
FLASH MEDIA (DKK)	2015	2016	2017	2018
USB, U3	3,308,285	3,387,884	2,985,822	2,444,775
Memory card/Flash Media	2,999,965	2,622,423	2,382,836	1,778,218
<b>TOTAL</b>	<b>28,544,400</b>	<b>27,835,853</b>	<b>27,398,065</b>	<b>26,512,620</b>

### EXPLANATION ON DEVELOPMENTS

The change in consumers purchase of blank media (with levy) to equipment with private copying components that cannot be detached (no levy), is the primary explanation to the decrease in revenues.

However, the guaranteed DVD-compensation limits the decrease somewhat.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# FINLAND



5,515,525

GDP: 233.6 billion EUR

1/3

## CONTACT INFORMATION

<b>COUNTRY</b>	Finland
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANIZATION</b>	Ministry of Education and Culture
<b>WEB SITE</b>	<a href="https://minedu.fi/en">https://minedu.fi/en</a>
<b>E-MAIL</b>	<a href="mailto:kirjaamo@minedu.fi">kirjaamo@minedu.fi</a> (registry)
<b>ADDRESS</b>	P.O.Box 29
<b>POSTCODE</b>	FI – 00023 GOVERNMENT
<b>CITY</b>	Helsinki
<b>PHONE</b>	+ 358 295 16001 (switchboard)



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	No
<b>TARIFFS</b>	State funded system
<b>BENEFICIARIES</b>	Composers, publishers, phonogram producers and performers, film authors and other authors
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	Yes
<b>TOTAL revenues from private copying levies in local currency</b>	<p>2015: EUR 11,000,000</p> <p>2016: EUR 11,000,000</p> <p>2017: EUR 11,000,000</p> <p>2018: EUR 11,000,000</p>

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The Finnish Government sets the level and the scope of the remuneration. The Ministry assumes responsibility for conducting surveys on private copying. An advisory board [consultative committee] has been established to assist the Ministry.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

The reproduction of a work for private use and its frequency is surveyed in order to size the right amount for the compensation. (Copyright Act, Section 26a(2))



# FINLAND

2/3

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Allocation of fair compensation to CMOs to be further distributed to rightsholders conducted by the Ministry of Culture.

### FREQUENCY OF DISTRIBUTION

Yearly

### DISTRIBUTION KEYS

#### Distribution keys Distribution scheme, audio:

65% – individual rightsholders via copyright societies:  
51% – Gramex (phonogram producers and performers)  
44% – Teosto (musical authors)  
5% – Kopiosto (other authors)

#### Distribution scheme, video:

50% individual rightsholders:  
69.4% – Kopiosto (other authors)  
11.4% – Teosto (musical authors)  
11% – Tuotos (film producers)  
8.2% – Gramex (phonogram producers and performers)

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

50% video, 35% audio. Determined by Law; Section 26b(1): "The compensation shall be paid as direct compensation to the authors and as indirect compensation to the authors for their common purposes, in accordance with a plan for the use of the funds annually approved by the Ministry of Education and Culture."

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

Composers, publishers, phonogram producers and performers, film authors and other authors



## LEGAL BASIS

### EXCEPTION

#### Section 12 of the Copyright Act (404/1961), as amended up to 2015

- (1) Anyone may make single copies for his private use of a work that has been made public. The copies thus made may not be used for other purposes.
- (2) It is also permitted to have copies made by a third party for the private use of the party ordering the copies.
- (3) The provisions of subsection 2 shall not apply to the reproduction of musical works, cinematographic works, utility articles or sculptures, or the reproduction of any other work of art by artistic means.
- (4) The provisions of this section shall not apply to a computer- readable computer program, to the making of a computer- readable copy of a computer- readable database, or to the construction of a work of architecture.



# FINLAND

3/3



## LEGAL BASIS

### LEVY

#### Section 26a of the Copyright Act (404/1961), as amended up to 2015

(1) The State shall pay compensation for the reproduction of a work for private use to its authors. The compensation is paid from an allocation included in the State budget, and the amount of compensation shall be settled at a level which can be considered a fair compensation for the reproduction of a work for private use.

(2) The reproduction of a work for private use and its frequency is surveyed in order to size the right amount for the compensation. The survey is conducted by an independent research institution approved by the Ministry of Education and Culture.

(3) The Government shall appoint an advisory board by proposal of the Ministry of Education and Culture, the aim of which is to act as an advisory expert body on the survey on reproduction for private use. The term of office of the advisory board is four years.

### COLLECTION AND DISTRIBUTION SYSTEM

#### Section 26b of the Copyright Act (404/1961), as amended up to 2015

(1) The compensation shall be paid as direct compensation to the authors and as indirect compensation to the authors for their common purposes, in accordance with a plan for the use of the funds annually approved by the Ministry of Education and Culture.

(2) The compensation shall be paid to the authors through an organization representing numerous authors of works used in Finland. When paying the direct compensation, the organization shall treat all authors equally, whether they are members of the organization.

(3) The Ministry of Education and Culture shall monitor that the application and redistribution of the compensation follows the plan for the use of funds. The Ministry shall have the right to obtain from the organization any information necessary for the purposes of supervision.



## COMMENTS/DEVELOPMENTS

The private copying system has been replaced in 2015 after the new copyright law entered into force. This new law cancelled the device-based levies applied since 1984 by a state-funded system. All private copying compensation related responsibilities is now taken over by the Ministry of Culture.



## REVENUES

(EUR)	2015	2016	2017	2018
State budget	11,000,000*	11,000,000*	11,000,000*	11,000,000*

\* Costs of the annual surveys on private copying (approx. 70,000-75,000 EUR) are deducted from EUR 11,000,000.

### EXPLANATION ON DEVELOPMENTS

The level of compensation has been retained in the State Budget despite the overall decrease of quantity of private copying.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# FRANCE



66,965,912

GDP: 2,360.7 billion EUR

1/12

## CONTACT INFORMATION

<b>COUNTRY</b>	France
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANISATION</b>	Copie France
<b>WEB SITE</b>	www.copiefrance.fr
<b>E-MAIL</b>	Charles.henri.lonjon@copiefrance.fr Cecile.kremnicki@copiefrance.fr
<b>ADDRESS</b>	225 avenue Charles de Gaulle
<b>POSTCODE</b>	92210
<b>CITY</b>	Neuilly sur Seine
<b>PHONE</b>	(33) 1 47 15 87 53 / (33) 1 47 15 87 56



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Rightsholders with a confirmation by Ministry of Culture
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment no, but levy set on memory capacity embedded in devices
<b>MEDIA</b>	Yes
<b>TARIFFS</b>	Yes
<b>BENEFICIARIES</b>	Authors, performers and producers
<b>LIABLE</b>	Importers and manufacturers of submitted carriers/devices.
<b>EXEMPTION</b>	Export/professional use
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	25 %
<b>TOTAL</b> revenues from private copying levies in local currency (settlements excluded)	2015: EUR 219,261,720 2016: EUR 265,000,000 2017: EUR 258,000,000 2018: EUR 277,000,000 2019: EUR 259,000,000

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The tariffs are set by a specific administrative commission composed of 24 members: 12 are representatives of rightsholders organisations, 6 of manufacturers and importers, and 6 of consumers' organisations. A President, with a specific voting power, represents the State and the 'general interest'. Decisions are discussed, then voted on and officially published.

IPC, L 311-4: obligation to determine the level of the remuneration based on use.



# FRANCE

2/12

## RATE SETTING

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

**Step 1:** reference value for private copying of each type of content.

**Step 2:** theoretical remuneration based on usage studies and using the reference values agreed above.

**Step 3:** Negotiation within the Commission and adoption of a tariff by support.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

The scope of the exception in accordance with the Padawan decision has been redrafted in December 2011 (IPC, L 311-8 II- law dated Dec. 20th, 2011, enacted on Dec 23rd 2011): the obligation to pay remuneration shall not apply to carriers or devices acquired for a professional use and which are not presumed to be used for private purposes & for those exported.

Companies which export carriers permanently on a stable basis can benefit from an exemption agreement.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

According to the law, professionals have the right to a refund, and they may apply for an exemption agreement.

Any end user of a submitted carrier can apply for a refund or an exemption agreement.

They should also be exempted if they can prove they are the end user of the carrier, in which case it is not possible to presume uses of private copying.

### EXEMPTION UPFRONT

Yes- Agreement between Copie France & professional user or exporter

### REFUND AFTERWARDS

Yes

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Based on a monthly online declaration system for the sales of the previous month.

### HOW FREQUENTLY IS PAYMENT DUE?

Payment is due at 40 or 80 days after the relevant month declared, depending on the status of the importer/manufacture (exclusive distributor or not).

### HOW DO YOU MONITOR THE MARKET?

The market is controlled on a voluntary basis or through court decisions.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS ARE EXPORTS EXEMPTED?

Exports are exempted or refunded. French manufacturers and importers that sell carriers or equipment abroad do not have to pay levies. When distributors/retailers export the levied products bought in France, they must pass to Copie France a proof that the levied product has been exported and that the remuneration has been paid by its supplier. Copie France checks that the remuneration has been paid by the supplier, then refunds the supplier the costs incurred, informing the exporting society that its supplier has to refund them in return.



# FRANCE

3/12

## COLLECTION PROCESS

### DEFINITION OF IMPORT

All products coming from other countries including European countries.

### WHO IS CONSIDERED IMPORTER?

Since the Opus case and a supreme French Court decision, foreign-based websites selling online to French consumers must report all deliveries to the French market. Regularisation process and court cases are ongoing.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Copie France distributes to Collecting rights societies who then distributes to their rightsholders members.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/ DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No

### FREQUENCY OF DISTRIBUTION

Monthly

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Authors, performers and producers from 4 repertoires Audio, Video, Visual arts and written works reproduced on digital carriers.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Distribution schemes are the result of a three-step process.

### DISTRIBUTION KEYS

**1st step:** split of the PCR collected into 4 parts according to the kind of carrier (dedicated or hybrid) between audio, video, written works and visual artwork.

**2nd step:** each of the 4 parts of the 1st step is then split according to the law between authors, performers and producers/publishers.

**Audio:** 50% to authors' organizations (SDRM, SACD, SCAM)  
25% to performers' organizations (ADAMI, SPEDIDAM)  
25% to phonogram producers' organizations (SCPA)

**Video:** 1/3 to authors' organizations (SDRM, SACD, SCAM)  
1/3 to performers' organizations (ADAMI, SPEDIDAM)  
1/3 to video gram producers' organizations (PROCIREP)

Written works SOFIA

**Visual arts:** SORIMAGE

50% authors

50% publishers

**3rd step:** contractual split between organizations.



# FRANCE

4/12

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

There is a social and/or cultural deduction determined by law IPC L324-17 of 25%

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

All information can be found on [www.copieprivee.org](http://www.copieprivee.org), a dedicated website aimed at the display of information on how PCR is used for cultural purposes.



## LEGAL BASIS

### EXCEPTION AND LEVY

#### Articles L 311-1 up to L 311-8 of the Intellectual Property Code.

1 - The scope of the exception, in accordance with the Padawan decision, has been redrafted in last December (IPC, L 311-8 II- law dated Dec. 20th 2011, enacted on Dec 23rd 2011): the obligation to pay remuneration shall not apply to carriers or devices acquired for professional use and which are not presumed to be used for private purposes;

2 - All kinds of carriers not included in the scope of the decisions of the administrative commission in charge of setting the tariffs and specific decisions excluding DAT, C10 & C15 Tapes, 8 cm DVD.

### EXCEPTION

#### Article L122-5 of the French Intellectual Property code (as amended up to 2014)

Lorsque l'œuvre a été divulguée, l'auteur ne peut interdire :  
(..)

2° Les copies ou reproductions réalisées à partir d'une source licite et strictement réservées à l'usage privé du copiste et non destinées à une utilisation collective, à l'exception des copies des œuvres d'art destinées à être utilisées pour des fins identiques à celles pour lesquelles l'œuvre originale a été créée et des copies d'un logiciel autres que la copie de sauvegarde établie dans les conditions prévues au II de l'article L. 122-6-1 ainsi que des copies ou des reproductions d'une base de données électronique ;  
(...)

Les exceptions énumérées par le présent article ne peuvent porter atteinte à l'exploitation normale de l'œuvre ni causer un préjudice injustifié aux intérêts légitimes de l'auteur.

Les modalités d'application du présent article, notamment les caractéristiques et les conditions de distribution des documents mentionnés au d du 3°, l'autorité administrative mentionnée au 7°, ainsi que les conditions de désignation des organismes dépositaires et d'accès aux fichiers numériques mentionnés au troisième alinéa du 7°, sont précisées par décret en Conseil d'Etat.

### LEVY

#### Article L311-1 of the French Intellectual Property code (as amended up to 2014)

Les auteurs et les artistes-interprètes des œuvres fixées sur phonogrammes ou vidéogrammes, ainsi que les producteurs de ces phonogrammes ou vidéogrammes, ont droit à une rémunération au titre de la reproduction desdites œuvres, réalisée à partir d'une source licite dans les conditions.

Cette rémunération est également due aux auteurs et aux éditeurs des œuvres fixées sur tout autre support, au titre de leur reproduction réalisée à partir d'une source licite, dans les conditions prévues au 2° de l'article L. 122-5, sur un support d'enregistrement numérique.



# FRANCE

5/12



## LEGAL BASIS

### Article L311-2 of the French Intellectual Property code (as amended up to 2014)

Sous réserve des conventions internationales, le droit à rémunération mentionné à l'article L. 214-1 et au premier alinéa de l'article L. 311-1 est réparti entre les auteurs, les artistes-interprètes, producteurs de phonogrammes ou de vidéogrammes pour les phonogrammes et vidéogrammes fixés pour la première fois dans un Etat membre de la Communauté européenne.

### Article L311-3 of the French Intellectual Property code (as amended up to 2014)

La rémunération pour copie privée est, dans les conditions ci-après définies, évaluée selon le mode forfaitaire prévu au deuxième alinéa de l'article L. 131-4.

### Article L311-4 of the French Intellectual Property code (as amended up to 2014)

La rémunération prévue à l'article L. 311-3 est versée par le fabricant, l'importateur ou la personne qui réalise des acquisitions intracommunautaires, au sens du 3° du I de l'article 256 bis du code général des impôts, de supports d'enregistrement utilisables pour la reproduction à usage privé d'œuvres, lors de la mise en circulation en France de ces supports.

Le montant de la rémunération est fonction du type de support et de la durée ou de la capacité d'enregistrement qu'il permet.

Ce montant est également fonction de l'usage de chaque type de support. Cet usage est apprécié sur le fondement d'enquêtes. Toutefois, lorsque des éléments objectifs permettent d'établir qu'un support peut être utilisé pour la reproduction à usage privé d'œuvres et doit, en conséquence, donner lieu au versement de la rémunération, le montant de cette rémunération peut être déterminé par application des seuls critères mentionnés au deuxième alinéa, pour une durée qui ne peut excéder un an à compter de cet assujettissement.

Le montant de la rémunération tient compte du degré d'utilisation des mesures techniques définies à l'article L. 331-5 et de leur incidence sur les usages relevant de l'exception pour copie privée. Il ne peut porter rémunération des actes de copie privée ayant déjà donné lieu à compensation financière.

### Article L311-4-1 of the French Intellectual Property code (as amended up to 2014)

Le montant de la rémunération prévue à l'article L. 311-3 propre à chaque support est porté à la connaissance de l'acquéreur lors de la mise en vente des supports d'enregistrement mentionnés à

Une notice explicative relative à cette rémunération et à ses finalités, qui peut être intégrée au support de façon dématérialisée, est également portée à sa connaissance. Cette notice mentionne la possibilité de conclure des conventions d'exonération ou d'obtenir le remboursement de la rémunération pour copie privée dans les conditions prévues à l'article L. 311-8.

Les manquements au présent article sont recherchés et constatés par les agents mentionnés au II de l'article L. 450-1 du code de commerce, dans les conditions fixées à l'article L. 141-1 du code de la consommation. Ces manquements sont sanctionnés par une amende administrative dont le montant ne peut être supérieur à 3 000 €.

Les conditions d'application du présent article sont définies par décret en Conseil d'Etat.

### Article L311-5 of the French Intellectual Property code (as amended up to 2014)

Les types de support, les taux de rémunération et les modalités de versement de celle-ci sont déterminés par une commission présidée par un représentant de l'Etat et composée, en outre, pour moitié, de personnes désignées par les organisations représentant les bénéficiaires du droit à rémunération, pour un quart, de personnes désignées par les organisations représentant les fabricants ou importateurs des supports mentionnés au premier alinéa de l'article L. 311-4 et, pour un quart, de personnes désignées par les organisations représentant les consommateurs.

Les comptes rendus des réunions de la commission sont rendus publics, selon des modalités fixées par décret. La commission publie un rapport annuel, transmis au Parlement.

Les délibérations de la commission sont exécutoires si, dans un délai d'un mois, son président n'a pas demandé une seconde délibération.

Les décisions de la commission sont publiées au Journal officiel de la République française.



# FRANCE

6/12



## LEGAL BASIS

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Article L311-6 of the French Intellectual Property code (as amended up to 2014)

La rémunération prévue à l'article L. 311-1 est perçue pour le compte des ayants droit par un ou plusieurs organismes mentionnés au titre II du présent livre. Elle est répartie entre les ayants droit par les organismes mentionnés à l'alinéa précédent, à raison des reproductions privées dont chaque œuvre fait l'objet.

#### Article L311-7 of the French Intellectual Property code (as amended up to 2014)

La rémunération pour copie privée des phonogrammes bénéficie, pour moitié, aux auteurs au sens du présent code, pour un quart, aux artistes-interprètes et, pour un quart, aux producteurs.

La rémunération pour copie privée des vidéogrammes bénéficie à parts égales aux auteurs au sens du présent code, aux artistes-interprètes et aux producteurs. La rémunération pour copie privée des œuvres visées au second alinéa de l'article L 311-1 bénéficie à parts égales aux auteurs et aux éditeurs.

#### Article L311-8 of the French Intellectual Property code (as amended up to 2014)

I.- La rémunération pour copie privée n'est pas due lorsque le support d'enregistrement est acquis pour leur propre usage ou production par :

- 1° Les entreprises de communication audiovisuelle ;
- 2° Les producteurs de phonogrammes ou de vidéogrammes et les personnes qui assurent, pour le compte des producteurs de phonogrammes ou de vidéogrammes, la reproduction de ceux-ci ;
- 2° bis Les éditeurs d'œuvres publiées sur des supports numériques ;
- 3° Les personnes morales ou organismes, dont la liste est arrêtée par le ministre chargé de la culture, qui utilisent les supports d'enregistrement à des fins d'aide aux handicapés visuels ou auditifs.

II.- La rémunération pour copie privée n'est pas due non plus pour les supports d'enregistrement acquis notamment à des fins professionnelles dont les conditions d'utilisation ne permettent pas de présumer un usage à des fins de copie privée.

III. Une convention constatant l'exonération et en fixant les modalités peut être conclue entre les personnes bénéficiaires des I ou II et l'un des organismes mentionnés au premier alinéa de l'article L. 311-6. En cas de refus de l'un des organismes de conclure une convention, ce dernier doit préciser les motifs de ce refus.

A défaut de conclusion d'une convention, ces personnes ont droit au remboursement de la rémunération sur production de justificatifs déterminés par les ministres chargés de la culture et de l'économie.

## COURT CASES

Contestation on the legal background of the PCR system as set in France in respect of the European directive on private copying (2001/29). Contestations arise notably on the condition of exemption of professional users of submitted carriers.



## FRANCE

7/12



## TARIFFS

**PRIVATE COPYING REMUNERATION TARIFFS IN FRANCE  
AS FROM FEBRUARY 1ST 2020 (VAT not applicable)**
**SMARTPHONES & MOBILE PHONES**

Storage capacity	Remuneration in EUR
Up to 8 Gb	4.00
Over 8 GB up to 16 GB	8.00
Over 16 GB up to 32 GB	10.00
Over 32 GB up to 64 GB	12.00
Over 64 GB	14.00

**MEDIA TABLETS & \* PC TABLETS\*\***

Storage capacity	Remuneration in EUR
Up to 16 Gb	8.00
Over 16 GB up to 32 GB	10.00
Over 32 GB up to 64 GB	12.00
Over 64 GB	14.00

\* Multimedia tablets with or without detachable keyboard (but non-attached) running with iOs, Android and Windows RT.

\*\* PC tablets with or without detachable keyboard (but non-attached) running with Windows 8.1 and following versions.

**USB STICKS (PC STICKS NON-INCLUDED)**

Storage capacity	Remuneration in EUR
Up to 8 Gb	1.00
Over 8 GB up to 16 GB included	1.50
Over 16 GB up to 32 GB included	2.00
Over 32 GB up to 64 GB included	2.80
Over 64 GB up to 128 GB included	3.40
Over 128 GB up to 256 GB included	4.00
Over 256 GB	4.60



## FRANCE

8/12



## TARIFFS

**PRIVATE COPYING REMUNERATION TARIFFS AS FROM FEBRUARY 1ST 2020**  
 (VAT not applicable)

**MEMORY CARDS & SD CARDS**

Storage capacity	Remuneration in EUR
Up to 8 GBB	1.00
Over 8 GB up to 16 GB included	1.50
Over 16 GB up to 32 GB included	2.00
Over 32 GB up to 64 GB included	2.80
Over 64 GB up to 128 GB included	3.40
Over 128 GB up to 256 GB included	4.00
Over 256 GB	4.60

**STANDARD EXTERNAL HARD DISCS (HDD, SSD, NAS & NDAS desktop)**

Storage capacity	Remuneration in EUR
Under 5 TB (1 TB = 1000 GB)	6.00
From 5 TB & under 10 TB (1 TB = 1000 GB)	10.00
From 10 TB (1 TB = 1000 GB)	15.00

**This category includes**

- External hard discs with USB or Firewire interface
- SSD (Solid State drive) systems
- Network storage systems (NAS & NDAS) for households (desktop version)

**MP3 WALKMAN OR LOUNGE DEVICES**

Storage capacity	Remuneration in EUR/GB
Up to 8 GB	1.50
Over 8 GB up to 32 GB	1.00
Over 32 GB	32.00 EUR flat



## FRANCE

9/12



## TARIFFS

## PRIVATE COPYING REMUNERATION TARIFFS AS FROM FEBRUARY 1ST 2020 (VAT not applicable)

## MP4 WALKMAN

Storage capacity	Remuneration in EUR/GB
Up to 4 GB	1.50
Over 4 GB up to 8 GB	0.88
Over 8 GB up to 16 GB	0.50
Over 16 GB up to 32 GB	0.35
Over 32 GB up to 96 GB	0.33
Over 96 GB	31.68

## ANALOGIC BLANK CARRIERS

Carrier	Recording duration	Remuneration in EUR
Audio Tape	Per 100 hours (i.e. 0,43 EUR per a C90 item)	28.51
Video Tapes (VHS)	Per 100 hours (i.e. 1.29 EUR per a E180 item)	42.84

## DIGITAL RECORDABLE CARRIERS

Carrier	Recording duration	Remuneration in EUR
Data CD	Per 100 000 MB (i.e. 0.35 EUR per 700 MB)	50.00
Data DVD	Per 100 GB (i.e. 0.90 EUR per 4,7 GB)	19.15
Minidiscs & Audio CD R	Per 100 hours (i.e. 0.56 EUR per 74 mn)	45.73
Micro floppy disc 3' 1/2	Per 1,44 MB	0.015
DVHS	Per 100 hours (i.e. 3.77 EUR per 180 mn)	125.77

## INTEGRATED CAR GLOBAL POSITIONING SYSTEM (GPS) OR CAR RADIO ENABLING THE DISPLAY OF AUDIO CONTENT WITH DEDICATED STORAGE CAPACITY

Storage capacity	Remuneration in EUR/GB
Any capacity	1.25



## FRANCE

10/12



## TARIFFS

## PRIVATE COPYING REMUNERATION TARIFFS AS FROM FEBRUARY 1ST 2020 (VAT not applicable)

## TV SET, VIDEO RECORDERS OR DECODERS WITH INTEGRATED MEMORY OR HARD DISK EXCLUSIVELY DEDICATED TO THE RECORDING OF AUDIO-VISUAL BROADCASTS OR MULTIMEDIA BOXES WITH INTEGRATED MEMORY OR HARD DISK

Storage capacity	Remuneration in EUR
Up to 8 GB	10.00
Over 8 GB up to 20 GB	13.50
Over 20 GB up to 40 GB	15.00
Over 40 GB up to 80 GB	16.50
Over 80 GB up to 160 GB	19.50
Over 160 GB up to 250 GB	22.50
Over 250 GB up to 320 GB	25.50

**BUNDLES AND COMPLEMENTAL OFFERS: APPLICATION OF THE TARIFF SCHEME APPLIED ON THE DEVICE, BY ADDITION OF A) THE STORAGE CAPACITY OF THE CARRIER AND B) THE STORAGE CAPACITY OF THE DEVICE.**

- I. The tariff applicable to recording devices sold with one or several recording capacities (example: memory card, external hard disc) in a unique prize, under the same packaging or under several packaging set together ("bundle") or sold separately but obviously intended to be used together ("complemental offer") is made by the addition of the recording capacities of the carrier and the one of the device, this global capacity being invoiced with the tariff scheme of the device.
- II. No remuneration shall be paid for recording capacities sold in "bundle" or "complemental offer" with a device whose recording capacities are not submitted to a private copying levy.



## FRANCE

11/12



## TARIFFS

## PRIVATE COPYING REMUNERATION TARIFFS AS FROM FEBRUARY 1ST 2020 (VAT not applicable)

## NPVR SERVICES

Maximum storage capacity offered by the Service				in EUR / month and per subscriber or per user
in GB		in Hours		
From	Up to (included)	From	Up to (included)	
-	8.00	-	8.00	0.2100
8.00	20.00	8.00	20.00	0.2625
20.00	40.00	20.00	40.00	0.2825
40.00	80.00	40.00	80.00	0.3000
80.00	160.00	80.00	160.00	0.4167
160.00	250.00	160.00	250.00	0.5000
250.00	320.00	250.00	320.00	0.6250
320.00	500.00	320.00	500.00	0.7500

\* Services by which television publishers or their distributors provide to a natural person, by way of remote access, reproduction in private use of works from a program broadcast in a linear manner by that publisher or his distributor, provided that such reproduction is requested by that natural person before the broadcast of the program or during the latter for the remaining part.



## FRANCE

12/12



## REVENUES

(EUR)	2015	2016	2017	2018	2019
Data CD R/RW, Audiocassettes, Audio CD, Minidisc	58,402	9,000	180,000	18,000	9,000
CD Data	3,096,656	3,005,000	1,516,000	794,000	618,000
Video cassette	73,027	8,000	107,000		
DVD data	3,575,105	3,364,000	1,383,000	769,000	746,000
Hard discs or memory inserted into digital audio (mp3) player	987,741	741,000	980,000	1,174,000	718,000
Memory or hard disk inserted into a multimedia Walkman or devices (MP4)	2,983,643	2,317,000	1,840,000	860,000	502,000
Hard disk inserted a Decoder and TV set	11,052,050	23,680,000	19,533,000	14,749,000	9,141,000
multimedia boxes	17,088,616	14,159,000	13,906,000	14,471,000	6,771,000
USB sticks	17,542,741	19,471,000	18,281,000	16,117,000	15,877,000
Removable memory cards	9,482,822	12,474,000	11,734,000	8,604,000	9,200,000
External hard discs	22,638,181	12,441,000	16,562,000	15,677,000	7,060,000
Smartphones	100,611,184	143,946,000	144,556,000	175,976,000	176,499,000
Media Tablets	3,853,105	27,882,000	25,392,000	25,646,000	26,057,000
PC Tablet					2,877,000
Memories in a global positioning system (GPS) or a car radio	1,762,935	2,266,000	2,121,000	2,020,000	1,609,000
Hard disk inserted in television		108,000	72,000	53,000	16,000
NPVR Services				604	1,508,000
<b>TOTAL</b>	<b>219,261,720</b>	<b>265,872,000</b>	<b>258,163,000</b>	<b>277,532,000</b>	<b>259,208,000</b>

## EXPLANATION ON DEVELOPMENTS

Smartphones are responsible of the increase. It represents now more than 68 % of Copie France's collections.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# GERMANY



82,905,782

GDP: 3,344.4 billion EUR

1/9

## CONTACT INFORMATION

<b>COUNTRY</b>	Germany
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANIZATION</b>	Zentralstelle für private Überspielungsrechte
<b>WEB SITE</b>	www.zpue.de
<b>E-MAIL</b>	info@zpue.de
<b>ADDRESS</b>	Rosenheimer Str. 11
<b>POSTCODE</b>	81667
<b>CITY</b>	Munich
<b>PHONE</b>	+49 89 48003-416
<b>FAX</b>	+49 89 48003-988



## OVERVIEW

### COLLECTING SOCIETY APPOINTED BY

ZPÜ (Zentralstelle für Private Überspielungsrechte) collects private copying remunerations for media and devices, which can be used for copying audio and video works. VG Wort and VG Bild-Kunst collect private copying remunerations for media and devices which can be used for copying text and pictures, but not for audio or video works. ZPÜ is appointed by its member societies (collecting societies), which represent their rights holders.

### EXCEPTION

Yes

### LEVY

Equipment: Yes  
Media: Yes

### TARIFFS

Yes

### BENEFICIARIES

Rightsholders through member societies

### LIABLE

Importers and manufacturers, as well as resellers and retailers

### EXEMPTION

Exports / particular professional or industrial users

### SOCIAL AND CULTURAL DEDUCTIONS

Not by ZPÜ itself but by member societies.

### TOTAL revenues\* from private copying levies in local currency

2015: EUR 100,664,000  
2016: EUR 754,100,000  
2017: EUR 331,927,000  
2018: EUR 332,517,000

\* Figures show revenues in the named years, not payments



# GERMANY

2/9

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Levies are set by ZPÜ as a result of negotiations between ZPÜ and associations of manufacturers and importers.

If the negotiations are not successful, tariffs will be set by ZPÜ based on empirical data. Tariffs can be contested in court, so that in the end a valid tariff can be suggested /set by the arbitration board or by the courts.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

Empirical studies about the usage of devices and storage media and - as a corrective if necessary – the price of the product.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

There are different exemptions for professional and industrial users. There are no exemptions for consumers.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

All devices and media, the type of which is used for private copying, are subject to remunerations.

### EXEMPTION UPFRONT

If a party liable to remuneration sends proof that a device or storage medium is sold to a professional or industrial end-user and that user validates that the device or storage medium will not be used for any private copying, ZPÜ can exempt those devices or storage media upfront.

For some products, like PCs, smartphones or tablets, a reduction of the remuneration to a “business remuneration” is granted according to the quota of business devices existing for the relevant trademark.

### REFUND AFTERWARDS

It has been agreed in inclusive contracts that commercial end users or authorities who demonstrably acquire the respective devices for the (higher) remuneration for consumer devices are to be reimbursed by collecting societies in the amount of the difference between the compensation for consumer devices and the compensation for business devices and can make a request to the ZPÜ. This also applies to retailers and resellers who verifiably sell PCs or mobile phones to commercial end users and authorities.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Importers, manufacturers and resellers / retailers are required by law to report the quantities of the relevant devices and storage media by themselves. In addition, ZPÜ regularly addresses to known importers, manufacturers and retailers and request disclosure of the relevant figures.



# GERMANY

3/9

## COLLECTION PROCESS

### HOW FREQUENTLY IS PAYMENT DUE?

Monthly or depending on contract/general agreement twice a year.

### HOW DO YOU MONITOR THE MARKET?

Importers and manufacturers could be investigated by accountants in case of reasonable doubts concerning the correctness of reports. The reports of the importers and manufacturers are checked against the figures reported by the retailers. All publicly available information (websites, advertisement etc.) is being reviewed on periodic basis.

According to existing collective agreements, a majority of the market players regularly provide accountants certificates showing the correctness of their reported figures.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

No

### ARE EXPORTS EXEMPTED?

Exports are exempted by law, § 54 II UrhG.

### DEFINITION OF IMPORT

According to section 54b German Copyright Act, the importer is "the person who introduces the appliances or storage mediums, or who causes them to be introduced, into the territory to which this Act applies. Where importation is based on a contract with a non-resident, the importer shall be solely the contracting party residing in the territory to which this Act applies as long as he is acting on a commercial scale". Additionally, the importer's duties of reporting the figures and make payments are linked to selling or otherwise placing the products on the German market.

So within the private copying system import is the act of introducing or causing the introduction of devices or storage mediums and afterwards selling or otherwise placing them on the German market.

### WHO IS CONSIDERED IMPORTER?

In cross-border sales, the importer is the commercial entity placed in Germany selling or otherwise placing the products on the German market. The party abroad is responsible if the German recipient is a private consumer.

### ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?

Only small part of IT industry denies payments for products which are subject of collective agreements.

Furthermore industry denies payments for media and devices which are still subject of lawsuits (see below).



# GERMANY

4/9

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

ZPÜ distributes to member societies. Member societies distribute to their rights holders.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No

### FREQUENCY OF DISTRIBUTION

Distribution occurs when ZPÜ-Partners decide to distribute – now there is no regular frequency.

### WHICH RIGHTS HOLDERS ARE INCLUDED?

ZPÜ distributes the remuneration to its member societies representing authors and holders of neighboring rights.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Distribution schemes are based on empirical studies showing the use of the products for the purpose of copying the works of the different rightsholders and are set after negotiations among ZPÜ's member societies.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

No



## LEGAL BASIS

### EXCEPTION LEVY

### COLLECTION AND DISTRIBUTION SYSTEMS

Sections 53 et seqq. Act on Copyright and Related Rights (UrhG), Collecting Societies Act (VGG)

## COURT CASES

Lawsuits still in progress for all types of media and equipment.

Exception: Members of industry associations which are party to a collective agreement:

BITKOM members for mobile phones, tablets, hard disks, and external CD and DVD writers

BITKOM and BCH members for PCs

BITKOM and IM members for blank CDs and DVDs

VERE members for PCs, mobile phones and Tablets



# GERMANY

5/9



## COMMENTS/DEVELOPMENTS

New regulations for collecting societies in force since 24.05.2016 VGG – Verwertungsgesellschaftengesetz.

Reorganisation and transformation of section 53 paragraph 3 UrhG and adding further exceptions in the field of lawfully permitted uses for teaching, science and institutions into sections 60a UrhG et. seq.



## TARIFFS

PCs		Tariff valid from 01.01.2011 (EUR)		
consumer PC	13.1875	per piece		
business PC	4.0000	per piece		
small mobile PC	10.625	per piece		
Workstation (since 2014)	4.0000	per piece		
Internal CD/DVD-writer	0.00	per piece		
PCs		Tariff valid from 01.01.2008 till 31.12.2010 (EUR)		
PC with CD/DVD-writer	17.0625	per piece		
PC without CD/DVD-writer	15.1875	per piece		
Internal CD/DVD-writer	1.8750	per piece		
CD/DVD-writer		Tariff valid from 01.01.2008 till 31.12.2010 (EUR)		
External CD/DVD-writer	4.00	per piece		
CD/DVD-writer		Tariff valid from 01.01.2011 (EUR)		
External CD/DVD-writer	2.50	per piece		
Blank Media		Tariff valid from 01.01.2008 (EUR)		Capacity
Audiocassette	0.0614			per hour
DAT/MD	0.0614			per hour
Audio-CD-R/RW	0.0614			per hour
VHS	0.0870			per hour



# GERMANY

6/9



## TARIFFS

Optical storage media	Tariff valid from 01.01.2008 till 31.12.2009 (EUR)	
CD-R	0.0200	per piece
CD-RW	0.0400	per piece
DVD+/-R 4,7 GB	0.0400	per piece
DVD+/-RW 4.7GB	0.0800	per piece
DVD-RAM 4.7GB	0.0800	per piece
DVD-RAM 9.4GB	0.1600	per piece
DVD Double Sided 9.4GB	0.1600	per piece
DVD Double Layer / Dual Layer 8.5GB	0.0800	per piece

Optical storage media	Tariff valid from 01.01.2010 till 31.12.2017 (EUR)	
CD-R	0.0100	per piece
CD-RW	0.0200	per piece
DVD+/-R 4,7 GB	0.0200	per piece
DVD+/-RW 4.7GB	0.0400	per piece
DVD-RAM 4.7GB	0.0400	per piece
DVD-RAM 9.4GB	0.0800	per piece
DVD Double Sided 9.4GB	0.0800	per piece
DVD Double Layer / Dual Layer 8.5GB	0.0400	per piece

Optical storage media	Tariff valid from 01.01.2018 (EUR)	
CD-R	0.0125	per piece
CD-RW	0.0250	per piece
DVD+/-R 4,7 GB	0.0250	per piece
DVD+/-RW 4.7GB	0.0500	per piece
DVD-RAM 4.7GB	0.0500	per piece
DVD-RAM 9.4GB	0.1000	per piece
DVD Double Sided 9.4GB	0.1000	per piece
DVD Double Layer / Dual Layer 8.5GB	0.0500	per piece



# GERMANY

7/9



## TARIFFS

Flash media *		Tariff valid from 01.07.2012 (EUR)	
USB-Stick ≤ 4 GB	0.91	per piece	
USB-Stick > 4 GB	1.56	per piece	
Memory Card ≤ 4 GB	0.91	per piece	
Memory Card > 4 GB	1.95	per piece	

External Hard Disks	Tariff Consumer-HDD per piece	Tariff Business-HDD per piece
Tariff valid for year 2008	1.25	0.38
Tariff valid for year 2009	1.56	0.47
Tariff valid for year 2010	1.88	0.56
Tariff valid for year 2011	2.19	0.66
Tariff valid for year 2012	2.50	0.75
Tariff valid for year 2013	2.88	0.86
Tariff valid for year 2014	3.25	0.98
Tariff valid for year 2015	3.63	1.09
Tariff valid for year 2016	4.00	1.20
Tariff valid from year 2017	4.44	1.33

Multi-Media HDD with recording function		Tariff valid from 01.01.2008 (EUR)	
	34.00	per piece	

Consumer electronics *		Tariff valid from 01.01.2008 (EUR)	
Set-Top-Box with external HDD	13.00	per piece	

\* Tariff not based on an inclusive contract (negotiations / court proceedings are still ongoing).



# GERMANY

8/9



## TARIFFS

Consumer electronics *	Tariff valid from 01.01.2010 (EUR)	
VHS-Recorder	15.00	per piece
DVD-Recorder	22.00	per piece
DVD+VCR-Recorder	30.00	per piece
DVD-HDD-Recorder	39.00	per piece
DVD+VCR+HDD-Recorder	49.00	per piece
Set-Top-Box+HDD-Recorder	34.00	per piece
HDD-Recorder	34.00	per piece
TV with HDD	34.00	per piece
AC-Recorder	7.00	per piece
MD-Recorder	25.00	per piece
CD-Recorder	13.00	per piece
MP3-Player	5.00	per piece
MP4-Player Display < 3"	5.00	per piece
MP4-Player Display $\geq 3'' \leq 4''$	15.00	per piece
Smartwatch	1.50	Per piece

\* Tariff not based on an inclusive contract (negotiations / court proceedings are still ongoing).

Mobile phones	Tariff valid from 01.01.2008 (EUR)	
mobile phone 2008	1.6625	per piece
mobile phone 2009	2.05	per piece

Consumer phones	Tariff valid from 01.01.2008 (EUR)	
consumer phone 2010	3.6375	per piece
consumer phone 2011	4.6875	per piece
consumer phone 2012	5.275	per piece
consumer phone 2013	5.6625	per piece
consumer phone 2014 and following	6.25	per piece

Business phones	Tariff valid from 01.01.2008 (EUR)	
business phone 2010	1.81875	per piece
business phone 2011	2.34375	per piece
business phone 2012	2.6375	per piece
business phone 2013	2.83125	per piece
business phone 2014 and following	3.125	per piece



# GERMANY

9/9



## TARIFFS

Tablets	Tariff valid from 01.01.2010 (EUR)	
consumer tablet 2010-2011	4.55	per piece
consumer tablet 2012-2013	6.125	per piece
consumer tablet 2014	7.4375	per piece
consumer tablet 2015 and following	8.75	per piece
business tablet 2010-2011	1.82	per piece
business tablet 2012-2013	2.45	per piece
business tablet 2014	2.975	per piece
business tablet 2015 and following	3.50	per piece
Distant -based storage (NVPR, Cloud)*	Currently no tariff on distant based storage	
Other: refurbishment (or remanufactured)	Refurbished devices are levied.	

\* Tariff not based on an inclusive contract (negotiations / court proceedings are still ongoing).



## REVENUES

COLLECTED AMOUNTS (EUR)	2015	2016	2017	2018
USB/Flash Media	13,292,000	34,717,000	-2,026,000	
CD / DVD / Audio /Video blank Media	-18,905,000	2,316,000	247,000	
Consumer Electronics	100,197,000	43,725,000	-2,399,000	
Mobile Phones	55,220,000	441,818,000	220,628	
PCs + CD / DVD Writer	71,434,000	60,637,000	91,092,000	
HDDS	24,204,000	1,506,000	-1,547,000	
Tablets	1,207,000	156,438,000	25,932,000	
Reserve for bad debt / allowance	-145,985,000	12,898,000	0	
<b>TOTAL*</b>	<b>100,665,000</b>	<b>754,100,000**</b>	<b>331,927,000</b>	<b>332,517,000</b>

\* Figures show revenues in the named years, not payments.

\*\* Figures show revenues including the years since 2010 for tablets and the years since 2011 for mobile phones.

## EXPLANATION ON DEVELOPMENTS

Revenues can differ greatly from year to year because of one-time effects in certain years that lead to revenue also for the past years (e.g. in 2016 collective agreements for tablets and mobile phones have been concluded that included claims for the years since 2008).





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# GREECE



10,732,882

GDP: 184.7 billion EUR

1/5

## CONTACT INFORMATION

<b>COUNTRY</b>	Greece
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANIZATION</b>	AUTODIA
<b>WEB SITE</b>	www.autodia.gr
<b>E-MAIL</b>	info@autodia.gr, cmergoupi@autodia.gr
<b>ADDRESS</b>	3, Korai Str.
<b>POSTCODE</b>	10564
<b>CITY</b>	Athens
<b>PHONE</b>	+30 210 3215278
<b>FAX</b>	+30 210 3219169



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	AUTODIA's members, composers-authors, rightsowners of musical works.
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Levy (%) on import price
<b>BENEFICIARIES</b>	Its members, composers-authors, rightsowners of musical works
<b>LIABLE</b>	Importers/manufacturers of levied equipment
<b>EXEMPTION</b>	Exports are exempted (by Law art 18 §3).
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	N/A
<b>TOTAL revenues from private copying levies in local currency</b>	2018: Cannot be provided yet

## RATE SETTING

**HOW ARE LEVIES/REMUNERATION DETERMINED?**

By law

**WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?**

As the rate of the levy was set by the legislator, the criteria were legislative and authoritative.



# GREECE

2/5

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

As set by par. 1 of Article 18: "Without prejudice to the provisions laid down in the following paragraphs, it shall be permissible for a person to make a reproduction of a lawfully published work for his own private use, without the consent of the author and without payment. The term private use shall not include use by an enterprise, a service or an organization."

### REFUND AFTERWARDS

There is an "Equitable remuneration refund system" in place described in our website, which is imposed by Law Nr. 2121/93 as amended by Nr. 4540/2018 for claims made by businesses and/or professionals – natural persons.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

As per Art. 4 of Law Nr. 2121/93 "4 a) Any person importing or obtaining through intra-Community acquisition or producing and providing technical equipment and/or paper suitable for photocopies which, ....., are subject to the payment of a reasonable remuneration, shall, within thirty (30) days from the end of each calendar quarter, refer, by the means of a solemn declaration in writing pursuant to Law 1599/1986, to HCO:

(aa) the quantity and total value of the technical means and/or the paper suitable for photocopying that he/she imported or acquired within the Community or produced and provided within the immediately preceding calendar quarter per category and type of technical means, and;..."

### HOW FREQUENTLY IS PAYMENT DUE?

Quarterly

### HOW DO YOU MONITOR THE MARKET?

As per Art. 18 para. 6 : "Any collective management organization is entitled, at its own cost, to request the investigation of the accuracy of the content of any solemn declaration carried out by a sworn auditor appointed by IPO. In the case where the person required to submit such a declaration refuses to accept the aforementioned audit, its performance shall be ordered by the Single – Member Court of First Instance, in accordance with the above specified. Each audit statement issued shall be submitted to IPO, and any collective management organization is entitled to receive a copy of such a statement. A new inspection requested by other collective management organization in respect of the same solemn declaration shall be excluded."

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

No collaboration established yet.



# GREECE

3/5

## COLLECTION PROCESS

### ARE EXPORTS EXEMPTED?

Exports are exempted (by Law art 18 §3).

### WHO IS CONSIDERED IMPORTER?

Art. 18 par. 10 : "...The reasonable remuneration due to rightsholders shall be paid by the first buyer established within the Greek territory who obtains the products from foreign companies which have been authorized in accordance with paragraph 4a of the Customs Code, with the purpose of making them available within the territory of the state, ....."

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

AUTODIA distributes collected remuneration according to its internal distribution rules and regulations.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

Art. 18 par. 3 of the Law Nr. 4481/2017 (on Collective management of copyright and related rights, multi-territorial licensing in musical works for online use in the internal market and other issues), stipulates the following:

"Management fees of the collective management organization shall not exceed the justified and documented costs in managing copyright and related rights. Management fees should not exceed, on average, 20% of the gross rights `revenue of the collective management organization. This percentage does not include the costs of legal claims for the rights of the organization's members. The costs of a legal procedure include exclusively the full amount which must be paid in order for the case to be brought before the court and the conduct of the proceedings, and is related, in particular, to court stamping fees, administrative fees and bills....."

### FREQUENCY OF DISTRIBUTION

Once a year

### WHICH RIGHTS HOLDERS ARE INCLUDED?

All members of AUTODIA

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

N/A



# GREECE

4/5



## LEGAL BASIS

### EXCEPTION AND LEVY

- (a) The remuneration due for computers, portable electronic devices (tablets) and smartphones is set at 2% of their value.
- b) The remuneration due for sound or image or sound and image recording apparatus, magnetic tapes or any other media suitable for sound or image or sound and image reproduction, for digital reproduction devices and media, and other storage media with a capacity of more than 4 GB, as well as the remuneration due for devices or components irrespective of whether their operation takes place in the context of computers or not and are used for the purposes of digital copying, transcription or reproduction by any means, is set at 6% of their value.

### LEVY

2% and 6%

### COLLECTION AND DISTRIBUTION SYSTEMS

These two provisional agreements signed between ALL CMOs (16 CMOs including the Special Provisional Rights' Management Service named EYED) were the following:

- 1) For the new levy of 2% (on PCs, tablets and smartphones) the agreement dated 25.6.2018 and
- 2) For the levy of 6% on digital storage media and devices, the agreement dated 9.1.19.

These agreements provided for three coordinator CMOs (one for each of the three categories of rightsholders), ensuring management of collections from importers, legal measures etc., attributing equal shares of 2,5% of the collected income to all 16 CMOs, withholding a share of the collections for expenses.

Thanks to respective amendments of the above provisional agreements, signed on the 14.11.2019, the shares attributed to the 16 CMOs were modified provisionally and until a final distribution amongst them is achieved. The shares which are withheld by the three managing CMOs for expenses and future distribution have been modified as well, being reduced to 5% each (i.e. 10% in total). Therefore 90% of the collected amount are divided amongst the CMOs."



## COMMENTS/DEVELOPMENTS

Several extra-judicial letters have been sent to importers of products subject to private copying levies in order to comply with the law and the new levy imposed on PCs, smartphones etc. Legal proceedings will follow for those who did not comply.



## TARIFFS

Blank Media	Tariff valid per 2019	Capacity
Digital storage media and devices	6%	All media with capacity equal or more than 4 GB



## GREECE

5/5



## TARIFFS

Devices/Hardware/Consumer electronics	Tariff valid per 2019
Pcs, tablets and smartphones	2%
Distant -based storage (NVPR, Cloud)*	N/A
Other: refurbishment (or remanufactured)	No such claims have been made yet



## REVENUES

EUR

2018

Total revenues

Cannot be provided yet





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# HUNGARY



9,775,564

GDP: 133.7 billion EUR

1/11

## CONTACT INFORMATION

<b>COUNTRY</b>	Hungary
<b>CURRENCY</b>	Hungarian forint (HUF)
<b>NAME ORGANIZATION</b>	ARTISJUS
<b>WEB SITE</b>	<a href="http://www.artisjus.hu">www.artisjus.hu</a>
<b>E-MAIL</b>	<a href="mailto:isponga@artisjus.com">isponga@artisjus.com</a>
<b>ADDRESS</b>	Mészáros u. 15-17.
<b>POSTCODE</b>	1016
<b>CITY</b>	Budapest
<b>PHONE</b>	+ 361 488 26 60
<b>FAX</b>	+ 361 212 1542



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	ARTISJUS Registration by the responsible public administration governmental office The Hungarian Intellectual Property Office to collect and distribute private copy remuneration (blank carrier levy).
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes i.e. devices with storage capacity Media: Yes
<b>TARIFFS</b>	Yes
<b>BENEFICIARIES</b>	Authors, performers, phonogram producers, film producers (for copying of works and other subject matters in audio and audiovisual formats).
<b>LIABLE</b>	Manufacturers and importers of devices with built-in media subject to the remuneration. Resellers, wholesalers and retailers (all domestic distributors) also bear a joint and several liability.



# HUNGARY

2/11



## OVERVIEW

### EXEMPTION

Export/professional use.

Statutory exemptions under the CA:

- media for professional purposes under the CA,
- export exemption under the CA (both: § 20 (3))

Exemptions according to the relevant ECJ decisions:

- professional use upfront exception in accordance with the Padawan decision as well as
- reimbursement provisions in accordance with the Amazon I. decision under the relevant Tariff Chart of Artisjus.

In addition, please see the terms and conditions of the exemptions provided for in the Tariff Chart.

[http://www.artisjus.hu/wp-content/uploads/2018/12/U19\\_Tarifa.pdf](http://www.artisjus.hu/wp-content/uploads/2018/12/U19_Tarifa.pdf)

### SOCIAL AND CULTURAL DEDUCTIONS

10 %

### TOTAL revenues from private copying levies in local currency

2015: HUF 6,842,039,420

2016: HUF 8,029,129,643

2017: HUF 8.645,362,953

2018: HUF 8,695,730,781

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Initial rates are set by rights owners' collective management organisations, based on a consumer research on private copying. The methodology of the research shall be consulted with the significant payers and their advocacy organizations. The rates, included in the tariff chart, are approved annually by the Ministry of Justice via the Hungarian Intellectual Property Office, after a consultation process with all the stakeholders.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

A consumer research on private copying is to be conducted annually according to the CA. The results of that research shall be taken into account in setting the rates. We use this research to follow the changes of consumer behavior in copying, including the estimation of the use of illegal sources in copying. Recently we have been moving from a purely user behavior approach to a harm-based one. This approach incorporates user patterns and market trends, and an estimation of the total harm to be compensated by the levy.



# HUNGARY

3/11

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Artisjus offers exemption to professional users under the Tariff Chart in accordance with the Padawan ruling. We provide upfront exemption from paying the levies. Persons other than the payer (professional buyer) of the levy may claim a reimbursement upon an assignment of the claim of the person who paid the levy.

Artisjus also provides exemption for natural persons (authors) who use the media for storing only their own content which are protected by copyright and the copyright holder is the person who claims for the reimbursement of the levy.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

There are no exempted products.

### EXEMPTION UPFRONT

It's possible to request an exemption form with a purchase invoice and end user sales invoice.

### REFUND AFTERWARDS

It's possible with sell or export invoice.

## COLLECTION PROCESS

### HOW COLLECTION IS ORGANIZED?

The CA provides for an obligation of reporting by the manufacturers and the first domestic distributors (importers). The reporting shall be done before the 10th day of each calendar month or before the due date of payment whichever is the earlier. If the reporting obligation is fulfilled, the CA provides for payment of statutory damages as a sanction.

### HOW FREQUENTLY IS PAYMENT DUE?

For importers it the due date is the 8th day after the import happens (for importers), or after stocking the goods in order to put them into circulation (for manufacturers).

### HOW DO YOU MONITOR THE MARKET?

We control the payment of the levies through the entire domestic distribution chain:

1. the payer shall apply a hologram stickers on each products, the stickers are provided after the payment, and they have distinctive serial numbers
2. In case of devices that have a unique IMEI number (mobile phones, tablets) the payer shall register the IMEI nr., through our online registration service
3. We practice regular audits in shops, markets, shopping malls, warehouses.
4. Artisjus regularly buys market data on the domestic turnover of key products to compare those with importer/distributor reports.



# HUNGARY

4/11

## COLLECTION PROCESS

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Cooperation in legal matters, on-the-spot checks and harm calculation.

### ARE EXPORTS EXEMPTED?

Exports are exempted by law. The detailed rules are not set by the CA. The conditions of upfront exemption or refund are in the Tariff Chart. According to the Tariff Chart ARTISJUS accepts refund claims when authentic invoices and delivery notes (EU exports), or statements of customs clearance, are submitted in conjunction with the clearance. The detailed rules are provided in the Tariff Chart.

### DEFINITION OF IMPORT

There is no definition for import in the law, however according to the CA importers are persons importing media free of customs duties or the persons placing them into domestic commercial circulation for the first time, as well as persons required by law to pay the customs duty for importing.

### WHO IS CONSIDERED IMPORTER?

The importer is the entity who puts the goods into circulation in Hungarian territory first, no matter whether the product comes from the internal market or outside the EU.

### ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?

There is one mobile phone importer who refused to pay. We won the case at first instant.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

ARTISJUS is responsible for the annual distribution of remunerations to the musical and literary rightsholders it represents. ARTISJUS transfers the shares of the other rightsholders' collective management organizations for further distribution (Shares of the different stakeholder groups are set by the CA.)

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

There are no maximum administrative costs by law.

The administrative costs are decided by the main decision maker bodies of the CMOs. The CMOs activities, including the setting of cost rates are under state supervision.

The percentage of administrative cost applied by ARTISJUS is 17% for collection and 10% for distribution for the members. No further deduction applies in ARTISJUS' distribution for the shares of the other rightsholders. CMO-s that receive their share from ARTISJUS under a statutory proportion might apply a deduction in connection with the distribution.



# HUNGARY

5/11

## DISTRIBUTION PROCESS

### FREQUENCY OF DISTRIBUTION

Annually

### WHICH RIGHTSHOLDERS ARE INCLUDED?

ARTISJUS distributes the levy for musical and literary rightsholders, including music publishers, it represents. Other collective management entities distribute to their rightsholders, as follows: performers, phonogram producers, film producers, visual artists; scriptwriters and cinematographic creators.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Setting of distribution schemes is a matter for rights owners. Distribution Rules are approved by the main decision maker bodies of the CMOs and they are subject to administrative supervision carried out by Hungarian Intellectual Property Office.

Distribution schemes applied by ARTISJUS are determined through an algorithm that connects private copy remuneration to other licensed measurable uses such as RTV broadcasting, mechanical reproduction, etc.

### DISTRIBUTION KEYS

#### Distribution scheme, audio:

45% Music and literary authors (rightsholders) (ARTISJUS)  
30% Performers (EJI)  
25% Producers (MAHASZ)

#### Distribution scheme, audio visual:

20% Music and literary authors (rightsholders) (ARTISJUS)  
13% Film producers (FILMJUS)  
22% Cinematographic creators (FILMJUS)  
4% Visual artists (HUNGART)  
16% Script writers (FILMJUS)  
25% Performers (EJI)



# HUNGARY

6/11

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

There is a social and cultural deduction.

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

Under the Act on Collective Management the delegates' assembly (equal to the general assembly) of the CMOs decides about the so called social cultural deductions and approves the bylaws called Social, Cultural and Professional Support Policy on the rules of how these deductions are used for the benefit of the rightsholders represented by that CMO. There is not provided an upper limit of cultural and social deductions in the Act on Collective Management.

Every CMO who takes part of the distribution of the blank carrier levy can make a deduction for such purposes and to set up its own supporting system. However, all the deductions for cultural purposes shall be transferred to the National Cultural Fund in Hungary.

The cultural funds are used in accordance with the law on and the internal rules of the National Cultural Fund and the use shall be in line with the Social, Cultural and Professional Support Policy of the CMO. The use is based on support purposes, applications and decisions of the responsible body of the Fund. The supported artists must account with the financial support granted. The social fund is used in the framework set up by each CMO.

For Artisjus the authorization for the social and cultural deductions is provided for in III.2.8 of the Statutes, its included in the membership (mandate) agreements and the upper limit of the deductions is set as 10% according to the conditions of our RRAs concluded with foreign CMOs. The deduction at ARTISJUS applies to only that proportion of the levy which are distributed to the rightsholders directly by Artisjus.

The current deductions are. 7% for cultural support that has to be transferred to the National Cultural Fund, and 3% for social support which is used via Artisjus' foundations. The foundations have detailed rules on the application for and granting of financial grants and defines who can apply for a social grant. All data of the use of the social and cultural deductions are public.

Under the Act on Collective Management on the top of any distribution of the levies the 25% of the total collection shall be transferred to the National Cultural Fund, which uses it for cultural purposes according to the laws and its internal rules. For this part the Social, Cultural and Professional Support Policies of the CMOs do not apply.



# HUNGARY

7/11



## LEGAL BASIS

### EXCEPTION AND LEVY

Copyright Act LXXVI of 1999 ("CA"). Under Art. 20 (1) and (2) CA the definition reads as follows:

The private copy remuneration shall be due, on the private purpose copying of their works, performances, films and sound recordings, to the authors of works, the performers of performances, and the producers of films, and sound recordings that are broadcast in radio programmes and television organizations, included in the programmes of the entities communicating their own programmes to the public by cable, and released for distribution on audio visual or audio carriers.

Under Art. 20 (3) of the CA:

The obligation to pay pre-emption does not apply to the following.

- a) Marketing for the purpose of export
- b) Video and audio media that are used only for equipment (e. g. studio equipment, Dictaphones) that is not normally used for making copies - for private purposes - of works, artistic performances, or phonograms.

### LEVY

The remuneration shall be determined by the responsible collective management organization (ARTISJUS) in agreement with the other affected collective management organizations representing film authors, film producers, visual artists, performers, sound recording producers. The remunerations are to be included into a Tariff Chart that is subject to government approval.

### COLLECTION AND DISTRIBUTION SYSTEMS

ARTISJUS has been appointed to collect the private copy remuneration according to the CA. Artisjus transfers the proportions of the collected amount as prescribed in the CA to the CMOs representing the other rightsholders. Each CMO distributes the amounts to its direct members according to its distribution rules.



## COMMENTS/DEVELOPMENTS

The law on private copy remuneration was not amended in the last few years.

## COURT CASES

ARTISJUS won two significant lawsuits against manufacturers of mobile phones which has formed the legal basis of collecting remuneration for the media storage built in mobile phones and tablets, and for the blank memory cards used in mobile phones. Based on the final verdict, the parties entered a settlement and the opposing parties paid in accordance with the settlement.



# HUNGARY

8/11



## TARIFFS

Blank Media	Tariff HUF [01 January 2019]	Capacity
Audiocassette	25	Per unit
Videocassette	60	Per unit
Optical Storage media	Tariff HUF [01 January 2019]	Capacity
CD-R, CD-RW	13	<300 MB
DATA CD-R/RW	37	<700 MB
DATA CD-R/RW	54	> 700 MB
Audio CD	54	Per unit
Minidisc	64	Per unit
DVD-R/+R/RW	13	< 4.7 GB
DVD-R/+R/RW	56	4.7 GB
DVD RAM	56	4.7 GB
DVD double layer	135	< 9.4 GB
Other high capacity optical disc (e.g. Blu ray disc)	Tariff HUF [01 January 2019]	Capacity
	65	4.7 GB
	155	4.7 GB – 9.4 GB
	259	9.4 GB – 15 GB
	345	15 GB – 25 GB
	432	25 GB – 50 GB
	603	50 GB – 100 GB
	690	100 GB – 200 GB
	733	> 200 GB
Flash Media	Tariff HUF [01 January 2019]	Capacity
Flash Media	78	< 1 GB



# HUNGARY

9/11



## TARIFFS

USB Stick, Pendrive, External SSD	[01 January 2019] HUF	Capacity
USB Stick, Pendrive, External SSD	155	1 GB – 2 GB
	311	2 GB – 4 GB
	465	4 GB – 8 GB
	932	8 GB – 16 GB
	1,500	16 GB – 32 GB
	1,800	32 GB – 64 GB
	1,900	64 GB – 128 GB
	2,000	> 128 GB

Devices with built in storage media	[01 January 2019] HUF	Capacity
Hardware, PC, HDD	-	-
External HDD	1,147	< 250 GB
	1,625	250 GB – 500 GB
	2,103	500 GB – 1 TB
	2,581	1 TB – 2 TB
	4,302	> 2 TB
MP3-player	1,403	< 2 GB
	2,338	2 GB – 4 GB
	3,117	4 GB – 8 GB
	4,676	8 GB – 16 GB
	5,455	16 GB – 32 GB
	6,234	32 GB – 64 GB
	7,013	> 64 GB
Memory card	140	< 1 GB
	281	1 GB – 2 GB
	468	2 GB – 4 GB
	700	4 GB – 8 GB
	1,100	8 GB – 16 GB
	1,700	16 GB – 32 GB
	2,300	32 GB – 64 GB
	2,800	64 GB – 128 GB
	3,181	> 128 GB



## HUNGARY

10/11



## TARIFFS

Consumer electronics with built in storage media	[01 January 2019] HUF	Capacity
Storage capacity integrated into electronic devices for storing audio and/or audio-visual content*	2,660	< 80 GB
	3,325	80 GB – 160 GB
	4,654	160 GB – 250 GB
	5,985	> 250GB
Mobile Phones	319	< 1 GB
	642	1 GB – 2 GB
	1,069	2 GB – 4 GB
	1,426	4 GB – 8 GB
	2,139	8 GB – 16 GB
	2,495	16 GB – 32 GB
	2,852	32 GB – 64 GB
	3,208	64 Gb – 128 GB
	3,685	128 GB -256 GB
	4,000	256 GB – 512 GB
	4,788	> 512 GB
Tablets	319	< 256 MB
	532	256 MB – 512 MB
	798	512 MB – 1 GB
	958	1 GB – 2 GB
	1,596	2 GB – 4 GB
	2,128	4 GB – 8 GB
	3,192	8 GB – 16 GB
	3,724	16 GB – 32 GB
	4,256	32 GB – 64 GB
	4,788	> 64 GB

Additional Comments:

\*e.g. video recorders with integrated memory, DVD recorders/burners with integrated memory, televisions with integrated memory, set top boxes and satellite receivers with integrated memory.

Distant -based storage (NVPR, Cloud)\*

No

Other: refurbishment (or remanufactured)

There are no provisions for refurbished products



## HUNGARY

11/11



## REVENUES

## MEDIA/DEVICES

BLANK MEDIA (HUF)	2015	2016	2017	2018
Audiocassette	1,392,251.50	349,725.00	285,100.00	159,525.00
Videocassette	2,246,280.41	1,451,520.00	250,560.00	49,920.00
Optical Storage media				
Data-CD R/RW	122,492,896.46	94,172,698.00	70,841,545.00	58,701,874.00
Audio CD	420,800.10	273,920.00	201,408.00	388,672.00
Minidisc	3,199.28	640.00	0	0
DVD+/-R/RW, DVD RAM	125,713,616.57	103,912,020.00	69,309,058.00	55,458,993.00
Other high capacity optical discs (e.g. Blu ray)	2,494,574.32	3,573,078.00	2,122,099.00	4,539,885.00
FLASH MEDIA (HUF)	2015	2016	2017	2018
USB Stick, Pendrive, External SSD	882,529,774.29	791,181,243.00	838,307,110.00	853,507,465.00
DEVICES (HUF)	2015	2016	2017	2018
Hardware, PC, HDD	-	-	-	-
External HDD	338,428,301.45	319,547,188.00	339,165,400.00	374,574,383.00
MP3-player	75,564,909.04	49,628,312.00	40,581,141.00	68,988,842.00
Memory card	854,202,392.70	890,147,762.00	885,836,438.00	804,028,651.00
CONSUMER ELECTRONICS (HUF)	2015	2016	2017	2018
Storage capacity integrated into electronic devices for storing audio and/or audio-visual content*	177,080,265.10	509,484,057.00	5,320.00	161,698,785.00
Mobile Phones**	3,335,139,300.48	4,261,667,236.00	5,534,377,132.00	5,363,414,034.00
Tablets	915,027,836.15	970,691,401.00	827,064,033.00	919,363,905.00
<b>TOTAL</b>	<b>6,832,736,397.86</b>	<b>7,996,080,800.00</b>	<b>8,608,346,344.00</b>	<b>8,664,874,934.00</b>





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# ICELAND



352,721

GDP: 21.8 billion EUR

1/3

## CONTACT INFORMATION

<b>COUNTRY</b>	Iceland
<b>CURRENCY</b>	Icelandic Krona (ISK)
<b>NAME ORGANIZATION</b>	IHM (Innheimtumidstof retthafa)
<b>WEB SITE</b>	www.ihm.is
<b>E-MAIL</b>	ihm@ihm.is
<b>ADDRESS</b>	Laugavegur 77
<b>POSTCODE</b>	101
<b>CITY</b>	Reykjavik
<b>PHONE</b>	5150200



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Ministry of Education and Culture
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: No Media: No
<b>TARIFFS</b>	The government has implemented a system of pseudo-levies and tariffs, whereas the annual remuneration is paid and funded by the state, but the amount is decided considering the numbers of imported equipment and media with storage capacity.
<b>BENEFICIARIES</b>	All copyright holders
<b>LIABLE</b>	NA – see above note on tariffs
<b>EXEMPTION</b>	Yes
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No
<b>TOTAL revenues from private copying levies in local currency</b>	2015: ISK 7,900,754 2016: ISK 4,956,089 2017: ISK 182,084,045 2018: ISK 233,300,520

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The amount is determined by the number of imported equipment and media. Each type of imported equipment or media is assigned a monetary value, the annual numbers for import of that equipment and media is then used to determine the amount of the annual remuneration.



# ICELAND

2/3

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

No collection – remuneration is paid as decided by the government.

### HOW FREQUENTLY IS PAYMENT DUE?

Annually

### HOW DO YOU MONITOR THE MARKET?

Every three years, a government committee shall evaluate what constitutes fair compensation and give its recommendation to the Minister of Education and Culture. The evaluation shall be based on information from the customs on import of certain media with storage capacity.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Yes, but only as stipulated above in getting information to evaluate fair compensation.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

IHM (Innheimtumiðstöð réttthafa)

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No

### FREQUENCY OF DISTRIBUTION

Annually

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Authors, performers and producers of: audio and audio-visual works, written news, visual works.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Current scheme is determined by recent years distribution, which were determined by the number of imported blank tapes, blank CDs and blank DVDs.

### DISTRIBUTION KEYS

N/A

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

No



# ICELAND

3/3



## LEGAL BASIS

### EXCEPTION AND LEVY

Art. 11 of the Icelandic Copyright Act no. 73/1972 amended 2016:

Article 11 is amended as follows:

Article 1

a. The third paragraph is amended to read as follows:

The authors of works which have been broadcast, made accessible to the public in a manner enabling individual persons to gain access to the works wherever, whenever and through whatever device they choose, or released as audio or audiovisual recordings, are entitled to fair compensation for the reproduction of the works for private use. The compensation is to be paid annually to collective management organizations from an appropriation in the National Budget. The payment should constitute a fair compensation for the reproduction of the abovementioned works for private use, and should be calculated as the following percentages of the customs value of tapes, hard disks, optical disks or other storage media, whatever their form, capable of being used to make analogue or digital recordings of sound or images, as well as of devices intended to be used to make such recordings for private use and which have been imported into, or manufactured in, Iceland in the past year.

### LEVY

N/A

### COLLECTION AND DISTRIBUTION SYSTEMS

Art. 11 of the Icelandic Copyright Act no. 73/1972

The fourth paragraph is amended to read as follows:

The compensation referred to in the third paragraph is to be paid to collective management organizations which have been recognized by the Minister as competent to exercise such rights on behalf of authors. The organizations shall distribute the compensation to their member associations, after deducting a reasonable administration fee. The recognition of collective management organizations pursuant to this Article is governed by the procedural rules of Article 26a, fourth paragraph, and any rules issued on the basis thereof. The resolution committee set up pursuant to Article 57 shall, at intervals no longer than three years, review the basis used to calculate fair compensation pursuant to the third paragraph, and submit any proposals for changes to the Minister.



## COMMENTS/DEVELOPMENTS

In 2017, the government decided to increase funding substantially to IHM for the sole purpose of remunerating copyright holders for private copying.



## REVENUES

(ISK)	2015	2016	2017	2018
Government funding	7,900,754	4,956,089	182,084,045	233,300,520
<b>TOTAL REVENUES</b>	<b>7,900,754</b>	<b>4,956,089</b>	<b>182,084,045</b>	<b>233,300,520</b>





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# ITALY



60,421,760

GDP: 1,766.2 billion EUR

1/9

## CONTACT INFORMATION

<b>COUNTRY</b>	Italy
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANISATION</b>	S.I.A.E. – Società Italiana degli Autori ed Editori
<b>WEB SITE</b>	<a href="http://www.siae.it">http://www.siae.it</a>
<b>E-MAIL</b>	<a href="mailto:copiaprivata@siae.it">copiaprivata@siae.it</a>
<b>ADDRESS</b>	Viale della Letteratura, 30
<b>POSTCODE</b>	00144
<b>CITY</b>	Rome
<b>PHONE</b>	+39 06 59903577/2686



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	S.I.A.E. – Società Italiana degli Autori ed Editori, Italian Copyright Law (L. 633/41 – Art. 71-septies)
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Tariffs - set by Ministerial Decree in 2014 - are currently in force.
<b>BENEFICIARIES</b>	Rightsholders are identified by Copyright Law (art. 71-octies): audio and video authors, producers and performers.
<b>LIABLE</b>	Manufacturers and importers that sell carriers and devices in Italy. Distributors are jointly and severally liable if manufacturer/importer don't fulfil the obligation to pay.
<b>EXEMPTION</b>	Yes, for export, professional use and any use manifestly unrelated to private copy. In 2017 Council of State (2nd grade of Italian Administrative Court) has annulled the art. 4 of Ministerial Decree that regulated exemptions. We are waiting for new ministerial decree to set new rules about this matter.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	10% of collected remunerations is intended for cultural promotion activities (new paragraph 3. Introduced last December 2015). 50% of the video distribution scheme assigned to performing artists is dedicated to study and research activities as well as to the promotion, training and professional support for artists and performers.
<b>TOTAL revenues from private copying levies in local currency</b>	2015: EUR 129,630,285.64 2016: EUR 127,585,474.56 2017: EUR 129,374,844.07 2018: EUR 127,667,660.87



# ITALY

2/9

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Remuneration for Private Copying, according to the second paragraph of Art. 71-septies of the Italian Copyright Law, is set by decree of the Minister of Culture and the National Heritage (subject to a three yearly update) and issued following the advice expressed by the Permanent Consulting Committee for Authors' Right (Art. 190 of Copyright Law). The last Decree that set tariffs in force was in 2014.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

Among the elements considered in the approval procedure of the Decree, there was a poll regarding consumer behavior in private copying and a market research on the sales of the subjected products. Furthermore, other criteria are considered, e.g. the difference between legal and illegal copies, the source of the copy and the harm caused by copying.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

For professional use there is both a refund system and upfront exemptions.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

Products sold directly to Public Administration; Videogames consoles; Memory Cards with capacity 0-32 MB; USB stick with capacity 0-256 MB; Memory included in car black box.  
As regards refurbished products, importer that sells them in Italy for the first time have to pay levy.

### EXEMPTION UPFRONT

The part of Ministerial Decree (art. 4 of Technical Annex) that established the rules for exemptions and refunds has been cancelled by Council of State (2nd grade of Italian administrative court). We are waiting for Minister to set new rules.

### REFUND AFTERWARDS

Also, third parties are eligible for refund.  
Minister has to set criteria and new rules about reimbursement system.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Importers and producers have to contact SIAE to report their sales of carriers and devices.

### HOW FREQUENTLY IS PAYMENT DUE?

Manufacturers and importers have to report their sales and pay levies quarterly.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Yes, SIAE made an agreement with Agenzia delle Dogane.



# ITALY

3/9

## COLLECTION PROCESS

### ARE EXPORTS EXEMPTED?

Manufacturers or importers that sells directly abroad are exempted. Exporters who paid private copy levies in Italy can claim a refund for paid levies.

### DEFINITION OF IMPORT

According to Ministerial Decree (art. 1 of Technical Annex) there is a definition of importer that you can see in next question.

### WHO IS CONSIDERED IMPORTER?

The importer is the person who buys foreign products which are subject to levies and sells them in Italy, or a foreign company that sells products directly to final users (e.g. via e-commerce).

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

According to Italian Copyright Law (Art. 71-octies L. 633/41), S.I.A.E. distributes to audio and video authors, audio and video producers and audio and video performers directly and through organizations of rights holders.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

According to Italian law, SIAE must distribute the amount collected minus the costs incurred. No maximum percentage established by law.

### FREQUENCY OF DISTRIBUTION

SIAE distributes the collected remunerations semi-annually directly to authors. Every organizations of rights holders (producers and performers) have its own terms.

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Audio and video authors, audio and video producers and audio and video performers.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Distribution schemes are set and determined by law (Art. 71-octies L. 633/41).

### DISTRIBUTION KEYS

#### Distribution scheme, audio:

50% authors.

50% producers and performers: half to be paid from producers to performers.

#### Distribution scheme, video:

30% to the authors.

70% in three equal parts to the original producers of audio-visual works, to the producers of videograms, to performing artists.



# ITALY

4/9

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

Art. 71-octies of Copyright Law (L.633/41) states that

- 10% of collected remunerations is intended for cultural promotion activities (new paragraph 3. Introduced last December 2015).
- 50% of the video distribution scheme assigned to Video performing artists is dedicated to study and research activities as well as to the promotion, training and professional support for artists and performers.

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

- Minister of Culture and National Heritage establishes criteria for distribution of the cultural deductions (10%);
- Associations of artists and performers are responsible for the allocation of funds to artist and performers.



## LEGAL BASIS

### EXCEPTION

Copyright Law (L. 633/41 art. 71-septies); Legislative Decree n. 68, April 9th 2003 (effective April 29th, 2003) Decree of Minister of Culture and National Heritage of June 20th, 2014 (effective July 7th, 2014).

The exception applies only when the source is legal – Italian Copyright Law allows private copy of protected works if the sources of those works are legal.

Italian Copyright Law (Art.71-sexies) allows reproductions made by a natural person for private use, non-profit making and for purposes that are neither directly nor indirectly commercial

1. Private reproduction of phonograms and videograms on any carrier is permitted on condition that it is carried out by natural person with the sole purpose of personal use and provided that it has not a gainful intent, nor does it have direct or indirect commercial purposes and in compliance with the technological measures under art.102-quater.
2. The reproduction under paragraph 1 shall not be carried out by a third party. The supply of services for the purpose of enabling the reproduction of phonograms and videograms by a natural person for personal use shall constitute an act of reproduction and shall be subject to the provisions pursuant to articles 13, 72, 78-bis, 79 and 80.
3. The provision under paragraph 1 does not apply to protected works and subject matter made available to the public in such a way that members of the public may access them from a place and at a time individually chosen by them, when the work is protected by the technological measures under art. 102- quater or when the access is permitted on the basis of agreed contractual terms.
4. Without prejudice to the provisions under paragraph 3, rightsholders must allow that, notwithstanding the application of technological measures under art.102-quater, the natural person who has acquired legal possession of copies of the protected works or of protected subject matters, or has legally accessed them, may make a private copy, which can also be just an analogue copy, for personal use, on condition that this act does not conflict with the normal exploitation of the work or of the other subject-matter and does not unreasonably prejudice the rightsholders.



# ITALY

5/9



## LEGAL BASIS

### LEVY

**Article 71sexies Law for the Protection of Copyright and Neighboring Rights (Law No. 633 of April 22, 1941, as last amended up to 2003).**

1. Authors and producers of phonograms, as well as original producers of audiovisual works, performing artists and producers of videograms and their successors in title, are entitled to receive a remuneration for the private reproduction of the phonograms and videograms under art.71-sexies. In respect of the devices solely meant for the analogue or digital recording of phonograms or videograms, this remuneration shall consist of a percentage on the price paid by the retailer or of a fixed amount for each device. For multifunctional devices, the remuneration is based on the price of a device which has features equivalent to the internal recording component or, when it is not feasible, it shall consist of a fixed amount for each device. As to audio and video recording media, such as analogue carriers, digital carriers, fixed or removable memories which are meant for the recording of phonograms and videograms, the level of the remuneration shall take full account of the recording capacity of each medium.

2. The remuneration under paragraph 1 shall be determined by a decree of the Minister of Culture, after hearing the Committee under art.190 and the most representative trade associations of manufacturers of devices and media under paragraph 1.

For the purpose of determining the level of the remuneration, the application or non-application of the technological measures under art.102-quater shall be taken into account; to the same purpose it shall also be considered the different impact of digital copying in comparison to analogue copying. The decree shall be submitted to revision every three years.

3. The remuneration is due by the persons who manufacture or import.

In the territory of the State for commercial purposes, the devices and media referred to in paragraph 1. The above persons shall quarterly submit to the Italian Society of Authors and Publishers a statement of the sales made and of the remuneration due; this latter must be paid upon presentation of the statement.

In the event the remuneration is not paid, the distributor of the recording devices and media shall be jointly liable for its payment.

4. In the event the obligations under paragraph 3 are not fulfilled, or when there is serious evidence that the above statement is untruthful, the Italian Society of Authors and Publishers (S.I.A.E.) may ask the judge to be shown the accounting books of the defaulter, or it may also require that the judge oblige this latter to supply all the prescribed documentation.

### COLLECTION AND DISTRIBUTION SYSTEM

1. The remuneration referred to in art.71-septies from audio recording devices and media shall be paid to the Italian Society of Authors and Publishers which shall distribute it, net of expenses, in the measure of the 50% to the authors and successors in title and for the remaining 50% to the phonogram producers, also through their most representative trade associations.

2. The phonograms producers shall pay to the concerned performing artists 50% of the remuneration they have received, pursuant to paragraph 1, without delay and not later than a period of six months.

3. The compensation under art.71-septies from video recording devices and media shall be paid to the Italian Society of Authors and Publishers, which shall distribute it, net of expenses, also through their most representative trade associations, in the measure of 30% to the authors and the remaining 70%, unequal shares, to the original producers of audiovisual works, to the producers of videograms and to the performing artists. The amount received by the performing artists shall be allocated in the measure of 50% to the activities and purposes referred to in art. 7, paragraph 2, of the law 5 Feb, 1992, no. 93.

## COURT CASES

The judgment of Council of State about Decree 30.12.2009 confirmed Italian PC system but has cancelled art. 4 about exemption. The case against the Decree 20.6.2014 is underway in the Italian 1st Grade Administrative Court (T.A.R.).



## ITALY

6/9



## COMMENTS/DEVELOPMENTS

Decree of Minister of Culture and National Heritage that set tariff is in force since 20.6.2014.



## TARIFFS

Blank Media	Tariff valid from July 7th, 2014 (EUR)	Capacity
Audiocassette	0.23	1 hour
Audio CD-R/RW	0.22	1 hour
Minidisc	0.22	1 hour
Videocassette	0.10	1 hour
D-VHS	0.22	1 hour
Optical Storage media		
Data CD-R/RW	0.10	700 MB
DVD+R/RW	0.20	4.7 GB
DVD-R/RW	0.20	4.7 GB
DVD Ram/DL	0.20	4.7 GB
Blu Ray/RW	0.20	25 GB
Flash Media		
Memory Card	0.00	0-32 MB
	0.09/GB	>32 MB to <5 GB
	0.09/GB	5 GB and more
USB Stick	0.00	0-256 MB
	0.10/GB	>256 MB to <4 GB
	0.10/GB	4 GB and more
Devices Hardware, PC, HDD		
External HDD	0.01/GB	1 GB and more



## ITALY

7/9



## TARIFFS

Devices Hardware, PC, HDD	Tariff valid from July 7th, 2014(EUR)	Capacity
External HDD	0.01/GB	1 GB and more
Memory or Hard disk inserted into a multimedia (audio/video) Walkman or other multimedia devices	3.22	to 1 GB
	3.86	>1 to 5 GB
	4.51	>5 to 10 GB
	5.15	>10 to 20 GB
	6.44	>20 to 40 GB
	9.66	>40 to 80 GB
	12.88	>80 to 120 GB
	16.10	>120 to 160 GB
	22.54	>160 to 250 GB
	28.98	>250 to <400 GB
	32.20	400 GB and more
Memory or Hard Disk inserted into MP3 Music Player or other Hi-Fi devices	0.64	up to 128 MB
	2.21	>128 MB to 512 MB
	3.22	>512 MB to 1 GB
	5.15	>1 GB to 5 GB
	6.44	>5 GB to 10 GB
	7.73	>10 GB to 15 GB
	9.66	>15 GB to <20 GB
	12.88	20 GB and more
Multimedia external Hard Disk with Audio/Video OUT plugs allowing the display of audio/video content on a TV or Hi-Fi device	4.51	up to 80 GB
	6.44	>80 GB to 120 GB
	7.73	>120 GB to 160 GB
	10.42	>160 GB to 250 GB
	12.88	>250 GB to 400 GB
	14.81	>400 GB to <700 GB
14.81 will increase by 1.84 every 200 GB		700 GB and more



## ITALY

8/9



## TARIFFS

Devices Hardware, PC, HDD	Tariff valid from July 7th, 2014(EUR)	Capacity
Multimedia external Hard Disk with Audio/Video IN & OUT plugs allowing the recording and display of audio/video content on a TV or Hi-Fi device	Cancelled	
Memory or Hard Disk inserted into a video recorder, a decoder or a TV	6.44	up to 40 GB
	9.66	>40 GB to 80 GB
	12.88	>80 GB to 120 GB
	16.10	>120 GB to 160 GB
	22.54	>160 GB to 250 GB
	28.98	>250 GB to 400 GB
	32.20	>400 GB and more
Memory or Hard Disk inserted in other devices not included in previous categories allowing the recording and display of audio or video content	0.64	up to 256 MB
	0.97	>256 MB to 384 MB
	1.29	>384 MB to 512 MB
	1.61	>512 MB to 1 GB
	1.93	>1 GB to 5 GB
	2.25	>5 GB to 10 GB
	2.58	>10 GB to 20 GB
	3.22	>20 GB to 40 GB
	4.83	>40 GB to 80 GB
	6.44	>80 GB to 120 GB
	8.05	>120 GB to 160 GB
	11.27	>160 GB to 250 GB
	14.49	>250 GB to 400 GB
	16.10	>400 GB and more
Computer with integrated burner	5.20	per piece
Computer without integrated burner	5.20	per piece
Recording devices with no integrated memory or hard disk	5% of price	



## ITALY

9/9



## TARIFFS

Mobile Phones	Tariff valid from July 7th, 2014(EUR)	Capacity
Memory or Hard disk inserted into devices having communication as main purpose (mobile phone)	0.50	per piece
Memory or Hard disk inserted into smartphone and tablet	3.00	up to 8 GB
	4.00	>8 GB to 16 GB
	4.80	>16 GB to 32 GB
	5.20	>32 GB and more
Tv with no internal HDD and with recording function	4.00	per piece



## REVENUES

BLANK MEDIA (EUR)	2015	2016	2017	2018
Audiocassette	52,193	51,389	39,308	28,163
Videocassette	312,487	1,180	732	364
OPTICAL STORAGE MEDIA (EUR)	2015	2016	2017	2018
CD-R	1,128,266	989,848	1,125,404	669,549
DVD-R	1,236,704	1,238,027	1,042,628	747,212
Blu-ray	10,443	15,765	13,436	11,328
DEVICES (EUR)	2015	2016	2017	2018
External HDD	5,024,548	4,072,580	2,461,486	4,450,149
Computer + Tablet	26,179,738	23,394,727	20,801,687	18,331,346
DVD Writer and recorder	327,074	265,585	262,349	223,674
CD Writer and recorder	9,301	34,093	6,677	8,036
MP3 Player	1,166,868	1,102,868	629,982	301,872
Other Audio Recording Equipment	126,847	134,023	118,074	132,946
Other Video Recording Equipment	8,435,149	7,117,157	5,627,557	9,900,267
Mobile phones+ Smartphones	69,485,340	70,175,626	80,753,002	78,406,857
<b>TOTAL</b>	<b>129,630,285</b>	<b>127,585,474</b>	<b>129,374,844</b>	<b>127,667,660</b>

In Other Video Recording Equipment are included Memory/Hard Disks integrated into Decoders/TVs, Media Centres, MP4 Players and TV with recording function.

## EXPLANATION ON DEVELOPMENTS

In the last three years the trend can be defined as basically stable.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# LATVIA



1,927,174

GDP: 29.1 billion EUR

1/5

## CONTACT INFORMATION

<b>COUNTRY</b>	Latvia
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANIZATION</b>	AKKA/LAA
<b>WEB SITE</b>	www.akka-laa.lv
<b>E-MAIL</b>	info@akka-laa.lv
<b>ADDRESS</b>	A.Caka Street 97
<b>POSTCODE</b>	LV- 1011
<b>CITY</b>	Riga
<b>PHONE</b>	37167506131
<b>FAX</b>	37167315620



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Copyright Law, Cabinet Regulation No.321.
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Yes
<b>BENEFICIARIES</b>	Authors, performers, phonogram producers and film producers.
<b>LIABLE</b>	Importers/manufacturers
<b>EXEMPTION</b>	Export/professional use
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	Yes
<b>TOTAL revenues from private copying levies in local currency</b>	2015: EUR 329,306.15 2016: EUR 302,299.35 2017: EUR 326,461.22 2018: EUR 543,916.03

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Levies are determined by Copyright Law, Cabinet Regulation No.321 through negotiations between all interested parties under the guidance of Ministry of Culture.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

No criteria are used.



## LATVIA

2/5

## EXEMPTION AND REFUND

**ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?**

Professional users are refunded.

**ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?**

Hard discs, memory cards and mobile phones with mp3, all analogue devices and carriers are not levied. Yes, they are levied when imported. After they are sold to the professional users they reimbursed.

**EXEMPTION UPFRONT**

None

**REFUND AFTERWARDS**

They get a refund for carriers which have been exported or sold to professional users.

For exported carriers we trust that Importers are giving us correct information, but if there are any doubt, we ask for invoices proving fact of export.

Refunds for carriers sold to professional users are only for those that are registered in our system as a professional user and give us monthly reports.

## COLLECTION PROCESS

**HOW IS COLLECTION ORGANIZED?**

Copyright Law, Cabinet Regulation No.321 state that importers are obligated to report and pay the blank tape levy. So, the Importer must come to us. Of course, we are monitoring the market and looking for importers who haven't done this.

**HOW FREQUENTLY IS PAYMENT DUE?**

Payment is due monthly.

**HOW DO YOU MONITOR THE MARKET?**

AKKA/LAA carries out regular inspections to business places and storehouses. Sometimes AKKA/LAA cooperates with police authorities.

**COLLABORATION WITH TAX AUTHORITIES/CUSTOMS**

No

**ARE EXPORTS EXEMPTED?**

Exports are exempted and exporters receive a refund.

**DEFINITION OF IMPORT**

No

**WHO IS CONSIDERED IMPORTER?**

All companies which import the levied goods in Latvia territory.



# LATVIA

3/5

## COLLECTION PROCESS

**ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?**

Strong opposition of importers

## DISTRIBUTION PROCESS

**WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS**

AKKA/LAA distributes the collected remuneration yearly to its rightsholders: authors and distributes the fees to neighboring rights societies who perform further distribution to their represented rightsholders: performers, phonogram producers and film producers.

**IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?**

Deducted from copying remunerations, before approved by right holder organizations.

**FREQUENCY OF DISTRIBUTION**

Annually

**WHICH RIGHTS HOLDERS ARE INCLUDED?**

Authors, performers, phonogram producers and film producers.

**HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?**

Distribution schemes for different rights holders: authors, performers, phonogram producers and film producers are set up and approved by the Ministry of Culture after consultations with the working group of rights owners and importers.

**DISTRIBUTION KEYS**

Authors – 38.66%  
Performers – 30.67%  
Phonogram producers – 24 %  
Film producers – 6.67%

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

**IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?**

For musical authors, according to the reciprocal representation agreements, 10% deductions for the Cultural and Educational Fund are possible.

**WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT**

For educational and cultural purposes only.



# LATVIA

4/5



## LEGAL BASIS

### EXCEPTION

#### Article 34 of the Copyright Law of 2000 (as amended up to 2014)

(1) Without the permission of the author, a natural person shall be permitted to reproduce (including in a digital format) in one copy works that have been included in lawfully acquired films or phonograms or in other form of expression that is to be protected, as well as visual works for personal use without direct or indirect commercial purpose. Third persons shall not be involved in the production of such copy. The author is entitled to receive a fair compensation (blank tape levy) for the production of such copy.

### LEVY

#### Article 34 of the Copyright Law of 2000 (as amended up to 2014)

(1) Without the permission of the author, a natural person shall be permitted to reproduce (including in a digital format) in one copy works that have been included in lawfully acquired films or phonograms or in other form of expression that is to be protected, as well as visual works for personal use without direct or indirect commercial purpose. Third persons shall not be involved in the production of such copy. The author is entitled to receive a fair compensation (blank tape levy) for the production of such copy.

(2) The blank tape levy for reproduction for personal use shall be paid by manufacturers and persons who import into Latvia equipment used in such reproduction and blank recording media (audio recording cassettes, videotapes or video cassettes, laser discs, compact discs, minidisks and the like).

(3) The blank tape levy shall not be paid if the equipment and blank recording media referred to in Paragraph two of this Section is imported for professional use by broadcasting organizations or the equipment and blank recording media are imported wholesale for reproduction of works for commercial purposes, as well as where natural persons import such equipment and blank recording media for non-commercial purposes.

(4) If the equipment and blank recording media referred to in Paragraph two of this Section are exported unused from Latvia, persons who have paid the blank tape levy have the right to receive it back.

(5) The seller of the equipment and blank recording media referred to in Paragraph two of this Section, on the basis of a request from a collective management organization, has a duty to prove that the blank tape levy for the referred to equipment and blank recording media has been paid.

(6) If a seller cannot prove that the blank tape levy has been paid, the seller shall pay such levy. In such case, the seller is entitled to bring a subrogation action against the manufacturer or the person who imported the referred to equipment and blank recording media into Latvia.

(..)

(8) The provisions of this Section shall not apply to computer programs and data bases.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Article 34 of the Copyright Law of 2000 (as amended up to 2014)

(7) The amount of the blank tape levy, procedures for collection, repayment and payment of the levy, as well as proportional distribution among authors, performers and phonogram and film producers shall be determined by the Cabinet.



## LATVIA

5/5



## COMMENTS/DEVELOPMENTS

Each year consultations in working group about including new devices into levy scheme.  
Increase in 2018 mainly because of gathering data about importers and collecting revenues from those who haven't paid when importing blank media or devices.



## TARIFFS

Blank Media	Tariff valid from 01.11.2013 (EUR)
Optical Storage media	
CD	6 % *
DVD	6 % *
Flash Media	
USB Flash drive	4% *

Devices	Tariff (EUR)
All types of PCs	2.85

\*Percentage from sale prices.

Distant -based storage (NVPR, Cloud)	No
Other: refurbishment (or remanufactured)	No



## REVENUES

BLANK MEDIA (EUR)	2015	2016	2017	2018
Minidiscs				
CD-R/RW	59,76.79	4,524.92	4,039.71	3,311.54
DVD-R/RW	5,030.58	3,396.23	2,472.30	1,367.94
USB Flash drive	27,459.13	25,397.30	20,699.21	37,300.54
DEVICES (EUR)	2015	2016	2017	2018
All types of PCs	290,839.65	268,680.90	299,250	503,053.50
TOTAL	329,306.15	302,299.35	326,461.22	543,916.03





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# LIECHTENSTEIN



37,910

GDP: 5.8 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Liechtenstein
<b>CURRENCY</b>	Swiss franc (CHF)
<b>NAME ORGANISATION</b>	SUISA
<b>WEB SITE</b>	<a href="http://www.suisa.ch">www.suisa.ch</a>
<b>E-MAIL</b>	<a href="mailto:Anke.link@suisa.ch">Anke.link@suisa.ch</a>
<b>ADDRESS</b>	Bellariastrasse 82
<b>POSTCODE</b>	8038
<b>CITY</b>	Zürich
<b>PHONE</b>	+41 44 485 66 66
<b>FAX</b>	+41 44 481 67 44



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Same as in Switzerland
<b>EXCEPTION</b>	Same as in Switzerland
<b>LEVY</b>	Same as in Switzerland
<b>TARIFFS</b>	Same as in Switzerland
<b>BENEFICIARIES</b>	Same as in Switzerland
<b>LIABLE</b>	Same as in Switzerland
<b>EXEMPTION</b>	Same as in Switzerland
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	Same as in Switzerland
<b>TOTAL</b> revenues from private copying levies in local currency	Included in collections for Switzerland



## LEGAL BASIS

**EXCEPTION AND LEVY**

**LEVY**

**COLLECTION AND DISTRIBUTION SYSTEMS**

Art. 22f Copyright Act of Liechtenstein

Art. 54b Copyright Act of Liechtenstein Copyright law

Art. 10,14 15 Copyright directive of Liechtenstein



## TARIFFS

Same as those applicable in Switzerland.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# LITHUANIA



2,801,543

GDP: 45.3 billion EUR

1/8

## CONTACT INFORMATION

<b>COUNTRY</b>	Lithuania
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANIZATION</b>	Lithuanian Neighboring Rights Association (AGATA)
<b>WEB SITE</b>	<a href="http://www.agata.lt">www.agata.lt</a>
<b>ADDRESS</b>	S. Žukausko str. 39
<b>POSTCODE</b>	LT-09130
<b>CITY</b>	Vilnius
<b>PHONE</b>	+370 5 277 88 99
<b>FAX</b>	+370 5 263 94 66



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Lithuanian Neighboring Rights Association (AGATA). Appointed by The Minister of Culture in accordance with the Law.
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Tariffs are determined by Copyright act.
<b>LIABLE</b>	Liable for payment is the first seller of imported or manufactured media and devices in the Lithuanian territory.
<b>EXEMPTION</b>	Export/professional use/People with disabilities
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	10%
<b>TOTAL revenues from private copying levies in local currency</b>	2015: EUR 4.241.710,29 2016: EUR 3.345.434,78 2017: EUR 3.179.530,66 2018: EUR 4.802.131,57

## RATE SETTING

<b>HOW ARE LEVIES/REMUNERATION DETERMINED?</b>	Levies are determined by law.
<b>WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?</b>	Criteria used are copying behavior of consumers, the harm caused by copying and the source of the copy.



# LITHUANIA

2/8

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

If the levied media or devices are used for professional purposes, there is a possibility to have the remuneration refunded. The group of buyers who have this right are exporters and professional users and people with disabilities.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

Hard disk drives (HDD), with SCSI, iSCSI, SAS, FC, SATA, FATA interfaces, usually used for the servers, data arrays and similar professional engineering purposes.  
Solid state disk (SSD) and hard disk drives (HDD), which are integrated into the PC at the time of sale.  
There are no exemptions for refurbished products.

### EXEMPTION UPFRONT

There are no upfront exemptions. Buyers can apply for refund only after they buy the media/equipment.

### REFUND AFTERWARDS

Buyers must sign an official refund form and give certain evidence. For exporters main evidence is selling invoices, for disabled people – disabilities certificate. For “professional usage” evidence depends on the “usage.”

## COLLECTION PROCESS

### HOW COLLECTION IS ORGANIZED?

Lithuanian Copyright Act states that first payers have an obligation to pay. Based on that provision a lot of companies reached out to us themselves. However, there were companies which AGATA approached itself. Collection is not organized by customs.

### HOW FREQUENTLY IS PAYMENT DUE?

Legal liability moment – when the first sale takes place in the Lithuanian territory.  
Payment period – Once a quarter or once a month.



# LITHUANIA

3/8

## COLLECTION PROCESS

### HOW DO YOU MONITOR THE MARKET?

Monitoring of the market, and direct contact with companies or persons. If they have a duty to pay remuneration, they make contract with the responsible association AGATA and pay this levy in accordance with the Resolution of the Government. If the liable party is not compliant, the responsible association contacts them by telephone or email to inform them about their duties and legal liability. If this is not effective, AGATA provides a formal claim. Then the liable party is referred to a law firm, which represents AGATA, and lawyers for that company also submit a claim. The last step is a court procedure where the civil claim is lodged.

Also according to the Resolution of the Government, the responsible association has a right to inspect the correctness of the reports about the levied media and devices sold in the Republic of Lithuania for the first time, and inspect the import, production, and sales documents of the liable party in the working place.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

There is no collaboration with tax authorities.

### ARE EXPORTS EXEMPTED?

Exports are exempted and exporters can claim a refund for the paid levies.

### DEFINITION OF IMPORT WHO IS CONSIDERED IMPORTER?

The importer is the person who makes the import from the EU and third countries (not EU countries).

In Lithuania, the duty to pay remuneration for private copying arises when the first seller executes the first sale of imported or manufactured levied media or devices.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

AGATA is responsible for the distribution of remuneration to AGATA members and to other collective rights management organizations, which represent certain group of rightsholders. Remuneration for music authors and partly for audio-visual authors goes to association LATGA (for)., AGATA distributes remuneration to actors, music performers and producers of phonograms. Distribution to producers of an audio-visual work is made by AVAKA. Also, AVAKA distribute part of audio-visual authors remuneration

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No



# LITHUANIA

4/8

## DISTRIBUTION PROCESS

### FREQUENCY OF DISTRIBUTION

Distribution is yearly and includes remunerations collected until the 31st of December.

### WHICH RIGHTS HOLDERS ARE INCLUDED?

The shares of rights holders for distribution are indicated in the Law. Basic rules, and how the responsible association has to distribute the collected remuneration between the groups of rights holders, are determined in the Resolution of the Government.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

#### According to the Resolution:

1. The sums for programmes of creative activities and copyright, and related rights protection programmes have to be deducted from the collected remuneration.

2. After these deduction, administrative costs are deducted from the remaining amount.

Based on these data AGATA distributes the remuneration and transfers the remuneration to the collective rights management organizations for further distribution and payment to the represented rights holders.

### DISTRIBUTION KEYS

#### Levies for audio blank media and devices:

1/3 – Authors (LATGA)

1/3 - Performers (AGATA)

1/3 - Producers of a phonogram (AGATA)

#### Levies for video blank media and devices:

1/3 – Authors (LATGA and AVAKA)

1/3 - Performers (AGATA)

1/3 - Producers of an audio-visual work (AVAKA)

(How much remuneration from levied media and devices goes to audio and video shares is calculated based on an independent survey).

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

Yes

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

10 % from collected remuneration is assigned to programmes of creative activities and copyright and related rights protection programmes (these programmes are administered by the Ministry of Culture).

Other 10 % goes to CMOs AGATA, LATGA and AVAKA for copyright protection programs, which are administered by these CMOS (each CMO gets part of revenue and then internally decides what kind of programs should they finance).

5 % goes to "Radio and Television Commission" which is obligated by law to block piracy related websites.



# LITHUANIA

5/8



## LEGAL BASIS

### LAW

Article 20 of the Lithuanian Law on Copyright and Related Rights. Governmental Resolution no. 734 of 2018-07-25, which regulates the order of collection, distribution, payment, and refund system of the remuneration for private copying.

[http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc\\_l?p\\_id=471807](http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=471807)

Scope: a natural person, without the authorization of the author or any other owner of copyright, can reproduce, exclusively for his individual use and for non-commercial purposes, a copy of work lawfully published or communicated to the public in any mode.

### EXCEPTION

**Article 20 of the Law on Copyright and Related Rights No. VIII-1185 of May 18, 1999 (as amended up to 2014)**

1. It shall be permitted for a natural person, without the authorization of the author of the work or any other owner of copyright in the work, to reproduce, exclusively for his individual use and not for commercial advantage, in a single copy a work lawfully published or communicated to the public.

(..)

3. The provisions of paragraph 1 of this Article shall not apply to the reproduction of the following works:

- 1) works of architecture in the form of building or other construction works;
- 2) computer programmes (except for the cases provided for in Articles 30 and 31 of this Law);
- 3) electronic databases (except for the cases provided for in Article 32 of this Law).

### LEVY

**Article 20 of the Law on Copyright and Related Rights No. VIII-1185 of May 18, 1999 (as amended up to 2014)**

4. The owners of copyright and related rights shall be entitled to receive compensatory remuneration for reproduction of audiovisual works or works fixed in phonograms referred to in paragraph 1 of this Article for personal use (hereinafter in this Article: 'the compensatory remuneration').

5. The compensatory remuneration must be paid for the devices and analogous and digital blank audio and audiovisual media listed in Annex 1 to this Law, released for circulation and sold in the Republic of Lithuania for the first time, produced in the Republic of Lithuania or imported into the territory of the Republic of Lithuania and intended for reproduction for private use (hereinafter in this Article: 'devices' and 'blank media'). The compensatory remuneration must be paid by the persons selling such devices and blank media (hereinafter in this Article: 'compensatory remuneration payers') in the Republic of Lithuania.

6. A list of blank media and devices subject to the compensatory remuneration and the compensatory remuneration rates laid down out in Annex I to this Law shall be reviewed at least once in two years. Other terms and conditions and procedure for paying the compensatory remuneration shall be established by the Government taking into consideration the application or non-application of technological protection measures determined in Article 74(1) and (2) of this Law, after agreement with associations representing the compensatory remuneration payers and associations of collective administration of copyright and related rights.



# LITHUANIA

6/8



## LEGAL BASIS

7. The paid compensatory remuneration shall be refunded in accordance with the procedure laid down by the Government in the following cases:

1) where blank media and devices are acquired for professional needs.

For the purposes of the present Article, professional needs shall be deemed to be the needs of broadcasting organizations and persons circulating audiovisual works and works fixed in phonograms or objects of related rights for producers of audiovisual works and phonograms, where such needs are related to the fixation of works or objects of related rights and the needs of the persons who acquire blank media and devices for the purposes evidently other than reproduction of works for private use (e.g. where works are reproduced in public administration and defense agencies and organizations, hospitals, educational institutions, libraries and state archives, museums, research institutions and organizations and where reproduction of works is meant exclusively for the operational needs of the said institutions and organizations);

2) where blank media and devices are acquired for the needs of persons with a disability.

3) where blank media and devices are brought out of the territory of the Republic of Lithuania.

## COLLECTION AND DISTRIBUTION SYSTEM

**Article 20 of the Law on Copyright and Related Rights No. VIII-1185 of May 18, 1999 (as amended up to 2014)**

8. The compensatory remuneration for the owners of rights referred to in paragraph 4 of this Article shall be collected, allocated and paid by the collective administration associations approved by the institution authorized by the Government in accordance with the procedure laid down by the Government.

9. 25 per cent of the compensatory remuneration collected in accordance with the procedure established by the Government shall be allocated for creative programmes and programmes for the protection of copyright and related rights.

10. After deducting from the collected compensatory remuneration the amount referred to in paragraph 9 of this Article and the costs incurred by collective administration associations as a result of collection, distribution and refunding of the compensatory remuneration, the remaining amount shall be allocated as follows:

1) 1/3 of the compensatory remuneration collected for blank audio recording media and devices shall be allocated to authors, 1/3 to performers and 1/3 to producers of phonograms (including broadcasting organizations for phonograms produced by them);

2) 1/3 of the compensatory remuneration collected for blank audiovisual media and devices shall be allocated for authors, 1/3 for performers and 1/3 for producers of audiovisual works (including broadcasting organizations, for the audiovisual works produced by them).

11. In the accounting documents drawn up for sale of the media and devices referred to in paragraph 5 of this Article, the amount of the compensatory remuneration shall be calculated, singled out and indicated in a separate line and the notes of the issued invoices shall indicate that the person who has acquired the media or devices is entitled to refunding of the compensatory remuneration in the cases set out in paragraph 7 of this Article.



## COMMENTS/DEVELOPMENTS

The amendments of the Law came in force from 1st of March 2012 (in 2016 the tariffs were updated).

When the remuneration for private copying was collected only from CD, DVD, videocassette, audiocassette Blu-Ray and minidisc, the revenues decrease annually. When the list of levied media and devices was expanded (from 1st of March 2012) the collected remuneration significantly increased (for example the remuneration (after all deductions) for 2012 was 1,448,197.89 EUR; in 2011 it was 50,748.89 EUR). The expanded list of levied media and devices is valid for a little over one year. The new Law determines the review of that list every two years, so after such review it will be possible to assess the changes in revenue.



## LITHUANIA

7/8

## COURT CASES

AGATA had one court case in 2017 which ended with settlement agreement, by which the company agreed to pay 100% of remuneration.



## TARIFFS

Blank Media	Tariff valid from 2016-01-01 (EUR)	Capacity
All types of DVD	6% of first sale price	Per unit
All types of CD	6% of first sale price	Per unit
Blu-Ray	6% of first sale price	Per unit
USB and non-integrated Memory Cards	Tariff valid from 2016-01-01 (EUR)	Capacity
	0.14	< 8 GB
	0.29	for 8.1-16 GB
	0.58	for 16.1-32 GB
	0.87	for 32.1-64 GB
	1.44	for 64.1-128 GB
	2.02	for 128.1-256 GB
	2.89	for > 256 GB
Devices	Tariff valid from 2016-01-01 (EUR)	Capacity
External and internal non-integrated SSD, HDD	1.44	< 512 GB
	2.31	for 512.1-1 TB
	2.89	1,001-3 TB
	4.34	> 3 TB
Personal computers, laptops, hybrid computers	5.79	Per unit
Digital and analogue audio and video player with a memory device and audio and video recording capability.*	0.43	< 2 GB
	1.01	for 2.1-4 GB
	1.44	for 4.1-8 GB
	2.89	for 8.1-16 GB
	4.34	for 16.1-256 GB
	5.79	for 256.1-512 GB
	7.24	for 512.1-768 GB
	8.69	for 768.1- 1 TB
	10.14	for 1000.1 TB-3 TB
	11.58	> 3 TB



## LITHUANIA

8/8



## TARIFFS

Devices	Tariff valid from 2016-01-01 (EUR)	Capacity
Tablets	4.34	Per unit
Gaming consoles	4.34	Per unit

\*audio cassettes, VCRs, CDs, DVDs, HD-DVD drive, Blu-ray players, home theatre, musical centres, car radio, radio set, MP3 players, MP4 players, HD media players and other players, TV with a memory device and audio and video recording capability, settop box with a memory device and audio and video recording capability, mobile phones with a memory device and audio and video recording.

Other: refurbishment (or remanufactured)

YES

The levy is on the integrated memory / hard disc, not on the device.



## REVENUES

(EUR)	2015	2016	2017	2018
Total	4,241,710.29	3,345,434.78	3,179,530.66	4,802,131.57





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# MOLDOVA



2,706,049

GDP: 9.7 billion EUR

1/7

## CONTACT INFORMATION

<b>COUNTRY</b>	Republic of Moldova
<b>CURRENCY</b>	Moldavan Leu (MDL)
<b>NAME ORGANIZATION</b>	ASOCIATIA NATIONALA "COPYRIGHT"
<b>WEB SITE</b>	<a href="http://www.copyright.md/">http://www.copyright.md/</a>
<b>E-MAIL</b>	asociatiacopyright@gmail.com
<b>ADDRESS</b>	Moara Roşie 19, of. 6, mun.
<b>POSTCODE</b>	MD 2005
<b>CITY</b>	Chişinău
<b>PHONE</b>	+37369551551, +37369109889



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	AGEPI
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Levies are published by the official gazette of the Republic of Moldova after negotiation between stakeholders (rightsholders and liable). The remuneration established shall not be less than 3% of the resale price of the equipment and mediums.
<b>BENEFICIARIES</b>	Authors, performers, publishers, phonogram and audiovisual producers
<b>LIABLE</b>	Importer and Manufacturer
<b>EXEMPTION</b>	Export/professional use/devices imported by individuals for personal use
<b>TOTAL revenues from private copying levies in local currency</b>	2015: MDL 0 2016: MDL 0 2017: MDL 1,500,000 2018: MDL 2,000,000



# MOLDOVA

2/7

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

The manufacturers and importers, when they put into circulation the equipment or mediums mentioned in paragraph (3) of this Article,

(a) shall inform the collective management organization mentioned in paragraph (10)(a) of this article about the payment of the equitable remuneration, and shall make available to it the necessary documents indicating the number of pieces of equipment and/or mediums

manufactured or imported and the identity of the distributors through whom or which they have put the equipment or mediums into circulation.

(b) shall hand over to the distributors through whom or which they put the recording equipment and/or mediums into circulation all the necessary documents proving the fact that the equitable remuneration has been paid to the collective management organization.

(8) The distributors at any point of the distribution chain, including resale units (shops, commercial centers, etc.) who or which are in possession of equipment or mediums mentioned in paragraph (3) for commercial purposes, shall be able to prove, on the basis of valid documents, that the equitable remuneration mentioned in paragraph (1) has been paid for the equipment or mediums concerned.

The distributors, at the request of the collective management organization, shall be obligated to make any relevant documents available and to reveal the identity and the contact data of the manufacturer or importer or any physical person or legal entity in the distribution chain from whom or which they received the equipment or mediums.

Is collection legally organized by customs? - no, the sellers and importers.

### HOW FREQUENTLY IS PAYMENT DUE?

Upon request

### HOW DO YOU MONITOR THE MARKET?

We address the economic agents to provide all the necessary information directly from them.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Customs do not collaborate or report any information relative to private copying unless court ordered to provide such info. ANCO is pursuing in court customs and AGEPI.

Tax authorities are not obliged by law to provide any info and has no intention to act otherwise.

### ARE EXPORTS EXEMPTED?

Yes

### DEFINITION OF IMPORT

Import is the customs regime in which goods imported into the customs territory receive the status of goods released for free circulation only after paying import duties and applying economic policy measures.



# MOLDOVA

3/7

## COLLECTION PROCESS

### WHO IS CONSIDERED IMPORTER?

An importer is a legal entity or person bringing foreign goods into free circulation on the territory of the Republic of Moldova.

### ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?

Some distribution agents do not consider that they bear the responsibility of paying levies as obliged by law. ANCO is pressing charges on such agents.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS

ANCO is authorized by AGEPI to distribute the collected remunerations towards rightsholders.

Article 48 (13)b

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

Reproduction of works for Personal and Private Use  
(10) Unless otherwise provided in an agreement between the representatives of the various categories of rightsholders mentioned in paragraph (5)(b) of this Article, the equitable remuneration  
a) shall be collected, for all the categories of rightsholders, by a collective management organization entrusted with these functions by the AGEPI;  
b) shall be distributed, after the deduction of the actual expenses incurred in rights management, in the following manner:  
- with respect to the reproduction of audiovisual works and videograms: 40% to authors of such works, 30% to performers of such works, and 30% to producers of such works;  
- with respect to reproduction of phonograms: 50% to authors whose works are fixed on phonograms, 25% to performers whose performances are fixed on phonograms, 25% to producers of phonograms.

### FREQUENCY OF DISTRIBUTION

No less than once a year

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Authors, performers, publishers, phonogram and audiovisual producers

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

The remuneration should be collected, for all the categories of rightsholders, by a CMO distribution entrusted with these functions by AGEPI (State Agency on IP).

Unless otherwise provided in the agreements between the representatives of the various categories of rightsholders, the remuneration shall be distributed:



# MOLDOVA

4/7

## DISTRIBUTION PROCESS

### DISTRIBUTION KEYS

**For audiovisual works and videograms:**

40% to authors, 30% to performers, 30% to producers.

**For phonograms:**

50% to authors, 25% to performers, 25% to producers.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

No



## LEGAL BASIS

### EXCEPTION AND LEVY

#### Article 26

Law on Copyright and related rights no. 139 of 07.02.2010

Reproduction of works for Personal and Private Use

(1) Reproduction of a lawfully published work shall be permitted without the consent of the author or another holder of the copyright, but subject to payment of an equitable remuneration, as provided for in paragraphs (3) – (11) of this Article, if made by a natural person for his own exclusive use, and for purposes that are neither directly or indirectly commercial. The right to remuneration may only be exercised through a collective management organization.

(2) The provisions of paragraph (1) of the present Article shall not apply to reproduction:

- a) of a work of architecture in the form of a building or similar construction.
- b) of a database;
- c) of a computer program, except in the cases referred to in Article 29;
- d) of a complete book, a musical score or the original of a work of plastic art;
- e) of an audiovisual work during its public performance;
- f) of any work on the basis of a copy or from a source about which the person that makes a reproduction knows, or, under the given circumstances, he has reasonable reasons to know, that it is illegal.

### LEVY

#### Article 26

law on Copyright and related rights no. 139 of 07.02.2010

Reproduction of works for Personal and Private Use

(3) The equitable remuneration mentioned in paragraph (1) shall be paid by those natural or legal persons who produce or import any equipment (sound recording equipment, video recorders, drivers for recordable and re-recordable discs, etc.) and mediums (blank tapes and cassettes, laser discs, compact discs, etc.) that may be used for reproduction of audiovisual works and phonograms.

(4) No equitable remuneration shall be paid in respect of recording equipment and mediums mentioned in paragraph (3)

- (i) where they are exported,
- (ii) where they constitute professional equipment not intended for home recording; or (iii) where they are imported by a natural person for his own exclusive use.



# MOLDOVA

5/7



## LEGAL BASIS

- (5) The equitable remuneration mentioned in paragraph (1) of this article
- (a) shall be paid by the manufacturers or importers of the recording equipment or mediums mentioned in paragraph (3) of this article to the collective management organization mentioned in paragraph (10)(a) of this article before putting into circulation (that is, before including into the chain of distribution immediately after manufacturing or importation) of such equipment or mediums;
  - (b) shall be sufficient not only for the compensation of authors and other rightsholders of copyright whose works may be reproduced in the way mentioned in paragraph (1) of this article, but also for the compensation of performers and producers of audiovisual works and phonograms whose performances, audiovisual works and phonograms, respectively, may be reproduced thereby in the said way; and
  - (c) shall be determined by taking into account the application or non-application of technological measures by the rightsholders of audiovisual works and phonograms.
- (6) For the establishment of the amount of remuneration and other conditions, and the settlement of possible disputes between the parties concerned, Article 50 of this Law shall apply, on the understanding, that
- (a) the parties concerned which shall try to establish the amount of the remuneration are the collective management organization mentioned in paragraph (10)(a) of this Article, on the one hand, and the representatives of those physical persons and legal entities who and which are obligated to pay the equitable remuneration, on the other hand;
  - (b) the remuneration established shall not be less than 3% of the resale price of the equipment and mediums mentioned in paragraph (3).
- (7) The manufacturers and importers, when they put into circulation the equipment or mediums mentioned in paragraph (3) of this Article,
- (a) shall inform the collective management organisation mentioned in paragraph (10)(a) of this article about the payment of the equitable remuneration, and shall make available to it the necessary documents indicating the number of pieces of equipment and/or mediums manufactured or imported and the identity of the distributors through whom or which they have put the equipment or mediums into circulation;
  - (b) shall hand over to the distributors through whom or which they put the recording equipment and/or mediums into circulation all the necessary documents proving the fact that the equitable remuneration has been paid to the collective management organization.
- (8) The distributors at any point of the distribution chain, including resale units (shops, commercial centres, etc.) who or which are in possession of equipment or mediums mentioned in paragraph (3) for commercial purposes, shall be able to prove, on the basis of valid documents, that the equitable remuneration mentioned in paragraph (1) has been paid for the equipment or mediums concerned. The distributors, at the request of the collective management organization, shall be obligated to make any relevant documents available and to reveal the identity and the contact data of the manufacturer or importer or any physical person or legal entity in the distribution chain from whom or which they received the equipment or mediums.
- (9) The distributors who are unable to present to the collective management organization mentioned in paragraph (10)(a) of this article the necessary documents and/or contact data mentioned in paragraph (8) that are necessary to verify whether or not the equitable remuneration has duly been paid, shall be liable to pay the equitable remuneration.

### Article 50

Law on Copyright and related rights no. 139 of 07.02.2010

Establishment of the Amounts of Remuneration to be Collected and other Conditions. Settlement of Disputes.

- (1) Collective management organizations shall determine the remuneration to be paid for – as well as any other conditions of authorisation to be applied in respect of – uses covered by the rights managed by them on the basis of negotiations with those who are obligated to pay the remuneration or with the organizations representing them.
- (2) where the interested parties cannot agree on the remuneration and other conditions of authorisation mentioned in paragraph (1), either of them may call upon the assistance of the Mediation and Arbitration Body specialized in the field of the Intellectual Property, established by the State Agency.



# MOLDOVA

6/7



## LEGAL BASIS

(3) The amount of remuneration established by negotiation or through mediation shall not be less than what the Government may determine as minimum remuneration.

(4) The generally applicable amounts of remuneration (tariffs) and licensing conditions agreed upon by the parties concerned or decided upon in accordance with paragraph (2) of this article shall be published in the official Gazette of the Republic of Moldova. This provision also applies to the tariffs established under Articles 11(7), 12(4), 20(1), 26(6), 27(5), 37(3) and 47(3) of this Law.

## COLLECTION AND DISTRIBUTION SYSTEMS

### Article 26

Law on Copyright and related rights no. 139 of 07.02.2010

Reproduction of works for Personal and Private Use

(10) Unless otherwise provided in an agreement between the representatives of the various categories of rightsholders mentioned in paragraph (5)(b) of this Article, the equitable remuneration:

- a) shall be collected, for all the categories of rightsholders, by a collective management organization entrusted with these functions by the AGEPI;
- b) shall be distributed, after the deduction of the actual expenses incurred in rights management, in the following manner:
  - with respect to the reproduction of audiovisual works and videograms: 40% to authors of such works, 30% to performers of such works, and 30% to producers of such works;
  - with respect to the reproduction of phonograms: 50% to authors whose works are fixed on phonograms, 25% to performers whose performances are fixed on phonograms, 25% to producers of phonograms.

(11) The collective management organisation after the deduction of the actual cost of management, shall transfer the corresponding shares of remuneration mentioned in paragraph (10)(b) of this Article due to the categories of rightsholders not represented by it to the collective management organizations or other representative bodies of the rightsholders concerned which may take care of the distribution thereof among the corresponding rightsholders concerned.

(12) The equitable remuneration shall be distributed amongst the authors and other holders of copyright, performers and producers of audiovisual works and phonograms, respectively, in respect of whose works, performances and phonograms, respectively, may be assumed that have been reproduced by virtue of paragraph (1) of this Article.



## COMMENTS/DEVELOPMENTS

Before 2017, there had been no collections, since the system as a whole was not functioning. In 2017 ANCO started working in private copying direction requesting from the economic agents their levies collection, as suggested by the law, however, all the agents repudiate such collections. Only 2 agents agreed for a truce and pay out the levies. ANCO is pressing the charges against the remaining agents.

## COURT CASES

There are about 25 unresolved cases of ANCO pressing charges against agents, not in good faith.



# MOLDOVA

7/7



## TARIFFS

Equipment and media	Tariff	Capacity
Equipment and media	3%	of the resale price



## REVENUES

(MDL)	2015	2016	2017	2018
Total	0	0	1,500,000	2,000,000





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# NETHERLANDS



17,231,624

GDP: 774.0 billion EUR

1/8

## CONTACT INFORMATION

<b>COUNTRY</b>	The Netherlands
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANIZATION</b>	Stichting de Thuiskopie
<b>WEB SITE</b>	www.thuiskopie.nl
<b>E-MAIL</b>	Thuiskopie@cedar.nl
<b>ADDRESS</b>	P.O. box 3060
<b>POSTCODE</b>	2130 KB
<b>CITY</b>	Hoofddorp
<b>PHONE</b>	+31 (0)23-7997019
<b>FAX</b>	+31 (0)23-8700210



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Stichting de Thuiskopie is appointed by the Minister of Justice by Royal decree.
<b>EXCEPTION</b>	Yes, it is defined as a reproduction of a work by a person for his own personal use and for non-commercial purpose.
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Yes, fixed prices per unit.
<b>BENEFICIARIES</b>	Authors, performers and producers (literary, artistic and scientific works)
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	Yes
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No
<b>TOTAL revenues from private copying levies in local currency</b>	2015: EUR 33,498,000 2016: EUR 30,070,000 2017: EUR 44,187,000 2018: EUR 33,509,000 2019: EUR 33,483,572



# NETHERLANDS

2/8

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The law appoints a negotiating body (SONT) in which rightsholders, and industry are equally represented to negotiate the level of the tariffs. An independent chairman is appointed by the Minister of Justice. If parties cannot come to an agreement, the chairman will decide. Tariffs decided by SONT are published in the State Journal.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

A market survey on consumer copying behavior is commissioned yearly. Other criteria are the private copying contribution in the other EU member states, the relation to the sales price of the product, acceptability by the public and the wish to avoid major administrative costs for the industry.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

All professional users are exempted, either upfront through agreements with professional suppliers or via a refund scheme.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

Products that according to market research are not used for private copying are exempted.

### EXEMPTION UPFRONT

If the importer signs a collection agreement with ThuisKopie it is possible to deliver levy-free to professional users and/or other contractors under certain conditions.

### REFUND AFTERWARDS

Both the importer as parties further down the distribution chain can claim a refund directly with ThuisKopie in case of export or professional use. Certain conditions apply, to be found on our website.

## COLLECTION PROCESS

### HOW COLLECTION IS ORGANIZED?

The law requires self-reporting by importers/manufacturers. Immediately upon import.

### HOW FREQUENTLY IS PAYMENT DUE?

Based upon the law, the obligation to pay arises directly upon import or when the product is manufactured and ready to be put into the market. In a contractual situation, contractors can report within 15 days after the end of the month in which the product was sold unto the Dutch market.

### HOW DO YOU MONITOR THE MARKET?

An enforcement officer does regular checks on the market; an anonymous reporting system is in place. Contractors are being audited by ThuisKopie.



# NETHERLANDS

3/8

## COLLECTION PROCESS

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Customs may provide information on imported levied products from outside the EU into the Netherlands.

### ARE EXPORTS EXEMPTED?

Yes, both upfront and refund possibilities.

### DEFINITION OF IMPORT

Not in the law.

### WHO IS CONSIDERED IMPORTER?

The first commercial seller on the Dutch market is to be considered the importer. Foreign sellers can be considered importers if they deliver directly towards consumers in a cross-border situation (Opus case).

### ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?

Some deny payment for a certain period, this is the subject of court cases.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Stichting de Thuiskopie distributes quarterly to organizations of rightsholders. Thuiskopie does not distribute towards individual rightsholders.

The distribution scheme is set by rightsholders within the board of Stichting de Thuiskopie.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

Yes 15% in the distribution chain, Thuiskopie and the organizations of rightsholders cannot exceed this percentage.

### FREQUENCY OF DISTRIBUTION

Twice a year (June and October)

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Authors, Producers, Performing artists

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Schemes are set by the Board of Thuiskopie in which all rightsholders are represented. Usually rightsholders will start negotiations and will advise the board on the schemes.



# NETHERLANDS

4/8

## DISTRIBUTION PROCESS

### DISTRIBUTION KEYS

First collections are split between 4 categories:

#### 2018

Audio 34.3%

AV 48.1%

Visual works 7.3%

Written works 10.3%

Each category has a different distribution key:

#### Distribution scheme, audio:

40% authors – Stemra (composers)

(distribution Stemra-part: Stemra 92.5%, Lira 7.5% authors)

30% performing artists - NORMA

30% producers - STAP

#### Distribution scheme, audiovisual:

32.77% authors (sub scheme authors-part: 36.53% Lira writers,

31.89% Stemra composers, 31.58% Vevam directors)

25.88% Performers – NORMA

34.25% Producers – Sekam video

7.10% Broadcasters – SCGO

#### Distribution scheme visual works:

100% of 7.3% Pictoright

#### Distribution scheme Written works:

74.51% Authors - Lira

24.84% Publishers - Pro

0.65% Performers (voice actors audio books) - NORMA

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

There is currently no deduction by Stichting de Thuis kopie for collective (social and/or cultural) purposes.

However, the rightsholders' organizations that distribute the private copying remunerations to individual rights owners can make a deduction for social and/or cultural purposes.

The percentage is determined by rightsholders, but it is stated in the law that it cannot exceed 15%.



# NETHERLANDS

5/8



## LEGAL BASIS

### EXCEPTION AND LEVY

#### Article 16c of the Copyright Act and in Article 10 (e) of the Act on the Neighbouring Rights

1. Reproducing a literary, scientific or artistic work or part of it on an article that is intended for allowing a work to be heard, shown or presented, provided that the reproduction is carried out for ends that are neither directly nor indirectly commercial and is intended exclusively for private practice, study or use by the natural person who makes the reproduction, is not regarded as an infringement of the copyright in that work.
2. For the reproduction referred to in the first subsection, fair compensation is owed to the author or his successor in title. The manufacturer or the importer of the articles referred to in the first subsection is obliged to pay the compensation.
3. The manufacturer's obligation to pay compensation arises at the time that the articles manufactured by him are ready to be put into circulation. The importer incurs this obligation at the time of import.
4. The obligation to pay compensation lapses if the person liable for the payment referred to in the second subsection exports the article referred to in the first subsection.
5. The compensation is only due once for each article.
6. Further rules may be issued by order in council for the articles for which compensation referred to in the second subsection is due. For the implementation of this section, further rules may be issued, and conditions set, also by order in council, with respect to the level and form of fair compensation and liability for payment.
7. If a reproduction permitted under this section has been made, an article as referred to in the first subsection may not be issued to third parties without the consent of the author or his successors in title, unless it is for judicial or administrative proceedings.
8. This section does not apply to the reproduction of a collection accessible by electronic means as referred to in Section 10 (3).

#### Article 16d

1. The compensation referred to in Section 16c must be paid to a legal person which is to be designated and judged representative by the Minister of Security and Justice and which is entrusted with the collection and distribution of that compensation in accordance with regulations it has drawn up and which have been approved by the Supervisory Board referred to in the Supervision of Collective Management Organizations for Copyright and Related Rights Act. In matters relating to collection and compensation, this legal person will represent the authors and their successors in title both in and out of court.
2. The legal person referred to in the first subsection will be supervised by the Supervisory Board as referred to in the Supervision of Collective Management Organizations for Copyright and Related Rights Act.

### LEVY

#### Article 16e of the Copyright Act.

The level of the compensation referred to in Section 16c will be determined by a foundation to be designated by the Minister of Security and Justice, the board of which is composed so as to represent, in a balanced manner, the interests of the authors or their successors in title and the persons liable for payment pursuant to Section 16c (2). The chair of the board of the said foundation will be appointed by the Minister of Security and Justice

<https://tinyurl.com/y2536t6m>.

### COLLECTION AND DISTRIBUTION SYSTEM

#### Article 16f

The person who is required to pay the compensation referred to in Section 16c is obliged to submit a specification of the number of articles as referred to in Section 16c (1) that were imported or manufactured by him, to the legal person referred to in Section 16d (1), either immediately or within a period agreed with the said legal person. He is also obliged to provide the said legal person, on request, with immediate access to the documents necessary to establish liability for payment and the level of the compensation.



# NETHERLANDS

6/8



## COMMENTS/DEVELOPMENTS

New tariffs as of January 2021.

## COURT CASES

On 7 December 2018, the Supreme Court ruled in a procedure on the validity of the private copying fees as laid down in several subsequent General Administrative Orders (AMvBs) in the period 2013-2017. In these Orders the media and devices and the tariffs were determined. The proceedings were initiated in 2013 by several parties liable for payment against the State and Stichting de ThuisKopie. These manufacturers and importers of storage media challenged the legal validity of the orders in council on several grounds, which they believe would be contrary to European law.

In this case, the court of appeal in The Hague ruled by judgment of 27 May 2017 that the ThuisKopie AMvBs are lawful and binding. The Supreme Court confirmed this judgment and rejects the complaints made by the parties liable for payment.

### Copies from illegal source

The payers complained, among other things, that the private copying tariffs were too high, because the determination of the amount of that levy would wrongly consider the damages that rightsholders suffer from copies from an illegal source. The court rejected this argument; even without these copies being counted, the orders in council can be considered to provide a fair compensation for the beneficiaries. In addition, those liable to pay felt that a 'substitution model' should be used when determining the private copying tariffs. That model means that the number of original copies of works that consumers would have purchased if they had not been able to make private copies, had to be considered. The Court of Appeal agreed with the State and Stichting de ThuisKopie that the calculation of the level of the private copying tariffs should be based on a so-called 'licensing model', whereby each copy made represents a certain value, regardless of whether the consumer would have purchased an original. The parties liable to pay further argued that the system of exemption and refund applied by Stichting de ThuisKopie would not be in line with European law, since this system was not included in the relevant legislation and regulations. The Court of The Hague had ruled that this is not necessary: it is sufficient that there is an effective refund scheme. The Supreme Court's judgment has definitively established that the ThuisKopie AMvBs were lawful and binding in the period 2013-2017. The judgment of the Court of Appeal of The Hague in 2017 was the reason for the vast majority of those liable to pay who had not yet concluded a collection agreement with ThuisKopie to do so. Since then, most of the market has been compliant with the legal private copying scheme. Insofar as those liable for payment have left accounts unpaid for this period, Stichting de ThuisKopie will proceed with the judgment of the Supreme Court in hand to collect it.

Some importers started new proceedings against the 2018 tariffs. They contest copies in the cloud and legal source copies made from streaming services being within scope of the exception. The Court ruled in September 2019 that cloud copies and offline streaming copies are within scope of the private copying exception. The court refers to the various ECJ cases.

In the Copydan ruling, the CJEU held that the Information Society Directive does not preclude a national scheme that provides for fair compensation by way of an exception to the reproduction right, for reproductions of protected works by a natural person from or with the aid of a device that belongs to a third party. In the VG Wort ruling, the CJEU held that the member states are free, if the reproductions concerned are made by means of an integrated procedure with the use of a chain of devices, to go back to the phases prior to the manufacture itself of a copy. In doing so, the member states are free to set up a system in which fair compensation is paid for those who possess a device that contributes, as part of this chain, to this procedure in a non-autonomous manner.

The case has been appealed before the Hague higher court.



# NETHERLANDS

7/8



## TARIFFS

Media	2018 - 2020 (EUR)	2021 -2023 (EUR)	Capacity
USB-stick (<256 GB only as at 1/1/2021)	0.60	0.50	Unit

Hardware	2018 - 2020 (EUR)	2021 -2023 (EUR)	Capacity
Desktop/PC/notebook/server/media center	2.60	2.70	Unit
Tablet	2.60	2.20	Unit
External HDD [& SSD and USB Stick >= 256 GB – as at 1/1/2021]	0.60	1	Unit

Consumer electronics	2018 - 2020 (EUR)	2021 -2023 (EUR)	Capacity
Audio/Video (mp3) player	1.20	2.10	Unit
Set top box/Hard disk recorder	3.80	3.80	Unit
E-reader	0.80	1.10	Unit
Mobile Phones	4.70	7.30	Unit
Wearables with storage capacity	1.20	0.60	Unit

### Distant -based storage (NVPR, Cloud) \*

Cloud storage of home copies is mainly done in combination with the PC/laptop, tablet and smartphone, especially for backup and automatic synchronisation. The remuneration for this category of private copies is included via a surcharge in the tariffs for the devices most commonly used for this purpose. Because of the significant increase in this way of use in the years 2018-2019 compared to previous years, the SONT decided to increase the cloud surcharge in the tariffs of these devices from 5% to 10%.

### Other: refurbishment (or remanufactured)

Yes.

Refurbished devices are levied. This mainly concerns mobile phones but also pc/laptop. In general, these are imported from abroad or obtained from large professional users, and no private copying fee has been paid for them on the Dutch market even in their 'previous lives'. In constructive consultation with sector representatives it has been agreed that when a refurbished device is sold by a professional reseller to or for the benefit of a new end user, a private copying fee is due. Because the operational life of refurbished devices is on average shorter than that of completely new devices (which implies lower numbers of stored private copies), a reduction of 40% on the normal fee for that device applies.

\* [https://www.cedar.nl/uploads/15/files/file/ThuisKopie/Factsheets/Refurbishment\\_and\\_manufacture\\_13-1-2014.pdf](https://www.cedar.nl/uploads/15/files/file/ThuisKopie/Factsheets/Refurbishment_and_manufacture_13-1-2014.pdf)



# NETHERLANDS

8/8



## REVENUES

MEDIA (EUR)	2015	2016	2017	2018	2019
CD		107,607	95,024	-	
DVD		112,757	73,497	-	
USB-stick				1,424,071	1,857,818

HARDWARE (EUR)	2015	2016	2017	2018	2019
Desktop/PC/notebook /servers/ mediacenter		4,708,372	4,512,344	4,884,326	3,412,816
Tablet		3,797,004	4,137,423	3,082,432	3,231,423
External hard disk drive		415,397	378,066	314,615	387,143

CONSUMER ELECTRONICS (EUR)	2015	2016	2017	2018	2019
Audio/Video (mp3) player		187,678	172,746	133,395	84,060
Set top box/Hard disk recorder		1,314,241	1.815.006	415,909	3,074
E-reader		121,232	174,482	131,023	163,627
Mobile Phones		19,305,581	32,829,171	22,906,030	23,833,012
Wearables with storage capacity				202,396	510,597

<b>TOTAL REVENUES</b>	<b>33,498,000</b>	<b>30,070,000</b>	<b>44,187,000</b>	<b>33,509,000</b>	<b>33,483,572</b>
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EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# NORWAY



5,311,916

GDP: 367.6 billion EUR

1/3

## CONTACT INFORMATION

COUNTRY	Norway
CURRENCY	Norske kroner (NOK)
NAME ORGANIZATION	NORWACO
WEB SITE	<a href="http://www.norwaco.no">www.norwaco.no</a>
E-MAIL	<a href="mailto:norwaco@norwaco.no">norwaco@norwaco.no</a>
ADDRESS	Møllergata 8
POSTCODE	0179
CITY	Oslo
PHONE	(+47) 23 31 68 00



## OVERVIEW

### COLLECTING SOCIETY APPOINTED BY

Norwaco is owned by our 35 member organizations, which represent different groups of rightsholders in Norway. We are also approved and appointed by the Norwegian Government to holders in Norway. We are also approved and appointed by the Norwegian Government to distribute the compensation.

### EXCEPTION

Section 26 of the Norwegian Copyright Act (2018) establishes in line with article 5.2 b) of the Copyright Directive an obligation to compensate rights holders for the private copying of publicly disseminated works. This scheme for compensation was first introduced in Norway in 2005.

### LEVY

State funded

### BENEFICIARIES

Authors, performers and producers to audio and audiovisual works, and authors of literary and visual works.

### LIABLE

The remuneration is funded by the Norwegian Government, as an annual post on the national budget.

### TOTAL revenues from private copying levies in local currency

2017: NOK 47,000,000  
2018: NOK 48,030,000  
2019: NOK 49,170,000

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The rate is set unilaterally in the national budget each year. We provide a yearly statistical analysis of private copying, but this seems to have little effect on the amount of compensation.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

Copying behavior of consumers, limited to legal sources, etc.



# NORWAY

2/3

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Annually, through the State Budget.

### HOW FREQUENTLY IS PAYMENT DUE?

Annually

### HOW DO YOU MONITOR THE MARKET?

Annual surveys of private copying behavior, establishing patterns from which we decide the final distribution.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Initial distribution to member organizations and foreign organizations, who in turn is responsible for distribution to individual rightsholders. In Norway, there are different organizations which represent the different rights holders' groups. There are 35 organizations in total, which represent approximately 65,000 rights holders. They are also responsible for non-members.

### FREQUENCY OF DISTRIBUTION

Annually

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Authors, performers and producers

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Distribution is determined through internal negotiations among our members, however greatly influenced by the annual survey on private copying.

### DISTRIBUTION KEYS

The government has influenced a three-way split for audio and audiovisual copying, with 1/3 for authors, 1/3 for performers and 1/3 for producers.

Introduction of compensation for literary and visual works.



## LEGAL BASIS

### EXCEPTION AND LEVY

Section 12 of the Copyright Act (Act no. 2 of May 12, 1961, relating to Copyright in literary, Scientific and Artistic works) (consolidated version of 2015)

### LEVY

Section 12 of the Copyright Act (Act no. 2 of May 12, 1961, relating to Copyright in literary, Scientific and Artistic works) (consolidated version of 2015)

### COLLECTION AND DISTRIBUTION SYSTEMS

Section 12 of the Copyright Act (Act no. 2 of May 12, 1961, relating to Copyright in literary, Scientific and Artistic works) (consolidated version of 2015)



# NORWAY

3/3



## COMMENTS/DEVELOPMENTS

Independent literary and visual works (meaning not included in an audiovisual work) are included in the compensation scheme from July 1st, 2019. This challenges our distribution scheme.

Historically, the compensation is only adjusted in accordance with the consumer price index (CPI) in Norway, without considering the significant increase in overall private copying.

The issue of "fair compensation" is not defined anywhere. The compensation is very low, considering the full scale of private copying.



## REVENUES

NOK	2015	2016	2017	2018
	45,354,000	46,215,000	47,000,000	48,030,000

## EXPLANATION ON DEVELOPMENTS

Increased due to rise in Consumer Price Index.

Amount of copying have grown significantly, without influencing the compensation.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# POLAND



37,974,750

GDP: 497.2 billion EUR

1/9

## CONTACT INFORMATION

<b>COUNTRY</b>	Poland
<b>CURRENCY</b>	Zloty (PLN)
<b>NAME ORGANIZATION</b>	Biuro ZAiKS, SAWP, ZPAV ds. czystych nośników (head office of ZAiKS, SAWP, ZPAV of blank media)
<b>WEB SITE</b>	www.zaiks.org.pl / www.czystenosniki.pl
<b>E-MAIL</b>	biuro@czystenosniki.pl
<b>ADDRESS</b>	Stowarzyszenie Autorów ZAiKS ul. Hipoteczna 2
<b>POSTCODE</b>	00-092
<b>CITY</b>	Warsaw
<b>PHONE</b>	+48 (22) 827 606169



## OVERVIEW

### COLLECTING SOCIETY APPOINTED BY

Stowarzyszenie Autorów ZAiKS – creators  
Stowarzyszenie Artystów Wykonawców Utworów Muzycznych i Słowno-Muzycznych SAWP – performing artists  
Związek Producentów Audio-Video ZPAV– producers phonograms and videograms.

### EXCEPTION

Yes

### LEVY

Equipment: Yes  
Media: Yes

### TARIFFS

The tariffs are charged in the form of interests. A fee is a percentage (up to 3%) of the sale price of the equipment or carrier.

### BENEFICIARIES

Creators, performing artists, producers of phonograms and video grams.

### LIABLE

Producers and importers of the recording media and equipment are liable for payment.

### EXEMPTION

The products exported are not subject to fees. The equipment which is subject to a fee is tape recorders and video recorders, as well as all the other similar equipment and blank carriers that allow to make copies within the scope of personal use and have been listed by the Minister of Culture and National Heritage in the Ordinance.

### SOCIAL AND CULTURAL DEDUCTIONS

In the Polish two-tier distribution system (the first being statutory distribution between two sectors; and the second being distribution by societies representing various categories of rightsholders) possible deductions for social or cultural purposes are applied by societies responsible for distribution to their members. The deductions are not determined by the State law; they are made in accordance with the statutes of the relevant society.



# POLAND

2/9



## OVERVIEW

**TOTAL** revenues from private copying levies in local currency

2015: PLN 6,566,033.71

2016: PLN 7,761,106.89

2017: PLN 9,987,429.31

2018: PLN 7,188,137.92

## RATE SETTING

**HOW ARE LEVIES/REMUNERATION DETERMINED?**

The Minister of Culture and National Heritage determines by regulation the list of devices and carriers and also the level of levies paid for them.

**WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?**

The Minister of Culture and National Heritage shall define by his regulation categories of devices and carriers as well as the fees, on the basis of the capacity of a device and carrier to reproduce works, and the designed use thereof for functions other than reproduction of works.

The basic criterion in the Polish system for the collection of levies on sales of devices/carriers by producers and importers of a certain device/carrier is based on their destination, for the purposes of private copying.

## EXEMPTION AND REFUND

**ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?**

Levies can be collected on devices and carriers destined for the private use of the purchaser only.

**ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?**

No legal regulation

**EXEMPTION UPFRONT**

No legal regulation

**REFUND AFTERWARDS**

No legal regulation

## COLLECTION PROCESS

**HOW IS COLLECTION ORGANIZED?**

Costs for collecting private copying remunerations are directly borne by Collective Management Organizations (ZAiKS, SAWP, ZPAV) appointed to collect levies.

The levy collection system is not integrated with the customs system.

**HOW FREQUENTLY IS PAYMENT DUE?**

Producers and importers of devices and blank media shall be obliged to pay levies within two weeks at the end of each quarter wherein the sales took place.



# POLAND

3/9

## COLLECTION PROCESS

### HOW DO YOU MONITOR THE MARKET?

Three collecting societies appointed by the Minister of Culture for the collection of levies order a professional from outside the company to check the accuracy of the settlements made by the enterprises paying levies. If the liable parties are not compliant, the collecting societies are obliged to take legal action to claim levies.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Collective management organization may (within the scope of their activities) demand the submission of information and access to documents necessary to determine remuneration and fees claimed (e.g. a sales invoice, a purchase invoice, inventory documents etc.).

### ARE EXPORTS EXEMPTED?

Export refund procedures are not implemented in Polish legal regulations.

### DEFINITION OF IMPORT

The definition of an importer is specified in the Civil Code. Under the Art. 449 (5) § 2 CC an importer is anyone who introduces a product of foreign origin into domestic trade within the scope of its business activity.

Import covers deliveries of goods within the European Community as well as deliveries from non-EU countries.

### WHO IS CONSIDERED IMPORTER?

Anyone who introduces a product of foreign origin into domestic trade within the scope of its business activity.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Collective management organizations responsible for levies' distribution are: ZAIKS, SAWP, ZPAV in the audio sector, SFP, ZASP, ZPAV in the video sector.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No legal regulation

### FREQUENCY OF DISTRIBUTION

Frequency of distribution is determined based on the agreements concluded by all organizations representing rights owners of the categories in question (e.g. creators).

### WHICH RIGHTS HOLDERS ARE INCLUDED?

There are three categories of rightsholders: creators, performing artists, producers of phonograms and video grams.



# POLAND

4/9

## DISTRIBUTION PROCESS

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

The distribution schemes are determined on the basis of the Copyright Law and Law on Neighboring Rights of 4th of February 1994, and by the regulation of the Minister of Culture and National Heritage.

### DISTRIBUTION KEYS

Article 20, Section 2 of the Copyright Law and Law on Neighboring Rights determines the distribution of levies to various categories of rights owners, and their percentage share of the Audio and Video sector.

#### Distribution scheme, audio:

Authors: 50%, ZAiKS

Performers: 25%, SAWP

Phonogram Producers: 25%. ZPAV

In this sector the organizations responsible for levies' distribution are: ZAiKS, SAWP and ZPAV.

#### Distribution scheme, video:

Authors: 35%, SFP

Performers: 25%, ZASP

Video producers: 40%. ZPAV

In this sector the organizations responsible for levies' distribution are: SFP, ZASP and ZPAV.

#### Distribution scheme other:

Collective management organizations responsible for levies distribution (ZAIKS, SAWP, ZPAV in the audio sector, SFP, ZASP, ZPAV in the video sector) divide levies on the basis of the agreements concluded by all organizations representing rights owners after taking into account survey results. The survey commissioned by organizations indicates the relation between the products levied and the category in which distribution takes place.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

In the Polish two-grade distribution system (the first: statutory distribution in two sectors; the second: distribution is made by societies representing various categories of rights holders) possible deductions for social or cultural purposes are applied by societies responsible for distribution to their members. The deductions are not determined by the law enacted by the State and are made in accordance with the statutes of a society.



# POLAND

5/9



## LEGAL BASIS

### EXCEPTION

#### Article 23 of Copyright and Neighboring Rights Act of 1994 (as amended up to October 21, 2010)

1. It shall be permitted to use free of charge the work having been already disseminated for purposes of personal use without the permission of the author. This provision shall not authorize to build constructions according to other authors' architectural works as well as architectural and urban planning works and to use electronic data bases possessing the features of a piece of work unless this applies to one's own scientific use not connected with any profit-gaining purposes.

2. The scope of personal use shall include use of single copies of works by a circle of people having personal relationships, and in particular any consanguinity, affinity or social relationship.

### LEVY

#### Article 20 of Copyright and Neighboring Rights Act of 1994 (as amended up to October 21, 2010)

1. Producers and importers:

1) of tape recorders, video recorders and other similar devices.

2) of photocopiers, scanners and other similar reprographic devices which allow to make copies of all or a part of a published work.

3) of blank carriers used for fixing, within the scope of personal use, works or objects of related rights, with the help of the devices listed in subparagraphs 1 and 2 - shall be obliged to pay to collective management organizations specified in paragraph 5 which act to the benefit of artists, artistic performers, producers of phonograms and video grams, and publishers, fees at not more than 3% of the amount due from the sale of those devices and carriers.

2. The amount received in the form of fees from the sale of tape recorders and other similar devices as well as blank carriers related thereto, shall be distributed as follows:

1) 50% - to artists.

2) 25% - to artistic performers.

3) 25% - to producers of phonograms.

3. The amount received in the form of fees from the sale of video recorders and other similar devices as well as blank carriers related thereto, shall be distributed as follows:

1) 35% - to artists.

2) 25% - to artistic performers.

3) 40% - to producers of video grams.

4. The amount received in the form of fees from the sale of reprographic devices as well as blank carriers related thereto, shall be distributed as follows:

1) 50% - to artists.

2) 50% - to publishers.

5. The Minister competent for culture and protection of the national heritage, having consulted collective management organizations, associations of authors, artistic performers, organizations of producers of phonograms, producers of video grams and publishers as well as organizations of producers or importers of the devices and blank carriers listed in paragraph 1, shall define, by way of a regulation: categories of devices and carriers as well as the fees referred to in paragraph 1, on the basis of the capacity of a device and carrier to reproduce works, and the designed use thereof for functions other than reproduction of works, the manner of collection and distribution of the fees as well as the collective management organizations authorized to collect such fees.



# POLAND

6/9



## LEGAL BASIS

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Article 20 of Copyright and Neighboring Rights Act of 1994 (as amended up to October 21, 2010)

5. The Minister competent for culture and protection of the national heritage, having consulted collective management organizations, associations of authors, artistic performers, organizations of producers of phonograms, producers of video grams and publishers as well as organizations of producers or importers of the devices and blank carriers listed in paragraph 1, shall define, by way of a regulation: categories of devices and carriers as well as the fees referred to in paragraph 1, on the basis of the capacity of a device and carrier to reproduce works, and the designed use thereof for functions other than reproduction of works, the manner of collection and distribution of the fees as well as the collective management organizations authorized to collect such fees.



## COMMENTS/DEVELOPMENTS

In 2014, the collective management organizations submitted to the Minister of Culture and National Heritage a proposal of amendments, inter alia, to the list of carriers and devices. These amendments have not been given consideration by the Minister so far. However, in response to this proposal, the organizations representing manufacturers and importers initiated an action against such proposed changes which has turned into the active campaign against the private copying levy.



## TARIFFS

The tariffs currently in force are effective since 1 January 2009 and since then they have not been changed.

Device or carrier	The percentage (%) of the fee deducted from the sale price of the equipment or carrier	Capacity
MP3 Single Function	3.00	Per unit
CD-R 12 cm	1.72	
CD-RW 12 cm	2.89	
DAT Cassette	3.00	
MD record (MiniDisc)	3.00	
Audio Cassette	3.00	
Memory card (including pen drive and other semiconducting Massive Storage Devices)	0.47	
Stacking hi-fi with tape recorder and CD player	0.76	
Stacking hi-fi with tape recorder and DVD player	0.76	
Stacking hi-fi with tape recorder and CD player with a recording function	0.70	
Stacking hi-fi with DVD/CD player with FLASH recording function	0.17	



# POLAND

7/9



## TARIFFS

Device or carrier	The percentage (%) of the fee deducted the sale price of the equipment or carrier	Capacity
Stacking hi-fi with tape recorder and DVD player with a recording function	1.04	Per unit
Stacking hi-fi with hard disc/FLASH	0.19	
Radio-cassette recorder with CD player	0.74	
Radio-cassette recorder with CD player with a recording function	0.69	
Radio-cassette recorder	0.96	
Radio with MD player with a recording function	0.98	
Radio with CD player with a recording function	0.54	
Radio with CD player with a recording function FLASH	0.05	
CD player with a MD player with a recording function	0.94	
MD player with a recording function	1.71	
Computer hard disc STANDARD	1.00	
Other computer hard discs included in the remaining devices allowing fixing of works or subjects under the neighboring rights, including audio or audio-visual	1.00	
Computer CD recorder	1.54	
Computer DVD recorder	2.28	
Tape recorder	2.03	
Multifunctional multimedia player of MP3 format	1.14	
Car stereo set comprising a CD player with recording functions	1.08	
Car stereo set comprising a CD player with recording into another carriers' function	0.30	



# POLAND

8/9



## TARIFFS

Device or carrier	The percentage (%) of the fee deducted from the sale price of the equipment or carrier	Capacity
DVD-R 12 cm	2.53	Per unit
DVD-RW 12cm	2.95	
DVD RAM 12 cm	3.00	
Blu-Ray R 12 cm	2.10	
Blu-Ray RE 12 cm.	2.10	
HD DVD-R 12 cm	2.10	
HD DVD-RW 12 cm	2.44	
VHS cassette	3.00	
VHS/D cassette	3.00	
HD DVD or Blu-Ray computer recorder	1.89	
Video recorder	2.14	
Video player with recording function	2.35	
DVD player with recording function	1.46	
DVD player with recording function into another carrier via USB	0.27	
DVD player with recording function and hard disc	2.23	
DVD and VHS player with recording function	2.23	
DVD and VHS professional player with recording function and hard disc	1.86	
High Definition player with recording function	1.21	
High Definition player with recording function and hard disc	1.85	
Disc memory which registers AV stream (including digital TV decoder with hard disc)	0.87	
TV set comprising video recorder	0.51	
TV set comprising hard disc	0.51	
TV set comprising DVD recorder	0.35	
TV set comprising DVD recorder and hard disc	0.87	
Distant -based storage (NVPR, Cloud)	No legal regulation.	
Other: refurbishment (or remanufactured)	Products that have been returned are sold as new so that it falls within scope because it can be considered manufacturing or import of components (such as hard disks).	



# POLAND

9/9



## REVENUES

REVENUES (PLN)	2015	2016	2017	2018
Total "Audio"	6,140,658.26	6,808,156.09	9,654,379.23	7,018,134.93
Total "Video"	425,375.45	952,950.80	333,050.08	170,002.99
<b>TOTAL REVENUE</b>	<b>6,566,033.71</b>	<b>7,761,106.89</b>	<b>9,987,429.31</b>	<b>7,188,137.92</b>

### EXPLANATION ON DEVELOPMENTS

There has been a decrease in the revenues because since 2009 the Minister of Culture and National Heritage has not amended the Ordinance on the specification of the category of equipment and blank carriers subject to a fee that are currently being sold.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# PORTUGAL



10,283,822

GDP: 204.3 billion EUR

1 / 7

## CONTACT INFORMATION

<b>COUNTRY</b>	Portugal
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANIZATION</b>	AGECOP - Associação para a Gestão da Cópia Privada
<b>WEB SITE</b>	www.agecop.pt
<b>E-MAIL</b>	geral@agecop.pt
<b>ADDRESS</b>	Av. Estados Unidos da América, 94, 7.º B
<b>POSTCODE</b>	1700-178
<b>CITY</b>	Lisbon
<b>PHONE</b>	+351 21 848 66 05
<b>FAX</b>	+351 21 848 66 07



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	AGECOP: The incorporation of AGECOP was mandatory and was made in 1998. Our members are all the collecting societies existing in Portugal and representing authors, artists and performers, publishers and music and video producers.
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Yes
<b>BENEFICIARIES</b>	authors, artists and performers, publishers and music and video producers
<b>LIABLE</b>	Liable for payment are importers, manufacturers, traders or others.
<b>EXEMPTION</b>	Export/professional use
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	20 %
<b>TOTAL revenues from private copying levies in local currency</b>	2015: EUR 3,323,438.27 2016: EUR 11,794,583.61 2017: EUR 13,549,636.22 2018: EUR 14,960,000.00 (provisional)



# PORTUGAL

2/7

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The Legislator determines the levies.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

The equitable compensation is applied according to the type and storage capacity of each device as defined in the table attached to the Private Copying Law. The equitable compensation is also applied on sales of photocopies of protected works (3% of the sales price).

In both cases the equitable compensation is included in the sale price before application of VAT.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Yes, according to the article nº 4 of the Law nº 62/98 amended by the Law nº 49/2015.

Natural or legal persons, public or private, may be exempt from the payment of the compensation provided that they meet in the following conditions:

- a) If the activity is intended for audiovisual communication or the production of phonograms and video grams, exclusively for their own productions;
- b) If the activity aims to support disabled people;
- c) If the activity purpose is the safeguard of the movable cultural heritage;
- d) If the material supports are exclusively intended to be used by its author in the context of his professional activity (for instance, photographers, designers, architects, engineers, etc.);
- e) If the devices and supports are intended to be used for medical purposes, defense missions, judicial purposes, homeland security or scientific research;
- f) if the devices provided for in point p) and q) of paragraph 2.3 of the table annexed to the law of private copying are used by companies for automated document and data management systems that do not include reproduction of protected works, and the devices are not available to natural persons for individual use.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

The law shall not apply to computer programs or computer databases.

### EXEMPTION UPFRONT

In order to benefit from the exemption upfront from the payment, the acquiring natural or legal persons must apply to AGE COP, prior to the acquisition of the products, the issuance of a declaration stating that the use of the device is intended for one of the exemption situations of paragraph 1 of article 4º and present such declaration at the time of purchase. In case the requested declaration is not issued within 15 days, and if there is no substantiated refusal, it is possible to present the receipt of delivery of the request at the moment the purchase is made, in order to obtain the exemption.



# PORTUGAL

3/7

## EXEMPTION AND REFUND

### REFUND AFTERWARDS

The refund afterwards is applicable in case of exports. The refund depends on proof of export of the goods and the compliance with certain requirements: The export must be made by the first buyer in national territory.

There are deadlines to meet.

AGECOP only refunds the importer or manufacturer. The refund is attributed by offsets in the quarterly report submitted by the importer/manufacturer.

(If the export is made directly by the importer/manufacturer no equitable compensation is due).

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Importers and manufacturers are obliged to collect the equitable compensation when the first sale of the products subject to the law of private copying takes place on Portuguese territory. They must report quarterly the number of units sold of equipment and support and storage devices; respective storage capacity and equitable compensation collected in such sales.

The sellers of photocopies have to report once a year the number of photocopies and sale price before VAT.

### HOW FREQUENTLY IS PAYMENT DUE?

Importers and manufacturers are obliged to report quarterly the number of units sold of equipment and support and storage devices; respective storage capacity and equitable compensation collected in such sales.

In addition, they have to report data concerning exports and exemptions for professional uses. All the data has to be reported to AGE COP and also to the General Inspection of Cultural Activities, a body of the Ministry of Culture. Also, the public and private entities that sell photocopies are obliged to report the number of copies of works made each year.

AGECOP can audit the accounts of all importers and manufacturers covered by this Law. We also have such powers over public and private entities that have entered into contracts to pay the equitable compensation over the selling price of photocopies. All administrative and police authorities are competent to supervise the compliance with private copy legal regulations.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

AGECOP does not have any collaboration with tax authorities/customs.

### ARE EXPORTS EXEMPTED?

In order to be refunded for exports, importers and manufacturers have to present the same documents that are requested by the VAT services when applying for a VAT refund.

### DEFINITION OF IMPORT

No definition in the law.



# PORTUGAL

4/7

## COLLECTION PROCESS

### WHO IS CONSIDERED IMPORTER?

The importer is the one that purchases abroad and sells in national territory.

### ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?

Yes, for the payment of the equitable compensation

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

As the members of AGE COP can only be collecting societies, distribution to rightsholders is made by them.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

The operating costs of AGE COP shall not exceed 20% of the total revenue obtained from the collection of equitable compensation.

### FREQUENCY OF DISTRIBUTION

2 times per year

### WHICH RIGHTS HOLDERS ARE INCLUDED?

All those who are represented by AGE COP or by its associates

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Distribution schemes are set in the Law. As the members of AGE COP can only be collecting societies, distribution to rights holders is made by them. AGE COP, by legal imposition, has two Departments: The Graphic and Reprographic Copy Department and the Phonographic and Video graphic Copy Department.

### DISTRIBUTION KEYS

AGE COP distributes as follows:

compensations to the Phonographic and Video graphic Copy Department –  
40% for collecting societies representing authors.  
30% for collecting societies representing artists and performers.  
30% for collecting societies representing music and video producers.

compensations to the Graphic and Reprographic Copy Department –  
50% for collecting societies representing authors and  
50% for collecting societies representing publishers



# PORTUGAL

5/7

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

There is a cultural deduction. The Law establishes an obligation to retain 20% of the total amounts collected for collective purposes.

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

The amounts are allocated to promote cultural activities and to investigation and public awareness of copyright and neighboring rights.



## LEGAL BASIS

### EXCEPTION AND LEVY

The Portuguese Law on Private Copy (nº 49/2015) was published on the 5th of June 2015 and entered into force on the 5th of July 2015.

It amends the previous private copying Law by extending the list of devices subject to private copying levies.

The collection and management of compensations for private copy is made by AGE COP, both for audiovisual and reprography.

### LEVY

Law 62/98 as amended by Law 49/2015 and DL 100/2017

### COLLECTION AND DISTRIBUTION SYSTEMS

Law 62/98 as amended by Law 49/2015 and DL 100/2017



## COMMENTS/DEVELOPMENTS

The increase in total revenues between 2015 and 2016 was due to the impact of Law No. 49/2015, of June 5, which enlarged the scope of equipment, devices and supports subject to the Private Copying Law.

Manufacturers and importers must deliver the amounts to AGE COP on a quarterly basis. In 2015, only 1 quarter was declared and payed on the influence of Law No. 49/2015.

The increase observed in the Graphic and reprographic copy department, between 2017 and 2018, was due to the impact of D.L. No. 100/2017, of August 23, which extended lines 2.3m); 2.3n); 2.3 q); 2.3 s) and 2.3 t) of the table attached to the Private Copying Law, also to this Department.

## COURT CASES

Yes, some court cases but still without decisions.



# PORTUGAL

6/7



## TARIFFS

Blank Media/Devices (according to the Table on Equitable Compensation)	Tariff as of July 2015 (EUR)	Capacity
Devices, equipment and technical instruments of reproduction:		
a) Multifunction equipment or ink-jet photocopiers	5	per unit
b) Multifunction equipment or laser photocopiers:		
Up to 40 pages per minute	10	per unit
More than 40 pages per minute	20	per unit
c) Scanners and other equipment meant only for digitization	2	per unit
d) Ink-jet Printers	2.5	per unit
e) Laser printers	7.5	per unit
Devices, gadgets and supports:	Tariff	Capacity
2.1 - Analogue devices		
Audio recorders	0.20	per unit
Video recorders	0.20	per unit
2.2 - Digital devices without memory or hard drive		
CD - recorders	1	per unit
DVD - recorders	2	per unit
CD and DVD recorders	3	per unit
Blu-Ray disc recorders	3	per unit
2.3 - Support and Storage devices		
a) Analogue support materials audio such as cassettes/tapes	0.10	per unit
b) Analogue support materials video such as cassettes/tapes	0.10	per unit
c) CD-R's	0.05	per unit
d) 8 inch CD's	0.05	per unit
e) Mini-disc's	0.05	per unit
f) CD-RW's	0.10	per unit
g) DVD-R's	0.10	per unit
h) DVD-RW's	0.20	per unit
i) DVD-RAM's	0.20	per unit
j) Blu-Ray discs	0.20	per unit
k) USB flash drives	0.016	per GB limit 7.50
l) Memory cards	0.016	per GB limit 7.50
m) Memory/HD integrated in devices with copy functions	0.016	per GB limit 15



# PORTUGAL

7/7



## TARIFFS

Devices, gadgets and supports:	Tariff	Capacity
2.2 - Digital devices without memory or hard drive		
n) External hard drive with audio/video in/out	0.016	per GB limit 15
o) Memory/HD in television and devices with interface broadcasting signal land tv including set- top box, Decoders, etc.	0.016	per GB limit 15
p) Memory devices and HD integrated in computers	0.004	Per GB limit 7.50
q) External or internal hard drive that depend on computer or other device to perform function of reproduction audio/video	0.004	Per GB limit 7.50
r) Memory/HD integrated in devices that reproduce, read and store phonograms, any musical work in compressed format (Mp3)	0.20	per GB limit 15
s) Memory/HD integrated in mobile phones	0.12	per GB limit 15
t) Memory/HD integrated in multimedia tablet devices	0.12	per GB limit 15
3 - The devices, apparatuses or support devices can only be charged by one of the equitable compensation fees described in the above sub-paragraphs, of which the highest one will be applied.		

Distant -based storage (NVPR, Cloud)

not yet applicable

Other: refurbishment (or remanufactured)

Are refurbished devices levied? Yes. Products that have been returned and are sold as new so that it falls within scope because can be considered manufacturing or import of components (such as hard disks).

The levy is on the integrated memory / hard disc, not on the device.



## REVENUES

(EUR)	2015	2016	2017	2018
Graphic and reprographic copy department	608,858.95	1,959,043.11	2,001,054.43	3,240,000.00
Phonographic and video graphic copy department	2,714,579.32	9,835,540.50	11,548,581.79	11,720,000.00
<b>TOTAL</b>	<b>3,323,438.27</b>	<b>11,794,583.61</b>	<b>13,549,636.22</b>	<b>14,960,000.00</b>





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# ROMANIA



19,472,545

GDP: 204.6 billion EUR

1/6

## CONTACT INFORMATION<sup>1</sup>

<b>COUNTRY</b>	Romania
<b>CURRENCY</b>	Romanian Leu (RON)
<b>NAME ORGANIZATION</b>	UPFR
<b>WEB SITE</b>	<a href="https://upfr.ro/en/remuneratia-pentru-copie-privata/">https://upfr.ro/en/remuneratia-pentru-copie-privata/</a>
<b>ADDRESS</b>	88b Nicolae Titulescu Blvd, Sector 1
<b>POSTCODE</b>	Postal Code 011145
<b>CITY</b>	Bucharest
<b>PHONE</b>	021.222.20.45/3



## OVERVIEW

<b>EXCEPTION</b>	Reproduction of a lawfully published work by a natural person for its private use or a use in family circle, for non-commercial purpose is covered by the private copying exception.
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>BENEFICIARIES</b>	Authors, performers, publishers, phonogram and audiovisual producers
<b>LIABLE</b>	Importer and Manufacturer
<b>EXEMPTION</b>	Professional use, Export
<b>RATE SETTING</b>	The levies are published by the Romanian Copyright office (ORDA) after negotiation between stakeholders (rightsholders and liable). Tariffs: percentage of the tax value of the products.
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	
The Union of Phonogram Producers in Romania (UPFR) has been appointed by ORDA. Effective mechanism: UPFR collects for all rightsholders and distributes to each organization of rightsholders.	
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The rate is set by law; the collecting societies negotiated with users' representatives and an arbitration court nominated by ORDA established the list of media and devices.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

There is only one criterion: the purpose of the device. If the device is for recording purposes the remuneration is 0.5% from the tax value; if the device is for storage purposes, the remuneration is 3% from the tax value.



# ROMANIA

2/6

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Professional use is not taken into account.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

There are no specific products excluded. The list of devices and media for compensatory remuneration is established by ORDA's decision and can be updated every 3 years.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Payment is due monthly.

### HOW FREQUENTLY IS PAYMENT DUE?

Part of UPFR's legal task is to undertake regular checks on the declaration by checking the accounting documents of the companies.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS ARE EXPORTS EXEMPTED?

Yes, the exports exempted. Generally, manufacturers do not declare in their monthly report exports; if they are declared in one month, we take into consideration a change in declaration, and we are deducting the amount from the payment of next month.

### DEFINITION OF IMPORT WHO IS CONSIDERED IMPORTER.

Importers are considered companies which introduce their merchandise on Romanian territory, without taking into consideration the country out of which merchandise is brought (intra-communitary products are considered imports).

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS

The Union of Phonogram Producers in Romania distributes.

### FREQUENCY OF DISTRIBUTION

Monthly

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Authors, performers and producers

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Distribution schemes are stated by Law.



# ROMANIA

3/6

## DISTRIBUTION PROCESS

### DISTRIBUTION KEYS

#### Analogue process copy:

40% - Authors  
30% - Performers  
30% - Producers

#### Digital process copy:

33.33% - Authors  
33.33% - Performers  
33.33% - Producers

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

**IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?** No



## LEGAL BASIS

### EXCEPTION

#### Article 34 of the Law No. 8 of March 14, 1996 on Copyright and Neighboring Rights

(1) It shall not be a violation of copyright, for the purposes of this law, the reproduction of a work, without the author's consent for personal use or for use by a normal family circle, provided that the work has already been disclosed to the public, while the reproduction does not contravene to the normal use of the work or prejudice the author or the owner of the rights.

### LEVY

#### Article 34 of the Law No. 8 of March 14, 1996 on Copyright and Neighboring Rights

(2) For the media on which sound or audio-visual recordings can be made or on which reproductions of the works graphically expressed can be made, as well as for equipment dedicated for copying, in the situation provided for in paragraph (1), a compensatory remuneration established by negotiation, according to the provisions of this law, shall be paid.

#### Article 107 of the Law No. 8 of March 14, 1996 on Copyright and Neighboring Rights

(1) The authors of works susceptible for being reproduced through sound or audiovisual recordings, on any kind of physical medium, as well as the ones of the works susceptible for being reproduced on paper, directly or indirectly, under the conditions provided for under Art. 34 paragraph (1) shall be entitled, together with the publishers, producers and with the performers, as the case may be, to compensatory remuneration for the private copy, in accordance with Article 34 paragraph (2). The beneficiaries cannot waive the right to compensatory remuneration for the private copy.

(2) Compensatory remuneration for private copy shall be paid by the manufacturers and importers of physical media or devices provided for in Art. 34 paragraph (2), regardless of whether the procedure is an analogical or digital one.

(3) Importers and manufacturers of physical media and devices, provided for in Art. 34 paragraph (2), are bound to register themselves with the Romanian Copyright Office, with the National Registry of Private Copy and may only carry out the said activities of import and production, subject to prior obtaining of the Registration Certificate from the Romanian Copyright Office. The certificate is issued by the Romanian Copyright Office based on evidences regarding the object of activity legally stated and of the Sole Registration Certificate with the Trade Registry, within five days from their submittal.



# ROMANIA

4/6



## LEGAL BASIS

### ...LEVY

(4) The list of physical media and devices for which compensatory remuneration for private copy is owed, as well as the quantum of such remuneration is negotiated every 2 years, within a committee consisting of:

- a) one representative of each main collective management organizations, which activate for a category of rights each, on the one hand;
- b) one representative for each of the main associative structures mandated by manufacturers and importers of physical media and devices, appointed from them, and one representative each of the first 3 manufacturers and importers of physical media and devices, established on the basis of the turnover and market-share in the respective field, provided that they are stated with Romanian Copyright Office on the own responsibility, on the other hand.

(5) In view of initiating the negotiation in accordance with the procedures provided under Article 131 paragraph (2)-(4), the collective management organizations and associations of manufacturers and importers of physical media and devices shall file with the Romanian Copyright Office an application containing the list of the physical media and devices, application that will be published in the Official Gazette of Romania, Part I. according to the Romanian Copyright Office general manager's decision, as well as the quanta of the remunerations that are to be negotiated. The list will be prepared separately for the devices and physical media from the sound and audiovisual fields and for the devices and physical media from the graphical field and they shall be negotiated in two committees.

(6) The remunerations are in percentages and calculated at the value in custom for importers, respectively to the invoiced value without VAT, with the occasion of putting into circulation of products by the producers, and it shall be paid in the following month of import or date of invoicing.

(7) The remunerations negotiated by the parties are in percentages and owed for the devices and physical media provided under Art. 34 paragraph (2), as well for A4 paper sheets for photocopier and digital supports.

(8) The compensatory remuneration for private copy is a percentual quota from the value provided for in paragraph (6), as follows:

- a) A4 paper sheets for photocopier: 0.1%.
- b) other physical media: 3%.
- c) devices: 0.5%.

(9) The negotiations for the establishment of the list of physical media and devices for which such remuneration is owed, are convened by the Romanian Copyright Office within 15 days from the publishing date of the negation request in the Official Gazette of Romania, Part I and are carried out according to the proceedings provided for in Art. 131.2.

### Article 108 of the Law No. 8 of March 14, 1996 on Copyright and Neighboring Rights

Compensatory remuneration for private copy shall not be paid where unrecorded video, audio or digital physical media manufactured within the country or imported are traded wholesale to the producers of audiovisual and sound recordings or to television and radio broadcasting organizations for their own broadcasts.

### Article 110 of the Law No. 8 of March 14, 1996 on Copyright and Neighboring Rights

The provisions of Article 107 shall not apply to the import of physical media and devices that serve for the making of copies, made with no commercial purposes, in the inside the legally allowed personal luggage.

## COLLECTION AND DISTRIBUTION SYSTEM

### Article 107- 1 of the Law No. 8 of March 14, 1996 on Copyright and Neighboring Rights

Compensatory remuneration for private copy is collected by a management organization sole collector for the works reproduced after sound and audiovisual recording and by another sole collector management organization for the works reproduced from paper, in accordance with the conditions provided for under Art. 133 paragraph (6)-(8). The two collective management organizations, having duties of sole collector, are designated through the majority vote of the beneficiary collective management organizations, at the first summoning, or majority vote of those present, at the second summoning. The collective management organizations designated by voting will file with the Romanian Copyright Office the minutes of the proceedings in accordance with which they have been designated. Within 5 workdays as from the filing, the Romanian Copyright Office shall appoint the sole collector by the general manager's decision which shall be published in the Official Gazette of Romania, Part I.



# ROMANIA

5/6



## LEGAL BASIS

### Article 107- 2 of the Law No. 8 of March 14, 1996 on Copyright and Neighboring Rights

(1) Compensatory remuneration for private copy collected by the sole collector management organizations is distributed to the beneficiaries as follows:

- a) in the case of physical media and devices for sound recorded copies, by analogical proceeding, 40 per cent from the remuneration shall be payable, in negotiable shares, to the authors and publishers of the recorded works, 30 per cent shall be payable to performers and the remaining 30 per cent shall be payable to the producers of sound recordings;
- b) in the case of physical media and devices for audiovisual recorded copies, by analogical proceeding, the remuneration shall be divided in equal shares between the following categories: authors, performers and producers.
- c) Repealed.
- d) in the case of copies recorded by analogical proceeding, on any type of physical medium, the remuneration shall be divided in equal shares between the beneficiaries corresponding to each of the three categories provided for in letters a), b) and c) and, within each category, according to those established at the aforementioned letters.

Specific regulations for private copying:

ORDA Decision no. 61/ 2009 (valid for devices/media manufactured or introduced in Romania during May 16th 2009 – present).



## TARIFFS

Audio levies	Tariff as of May 2009 (%)	Capacity
Audiocassette	3	Per unit
Minidisc	3	Per unit
Audio CD R/RW	3	Per unit
Data –CD R/RW	3	Per unit

Video levies	Tariff as of May 2009 (%)	Capacity
Videocassette	3	Per unit
DVD + R/RW	3	Per unit
Blue ray	3	Per unit
HD-DVD	3	Per unit



# ROMANIA

6/6



## TARIFFS

Device levies	Tariff as of May 2009 (%)	Capacity
Mp3 player	0.50	Per unit
CD writer (internal)	0.50	Per unit
Built-in CD writer	0.50	7% of the entire computer value
CD recorder (external)	0.50	Per unit
DVD writer (internal)	0.50	Per unit
Built-in DVD writer	0.50	7% of the entire computer value
DVD recorder (external)	0.50	Per unit
Computer hard disk	0.50	Per unit
Memory card	0.50	Per unit
USB stick	0.50	Per unit
Audio recorder	0.50	Per unit
Minidisk recorder	0.50	Per unit
Video recorder	0.50	Per unit
Mp3 recorder	0.50	Per unit
Blu-ray recorder (external)	0.50	Per unit
HD-DVD recorder (external)	0.50	Per unit
External HDD with audio-video in/out socket	0.50	Per unit
Built-in hard disk	0.50	10% of the entire computer value

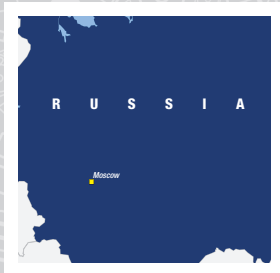


## TARIFFS

Device levies	Tariff as of May 2009 (%)	Capacity
TV and digital recorders with HDD or built-in storage medium, MP4 player, I-pod media player with AVI, MPEG-1, MPEG-2, MPEG-4, XVID, DIVX, XVID/VCD, SVCD, DVD, ACC, WMA, WMV, ASF, MP3, MP4, WAV, IMOD or any later version.	0.50	Per unit
Mobile phone with internal memory (>64MB)	0.50	Per unit
Tablets	0.50	Per unit

Additional information: all tariffs are percentages of CIF value (import or base price).





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# RUSSIAN FEDERATION



144,477,860

GDP: 1,413.8 billion EUR

1/6

## CONTACT INFORMATION

<b>COUNTRY</b>	Russian Federation
<b>CURRENCY</b>	Russian ruble (RUB)
<b>NAME ORGANIZATION</b>	Russian Union of Rightsholders
<b>WEB SITE</b>	<a href="http://www.rp-union.ru">www.rp-union.ru</a>
<b>E-MAIL</b>	<a href="mailto:office@rp-union.ru">office@rp-union.ru</a>
<b>ADDRESS</b>	Zvenigorodskoye shosse, 9/27, bld.1
<b>POSTCODE</b>	123022
<b>CITY</b>	Moscow
<b>PHONE</b>	+7 495 788 70 68



## OVERVIEW

### COLLECTING SOCIETY APPOINTED BY

Russian Union of Right-holders. RUR is the sole organization within Russian territory that is responsible for the collection and distribution of private copying remunerations to all rights owners. Appointed by the Ministry of Culture according to the Civil Code. RUR is a monopoly organization.

### EXCEPTION

Yes

### LEVY

Equipment: Yes  
Media: Yes

### TARIFFS

All tariffs in Russia are set by Government. There is a governmental regulation that sets down 1% levy for every listed device (cell phones, computers, memory sticks, memory card, etc.)

### BENEFICIARIES

#### 1) Musical sector:

- 1.1 Authors of a musical work (composers, poets) – 40%
- 1.2 Performers of a musical work – 30%
- 1.3 Producer of a musical work – 30%

#### 2) Audiovisual sector:

- 2.1 Authors of an AV work (composers, directors and screenwriters) – 40%
- 2.2 Actors of an AV work – 30%
- 2.3 Producer of an AV work – 30%



# RUSSIAN FEDERATION

2/6



## OVERVIEW

### LIABLE

Importers into the territory of Russia and local manufacturers are liable for payment.

### EXEMPTION

Professional use according to law. Export is not directly mentioned by law but in fact we do not collect for it.

### SOCIAL AND CULTURAL DEDUCTIONS

Up to 20%

### TOTAL revenues from private copying levies in local currency

2015: RUB 2.184.731.176,45  
2016: RUB 2.680.749.044  
2017: RUB 2.991.965.902,44  
2018: RUB 4.368.196.143,75

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Levies/remuneration are determined by the Russian Government.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

Criteria for determining the levies/remuneration are: 1) copying behavior of consumers; 2) reproduction/playback; 3) copying for personal purposes.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Professional use does not count as private copying in Russia. Professional equipment is not levied. This does not affect the tariff. The current legislation in Russia (cf. 4 art.1245 of the Civil Code) exempts from levies the manufacturers of exported products and professional equipment that are not used in private. The number of such manufacturers is limited by law.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

There are no specific groups that do not have to pay except for the companies importing and producing professional equipment. The products made for professional use do not fall within the scope of the private copying system.

### EXEMPTION UPFRONT

It does not exist in Russia.

### REFUND AFTERWARDS

No refunds since there is no levy.



# RUSSIAN FEDERATION

3/6

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

The remuneration collection system is established by the "Regulations on fundraising for paying remuneration for free reproduction of phonograms and audiovisual works for personal purposes payable by importers of equipment and material media used for such reproduction" approved by the Resolution of the Government of the Russian Federation "On remuneration for free reproduction of phonograms and audiovisual works for personal use", dated October 14, 2010 No. 829.

The provisions regulate the entire process of collecting remuneration. So, in accordance with the Regulation the importer has to provide RUR an import report within 10 days after import of the equipment and material media to the territory of the Russian Federation and issuing of custom formalities. The import report contains the following information:

- professional equipment/material media or for private use with/without the copy function
- name of product
- number of units
- customs value of equipment
- the corresponding codes of the Common Commodity Nomenclature for Foreign Economic Activities of the Customs Union
- instructions, manuals, technical documentation and other documents (as supporting documents)

RUR, within a period not exceeding 20 working days from the date of the receipt of the import report, compares the information contained in the report with the information provided by the customs authorities of the Russian Federation, and also verifies the correctness of the classification of equipment to a specific category (professional/for private use). If professional (PRO) or non-copying equipment (ND) is present in the import report, the RUR notifies the importer that there is no obligation to pay funds to pay the remuneration for this equipment (a sample notification is attached). On imported equipment for personal use, having a copy function, the RUR makes an invoice, which is sent to the importer. The importer should transfer remuneration according to the invoice in a period not exceeding 10 (ten) working days from the date of receipt of the invoice.

### HOW FREQUENTLY IS PAYMENT DUE?

The terms of payments by the liable parties depend on the import frequency into the territory of the Russian Federation.

Payment is due once a quarter unless the agreement states otherwise.

### HOW DO YOU MONITOR THE MARKET?

RUR sues the liable parties who are not compliant and/or take other legal actions.



# RUSSIAN FEDERATION

4/6

## COLLECTION PROCESS

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

According to the RF Government Regulation No. 829, the Federal Customs Service is obliged to send information about importers and the nomenclature of equipment and material media used for free reproduction of phonograms and audiovisual works for personal purposes to the collective management organization. In pursuance of this clause, the Federal Customs Service of Russia and the Russian Union of Rightsholders (RUR) has concluded an Agreement on information interaction.

### ARE EXPORTS EXEMPTED?

The exporters have the right to claim a refund for paid levies if they confirm that the equipment has not been used on the territory of the Russian Federation.

### DEFINITION OF IMPORT

In the law

### WHO IS CONSIDERED IMPORTER?

According to the law, the importer is a person who is responsible for the imported goods to be declared to the Customs Union. The Customs Union is represented by Russia, Belorussia and Kazakhstan. In 2016 we have new members Kirgizstan and Armenia.

### ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?

According to the Regulation of the Government of the Russian Federation No. 829, funds for the payment of fee are not paid by importers of professional equipment that is not intended for use at home. Also, funds for the payment of remuneration are not paid by importers of equipment and material media intended for personal use, but without function of reproduction (copying) phonograms and audiovisual works. There are some claims against paying fee by the importers made by organizations which refuse from such payment in favor of rightsholders and from cooperation with the RUR. Such claims are unfounded, and the Ministry of Culture confirmed the unfoundedness of such claims many times.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

RUR distributes remuneration directly to the rightsholders.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

Administrative costs for collecting and distributing private copying remunerations: in accordance with the law, deductions can be up to 15%. The current rate is 15%.



# RUSSIAN FEDERATION

5/6

## DISTRIBUTION PROCESS

### FREQUENCY OF DISTRIBUTION

According to the RUR's statute the remuneration is distributed no less than once a year (frequency of payment is fixed by the bodies of RUR).

### WHICH RIGHTS HOLDERS ARE INCLUDED?

- 1) Authors of musical and audiovisual works.
- 2) Performers (singers and actors).
- 3) Manufacturers of sound recordings or audiovisual works.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

According to the Civil Code distribution is based on statistic data. Data is allocated from relevant collecting societies, sales of physical medias, digital sales etc.

### DISTRIBUTION KEYS

#### Distribution scheme for audio:

- 1) 40% Authors of musical works.
- 2) 30% Performers of musical works.
- 3) 30% Manufacturers of musical works.

#### Distribution scheme. video:

- 1) 40% Authors of audio-visual works.
- 2) 30% Performers of audio-visual works.
- 3) 30% Manufacturers of audio-visual works.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

RUR is obliged to deduct a sum for social and cultural purposes that should not be more than 20% of the total collections.

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

Deduction for social and cultural purposes is set up by law and should be approved by the rights holders (art. 1243 (4) of the Civil Code).

The Council of RUR takes the decision, and afterwards the management of the organization must implement it, all deductions are transferred to the Funds, which are responsible for further actions.

Social and cultural funds are used for social and cultural purposes, such as musical festivals, cinema production, support young rightsholders, work with Russian heritage etc.



## LEGAL BASIS

### EXCEPTION AND LEVY

#### Article 1245 of the Civil Code of the Russian Federation.

The authors, performers and manufacturers of sound recordings and audiovisual works are entitled to receive a fee for a free reproduction/playback of the sound recordings and audiovisual works exclusively for personal purposes. Such a fee is of a compensatory nature and is payable to rights holders from the funds payable by the manufacturers and importers of the equipment and material media used for the reproduction/playback.



# RUSSIAN FEDERATION

6/6

## COURT CASES

All lawsuits are currently related to evasion of payment remuneration in favor of rightsholders.



## TARIFFS

The fee is 1% of the production price per unit of equipment and material media.

The list of equipment and material media is set up by the Government.

The list contains a number of equipment and material media with the following features:

- 1) Equipment having a sound-recording or video-recording device and using magnetic, optical or semi-conductor media (Central memory units, memory units on discs, magnetic tapes and other media, sound-reproducing equipment (including cassette players) having a sound-recording device and using magnetic, optical or semi-conductor media, videorecording or video-reproducing equipment combined or not combined with video-tuner on magnetic tape, DVD-players, etc.).
- 2) Magnetic tapes and magnetic discs
- 3) Optical media
- 4) Semi-conductor media



## REVENUES

(RUB)	2015	2016	2017	2018
Total collections	2,184,731,176.45	2,680,749,044	2,991,965,902.44	4,368,196,143.75

RUR does not split the allocated compensation between types of equipment. Only the final figures of the total collection can be provided.

## EXPLANATION ON DEVELOPMENTS

The amount of remuneration collected and distributed in favor of copyright holders increases annually. The remuneration collected and distributed in 2013-2014 was abnormally high due to payment of remuneration for 2010-2012 by large importers during this period.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# SERBIA



6,982,604

GDP: 42.8 billion EUR

1 / 7

## CONTACT INFORMATION

<b>COUNTRY</b>	Serbia
<b>CURRENCY</b>	Serbian dinar (RSD)
<b>NAME ORGANISATION</b>	SOKOJ - Serbian Music Authors' Organization
<b>WEB SITE</b>	www.sokoj.rs
<b>E-MAIL</b>	office@sokoj.rs
<b>ADDRESS</b>	Mišarska 12-14
<b>POSTCODE</b>	11000
<b>CITY</b>	Belgrade
<b>PHONE</b>	+381 11 4033100
<b>FAX</b>	+381 11 4033154



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	SOKOJ
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Special Remuneration Tariff valid from May 2013; fixed percentage for each type of media/device
<b>BENEFICIARIES</b>	Authors, Producers of Phonograms, Performing Artists
<b>LIABLE</b>	Domestic Manufacturers, Importers
<b>EXEMPTION</b>	Yes
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	Yes
<b>TOTAL revenues from private copying levies in local currency</b>	2015: RSD 5,935,699.82 2016: RSD 4,283,176.14 2017: RSD 4,426,860.15 2018: RSD 3,296,475.06



# SERBIA

2/7

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The Government of the Republic of Serbia issues regulations on devices and blank media which are the subject of private copy levies

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

A fixed percentage of the blank media and devices' value.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

No

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

Studio equipment, video surveillance equipment, voice recorders, memory cards, computers, laptops, tablets, smartphones, hard drives.

### EXEMPTION UPFRONT

No

### REFUND AFTERWARDS

No

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

SOKOJ discovers liable parties based on import data, contacts the importers and issues the invoices.

### HOW FREQUENTLY IS PAYMENT DUE?

Monthly

### HOW DO YOU MONITOR THE MARKET?

Monitored by Customs Administration.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Customs Administration delivers relevant import reports to SOKOJ

### ARE EXPORTS EXEMPTED?

Yes

### DEFINITION OF IMPORT

Import of goods means bringing in, delivery or shipment of goods from the territory of another country or customs territory to the territory of the Republic of Serbia, in accordance with the customs regulations of the Republic of Serbia. (Law on Foreign Trade Operations – "Official Gazette of the Republic of Serbia" Nos. 36/09, 36/11 and 88/11).



# SERBIA

3/7

## COLLECTION PROCESS

### WHO IS CONSIDERED IMPORTER?

In the context of private copying, an importer is a legal person which brings blank media and devices into the Republic of Serbia from abroad.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

SOKOJ collects the complete remunerations on this basis (comprehensive collection). SOKOJ distributes the collected remunerations towards its members and other rights holders, as well as other collective organizations (OFPS and PI), which further distribute their share.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No, administrative costs are limited to 20% by agreement with other collective organizations.

### FREQUENCY OF DISTRIBUTION

Yearly (monthly between societies)

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Authors, Producers of Phonograms, Performing Artists

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Based on Law on Copyright and Related Rights and agreement between collective societies.

### DISTRIBUTION KEYS

Authors - 40% (distributed by SOKOJ)  
Producers of Phonograms - 30% (distributed by OFPS)  
Performing Artists - 30% (distributed by PI)

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

Yes

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

Cultural funds are part of the collected royalties intended to stimulate, promote or promote the musical creation of domestic authors of all genres who have entrusted the protection of their works to SOKOJ.



# SERBIA

4/7



## LEGAL BASIS

### EXCEPTION AND LEVY

#### Law on Copyright and Related Rights

##### Article 46

(1) Without prejudice to the provisions of Article 208, Paragraph 1, Items 4 and 5 of this Law, any natural person shall have the right to reproduce for personal non-commercial purposes a disclosed work without the author's permission and without paying remuneration.

(2) The copies referred to in Paragraph 1 of this Article shall not be placed on the market or be used for any other form of public communication of that work.

(3) The provisions of Paragraph 1 of this Article shall not apply to the following:

- 1) Recording of the performance, presentation or showing the work.
- 2) Three-dimensional realization of drawings for works of fine arts.
- 3) Constructed works of architecture.
- 4) Construction of a new building after an existing building, which is a work of authorship.
- 5) Computer programs and electronic data bases,
- 6) Multiplication of the written works in the scope of an entire book, unless if copies of that book have been sold out for at least two years,
- 7) Multiplication of the sheet music, except by manual copying.

(4) The author shall have the right of remuneration in accordance with the provisions of Article 39 of this Law for the use of its work in a manner prescribed by paragraphs 1 and 2 of this Article.

Remuneration is collected through levies on media and/or equipment.

### LEVY

#### Law on Copyright and Related Rights

##### Article 39

((1) When the copyright protected work is copied without the permission of the author, in compliance with provisions of article 46, paragraph 1 and 2 of this Law, the authors of the works for which, bearing in mind their nature, it can be expected that they will be multiplied by photocopying or recording onto the carriers of sound, picture or text for personal non-commercial needs of the natural persons (literary works, music, films, etc.) have a right for special remuneration from import or sale of technical devices and empty carriers of sound, picture and text for whom we can justifiably assume that they shall be used for such multiplication.

(2) The remuneration from paragraph 1 of this article are paid by the producers of devices for sound or visual recording, producers of photocopying devices or other devices with the similar technology for multiplication, the producers of empty carriers of sound, picture and text, and in solidarity with them, the importers of devices for sound or visual recording, photocopying devices or other devices with the similar technology for reproduction and empty carriers of sound, picture or text, with the exception of the import of small amounts intended for the private and non-commercial use, as part of the personal luggage.

(3) If the devices and items from paragraph 1 of this article are not produced in the Republic of Serbia, the remuneration is paid by the importer.

(4) The obligation for the payment of remuneration from paragraph 1 of this article originates:

- 1) at the first sale in the Republic of Serbia or import in the Republic of Serbia of new devices for sound or visual recording;
- 2) at the first sale in the Republic of Serbia or import in the Republic of Serbia, of empty carriers of sound, picture and text;
- 3) at the first sale in the Republic of Serbia or import in the Republic of Serbia, of new devices for photocopying or other devices with the similar technology of copying.



# SERBIA

5/7



## LEGAL BASIS

### ...LEVY

(5) In the case of copying works protected by copyright by photocopying or similar technology, apart from the right to remuneration from paragraph 1 of this article, the author has the right to remuneration from the legal or natural person providing commercial services of photocopying.

(6) Persons from paragraph 2 of this article do not pay remuneration for the:

- 1) technical devices and empty carriers of sound, picture and text if they are intended for export,
- 2) technical devices which are usually not used for the copying of works for personal non-commercial purposes (for example, studio equipment and devices, Dictaphone, and similar),
- 3) empty carriers of sound, picture and text applicable exclusively with technical devices from item 2 of this paragraph.
- 4) technical devices and empty carriers of sound, picture and text which the potential taxpayer, obliged to pay remuneration, buys in another state or customs territory, if they are directly delivered to another state or customs territory, or if the potential taxpayer, obliged to pay remuneration after the conducted appropriate customs procedure, dispatches them from the territory of the Republic of Serbia;
- 5) computers, technical equipment, components and computer memories, except if some of those devices are not expressly mentioned in the list from paragraph 12 of this article.

(7) Taxpayer obliged to pay special remuneration that has paid special remuneration for the devices and items from the list from paragraph 12 of this article, which were later dispatched from the territory of the Republic of Serbia, has the right for the return of the paid special remuneration.

(8) Persons from paragraphs 2 and 5 of this article have an obligation, at the request of the organizations for collective management of copyright and related rights, to forward information on the type and number of sold or imported devices or carriers of sound, picture and text, as well as information on the number of photocopies made, as the ground for the calculation of compensation. Information obtained in such a way can be used by the organization only for the calculation of the remuneration and must not be used for any other purposes.

(9) Remuneration from paragraphs 1 and 5 of this article must be the fair compensation and the determination of its amount must take into account the probable damage suffered by the author when his work is copied without his permission for personal non-commercial use, the application of technical measures of protection and other circumstances that can influence the correct calculation of the amount of this special remuneration.

(10) The authors may realize their right to remuneration from paragraphs 1 and 5 of this article only through the organizations for collective management of copyright and related rights.

(11) Author cannot renounce the right to special remuneration from paragraphs 1 and 5 of this article. Right to special remuneration cannot be the subject matter of abandonment, disposition for life and judicial enforcement.

(12) List of technical devices and objects for which there is an obligation of payment of special remuneration according to conditions from paragraph 1-10 of this article is determined by the Government (henceforward: device and object from the list of the Government).

(13) In the case of the doubt if for some device or object from the Government list, which has more functions, special remuneration is paid, the existence of the obligation of payment of special remuneration is established on the basis of the essential purpose of the device or object.



# SERBIA

6/7



## LEGAL BASIS

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Law on Copyright and Related Rights

##### Article 178

(1) The single equitable remuneration for the realization of right to a special remuneration from article 39 and 146 of this Law, which is paid from the first sale or import into the Republic of Serbia of devices to sound or visual recording and empty carriers of sound, picture and text, is determined by agreement in writing between the organizations which exercise the right of those holders of copyright and related rights that by the virtue of this law enjoy the right to a special remuneration on one side and on the other side the representative association of producers or importers of devices for sound and visual recording and importers of empty carriers of sound, picture and text.

(2) The organizations from Paragraph 1 of this Article jointly initiate the negotiations on the single equitable tariff, jointly negotiate in the procedure and in a way determined by article 173 and 174 of this Law and jointly publish the single equitable remuneration from paragraph 1 of this article in the "Official Gazette of the Republic of Serbia".

(3) The single equitable remuneration determined in a way prescribed by Paragraphs 1 and 2 of this Article is enforced on the eight day from the publication date in the "Official Gazette of the Republic of Serbia".

(4) If in the term of two months from the date of the publication of the invitation from Article 174 of this Law, the agreement from Paragraph 1 of this Article has not been reached, the proposal of the single equitable tariff from Paragraph 1 of this Article is determined by the administrative boards of the organizations on the basis of a written agreement.

(5) The proposal of a single equitable remuneration is communicated to the Commission for an opinion.

(6) If in the term from 90 days from the publication of the invitation from the article 173 of this Law, the organizations from paragraph 1 of this article do not file to the Commission the request for the opinion on the proposal of a single equitable tariff, that tariff shall be determined by the Commission.

(7) The collection of the single equitable remuneration from Paragraph 1 of this Article is performed by the organization for the collective management of musical rights with the previously reached agreement in writing with the organizations that participated in the negotiations on the single equitable tariff and the amount of the expenses of collecting the special remuneration and the regime of distribution of the special remuneration among the organizations from this paragraph.

(8) The organization for the collective management of musical rights has the obligation to divide the totally collected special remuneration, after the deduction of expenses of collection of the special remuneration determined as agreed, to the authors and direct to the organizations of the interpreters and the producers of phonograms or videograms in the following way: 40% to the authors, 30% to the interpreters and 30% to the producers and phonograms and the producers of videograms.

*Also: Agreement with two other collective rights organizations; Distribution Plan.*



# SERBIA

7/7



## TARIFFS

Blank Media	Tariff (%)
CD	3
DVD	3
HD DVD	3
Blu-ray Disc	3
Minidisc	3
Audio Cassette	3
VHS Cassette	3
USB Flash Drive	1
Devices/Hardware/Consumer electronics	Tariff (%)
Photocopiers	0.5
CD Recorder Drives	1
DVD Recorder Drives	1
Printers	0.5
Image Scanners	0.5
DVD Recorders	1
BD Recorders	1
Digital Audio Players	1
Video Recorders	1
Digital Jukeboxes	1
Hi-Fi CD Recorders	1
Hi-Fi DVD Recorders	1
Hi-Fi HD Recorders	1



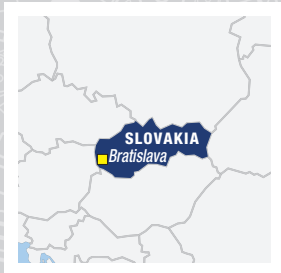
## REVENUES

(RSD)	2015	2016	2017	2018
Total revenues	5,935,699.82	4,283,176.14	4,426,860.15	3,296,475.06

### EXPLANATION ON DEVELOPMENTS

2015 has the highest revenue amount predominantly because of numerous settlements relating to unpaid levies for the preceding two years – namely, private copying levy has been introduced in 2013 and it took some time for it to fully take effect. There were no changes to tariff rates and/or devices included since the Tariff's instatement.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# SLOVAK REPUBLIC

5,446,771

GDP: 89.6 billion EUR

1 / 7

## CONTACT INFORMATION

<b>COUNTRY</b>	Slovak Republic
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANIZATION</b>	SOZA - Slovak Performing and Mechanical Rights Society
<b>WEB SITE</b>	www.soza.sk
<b>E-MAIL</b>	international@soza.sk
<b>ADDRESS</b>	Rastislavova 3
<b>POSTCODE</b>	821 08
<b>CITY</b>	Bratislava
<b>PHONE</b>	+421 2 55 569 363
<b>FAX</b>	+421 2 55 569 409



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	SOZA. Appointed by rights holders – SOZA, OZIS, LITA, SLOVGRAM, SAPA - collective management organizations representing different rightsholders (by general representation agreement between the societies).
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	<p>ANNEX No. 2 of the Copyright Act No. 185/2015 Coll. as amended (hereinafter referred to as "Copyright Act") - GROUNDS FOR CALCULATION OF COMPENSATION FOR REMUNERATION PURSUANT TO SECTION 36 PARAGRAPH 2 AND ITS AMOUNT 1. Person under Section 36 paragraph 3 pays compensation for remuneration for using of work pursuant to Section 42 for:</p> <p>a) blank recording medium enabling saving or preserving of copy of work, i.e. CD, DVD, Blu-ray disc, minidisc, magnetic tape or other similar optic, magnetic or electronic carrier or USB stick, memory card, hard disk which is not built in technical device, in amount of 6 % from import price or sale price of such carrier,</p> <p>b) technical device enabling making a copy of work on hard disk, USB stick, memory card or other carrier pursuant to sub-paragraph (a) or other technical device with such effect or feature which is a sound or audio-video recorder, set-top box enabling creation or saving of copy of work to other independent technical device or record carrier, game console, smart TV, mp3 or mp4 player or other technical device with such effect, with exception of technical devices pursuant to sub-paragraphs (c) to (g) and technical devices specified in paragraph 2 sub-paragraph (a), in amount of 3% from import price or sale price of such technical device,</p>



## SLOVAK REPUBLIC

2/7



## OVERVIEW

## ...TARIFFS

- c) technical device - a mobile phone enabling making a copy of work in amount 0.7 % from import price or sale price of such technical device,
- d) technical device - a tablet enabling making a copy of work in amount 0.6 % from import price or sale price of such technical device,
- e) technical device - a computer enabling making a copy of work in amount 0.85 % from import price or sale price of such technical device,
- f) technical device - a video camera enabling making a copy of work in amount 1 % from import price or sale price of such technical device,
- g) technical device - a camera enabling making a copy of work in amount 0.35 % from import price or sale price of such technical device.

## BENEFICIARIES

Authors, producers, performers.

## EXEMPTION

According to section 167 par. 3 of the Copyright Act Compensation for remuneration is not paid for technical device or blank recording medium pursuant to Section 36 paragraph 3 (a) which were exported to a third country or sent to a Member State. Compensation for remuneration is not paid for technical device or blank recording medium pursuant to Section 36 paragraph 3 (a) which are demonstrably intended to be used for own purposes of importer or recipient.

## SOCIAL AND CULTURAL DEDUCTIONS

N/A

## TOTAL revenues from private copying levies in local currency

2015: EUR 1,442,193.42  
 2016: EUR 2,413,657.67  
 2017: EUR 4,378,914.21  
 2018: EUR 3,359,185.82

## RATE SETTING

## HOW ARE LEVIES/REMUNERATION DETERMINED?

Levies are set directly by the Slovak Copyright Act (Annex n.2 of the Act).

## WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

The criteria used are undisclosed by the legislator.

## EXEMPTION AND REFUND

## HOW ARE LEVIES/REMUNERATION DETERMINED?

The remuneration shall not be paid for levied objects that will be used for the personal use of the importer or recipient.



# SLOVAK REPUBLIC

3/7

## EXEMPTION AND REFUND

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

The remuneration shall not be paid for levied objects that will be used for the personal use of the importer or recipient.

### EXEMPTION UPFRONT

Liable persons do not include the exempted products in quarterly reports.

### REFUND AFTERWARDS

There is no system for afterwards reimbursement of compensations of private copying remuneration in place.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

SOZA collects the remuneration and distributes them to 5 collective management societies authorized to collect private copying remuneration in Slovakia, including SOZA itself. Organizations are obliged to follow the provisions of Copyright Act.

### HOW FREQUENTLY IS PAYMENT DUE?

Payment is due quarterly.

### HOW DO YOU MONITOR THE MARKET?

Market control is carried out by exchanging data with several state bureau's incl. customs office.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Yes

### ARE EXPORTS EXEMPTED?

Exports are exempted.

### DEFINITION OF IMPORT

Compensation for remuneration pursuant to paragraph 2 must be paid by manufacturer, recipient from Member State, importer from other than a Member State (hereinafter referred to as "third country") or other person who, for the purpose of sale, places at market in the Slovak Republic including sale through internet, a technical device enabling temporary or permanent creation of copy of work or saving or preserving of copy of work or blank recording medium enabling saving or preserving of copy of work.

There is no other statutory definition in the Copyright Act.

### WHO IS CONSIDERED IMPORTER?

Producers, recipients from a member state, importers from a third country or other persons who place the carriers or devices on sale for the first time on the Slovak market are considered the importer.



# SLOVAK REPUBLIC

4/7

## COLLECTION PROCESS

### ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?

Some liable parties deny payments for SMART TVs due to limited possibilities to create copies subject to levy.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

The collecting society (SOZA) is responsible for distribution of remunerations to the above-mentioned five collective societies which are in turn responsible for distribution of remuneration to their represented rightsholders.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

Joint administrative costs for collecting and distributing private copying remunerations represent 10% of the collected amount of remuneration. Maximum percentage is agreed contractually between 5 collective management societies.

### FREQUENCY OF DISTRIBUTION

Annually

### WHICH RIGHTSHOLDERS ARE INCLUDED?

LITA (literary, dramatic, audio-visual, choreographic, photographic works and visual arts)  
SOZA (musical works – writers, composers and publishers)  
OZIS (performers)  
SLOVGRAM (performers and producers of phonograms)  
SAPA (producers of audio-visual recordings)

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Distribution schemes are agreed on between respective collective management societies (ergo the rightsholders).

### DISTRIBUTION KEYS

20.85135% - LITA (literary, dramatic, audio-visual, choreographic, photographic works and visual arts)  
19.2474% - SOZA (musical works – writers, composers and publishers)  
7.548% - OZIS (performers)  
30.97825% - SLOVGRAM (performers and producers of phonograms)  
21.375% - SAPA (producers of audio-visual recordings)

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

No social or cultural deductions from private copying remuneration.



# SLOVAK REPUBLIC

5/7



## LEGAL BASIS

### EXCEPTION AND LEVY

Copyright Act No. 185/2015 Coll.

Definition of private copy system:

According to section 42 of the Copyright Act No. 185/2015 Coll. the copyright is not infringed by natural person who without authorisation of its author uses the work by making a copy for his own private purpose which is neither directly nor indirectly commercial.

According to section 36 par. 2 of the Copyright Act No. 185/2015 Coll. such use of the work results in obligation to pay remuneration to the author pursuant to the basis for its calculation and in the amount prescribed in Annex No. 2 of the Copyright Act No. 185/2015 Coll.

### LEVY

List of levies is included in Annex No. 2 of the Copyright Act No. 185/2015 Coll.

### COLLECTION AND DISTRIBUTION SYSTEMS

SOZA collects the remuneration and distributes them to 5 collective management societies authorized to collect private copying remuneration in Slovakia, including SOZA itself.



## COMMENTS/DEVELOPMENTS

No further legal development after enactment of the Copyright Act No. 185/2015 Coll.



## TARIFFS

Blank Media	Private copying levy % of the import/selling price excluding VAT
Audiotape (CC, MC)	6
Flash disk (USB, UFS, MS, MSD etc.)	6
Hard disk drive - external (HDD, SSD etc.)	6
Hard disk drive - internal - non-integrated in PC (HDD, SSD etc.)	6
Memory card (SD, mini SD, micro SD, PCMCIA, MMC etc.)	6
Minidisc (MD, HI-MD)	6
Optical carrier (Blu-ray Disc, DVD, DVD-RW, CD, CD-RW etc.)	6
Videotape (VHS, HDV, Hi-8, Digital 8, Mini DV etc.)	6
Other type of blank audio media	6
Other type of blank audiovisual media	6



## SLOVAK REPUBLIC

6/7



## TARIFFS

Technical Devices	Private copying levy % of the import/selling price excluding VAT
Burning device for external optical carriers	3
Burning device for internal optical carriers - unintegrated in PC	3
Camera	0.35
Desktop computer (PC)	0.85
Notebook	0.85
Minidisc recorder	3
Minisystem or microsystem with the ability to record via USB port or otherwise	3
MP3 and MP4 player	3
Mobile phone	0.70
Multimedia recorder or player with the ability to record or with internal hard disk or with the ability to record via USB port or otherwise	3
Radio cassette with the ability to record	3
Set Top Box with the ability to create or store a copy of the work to other separate technical device or media	3
Smart TV with the built-in hard disk or with the ability to record via USB port or otherwise	3
Tablet	0.60
Video camera	1
Video game console	3
Voice recorder	3
Other type of technical audio recording device	3
Other type of technical audiovisual recording device	3

All tariffs are listed in Annex No. 2 to the Copyright Act No. 185/2015 Coll.



# SLOVAK REPUBLIC

7/7



## REVENUES

(EUR)	2015	2016	2017	2018
Audio revenues (media)	13,438.94	12,523.75	395.46	326.56
Video revenues (media)	204,436.81	689,094.97	762,802.71	782,170.35
Devices revenues				
Total 'devices'	1,224,317.67			
<b>TOTAL REVENUES:</b>	<b>1,442,193.42</b>	<b>2,413,657.67</b>	<b>4,378,914.21</b>	<b>3,359,185.82</b>

### EXPLANATION ON DEVELOPMENTS

Revenues in the year 2017 included several out-of-court settlements with liable parties.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# SLOVENIA



2,073,894

GDP: 45.8 billion EUR

1/10

## CONTACT INFORMATION

<b>COUNTRY</b>	Slovenia
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANIZATION</b>	KOPRIVA (Društvo KOPRIVA, k.o.)
<b>WEB SITE</b>	www.kopriva.si
<b>E-MAIL</b>	info@kopriva.si, nikola@kopriva.si
<b>ADDRESS</b>	Kolodvorska ulica 7
<b>POSTCODE</b>	1000
<b>CITY</b>	Ljubljana
<b>PHONE</b>	+ 386 1 52 72 938



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Slovenian Intellectual Property Office
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment : Yes Media : Yes
<b>TARIFFS</b>	Tariff System is set by Joint Agreement between Kopriva and Chamber of Commerce (Official Gazette of Republic of Slovenia, No. 04/20)
<b>BENEFICIARIES</b>	<p><b>Authors :</b></p> <ul style="list-style-type: none"> <li>- Music</li> <li>- AV works</li> <li>- Literature</li> <li>- Visual Arts</li> </ul> <p><b>Performers :</b></p> <ul style="list-style-type: none"> <li>- Phonograms</li> <li>- AV works</li> </ul> <p><b>Producers :</b></p> <ul style="list-style-type: none"> <li>- Phonograms</li> <li>- AV works</li> </ul>
<b>LIABLE</b>	Manufacturers of devices and blank media Importers are jointly liable with manufacturers
<b>EXEMPTION</b>	<ul style="list-style-type: none"> <li>- Imports for personal use as part of importer's luggage</li> <li>- Imports for professional use (as described below)</li> <li>- Imports for the benefit of disabled persons if directly related to their disability</li> <li>- Exported products</li> </ul>



## SLOVENIA

2/10



## OVERVIEW

## SOCIAL AND CULTURAL DEDUCTIONS

0 %.

**TOTAL** revenues from private copying levies in local currency

**2019:** 1 Million EUR

Note: The figure applies only for an accounting period Jul-Dec 2019, collected in period Jan-Jul 2020. Licence to Kopriva has been issued in July 2019 and the collection process enabled by the Law and the Joint Agreement started only in January 2020.

Current estimation of collections for **2020:** 2 Million EUR.

## RATE SETTING

## HOW ARE LEVIES/REMUNERATION DETERMINED?

Negotiations between CMO and the representative union of users.

## WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

Criteria used in the negotiation process:

- a) Storage capacity (media).
- b) Price categories (devices).
- c) Format itself (CD, DVD, analogue media, recorders).

## EXEMPTION AND REFUND

## ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Copyright Act defines these exemptions :

- a) products imported for non-commercial use as part of importer's personal luggage.
- b) product sold or imported for the first time for the purposes of reproduction for the benefit of disabled persons if directly related to their disability.
- c) manufacturers with respect to devices or media which are made for exportation.

## ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

First sales or imports of devices and media used for commercial reproduction for which the authorization of the rightsholders should be obtained.

## EXEMPTION UPFRONT

Products imported for non-commercial use as part of importer's personal luggage.



# SLOVENIA

3/10

## EXEMPTION AND REFUND

### REFUND AFTERWARDS

Persons liable declare the detailed list of exempted products supported by:

- a) Document proving the fact of export or
- b) Certificate confirming the status of the importer related to either commercial reproduction activity or disability, the list of imported products and detailed description of usage.

Only the importer can ask for a refund.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Collection process and the Tariffs are set by Joint Agreement between Kopriva and Chamber of Commerce. Individual Contract between Kopriva and person liable may furthermore specify some of the Joint Agreement's provisions.

Kopriva obtains and processes manufacturers' and importers' reports, collects remuneration and distributes funds (quarterly) to licensed CMOs (see distribution keys below).

### HOW FREQUENTLY IS PAYMENT DUE?

According to the Law, the reports and payments to Kopriva are due semi-annually. Individual Contracts between Kopriva and persons liable may define monthly accounting. Kopriva's accounting to licensed CMOs is due on quarterly basis (four times a year).

### HOW DO YOU MONITOR THE MARKET?

Public evidence, market inspection, contractually agreed formats of auditing / monitoring.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

Not yet established.

### ARE EXPORTS EXEMPTED?

Yes

### DEFINITION OF IMPORT

Copyright Act:

- The release of goods into free circulation in accordance with customs regulations of the European Community AND
- Each admission to the territory of the Republic of Slovenia from other EU Member States.

### WHO IS CONSIDERED IMPORTER?

Any person performing the activities stated above.



# SLOVENIA

4/10

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Kopriva is not responsible for the distribution of remunerations directly to rightsholders. It only distributes to licensed CMOs which distribute remuneration to individual rightsholders (see CMOs listed below).

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

Maximum is not set by Law. Kopriva's license declares general maximum of 20%, with 30% allowed as maximum in its first year of operations.

### FREQUENCY OF DISTRIBUTION

Quarterly

### WHICH RIGHTS HOLDERS ARE INCLUDED?

#### Authors:

- Music
- AV works
- Literature
- Visual Arts (as soon as dedicated collecting society for Arts and Photography is established)

#### Performers:

- Phonograms
- AV works

#### Producers:

- Phonograms
- AV works

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

Copyright and Related Rights Act defines the scope of rightsholders. Collective Management of Copyright and Related Rights Act defines the split between major categories of rightsholders (authors, performers, producers). Further detailed split is set by Assembly and defined in the Kopriva's Rules of distribution.

### DISTRIBUTION KEYS

#### 40% - Authors:

- 40.75 % Music (SAZAS)
- 40.75 % AV works (AIPA)
- 11.50% Literature (ZAMP)
- 7% Visual Arts (funds are reserved with no time limit until dedicated collecting society is established)

#### 30% - Performers:

- ½ Phonograms (IPF)
- ½ AV works (AIPA)

#### 30% - Producers:

- ½ Phonograms (IPF)
- ½ AV works (AIPA)



# SLOVENIA

5/10

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

There's NO deduction by Kopriva itself.

Other CMOs may set up dedicated funds in accordance with the statute. The CMOs may allocate a maximum of 10% of the collected rights' revenue to the dedicated funds.

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

The funds shall represent separate assets earmarked to promote artistic creativity and to disseminate new copyright works in areas significant for the preservation of cultural diversity, i.e. funding shall be granted to promising authors permanently residing in the Republic of Slovenia or to authors permanently residing in Republic of Slovenia for social or educational purposes.



## LEGAL BASIS

### EXCEPTION AND LEVY

#### Article 50 of Copyright and related rights Act of 30 march 1995 as last amended on December 15, 2006

(1) Subject to Article 37, the reproduction of a disclosed work shall be free, if made in no more than three copies and provided that the conditions of paragraphs 2 or 3 are fulfilled. 2) A natural person shall be free to reproduce works: 1. on paper or any similar medium by the use of a photographic technique or by some other process having similar effects; and 2. on any other medium if this is done for private use, if the copies are not available to the public, and if this is not done for direct or indirect economic advantage. ((3) Publicly accessible archives and libraries, museums and educational or scientific establishments shall be free to reproduce, on any medium, works from their own copies for internal use, provided that this is not done for direct or indirect economic advantage. (4) Reproduction according to the foregoing paragraphs shall not be permitted with respect to written works to the extent of the whole book, graphic editions of musical works, electronic databases and computer programs, and in the form of building of architectural structures, unless otherwise provided by this Act or by contract. (5) Notwithstanding paragraph 4, it shall be permissible, under the conditions of paragraph 1: 1. to reproduce a written work to the extent of the whole book, if such work is out of print for a minimum of two years; 2. to reproduce a graphic edition of musical work by means of handwritten transcription.

### LEVY

#### Article 37 of Copyright and related rights Act of 30 march 1995 as last amended on December 15, 2006

(1) The author has a right to equitable remuneration for making a sound or visual fixation, and for photocopying of his work, done within the scope of private or other internal use, under Article 50 of this Act. (2) Remuneration under the foregoing paragraph with respect to sound or visual fixation shall be paid: 1. upon the first sale or importation of new appliances for sound or visual fixation, and 2. upon the first sale or importation of new blank audio or video fixation mediums. (4) For the purposes of this Act import shall be considered as the release of goods into free circulation in accordance with customs regulations of the European Community, and as each admission to the territory of the Republic of Slovenia from other EU Member States. (5) For the purposes of this Article, the term photocopying includes other similar reproduction techniques, to the term appliances for sound or visual fixation other appliances, which enable getting the same effect, are assimilated. (6) The right to remuneration under paragraph (1) of this Article may not be waived, assigned during the life of the author, and is not subject to execution.



# SLOVENIA

6/10



## LEGAL BASIS

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Article 16 of Collective Management of Copyright and Related Rights Act

(1) A collective organization within the scope of its activity:...

...2. negotiates in good faith with representative user associations and concludes joint agreements with them referred to in Article 44 of this Act; 3. publish joint agreements and inform users about applicable tariffs; ...7. allocates the collected royalties to the entitled rightholders in accordance with pre-determined rules on the distribution and payment of the collected royalties; 8. pays the assigned royalties to the entitled rightholders

#### Article 25 of Collective Management of Copyright and Related Rights Act

(1) The Assembly shall decide on:... - the rules of the distribution of collected royalties to which rightholders are entitled;...  
...- operating cost rules;

#### Art 46 of Collective Management of Copyright and Related Rights Act,

1) The amount of compensation for private and other own reproduction, which belong jointly to all rightholders entitled to this compensation under the law governing copyright and related rights, shall be determined jointly by a collecting society authorized to collectively manage the right to compensation referred to in Article 37. Article ZASP, and a representative association of persons liable referred to in the first paragraph of Article 38 ZASP, with reasonable application of the provisions of this Act on concluding a joint agreement and setting tariffs with the exception of the third paragraph of the previous article.

## COURT CASES

Slovenian music authors' organization SAZAS has filed a suit against Intellectual Property Office's, requesting the annulment of the license issued to Kopriva.



## COMMENTS/DEVELOPMENTS

### ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?

Some of the APPLE products' importers do not provide full and/or timely reports. For reporting they use the invalid Decree from 2006. Kopriva points out that the Decree was declared invalid by the Law in 2016, outdated and legally replaced in 2020 by the new legal act – Joint Agreement with Chamber of Commerce.



## SLOVENIA

7/10



## TARIFFS

Note: The Tariffs below may be reduced up to 20% if certain conditions are met (signing an individual contract with Kopriva; granting access to relevant data for the purpose of inspecting the reports; monthly reporting and payments; reporting in the template form provided by Kopriva).

Computer	Basis	Remuneration (in EUR)	Remuneration (in EUR)
Code	Wholesale price	from 1 July 2019 to 30 June 2020	from 1 July 2020 onwards
A1	up to 300 €	3.20	4.00
A2	above 300 € to 600 €	4.70	5.25
A3	above 600 € to 900 €	6.20	6.20
A4	above 900 € to 1.200 €	8.20	8.20
A5	above 1.200 € to 1.500 €	10.20	10.20
A6	above 1.500 €	12.20	12.20

Mobile phone	Basis	Remuneration (in EUR)	Remuneration (in EUR)
Code	Wholesale price	from 1 July 2019 to 30 June 2020	from 1 July 2020 onwards
B1	up to 200 €	3.20	4.00
B2	above 200 € to 400 €	4.70	5.25
B3	above 400 € to 600 €	6.20	6.20
B4	above 600 € to 800 €	8.20	8.20
B5	above 800 € to 1.000 €	10.20	10.20
B6	above 1.000 €	12.20	12.20

Other mobile device (i.e. wearables)	Basis	Remuneration (in EUR)	Remuneration (in EUR)
Code	Wholesale price	from 1 July 2019 to 30 June 2020	from 1 July 2020 onwards
C1	up to 200 €	3.20	4.00
C2	above 200 € to 400 €	4.70	5.25
C3	above 400 € to 600 €	6.20	6.20
C4	above 600 € to 800 €	8.20	8.20
C5	above 800 € to 1.000 €	10.20	10.20
C6	above 1.000 €	12.20	12.20



## SLOVENIA

8/10



## TARIFFS

Tablet and other device with integrated memory	Basis	Remuneration (in EUR)	Remuneration (in EUR)
Code	Wholesale price	from 1 July 2019 to 30 June 2020	from 1 July 2020 onwards
D1	up to 200 €	3.20	4.00
D2	above 200 € to 400 €	4.70	5.25
D3	above 400 € to 600 €	6.20	6.20
D4	above 600 € to 800 €	8.20	8.20
D5	above 800 € to 1.000 €	10.20	10.20
D6	above 1.000 €	12.20	12.20

Hard disk (HDD) and SSD	Basis	Remuneration (in EUR)	Remuneration (in EUR)
Code	Memory capacity	from 1 July 2019 to 30 June 2020	from 1 July 2020 onwards
E1	up to 256 GB	0.50	0.70
E2	up to 1 TB	0.75	1.13
E3	up to 3 TB	1.00	1.60
E4	up to 5 TB	2.00	2.35
E5	up to 10 TB	4.00	5.00
E6	above 10 TB	7.00	8.00

USB memory unit and memory card	Basis	Remuneration (in EUR)	Remuneration (in EUR)
Code	Memory capacity	from 1 July 2019 to 30 June 2020	from 1 July 2020 onwards
F1	up to 16 GB	0.10	0.13
F2	up to 32 GB	0.15	0.25
F3	up to 64 GB	0.25	0.45
F4	up to 128 GB	0.50	0.75
F5	above 128 GB	1.00	1.50



## SLOVENIA

9/10



## TARIFFS

Digital optic media	Basis	Remuneration (in EUR)	Remuneration (in EUR)
Code	Format	from 1 July 2019 to 30 June 2020	from 1 July 2020 onwards
G1	CD	0.01	0.01
G2	DVD	0.02	0.02
G3	Bluray	0.10	0.10
G4	Other similar format	0.10	0.10

Analogue media	Basis	Remuneration (in EUR)	Remuneration (in EUR)
Code	Format	from 1 July 2019 to 30 June 2020	from 1 July 2020 onwards
H1	Sound and/or visual medium	0.19	0.19

Digital optic media	Basis	Remuneration (in EUR)	Remuneration (in EUR)
Code	Format	from 1 July 2019 to 30 June 2020	from 1 July 2020 onwards
J1	AV writer	6.26	6.26
J2	Computer writer	0.83	0.83

Analogue recorders	Basis	Remuneration (in EUR)	Remuneration (in EUR)
Code	Format	from 1 July 2019 to 30 June 2020	from 1 July 2020 onwards
K1	Sound recording device	0.50	0.50
K2	Visual recording device	3.76	3.76
K3	Sound and visual recording device	6.26	6.26

Other: refurbishment (or remanufactured)

Legal opinion pending.



# SLOVENIA

10/10



## REVENUES

EUR	2019 (as collected by 30 Jun 2020)
Total	1,050,000

### EXPLANATION ON DEVELOPMENTS

After a decade of de-regulation, license has been issued to Drustvo Kopriva, k.o. in July 2019. Collections in 2019 itself were not possible due to the fact that the users' reports were legally due not before the expiration of the semi-annual accounting period (31 Dec 2019). Additionally, the old Tariffs (set with the 2006 Governmental Decree) were declared as invalid in 2016 (Collective Management of Copyright and Related Rights Act) although still in use until the acceptance of new Tariffs.

The negotiation process with Chamber of Commerce was concluded with a Joint Agreement and new Tariff system, published in Official Gazette Of Republic of Slovenia in January 2020.

The collections started in January 2020 and included the 2nd half of 2019. Despite of the 10-years pause, many of the persons liable complied with the newly established system and it is estimated that the vast majority of the market would formalize the relationship with Kopriva by the end of 2020.

Kopriva has already performed two distributions to licensed CMOs: on 30 July (for collections made in 1st Quarter 2020) and on 20th August (for collections made in 2nd Quarter 2020). Third collection is scheduled by the end of 2020 (for collections made in 3rd Quarter 2020).

Current estimation of collections for 2020 (taking into account the risk of Covid's impact on the economy) is 2 Million EUR.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# SPAIN



46,797,754

GDP: 1,202.2 billion EUR

1/5

## CONTACT INFORMATION

<b>COUNTRY</b>	Spain
<b>CURRENCY</b>	Euro (EUR)
<b>NAME ORGANIZATION</b>	ASOCIACION VENTANILLA UNICA DIGITAL (VUD)
<b>WEB SITE</b>	www.ventanillaunica.digital
<b>E-MAIL</b>	a.alabanda@ventanillaunica.digital
<b>ADDRESS</b>	C/ Velazquez, 94
<b>POSTCODE</b>	28006
<b>CITY</b>	Madrid
<b>PHONE</b>	+34919917048



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	Royal Decree Law 12/2017, 3rd July whereby the private copy system in Spain is reintroduced. The law requires to the Spanish CMO's creating a company in order to centralize the operations.
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: Yes Media: Yes
<b>TARIFFS</b>	Tariffs valid since August. 2017. The tariffs should be revised biannual by Ministerial Order.
<b>BENEFICIARIES</b>	Rightsholders through the CMO's.
<b>LIABLE</b>	Importers and manufacturers of media/devices/equipment are liable of reporting and payment.
<b>EXEMPTION</b>	Exports, professional use and acquisitions of public administrations.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	20%
<b>TOTAL revenues from private copying levies in local currency</b>	2015: 0 2016: 0 2017: EUR 20,193,217.03 (since august 2017) 2018: EUR 40,428,723.86 (provisional figure) Reprography included



# SPAIN

2/5

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

By Government, biennially

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

The total amount of remuneration must be determinate based on usage and harm.

The law considers seven criteria for calculating the tariffs:

1. An estimate of the number of private copies made by consumers.
2. The storage capacity of the equipment and media, as well as the weight of the copy function comparing with other functions of the same equipment.
3. The degree of substitution of private copies vs. original work.
4. The average consumer price of the copied original works.
5. Digital or analog character of recordings made.
6. The existence of DRM's
7. The average tariffs applied in the EU with homogeneous bases of comparison.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Only final users with professional destination of devices and media.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

Only devices & media included in transitory regulation of compensation for private copying of Royal Decree Law 12/2017 are charged with copy levy (see below).

### EXEMPTION UPFRONT

This modality is aimed at companies and self-employed who are end-users of the equipment and give it an exclusively professional destination, before they make their purchases.

Companies that could be beneficiaries of the exemption should request a certificate for this purpose to VUD.

Once they have the certificate, they can show it to their technology providers, which should not charge copy levy compensation.

### REFUND AFTERWARDS

In this modality, the potential beneficiary of the refund must process an online application, in which it facilitates the purchase invoice of the devices and supports. The invoice must have broken down the collection of copy levy compensation. They also sign an affidavit in which they agree to be checked by the VUD if necessary.

Once all documentation is checked the refund is paid within 30 days.



# SPAIN

3/5

## COLLECTION PROCESS

<b>HOW IS COLLECTION ORGANIZED?</b>	Both sending bills as debt claim is made centralized from VUD.
<b>HOW FREQUENTLY IS PAYMENT DUE?</b>	Liquidation reports of copy levy are on a quarterly basis. The debtors have 30 days to present their report, once the natural quarter ends. Once the settlement is reviewed by VUD, the invoice is issued, and the payment takes place within 30 days.
<b>HOW DO YOU MONITOR THE MARKET?</b>	The VUD has an annual verification plan for companies that regularly present their liquidations, as well as for those that we are certain that they are operating in the sector, but do not report their activities. The Law gives the VUD the ability to verify the debtors.
<b>COLLABORATION WITH TAX AUTHORITIES/CUSTOMS</b>	Yes
<b>ARE EXPORTS EXEMPTED?</b>	Yes, copy levy is only charged for those devices & media distributed within national territory.
<b>DEFINITION OF IMPORT</b>	No
<b>WHO IS CONSIDERED IMPORTER?</b>	Acquirers outside the national territory, for commercial distribution or use within it.
<b>ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?</b>	Debtor organizations are denying whole system, because probably they wish to come back to the former system financed by state budget.

## DISTRIBUTION PROCESS

<b>WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?</b>	The distribution of collected private copy remunerations rely on collecting societies.
<b>IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?</b>	No



# SPAIN

4/5

## DISTRIBUTION PROCESS

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Author, performers, producers and literally editors.

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

The distribution is regulated by the government through a royal decree.

### DISTRIBUTION KEYS

#### Distribution scheme for audio:

30% – AIE (music performers)

30% – AGEDI (phonogram producers)

40% – SGAE (authors and publishers)

#### Distribution scheme for video:

6.67% – AIE (music performers);

26.67% – AISGE (audio-visual performers)

1.7233% – DAMA (audio-visual authors)

33.33% – EGEDA (audio-visual producers)

30.2766% – SGAE (authors and publishers)

1.3333% – VEGAP (authors of visual arts)

#### Distribution scheme for reprography:

87% - CEDRO (literally author and editors)

13% - VEGAP (authors of visual rights)

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

Yes

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

Social assistance and cultural promotion.



## LEGAL BASIS

### EXCEPTION AND LEVY

Law 2/2019, of March 1, which modifies the revised text of the Intellectual Property Law, approved by Legislative Royal Decree 1/1996, of April 12.

### LEVY

Royal Decree Law 12/2017, 3rd July.

### COLLECTION AND DISTRIBUTION SYSTEMS

Royal Decree 1398/2018, 23rd November.



# SPAIN

5/5



## COMMENTS/DEVELOPMENTS

The CMOs are negotiating with the debtor's organizations to agree on new tariffs. If there's not agree, the Government will regulate it by Royal Decree.



## TARIFFS

Blank Media	Tariff valid since Aug-17 (EUR)		Capacity
CD	0.08		-
CD Rewritable	0.10		-
DVD	0.21		-
DVD Rewritable	0.28		-
Devices/Hardware/Consumer electronics	Tariff valid since Aug-17 (EUR)		Capacity
Multifunctional equipment (print, copy & scan)	5.25		-
Monofunctional equipment (print, copy or scan)	4.50	Up to 39 copies per minute	
CD Recorder	0.33		-
DVD recorder	1.86		-
USB Memories & Memory Cards	0.24		-
Non-integrated HDD	6.45		-
Integrated HDD (except those in video game consoles or digital television decoder)	5.45		-
Portable devices that reproduce phonograms, video grams, texts (ereaders) or any other content in compressed format and portable devices with touch screen	3.15		-
Mobile phones able to reproduce phonograms, video grams, texts or any other content	1.10		-



## REVENUES

(EUR)	2015	2016	2017 (since August)	2018 (provisional)
GROSS COLLECTION			29,540,233.07	59,929,812.63
EXEMPTIONS			-692,780.17	-2,174,492.83
RESERVE			-8,654,235.87	-17,326,595.94
<b>TOTAL REVENUES</b>			<b>20,193,217.03</b>	<b>40,428,723.86</b>

\*revenues include reprography





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# SWEDEN



10,175,214

GDP: 470.3 billion EUR

1 / 7

## CONTACT INFORMATION

<b>COUNTRY</b>	Sweden
<b>CURRENCY</b>	Swedish krona (SEK)
<b>NAME ORGANIZATION</b>	Copyswede
<b>WEB SITE</b>	copyswede.se
<b>E-MAIL</b>	copyswede@copyswede.se
<b>ADDRESS</b>	Alströmergatan 12. 7 tr
<b>POSTCODE</b>	112 47
<b>CITY</b>	Stockholm
<b>PHONE</b>	+46 (0)8 545 667 00
<b>FAX</b>	+46 (0)8 667 88 11



## OVERVIEW

### COLLECTING SOCIETY APPOINTED BY

Copyswede is responsible for the collection and distribution of the remuneration.

According to Article 26 m of the Copyright Act, an organization representing a substantial number of Swedish authors and holders of neighboring rights in the field concerned is entitled to collect the remuneration.

Copyswede is tasked by its member organizations and co-operative partners to collect the remuneration. (The member organizations represent Swedish authors and performers and Copyswede have partnership agreements with TV- and radio corporations and organizations of film and phonogram producers).

### EXCEPTION

Yes

### LEVY

Equipment: Yes  
Media: Yes

### TARIFFS

Tariffs are in place. However, the tariffs are currently negotiated with the electronic industry.

### BENEFICIARIES

Copyswede is responsible for distribution to rights holders, both directly to individual rights holders or through organizations of rights holders.

### LIABLE

Importers

### EXEMPTION

Export/professional use/use by organizations for disabled people

### SOCIAL AND CULTURAL DEDUCTIONS

No

### TOTAL revenues from private copying levies in local currency

2015: SEK 96,217,470  
2016: SEK 88,728,598  
2017: SEK 58 265,153  
2018: SEK 56,567,070



# SWEDEN

2/7

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

The levies are fixed in the law. In practice the level of the levies has been set through negotiations and in compensation claims directed to the importers.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

The law contains certain criteria to reduce the levies (in practice this have been achieved through negotiations with the industry). The mentioned criteria are for example if the authors have in some other form received compensation for the making of private copies or if the products are used for other purposes than private copying.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

The law provides an explicit exception regarding sales for professional uses and sales to organizations for functionally disabled persons.

### EXEMPTION UPFRONT

The condition is that the products will be exported from the country, used only for professional purposes or used for the making of copies of works for persons with a disability.

### REFUND AFTERWARDS

A claim for a refund can be made if a product is withdrawn or exported from the market and shall be made in one of the monthly reports to Copyswede within one year of the report of the original sell of the product. The relevant amount will then be withdrawn from the levy for the period of the report.

No special evidence is requested from the importers registered with Copyswede, but Copyswede has a right to audit which is regulated in the agreement with the importers.

A refund can be requested by an importer, a manufacturer or a distributor who is registered with Copyswede and has taken over the responsibility to report and pay the levy from the importer/manufacturer.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Organizations must contact and report to Copyswede themselves. Collection is not legally organized by customs.

### HOW FREQUENTLY IS PAYMENT DUE?

Once a month

### HOW DO YOU MONITOR THE MARKET?

Copyswede performs regular market control and has the right to audit importers and retailers. The right to audit is regulated in agreements with the importers.



# SWEDEN

3/7

## COLLECTION PROCESS

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

There is no collaboration with tax authorities/customs.

### ARE EXPORTS EXEMPTED?

Yes

### DEFINITION OF IMPORT

The definition in 26k § of the Copyright Act is to bring products into the country within professional activities.

### ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?

Yes, there are liable parties who claim that they do not have to pay any levy for smartphones, computers or tablets. The reason for that is that they claim that these devices are not "especially suitable for the making of copies of works for private purposes" and are not included in the system.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Collected remunerations are distributed by Copyswede. STIM. SAMI/IFPI. film producers and broadcasting organizations on a yearly basis.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No

### FREQUENCY OF DISTRIBUTION

Once every year

### WHICH RIGHTSHOLDERS ARE INCLUDED?

Authors, performers and producers

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

The revenue for each product is divided between audio and video copying. For this purpose, Copyswede commissions market research companies to carry out annual copying surveys. The division of the revenue is based on the results of the copying surveys. Following a proposition of distribution from Copyswede, negotiations take place between Copyswede and the organizations of rightsholders. Both parties then set the distribution schemes.



# SWEDEN

4/7

## DISTRIBUTION PROCESS

### DISTRIBUTION KEYS

#### Distribution scheme.

##### audio:

5.33% Union of Broadcasting Organizations (UBOS)

##### Thereafter:

33.3% STIM (Lyricists and composers)

33.3% SAMI (Artists/musicians for recorded music)

33.3% IFPI (Music producers)

#### Distribution scheme.

##### video:

5.33% Union of Broadcasting Organizations (UBOS)

In 2008, an agreement with representatives from the US copyright holders was signed, allocating 20% of the total share of the collected private copying levy relating to video copying, net of the share accrued to UBOS.

##### Thereafter:

33% Video and film producers

67% IFPI and Copyswede's Member Organizations

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

No



## LEGAL BASIS

### EXCEPTION AND LEVY

26 k § of the Copyright Act

### LEVY

26 l § of the Copyright Act

### COLLECTION AND DISTRIBUTION SYSTEMS

26 m § of the Copyright Act

## COURT CASES

Copyswede have sued two importers of mobile phones and has gained support in the first (2014), second (2015) and third instance (2016 and 2017) for its claims that mobile phones are "especially suitable for the making of copies of works for private purposes".

Copyswede has also sued one of the importers of mobile phones regarding the level of the private copying levy and gained support for its claims in 2018. The case is now appealed to the Patent- and market court of appeal.

In July 2014 Copyswede sued a company for their import of computers and tablets. Copyswede gained support for its claims in first (2015) and second instance (2016).



# SWEDEN

5/7



## COMMENTS/DEVELOPMENTS

Over the years Copyswede has signed many agreements with various industry representatives and regulated the remuneration for different products in agreements. In recent years stakeholders within the industry have questioned the suitability of the remuneration for certain product types such as mobile phones, tablets and computers.

Copyswede has claimed remuneration for mobile phones, computers, tablets, internal hard drives and gaming consoles. Some importers have admitted the liability to pay but other have rejected and several legal proceedings have been initiated (see below under "Court Cases").



## TARIFFS

Blank Media	Tariff SEK	Capacity
C-Cassette	0.025	Per minute
MiniDisc	0.020	Per minute
CD-R Audio	0.020	Per minute
E-Cassette (VHS)	0.025	Per minute
Optical Storage media	Tariff SEK	Capacity
CD-R All up to 900 MB	0.60	Unit
CD-RW All up to 900 MB	0.95	Unit
DVD-R / + R 4.7 GB	2.65	Unit
DVD-RW / + RW 4.7 GB	4.25	Unit
DVD-RAM 4.7 GB 4.25 SEK	4.25	Unit
DVD-R / + R Double Layer 8.5 GB	4.80	Unit
Flash Media (2012)	Tariff SEK	Capacity
USB-sticks		
< 2GB-80 GB	1	GB
> 80 GB	80	Unit
Devices	Tariff SEK	Capacity
USB-sticks		
< 2GB-80 GB	1	GB
> 80 GB	80	Unit



# SWEDEN

6/7



## TARIFFS

Devices	Tariff SEK	Capacity
External hard drives (2012)		
< 2GB-80 GB	1	GB
> 80 GB	80	Unit
Internal hard drives (2013)		
< 2GB-80 GB	1	GB
> 80 GB	80	unit
PC (2013)		
< 2GB-80 GB	1	GB
> 80 GB	80	unit
Tablets (2013)		
< 2GB-80 GB	1	GB
> 80 GB	80	unit
Mobile phones (2018)		
	3	GB
MP3 players, set top boxes with built-in hard drive, DVD players with built-in hard drive, TVs with built-in hard drive and other media players with built-in hard drive:		
0 – 320 GB	1	GB
>320 GB	320	unit



## REVENUES

MEDIA/DEVICES (SEK)	2015	2016	2017	2018
Audio Cassette	96,997	77,295	53,057	49,599
Audio CD	47,208	32,846	30,782	20,911
Minidisc	176	144	192	0
Video Cassette	287,748	72,828	21,655	2,454
CD-R/RW	1,126,088	873,961	664,644	481,506
MP3 players	265,402	204,503	197,274	258,932
Hard Disc Video Recorders	45,450,170	27,092,316	12,209,752	5,232,634
DVD-R/RW	3,688,321	3,067,353	2,007,113	1,496,582
USB memory	16,861,504	18,869,656	18,985,908	19,918,144



# SWEDEN

7/7



## REVENUES

MEDIA/DEVICES (SEK)	2015	2016	2017	2018
External Hard drives	18,118,784	26,376,976	15,755,776	18,132,176
Computers	6,652,348	7,451,272	6,134,560	6,954,248
Tablets	434,464	868,352	707,116	378,124
Internal Hard drives	2,990,598	3,269,662	2,495,600	2,694,172
Game consoles	23,040	25,424	381,984	162,192
Mobile phones	174,622	445,378	109,588	785,395
<b>TOTAL</b>	<b>96,217,470</b>	<b>88,728,598</b>	<b>58,265,153</b>	<b>56,567,070</b>

## EXPLANATION ON DEVELOPMENTS

In the year of 2016 two companies made a retroactive payment for the years of 2014-2016 for USB memories and external hard drives. In 2017 a major TV distributor in Sweden ceased to pay for hard disc video recorders because of change in broadcasting technology. There have been court proceedings regarding if smart phones, computers and tablets are included in the private copying levy system. The courts have found that they are, but the levels of the levies are still negotiated with the electronic industry and many companies still do not pay levies for these types of products.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# SWITZERLAND



8,514,329

GDP: 597.1 billion EUR

1/8

## CONTACT INFORMATION

<b>COUNTRY</b>	Switzerland
<b>CURRENCY</b>	Swiss franc (CHF)
<b>NAME ORGANIZATION</b>	SUISA
<b>WEB SITE</b>	www.suisa.ch
<b>E-MAIL</b>	Anke.link@suisa.ch
<b>ADDRESS</b>	Bellariastrasse 82
<b>POSTCODE</b>	8038
<b>CITY</b>	Zürich
<b>PHONE</b>	+41 44 485 66 66
<b>FAX</b>	+41 44 481 67 44



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	SUISA is appointed by rights holders.
<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment: No Media: Yes
<b>TARIFFS</b>	We have a tariff for audio/video cassettes, blank CD and blank DVD and another one for storage embedded in mp3/mp4 players, digital video recorders, mobiles and tablets. Both tariffs are approved by Swiss Arbitration Committee and effectively in force.
<b>BENEFICIARIES</b>	SUISA's own members and all other rights holders through their respective organizations.
<b>LIABLE</b>	Importers and manufacturers are liable for payment.
<b>EXEMPTION</b>	Exports are exempted and exporters can claim a refund if exports can be proved.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	There is no such deduction before distribution of the shares to the respective societies. But each society makes a deduction of its own. SUISA deducts 10% for social and cultural purposes.
<b>TOTAL revenues from private copying levies in local currency</b>	2015: CHF 13,313,383 2016: CHF 13,075,002 2017: CHF 14,657,939 2018: CHF 17,469,418



# SWITZERLAND

2/8

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Levies/remuneration are determined through negotiations between collecting societies and associations of blank carrier importers or producers. If there is no settlement, the Arbitration Commission appointed by the Ministry of Justice decides.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

Swiss law states that 'Compensation shall normally amount to a maximum of 10 percent of the proceeds from or cost of utilization for authors' rights and a maximum of 3 percent for neighboring rights. Regarding private copying we usually negotiate the levy on the basis of the costs of utilization (basically the price consumers have to pay for the device in consideration of the extent to which the device is used for private copying) and take into account:

- the copying behavior
- already licensed copies (i.e. purchased from a licensed download shop like iTunes)
- share of works that are not (or no longer) copyright protected

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

Depending on the type of carrier, professional use is taken into account and leads to a lower levy. If carriers are verifiably used for commercial copying, there is the possibility to get the levies back, e.g. when the Swiss Broadcasting Corporation imports blank DVDs to make copies of their broadcasts. During negotiations about our tariff for tablets a survey commissioned by Swiss associations of importers and producers proved that even professional users do make private copies.

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

When we first negotiated the tariff for blank audio and video tapes, we exempted tapes that are obviously not meant for private copying but for professional use. However, having tariffs for more advanced technical carriers in place today there are only exemptions for hard disks in personal computers. But if a blank carrier is definitely not eligible for private copying it is not levied.

### EXEMPTION UPFRONT

There are no upfront exemptions.

### REFUND AFTERWARDS

Exports are exempted and exporters can claim a refund if exports can be proved with customs declaration.

Add other important criteria to grant refunds. Refund is only possible through offsetting against levies.

Is only the importer legally qualified for refunds? Of also third parties? No third parties can get a refund.



# SWITZERLAND

3/8

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

Producers and importers report to SUISA the produced or imported media. SUISA sends them an invoice based on these reports.

### HOW FREQUENTLY IS PAYMENT DUE?

Payment is due 30 days after invoice date.

### HOW DO YOU MONITOR THE MARKET?

At SUISA's request, producers and importers shall grant SUISA access to their warehouses and books for verification purposes. SUISA may request a corresponding confirmation from the producer's or importer's auditors. Verification may be entrusted to an independent third party; if the verifications show that the producer's or importer's declarations were false or incomplete, the latter shall bear the verification costs; otherwise those costs will be borne by the party who requested the third-party verification.

### COLLABORATION WITH TAX AUTHORITIES/CUSTOMS

No

### ARE EXPORTS EXEMPTED?

Exports are exempted and exporters can claim a refund if exports can be proved.

### DEFINITION OF IMPORT

The importer is any company importing blank carriers into the territory of Switzerland, regardless of whether it uses the carriers itself or offers them to retailers or directly to private customers.

### WHO IS CONSIDERED IMPORTER?

As for cross-border situations, a foreign provider is also regarded as importer if the handling of a purchase for Swiss customers is equal to a purchase from a domestic provider.

### ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES? AND WHY?

Currently not. However, during negotiations the users' associations claim more and more often that phones and tablets are only used for streaming therefore the storage in the devices should not be levied anymore.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

SUISA distributes directly to its own members the share for music copyrights. The rest is distributed through organizations of other rights holders.



# SWITZERLAND

4/8

## DISTRIBUTION PROCESS

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No

### FREQUENCY OF DISTRIBUTION

Distribution to other collecting societies is quarterly; distribution to SUISA's rightsholders is yearly.

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Rightsholders (categories) who receive private copying remunerations:

- holders of music copyrights
- holders of copyrights for literature and visual works
- holders of copyrights for dramatic and audio-visual works
- holders of copyrights for audio-visual works
- holders of neighboring rights

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

According to Art. 60 of Swiss Copyright Law the split between copyrights and neighboring rights is 3:1. The distribution of the copyrights share is a matter for rights holders. The societies negotiate a distribution scheme per tariff based on studies about how consumers are using the carrier, i.e. what kind of repertoire is stored and to what extent.

### DISTRIBUTION KEYS

At the moment we have 2 tariffs for blank carriers. both are only combinations of three former separated tariffs.

One tariff (Common tariff 4) applies to audio/video cassettes, blank CD and blank DVD.

The second tariff (Common tariff 4i) applies to storage embedded in:

- MP3 players, digital video recorders and the like
- mobiles
- tablet PC

Both tariffs provide separate levies per category of products.

As the tariffs for MP3-player and digital video recorder, mobiles and tablet PC are the most important tariffs, we only describe the schemes for these three tariffs.

Distribution scheme for storage in mp3 players and the like:

- 58.7% SUISA (music copyrights)
- 4.37% Pro Litteris (copyrights for literature and visual arts)
- 2.15% SSA (copyrights for dramatic and audio-visual works)
- 9.78% SUISSIMAGE (copyrights for audio-visual works)
- 25% Swissperform (neighbouring rights)



# SWITZERLAND

5/8

## DISTRIBUTION PROCESS

### ...DISTRIBUTION KEYS

#### Distribution scheme for storage in digital video recorders and the like:

9.49% SUIZA (music copyrights)  
 5.325% Pro Litteris  
 2.66% SSA  
 57.525% SUISSIMAGE  
 25% Swissperform

#### Distribution scheme for storage in mobiles:

The tariff has a fixed rate for copyrights and another fixed rate for neighboring rights. The relation between these two rates is a result of our studies about copying behavior and is approximately 75 % for copyrights and 25 % for neighboring rights). The tariff rate for copyrights is distributed as follows:

80.5% SUIZA (music copyrights)  
 11% Pro Litteris  
 3.5% SSA  
 5% SUISSIMAGE

#### Distribution scheme for storage in tablets:

The tariff has a fixed rate for copyrights and another fixed rate for neighboring rights. The relation between these two rates is a result of our studies about copying behavior and is approximately 75 % for copyrights and 25 % for neighboring rights). The tariff rate for copyrights is distributed as follows:

60% SUIZA (music copyrights)  
 20% Pro Litteris  
 4.5% SSA  
 15.5% SUISSIMAGE

#### Organizations:

SUIZA: music copyrights.

Pro Litteris: copyrights for literature and visual arts.

SSA: authors in the dramatic, dramatic-musical, choreographic, audiovisual and multimedia sectors.

SUISSIMAGE: copyrights for audio-visual works.

Swissperform: neighboring rights.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

There is no such deduction before distribution of the shares to the respective societies. But each society makes a deduction of its own. SUIZA deducts 10% for social and cultural purposes.

### WHAT IS THE PURPOSE OF THE DEDUCTION AND WHO CAN BENEFIT?

Allocation to artists, cultural productions: SUIZA Foundation for Music.  
 Allocation for social purposes: SUIZA's pension fund for authors and publishers.



# SWITZERLAND

6/8



## LEGAL BASIS

### EXCEPTION AND LEVY

Art. 19f Swiss Copyright law

### LEVY

Art. 60 Swiss Copyright law

### COLLECTION AND DISTRIBUTION SYSTEMS

Art. 45, 48, 49 Swiss Copyright law



## COMMENTS/DEVELOPMENTS

Swiss Copyright law is currently under revision. The draft does not provide any changes regarding private copying.



## TARIFFS

Blank Media	Tariff (CHF)	Capacity
Audiocassette	0.33	60 minutes
CD-R/RW data	0.05	60 minutes / 525 MB
DVD-R/+R	0.31	4.7 GB
DVD-RW/+RW/RAM	0.88	4.7 GB
DVD R Blu-ray/HD	0.33	25 GB
DVD RW Blu-ray/HD	0.93	25 GB
Video		
VHS	0.46	60 minutes
Consumer electronics	Tariff (CHF)	Capacity
Flash Media and HD in audio devices and all portable devices other than mobiles and tablet PCs. e.g. MP3-player	2.39	-storage capacity ≤ 4 GB
	4.35	-storage capacity ≤ 8 GB
	5.05	-storage capacity ≤ 16 GB
	7.76	-storage capacity ≤ 32 GB
	12.11	-storage capacity > 32 GB



# SWITZERLAND

7/8



## TARIFFS

Consumer electronics	Tariff (CHF)	Capacity
Flash Media and HD in audio-visual devices other than mobiles, tablet PCs and personal computers, e.g. digital video recorder	20.19	-storage capacity ≤ 250 GB
	47.50	-storage capacity ≤ 1 TB
	57.00	-storage capacity > 1 TB

Consumer electronics	Tariff (CHF)	Capacity
Flash Media and HD in Tablets	2.02	-storage capacity ≤ 16 GB
	3.24	-storage capacity ≤ 32 GB
	5.30	-storage capacity ≤ 64 GB
	9.96	-storage capacity ≤ 128 GB
	18.89	-storage capacity ≤ 256 GB
	35.98	-storage capacity ≤ 512 GB
	57.00	-storage capacity > 512 GB

Consumer electronics	Tariff (CHF)	Capacity
Mobile Phones	0.98	-storage capacity ≤ 16 GB
	1.69	-storage capacity ≤ 32 GB
	2.80	storage capacity ≤ 64 GB
	5.38	-storage capacity ≤ 128 GB
	10.50	-storage capacity > 128 GB

### Distant -based storage (NVPR, Cloud) \*      Tariff 2019, valid as of 2017

Levies vary between 0.90 and 1.60 per month and subscription depending on the time the copy is accessible and the possibility to skip advertisements.

Lower levies for only live pause and free of charge offers with only work-by-work recording

### Other: refurbishment (or remanufactured)

There is no provision in our tariffs regarding refurbished products.

In Switzerland, net-based PVR are regarded as private copying since 2009 as long as these services are offered to customers by cable networks and the like and licensed under Common Tariff 12 (administered by the Swiss CMO for audiovisual works SUSSIMAGE). Since 2013 Common Tariff 12 is also applied for "catch-up TV" offered to customers by cable networks and the like. However, broadcasting companies questioned the application of Common Tariff 12 for catch up TV and filed an appeal against the current tariff. The appeal is still pending.

The tariff is determined basically on the subscription revenues. Collection is organized through associations of networks who are also negotiating partners for the tariff.



# SWITZERLAND

8/8



## REVENUES

BLANK MEDIA (CHF)	2015	2016	2017	2018
Cassette. Mini Disc etc.	38,983	24,715	14,672	16,604
VHS	47,333	9,894	1,730	181
OPTICAL STORAGE MEDIA (CHF)	2015	2016	2017	2018
CD-R/RW data	485,741	306,201	253,282	218,754
DVD-R/+R	1,246,965	773,741	649,313	464,476
DVD-RW/+RW/RAM				
DVD R Blu-ray/HD				
DVD RW Blu-ray/HD				
CONSUMER ELECTRONICS (CHF)	2015	2016	2017	2018
Flash Media and HD in audio devices and all portable devices other than mobile, tablets and PCs	938,612	630,675	515,610	410,154
Flash Media and HD in audio-visual devices other than mobiles, tablet PC and personal computers. e.g. digital video recorder	1,264,510	461,342	326,620	119,331
Flash Media and HD in Tablets	4,065,480	4,021,963	5,314,377	4,544,959
Mobile Phones*	5,225,758	6,846,470	7,582,336	11,695,019
<b>TOTAL REVENUES</b>	<b>13,313,383</b>	<b>13,075,002</b>	<b>14,657,939</b>	<b>17,469,418</b>

### EXPLANATION ON DEVELOPMENTS

Revenues for "old fashioned" media like cassettes, CD-R and DVD-R have decreased because the production and import of these media has decreased.

Revenues for storage in phones and tablets have increased even though tariffs regularly decrease. But the decrease of tariffs has so far been more than levelled out by an increase of storage capacity and an increase of sales.





EUROPE: COUNTRIES WITH A PRIVATE COPYING REMUNERATION SYSTEM AND COLLECTION AND DISTRIBUTION MECHANISMS

# UKRAINE



44,622,518

GDP: 110.8 billion EUR

1/6

## CONTACT INFORMATION

<b>COUNTRY</b>	Ukraine	
<b>CURRENCY</b>	Hryvnia (UAH)	
<b>NAME ORGANIZATION</b>	All-Ukrainian Public Organization "All-Ukrainian Author's Rights Agency" (UARA)	Public Union "Ukrainian Music Alliance" UMA
<b>WEB SITE</b>	www.vaap.com.ua	www.uma.in.ua
<b>E-MAIL</b>	office@vaap.com.ua	pavlo@uma.in.ua
<b>ADDRESS</b>	Dovnar-Zapolskogo str., 4-102	off. 28, 10, Shovkovychna Str.
<b>POSTCODE</b>	04116	01021
<b>CITY</b>	Kyiv	Kyiv
<b>PHONE</b>	+380445001157	+38 044 209 36 23



## OVERVIEW

<b>COLLECTING SOCIETY APPOINTED BY</b>	The ALL-UKRAINIAN AUTHOR'S RIGHTS AGENCY and UKRAINIAN MUSIC ALLIANCE are appointed by law and by decision of the State Intellectual Property Service of Ukraine.	
<b>EXCEPTION</b>	Yes	
<b>LEVY</b>	Equipment: Yes Media: Yes	
<b>TARIFFS</b>	Levies are determined by law; a strict list of levies is established by the Government Resolution on Equipment. Nevertheless, at the moment a new law has just been adopted that provides new mechanism of tariffs establishment.	
<b>BENEFICIARIES</b>	Appropriate rightsholders of copyright and related rights.	
<b>LIABLE</b>	Importers and manufacturers are liable for payment.	
<b>EXEMPTION</b>	Export and professional equipment.	
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	25% from the date of new law adoption.	
<b>TOTAL revenues from private copying levies in local currency</b>	UARA: 2015: UAH 1,675,542 2016: UAH 1,007,044 2017: UAH 6,755,174 2018: UAH 2,400,397	UMA: 2015: UAH 3,035,560 2016: UAH 2,217,483 2017: UAH 6,612,636 2018: UAH 6,637,166



# UKRAINE

2/6

## RATE SETTING

### HOW ARE LEVIES/REMUNERATION DETERMINED?

Levies are determined by law; a strict list of levies is established by the Government Resolution on Equipment.

### WHICH CRITERIA ARE USED FOR DETERMINING THE LEVIES/REMUNERATION?

Reproduction at home and for personal purposes of works and performances recorded in phonograms, videograms, as well as audiovisual works.

## EXEMPTION AND REFUND

### ARE THERE ANY CONSUMERS OR BUYERS EXEMPT FROM PAYING THE LEVIES?

No

### ARE THERE ANY PRODUCTS EXEMPT FROM LEVIES?

Exports: equipment imported by natural persons for private purposes only; and professional equipment are exempted.

## COLLECTION PROCESS

### HOW IS COLLECTION ORGANIZED?

UARA uses information received from importers with which UARA has the relevant agreements. importers send the filled monthly or every three months.

UMA: The importers and producers are obliged to report on the inquiry of accredited CMO. The collection is not organized by customs.

### HOW FREQUENTLY IS PAYMENT DUE?

Payment is due after import (manufacturing).

### HOW DO YOU MONITOR THE MARKET?

According to Ukrainian legislation cmo's don't not have legal grounds to receive information directly from Customs Service, therefore information received from importers with which UARA or UMA has the relevant agreements is used.

### ARE EXPORTS EXEMPTED?

Exports are exempted.

### DEFINITION OF IMPORT

Article 74 of Customs Code of Ukraine: "1. Import (release for free circulation) is a customs regime according to which foreign goods after payment of all customs duties established by the laws of Ukraine on the import of these goods and the fulfilment of all necessary customs formalities are issued for free circulation in the customs territory of Ukraine."

### WHO IS CONSIDERED IMPORTER?

Manufacturers and importers of equipment and tangible media are considered importers.



# UKRAINE

3/6

## COLLECTION PROCESS

### ARE THERE LIABLE PARTIES WHO DENY RESPONSIBILITY OR PAYMENT FOR CERTAIN MEDIA/DEVICES?

Yes. Importers evade from payments. Importers delaying trials, expertise.

## DISTRIBUTION PROCESS

### WHO DISTRIBUTES THE COLLECTED REMUNERATIONS TOWARDS RIGHTSHOLDERS?

Annually ALL-UKRAINIAN AUTHOR'S RIGHTS AGENCY distributes to authors, performers, producers as well as their successors. The ALL-UKRAINIAN AUTHOR'S RIGHTS AGENCY determines the distribution schemes; the remuneration is distributed in accordance with information received from collective management organization regarding rates of internet search systems for phonograms (musical works) and films.

### IS THERE A MAXIMUM PERCENTAGE OF ADMINISTRATIVE COSTS FOR COLLECTING/DISTRIBUTION PRIVATE COPYING REMUNERATIONS IN THE WHOLE CHAIN DETERMINED BY LAW?

No

### FREQUENCY OF DISTRIBUTION

Annually

### WHICH RIGHTS HOLDERS ARE INCLUDED?

Authors, performers, producers as well as their successors

### HOW ARE THE DISTRIBUTION SCHEMES DETERMINED?

The ALL-UKRAINIAN AUTHOR'S RIGHTS AGENCY determines the distribution schemes.

Distribution schemes are approved by General Assembly of UMA (taking into account the requirements of law).

### DISTRIBUTION KEYS

**UARA:** Remuneration is distributed according to rates of Internet search systems for phonograms (musical works) and films

**UMA:** The music part is distributed according to broadcasting distribution. 50% - copyright; 25% - performers rights; 25% - phonogram producers rights.

## SOCIAL AND CULTURAL FUNDS FOR COLLECTIVE PURPOSES

### IS THERE A SOCIAL AND/OR CULTURAL DEDUCTION?

25% from the date of new law adoption.  
The deductions are made to Ukrainian Culture Fund (beneficiaries – different creators).



# UKRAINE

4/6



## LEGAL BASIS

### EXCEPTION

#### Art. 25 of Law on Copyright and Related Rights

Article 25. Free Reproduction of Works for Personal Purposes

1. (...)
2. It shall be permissible to reproduce works and performances fixed on phonograms, video grams and specimens thereof, in home conditions and exclusively for personal purposes or for a regular family members and close acquaintances of this family, without the consent of the author(s), performers, manufacturers of the phonograms, or manufacturers of the video grams, by paying remuneration. The specifics of the payment of the remuneration in this case are stipulated in Article 42 of this Law.

### LEVY

#### Art. 42 of Law on Copyright and Related Rights

Article 42. Restriction of the Proprietary Rights of Performers, Phonogram and Video gram Manufacturers and Broadcast Organizations.

1. (...)
2. It shall be permissible to reproduce the works and performances fixed on phonograms and video grams and their specimens in home conditions and exclusively for personal purposes without the consent of the author(s), performers and manufacturers of phonograms (video grams), but paying remuneration to them in the manner stipulated in part four of this Article.
3. (...)
4. The remuneration of manufacturers of phonograms and video grams and other persons holding copyright and (or) related rights with respect to the reproductions stipulated in part two of this Article shall be paid as deductions (interest) from (on) the value of equipment and (or) material media by the manufacturers and (or) importers of the equipment and material media, with the use of which it is possible to carry out the reproduction of works fixed on phonograms and video grams exclusively for personal purposes in home conditions, except for: a) professional equipment and (or) material media not designed for use for recording in home conditions; b) equipment and material media that are exported outside the customs territory of Ukraine; c) equipment and material media that are imported by an individual into the customs territory of Ukraine exclusively for personal purposes and without a commercial purpose.
5. The amount of deductions (interest), indicated in parts two and four of this Article, to be paid by the manufacturers and (or) importers of the equipment and material media, shall be determined by the Cabinet of Ministers of Ukraine. This money shall be remitted by the manufacturers and importers of the equipment and (or) material media to the collective management organizations (hereinafter - "authorized organizations") specified by the Institution. The collected money shall be distributed among the collective management organizations registered with the Institution on the basis of contracts that authorized organizations shall enter into with all collective management organizations. The importers shall remit this money to an authorized organization when they import goods into the customs territory of Ukraine; and to the manufacturers - at the end of each month after the sale of equipment and material media.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### Art. 42 of Law on Copyright and Related Rights

6. The Institution and the authorized organizations specified by the Institution for the collection of money shall be entitled to require from manufacturers and importers information concerning the manufacture, import and realization (sale) of the equipment and material media indicated in part three of this Article. 29.
7. The collected money specified in parts two and four of this Article shall be distributed between the authors, performers, manufacturers of phonograms and video grams. This money shall be distributed in the following proportions, unless otherwise stipulated in the contracts between the collective management organizations: authors - 50 percent, performers - 25 percent and manufacturers of phonograms (video grams) - 25 percent.



# UKRAINE

5/6

## COURT CASES

We have 10 cases against importers who refuse to pay levies.



## COMMENTS/DEVELOPMENTS

There are 5 drafts Laws that may have a negative impact on the activities of collective management organizations and in fact exclude any private copy levies. Currently, these drafts are under consideration in the Ukrainian Parliament. The adoption of a new law slows down the process of collection.



## TARIFFS

The amount of deductions paid by manufacturers and importers of equipment and levies applied locally to works and performances recorded in phonograms and (or) videograms. Rates as of July 3, 2014.

Note: Amount of deductions applied to equipment and media (excluding VAT):

For importers – percentage of the value specified in the foreign trade agreement (contract);

For manufacturers – percentage of the sales price.

Name of equipment and levies	Rate of deductions (%)
1. MP3 player with one function (MP3 player, MP3 player with radio feature, MP3 player with the display, FM-tuner with playback functions as well as video and image files)	1
2. Music player having a tape recorder and CD-ROM drive with recording function	0.25
3. Music player having a tape recorder and DVD-ROM drive with recording function	0.35
4. Music player having CD / DVD-ROM drive with recording function for flash card	0.06
5. Music player having a hard drive / flash card	0.06
6. Radio having a tape recorder and recording function	0.32
7. Radio having MD-drive with recording function	0.32
8. Radio having a CD-ROM drive with recording function	0.18
9. Radio having a CD-ROM drive with recording function for flash card	0.02
10. CD player with recording function	0.31
11. DVD player with recording function	0.75
12. Hard disc "Standard"	0.3
13. Recorder for computer with CD-ROM drive	0.75
14. Recorder for computer with DVD-ROM drive, HD DVD-ROM drive or Blu-ray	1
15. Tape recorder with recording function	1.5
16. Multimedia-rich MP3 player	0.38
17. Car music player having CD-ROM drive with recording function	0.36
18. Car music player having CD-ROM drive with recording function on other media	0.1



# UKRAINE

6/6



## TARIFFS

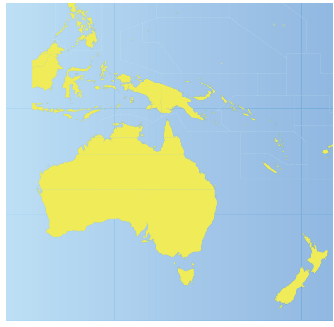
Name of equipment and levies	Rate of deductions (%)
19. VCR with recording function	1.5
20. Player for DVD-ROM drive with recording function on other media via USB	0.09
21. Player for DVD-ROM drive with recording function and HDD	1
22. Player for DVD-discs and VHS cassette with recording function	1
23. Player for HD DVD-ROM drive with recording function	0.4
24. Player for HD DVD-ROM drive with recording function and HDD	0.62
25. TV with VCR or hard drive or player with DVD-ROM drive having a recording function which is either built in or on a flash card.	0.17
26. Notebook with optical drive for CD / DVD-RW-drive	0.2
27. Cell phones (mobile phone), tablet	0.15
28. Memories/ hard drives	0.75
29. Discs for laser reading systems	0.75
30. Audio cassettes	1
31. Video cassettes	1
32. Memory cards ("smart card")	0.75
33. Flash cards	0.75



## REVENUES

(UAH)	2015	2016	2017	2018
Total revenues UARA	1,675,542	1,007,044	6,755,174	2,400,397
Total revenues UMA	3,035,560	2,217,483	6,612,636	6,637,166





# OCEANIA INTRODUCTION

1 / 1

Oceania is a vast region composed of thousands of islands scattered throughout the Pacific Ocean. It is the smallest continent in terms of land area and the least populated. In the smaller Pacific nations, many of the copyright laws are out of date and not well enforced at all.

From a private copying remuneration viewpoint, none of the 14 studied countries have a private copying remunerated exception and all are unlikely to have any soon. 6 countries have not even included a private copying exception in their copyright law (Kiribati, Marshall Islands, Micronesia, Nauru, Solomon Islands and Tuvalu).

Of the 8 remaining countries, 5 (Palau, Papua New Guinea, Samoa, Tonga and Vanuatu) have implemented an exception for private copying but limited to one copy per work. In one country, Fiji, the Copyright Act foresees a “time-shifting” exception which allows a person to record a television or radio broadcast and watch or listen to it later. But none of these exceptions are accompanied by a compensation for rightsholders.

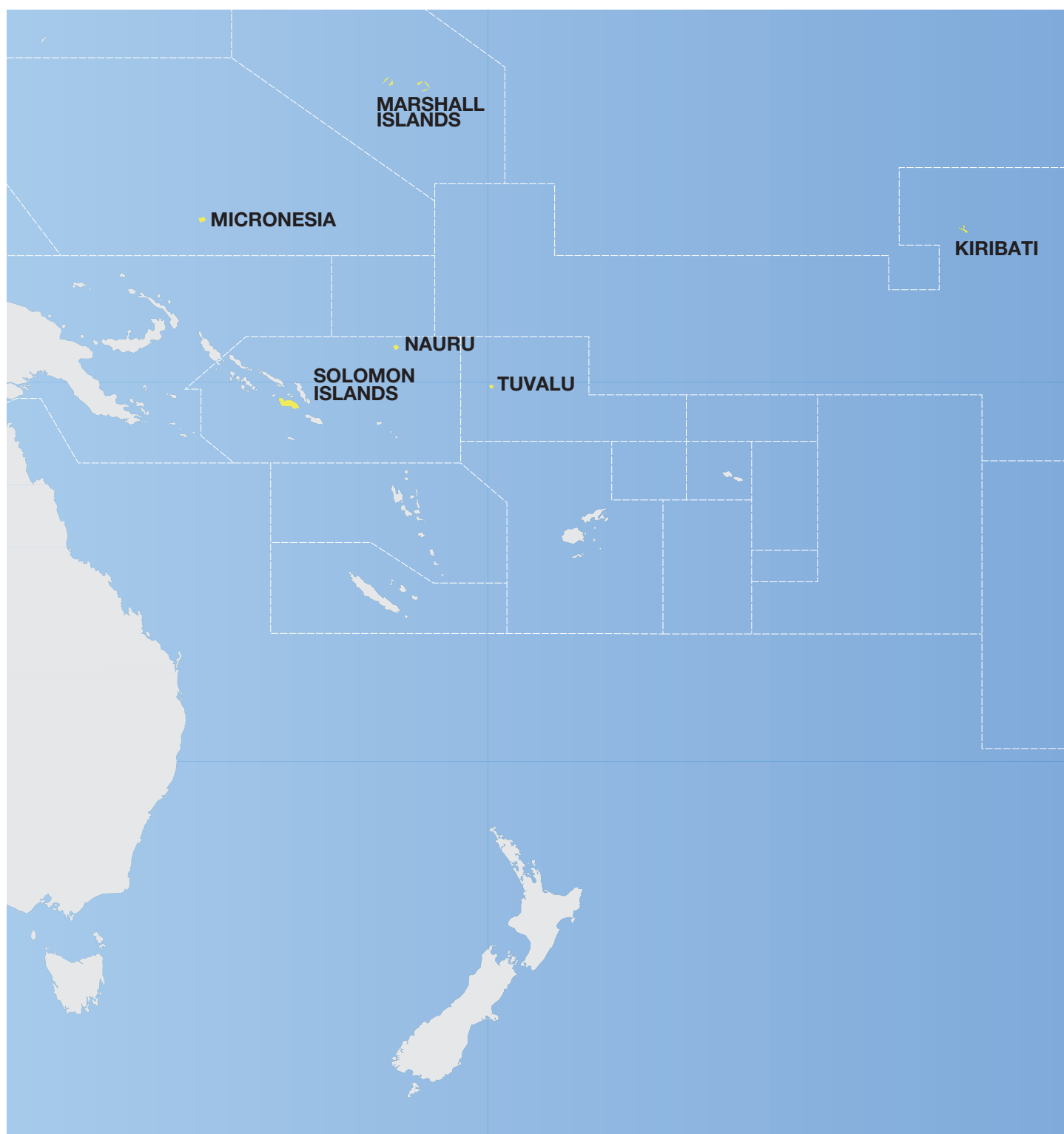
The two last countries in this region, Australia and New Zealand, have significant potential revenue sources for creators. Both have an exception for private copying included in their laws as well as a “time-shifting” exception and a “format-shifting” exception in Australia, but still without any compensation for rightsholders.

The laws of these countries should be enhanced to include a remuneration for private copying; however no change in this direction seems to be envisaged in the near future.





# OCEANIA: COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION







# **OCEANIA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM**







OCEANIA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# AUSTRALIA



24,982,688

GDP: 1,214.2 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	Australia
<b>CURRENCY</b>	Australian dollar (AUD)
<b>NAME ORGANISATION</b>	APRA AMCOS
<b>WEB SITE</b>	<a href="http://www.apraamcos.com.au">www.apraamcos.com.au</a>
<b>E-MAIL</b>	<a href="mailto:apra@apra.com.au">apra@apra.com.au</a> <a href="mailto:info@amcos.com.au">info@amcos.com.au</a>
<b>ADDRESS</b>	16 Mountain Street
<b>POSTCODE</b>	2007
<b>CITY</b>	Ultimo NSW
<b>PHONE</b>	+61 2 9935 7900
<b>FAX</b>	+61 2 9935 7999



## OVERVIEW

### EXCEPTION

Yes, there is an unremunerated exception which allows a copy of a sound recording for a private and domestic use.

There are also exceptions known as “format-shifting” (a person is allowed to copy certain types of material that he or she owns for private and domestic use into a different ‘format’) and “time-shifting” (a person is allowed to record a television or radio broadcast and watch or listen to it later).

### LEVY

No



## LEGAL BASIS

### EXCEPTION

#### Unremunerated exceptions for private use:

*Copyright Act 1968 (Cth)*

Section 43C – books, newspapers, periodicals

Section 47J – photographs

Section 109A – sound recordings

Section 110AA – cinematograph films or other subject-matter included in the film

#### Unremunerated exception for time-shifting:

*Copyright Act 1968 (Cth)*

Section 111 – broadcast cinematograph films and sound recordings or other subject-matter included therein.



# AUSTRALIA

2/2

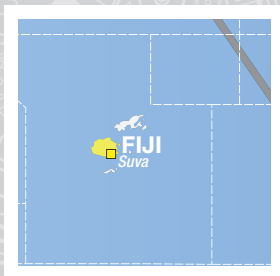


## COMMENTS/DEVELOPMENTS

A private copying remuneration scheme was introduced in Australia in 1989 but declared unconstitutional by the High Court in 1993. A similar scheme – but which would have avoided the constitutional difficulties of the 1989 scheme – was proposed by the Government in 1993 but never introduced. Since that time the Government has not shown any inclination to introduce a remunerated private copying scheme.

As part of its 2018 'Copyright Modernisation' policy consultation, the Government consulted on simplifying the existing private use exceptions in the Copyright Act but the introduction of a remunerated private copying scheme was not within the scope of the consultation. It is unclear whether the Government will introduce legislation following on from the 2018 consultation.





OCEANIA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# FIJI

 883,483

GDP: 4.7 billion EUR

1 / 1

## CONTACT INFORMATION

COUNTRY	Fiji
CURRENCY	Fijian dollar (FJD)



## OVERVIEW

EXCEPTION	Yes, there is an exception for "time-shifting" which allows a person to record a television or radio broadcast and watch or listen to it later.
LEVY	No



## LEGAL BASIS

### EXCEPTION

#### Article 76 of the Copyright Act of 1999 - Recording for purposes of time shifting

(1) The making for private and domestic use of a recording of a broadcast or cable programme solely for the purpose of enabling the recording to be viewed or listened to at a more convenient time does not infringe copyright in the broadcast or cable programme or in any work included in the broadcast or cable programme.

(2) A recording that is (a) made under subsection (1) and (b) retained for any longer than is reasonably necessary to enable the recording to be viewed or listened to at a more convenient time, infringes copyright in the broadcast or cable programme recorded and in any work included in the recording, and is to be treated as an infringing copy.



## COMMENTS/DEVELOPMENTS

The time shifting exception is intended to provide protection for individuals who make a copy or recording of a broadcast for viewing at a more convenient time, if for private and domestic use.

This exception is considered as a private copying exception and should be compensated by a remuneration for rightsholders whose works are copying or recorded.





**OCEANIA:** COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# NEW ZEALAND



4,841,000

GDP: 176.1 billion EUR

1/2

## CONTACT INFORMATION

<b>COUNTRY</b>	New Zealand
<b>CURRENCY</b>	New Zealand dollar (NZD)
<b>NAME ORGANISATION</b>	APRA-AMCOS
<b>WEB SITE</b>	apraamcos.co.nz
<b>E-MAIL</b>	administrationnz@apra.co.nz
<b>ADDRESS</b>	Unit 113, Zone 23 21-23 Edwin St Mt Eden
<b>POSTCODE</b>	1024
<b>CITY</b>	Auckland
<b>PHONE</b>	+64 9 623 2173
<b>FAX</b>	+64 9 623 2174



## OVERVIEW

<b>EXCEPTION</b>	Yes, there are an exception for the reproduction of a sound recording for personal use and a "time-shifting" exception which allows a person to record a television or radio broadcast and watch or listen to it later.
<b>LEVY</b>	No



# NEW ZEALAND

2/2



## LEGAL BASIS

### EXCEPTION

Articles 81A (copying a sound recording for personal use) and 84 (time shifting) of the Copyright Act of 1994 (as amended until 2020).

81A - Copying sound recording for personal use

(1) Copyright in a sound recording and in a literary or musical work contained in it is not infringed by copying the sound recording, if the following conditions are met:

- (a) the sound recording is not a communication work or part of a communication work; and
- (b) the copy is made from a sound recording that is not an infringing copy; and
- (c) the sound recording is not borrowed or hired; and
- (d) the copy is made by the owner of the sound recording; and
- (e) that owner acquired the sound recording legitimately; and
- (f) the copy is used only for that owner's personal use or the personal use of a member of the household in which the owner lives or both; and
- (g) no more than 1 copy is made for each device for playing sound recordings that is owned by the owner of the sound recording; and
- (h) the owner of the sound recording retains the ownership of both the sound recording and of any copy that is made under this section.

(2) For the avoidance of doubt, subsection (1) does not apply if the owner of the sound recording is bound by a contract that specifies the circumstances in which the sound recording may be copied.

84 – Recording for purposes of time-shifting

(1) A person (A) does not infringe copyright in a programme included in a communication work, or in any work included in it, by recording it, if:

- (a) A makes the recording solely for A's personal use or the personal use of a member of the household in which A lives or both; and makes the recording solely for the purpose of viewing or listening to the recording at a more convenient time; and
- (c) the recording is not made from an on-demand service; and
- (d) A has lawful access to the communication work at the time of making the recording.

(2) However, subsection (1) does not apply, and A does infringe copyright in the communication work recorded and in any work included in the communication work, if:

- (a) A retains the recording for any longer than is reasonably necessary for viewing or listening to the recording at a more convenient time; or
- (b) in the event that the person who views or listens to the recording wishes to make a complaint to a complaint authority, A retains the recording for any longer than is reasonably necessary to prepare and despatch the complaint.

(3) If a person infringes copyright under subsection (2), the recording is treated as an infringing copy.



## COMMENTS/DEVELOPMENTS

The copyright law should be enhanced in order to introduce a levy in compensation of such exceptions.





OCEANIA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# PALAU



17,907

GDP: 0.2 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Palau
<b>CURRENCY</b>	US Dollar (USD)



## OVERVIEW

<b>EXCEPTION</b>	Yes, there is an exception for the reproduction of a published work for personal purposes.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Section 7 of the Republic of Palau Copyright Act of 2003 - Private reproduction for personal purposes

(a) Notwithstanding the provisions of section 6, the private reproduction of a single copy of a published work shall be permitted without the authorization of the author or copyright owner, where the reproduction is made by a natural person for his or her own personal purposes.

(b) The permission provided in subsection (a) shall not extend to reproduction:

- (1) of a work of architecture in the form of a building or other construction;
- (2) in the form of reprography of the whole or a substantial part of a book or of a musical work in the form of notation;
- (3) of the whole or a substantial part of a database in digital form;
- (4) of a computer program, except as otherwise provided in this Act; and
- (5) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or owner of the copyright.



## COMMENTS/DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not specified that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightsholders' benefits.





OCEANIA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# PAPUA NEW GUINEA



8,606,316

GDP: 19.8 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Papua New Guinea
<b>CURRENCY</b>	Kina (PGK)



## OVERVIEW

<b>EXCEPTION</b>	Yes, there is an exception for the reproduction of a published works for personal purposes.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 8 of the Copyright and Neighbouring Rights Act of 2000 - Private reproduction for personal purposes

(1) Notwithstanding the provisions of section 6 (1) (a), the private reproduction of a published work in a single copy may be made without the authorisation of the author or owner of copyright, where the reproduction is made by a person exclusively for his own personal purposes.

(2) Subsection (1) does not apply to the reproduction:

- (a) of a work of architecture in the form of building or other construction; or
- (b) in the form of reprography of the whole or a substantial part of a book or of a musical work in the form of notation; or
- (c) of the whole or a substantial part of a database in digital form; or
- (d) of a computer program, except as provided in Section 13; or
- (e) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or other owner of the copyright.



## COMMENTS/DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not mentioned that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightsholders benefits.



SAMOA  
Apia

## SAMOA



196,130

GDP: 0.7 billion EUR

1 / 1

## CONTACT INFORMATION

<b>COUNTRY</b>	Samoa
<b>CURRENCY</b>	Samoa Tala (WST)



## OVERVIEW

<b>EXCEPTION</b>	Yes, there is an exception for the reproduction of a published work for personal purposes.
<b>LEVY</b>	No



## LEGAL BASIS

## EXCEPTION

**Article 8 of the Copyright Act of 1998 (as consolidated in 2011) - Private reproduction for personal purposes**

(1) Despite section 6(1)(a), and subject to subsection (2), the private reproduction of a published work in a single copy shall be permitted without the authorisation of the author or owner of copyright, where the reproduction is made by a physical person exclusively for his or her own personal purposes.

(2) The permission under subsection (1) does not extend to reproduction:

- (a) of a work of architecture in the form of building or other construction.
- (b) of the whole or a substantial part of a data base;
- (c) of a computer program, except as provided in section 13; and
- (d) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or other owner of the copyright.



## COMMENTS/DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not specified that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightsholders benefits.





OCEANIA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# TONGA



103,197

GDP: 0.4 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Tonga
<b>CURRENCY</b>	Pa'anga (TOP)



## OVERVIEW

<b>EXCEPTION</b>	Yes, there is an exception for the reproduction of a published work for personal purposes.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

#### Article 8 of the Copyright Act of 2002 - Private reproduction for personal purposes

(1) Notwithstanding section 6(1)(a), and subject to subsection (2), the private reproduction of a published work in a single copy shall be permitted without the authorisation of the author or owner of copyright, where the reproduction is made by a physical person exclusively for his or her own personal purposes.

(2) The permission under subsection (1) does not extend to reproduction:

- (a) of a work of architecture in the form of building or other construction;
- (b) in the form of reprography of the whole or a substantial part of a book or of a musical work in the form of notation;
- (c) of the whole or a substantial part of a database in digital form;
- (d) of a computer program, except as provided in section 14; or
- (e) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or other owner of the copyright.

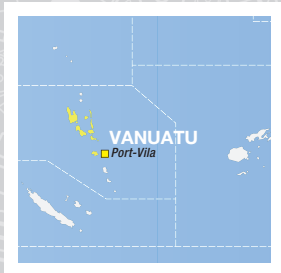


## COMMENTS/DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not specified that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightsholders' benefits.





OCEANIA: COUNTRIES WITH A PRIVATE COPYING EXCEPTION BUT WITHOUT A REMUNERATION SYSTEM

# VANUATU



292,680

GDP: 0.8 billion EUR

1/1

## CONTACT INFORMATION

<b>COUNTRY</b>	Vanuatu
<b>CURRENCY</b>	Vatu (VUV)



## OVERVIEW

<b>EXCEPTION</b>	Yes, there is an exception for the reproduction of a published works for personal purposes.
<b>LEVY</b>	No



## LEGAL BASIS

### EXCEPTION

Part 3 of the Copyright and Related Rights Act No. 42 of 2000- Acts not constituting infringement of copyright in works private reproduction for personal purposes

10. (1) Subject to subsection (2), an individual may reproduce a published work in a single copy exclusively for his or her own personal purposes and the reproduction is not an infringement of the copyright in the work. (2) An individual must not reproduce the following: (a) a work of architecture in the form of a building or other construction; (b) the whole or a substantial part of a book or musical work in the form of notation; (c) the whole or a substantial part of a database in digital form; (d) a computer program, except as provided for in section 16; (e) any work if the reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the owner of the copyright.



## COMMENTS/DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not specified that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightsholders' benefits.



# ANNEX 1: SUMMARY TABLE

1/5

## AFRICA

\* Y/N: YES/NO

Country	Exception	Levy	Collection and distribution mechanism	Social and cultural deductions	Reference Page
Algeria	Y	Y	Y	Y	102
Angola	Y	Y	N	N	57
Benin	Y	Y	N	N	58
Botswana	Y	Y	Y	N	109
Burkina Faso	Y	Y	Y	Y	111
Burundi	Y	Y	N	N	60
Cameroon	Y	Y	N	N	63
Cabo Verde	Y	Y	Y	Y	115
Central African Republic	Y	N	N	N	32
Chad	Y	Y	N	N	65
Comoros	Y	N	N	N	33
Congo	Y	N	N	N	34
Congo, Dem. Rep.	Y	Y	N	N	68
Côte d'Ivoire	Y	Y	N	N	70
Djibouti	Y	Y	N	N	73
Egypt	Y	N	N	N	35
Equatorial Guinea	N	N	N	N	30
Eritrea	Y	N	N	N	36
Ethiopia	Y	N	N	N	37
Gabon	Y	Y	N	N	75
Gambia	Y	N	N	N	38
Ghana	Y	Y	Y	Y	120
Guinea	Y	N	N	N	39
Guinea-Bissau	N	N	N	N	30
Kenya	Y	Y	Y	N	125
Lesotho	Y	N	N	N	40
Liberia	N	N	N	N	30
Libya	Y	N	N	N	41
Madagascar	Y	Y	N	Y	78
Malawi	Y	Y	Y	Y	127
Mali	Y	Y	N	Y	82
Mauritania	Y	N	N	N	42
Mauritius	Y	Y	N	N	84
Morocco	Y	Y	Y	Y	132
Mozambique	Y	Y	N	N	86
Namibia	Y	N	N	N	43
Niger	Y	Y	N	N	88
Nigeria	Y	Y	N	Y	91
Rwanda	Y	N	N	N	44
Sao Tome and Principe	Y	Y	N	N	95
Senegal	Y	Y	N	Y	97
Seychelles	Y	N	N	N	45
Sierra Leone	Y	N	N	N	46
Somalia	N	N	N	N	30
South Africa	Y	N	N	N	47
South Sudan	Y	N	N	N	49
Sudan	Y	N	N	N	50
Swaziland	N	N	N	N	30
Tanzania	Y	N	N	N	51
Togo	Y	N	N	N	52
Tunisia	Y	Y	Y	Y	138
Uganda	Y	N	N	N	53
Zambia	N	N	N	N	30
Zimbabwe	Y	N	N	N	54



## NORTH & SOUTH AMERICA

\* Y/N: YES/NO

Country	Exception	Levy	Collection and distribution mechanism	Social and cultural deductions	Reference Page
Antigua & Barbuda	Y	N	N	N	145
Argentina	N	N	N	N	143
Bahamas	Y	N	N	N	146
Barbados	Y	N	N	N	147
Belize	N	N	N	N	143
Bolivia	N	N	N	N	143
Brazil	Y	N	N	N	148
Canada	Y	Y	Y	N	168
Chile	N	N	N	N	143
Colombia	Y	N	N	N	149
Costa Rica	Y	N	N	N	150
Cuba	N	N	N	N	143
Dominica	Y	N	N	N	151
Dominican Republic	Y	Y	N	N	164
Ecuador	N	N	N	N	143
El Salvador	N	N	N	N	143
Grenada	Y	N	N	N	152
Guatemala	N	N	N	N	143
Guyana	N	N	N	N	143
Haiti	Y	N	N	N	153
Honduras	Y	N	N	N	154
Jamaica	N	N	N	N	143
Mexico	Y	N	N	N	155
Nicaragua	Y	N	N	N	156
Panama	Y	N	N	N	157
Paraguay	Y	Y	Y	Y	175
Peru	Y	Y	Y	N	181
St Kitts & Nevis	Y	N	N	N	158
St Lucia	N	N	N	N	143
St Vincent & the Grenadines	Y	N	N	N	159
Suriname	N	N	N	N	160
Trinidad & Tobago	Y	N	N	N	161
United States of America	Y	Y	Y	N	183
Uruguay	N	N	N	N	143
Venezuela	Y	N	N	N	162



## ASIA

\* Y/N: YES/NO

Country	Exception	Levy	Collection and distribution mechanism	Social and cultural deductions	Reference Page
Afghanistan	Y	N	N	N	191
Armenia	Y	N	N	N	192
Azerbaijan	Y	Y	N	N	216
Bahrain	Y	N	N	N	193
Bangladesh	Y	N	N	N	194
Bhutan	Y	N	N	N	195
Brunei	N	N	N	N	189
Cambodia	Y	N	N	N	196
China	Y	N	N	N	197
Democratic People's Republic of Korea	Y	N	N	N	198
East Timor	N	N	N	N	189
India	Y	N	N	N	199
Indonesia	N	N	N	N	189
Iran (Republic of)	Y	N	N	N	200
Iraq	N	N	N	N	189
Israel	Y	Y	Y	N	231
Japan	Y	Y	Y	Y	235
Jordan	Y	N	N	N	201
Kazakhstan	Y	Y	N	N	219
Kuwait	Y	N	N	N	202
Kyrgyz Republic	Y	Y	N	N	221
Lao People's Democratic Republic	N	N	N	N	189
Lebanon	Y	N	N	N	203
Malaysia	N	N	N	N	189
Maldives	Y	N	N	N	204
Mongolia	Y	N	N	N	206
Myanmar	N	N	N	N	189
Nepal	Y	N	N	N	206
Oman	N	N	N	N	189
Pakistan	N	N	N	N	189
Philippines	N	N	N	N	189
Qatar	Y	N	N	N	207
Saudi Arabia	Y	N	N	N	208
Singapore	N	N	N	N	189
South Korea	Y	N	N	N	209
Sri Lanka	Y	N	N	N	210
Syria	N	N	N	N	189
Taiwan (ROC)	Y	N	N	N	211
Tajikistan	Y	N	N	N	212
Thailand	Y	N	N	N	213
Turkey	Y	Y	N	Y	223
Turkmenistan	Y	Y	N	N	226
United Arab Emirates	Y	N	N	N	214
Uzbekistan	Y	Y	N	N	228
Vietnam	N	N	N	N	189
Yemen	N	N	N	N	189



## EUROPE

\* Y/N: YES/NO

Country	Exception	Levy	Collection and distribution mechanism	Social and cultural deductions	Reference Page
Albania	Y	N	N	N	248
Andorra	Y	Y	N	N	253
Austria	Y	Y	Y	Y	286
Belarus	Y	Y	N	N	255
Belgium	Y	Y	Y	N	297
Bosnia-Herzegovina	Y	Y	N	N	257
Bulgaria	Y	Y	N	Y	260
Croatia	Y	Y	Y	Y	304
Cyprus	Y	Y	N	N	267
Czech Republic	Y	Y	Y	N	311
Denmark	Y	Y	Y	Y	322
Estonia	Y	Y	N	Y	268
Finland	Y	Y	Y	Y	329
France	Y	Y	Y	Y	332
Georgia	Y	Y	N	Y	274
Germany	Y	Y	Y	N	344
Greece	Y	Y	Y	N	353
Hungary	Y	Y	Y	Y	358
Iceland	Y	Y	Y	N	369
Ireland	Y	N	N	N	259
Italy	Y	Y	Y	Y	372
Latvia	Y	Y	Y	Y	381
Liechtenstein	Y	Y	Y	Y	386
Lithuania	Y	Y	Y	Y	387
Luxembourg	Y	Y	N	N	276
Macedonia	Y	Y	N	N	277
Malta	Y	Y	N	N	280
Moldova	Y	Y	Y	N	395
Monaco	N	N	N	N	246
Montenegro	Y	Y	N	N	281
Netherlands	Y	Y	Y	N	402
Norway	Y	Y	Y	N	410
Poland	Y	Y	Y	N	413
Portugal	Y	Y	Y	Y	422
Romania	Y	Y	Y	N	429
Russian Federation	Y	Y	Y	Y	435
San Marino	Y	N	N	N	251
Serbia	Y	Y	Y	Y	441
Slovak Republic	Y	Y	Y	N	448
Slovenia	Y	Y	Y	N	455
Spain	Y	Y	Y	Y	454
Sweden	Y	Y	Y	N	470
Switzerland	Y	Y	Y	Y	477
United Kingdom	N	N	N	N	246
Ukraine	Y	Y	Y	Y	485



## OCEANIA

\* Y/N: YES/NO

Country	Exception	Levy	Collection and distribution mechanism	Social and cultural deductions	Reference Page
Australia	Y	N	N	N	494
Fiji	Y	N	N	N	496
Kiribati	N	N	N	N	492
Marshall Island	N	N	N	N	492
Micronesia	N	N	N	N	492
Nauru	N	N	N	N	492
New Zealand	Y	N	N	N	497
Palau	Y	N	N	N	499
Papua New Guinea	Y	N	N	N	500
Samoa	Y	N	N	N	501
Solomon Islands	N	N	N	N	492
Tonga	Y	N	N	N	502
Tuvalu	N	N	N	N	492
Vanuatu	Y	N	N	N	503



# ANNEX 2: DEVICES COVERED<sup>16</sup>

1/2

\* Y/: YES

Country	Analogic carriers	CD	DVD	MP3/MP4 Walkman	Decoder VCR Set top box	Memory card	USB key
Algeria	Y	Y	Y	Y	Y	Y	Y
Austria	Y	Y	Y	Y	Y	Y	Y
Belgium	Y	Y	Y	Y	Y	Y	Y
Bulgaria	Y	Y	Y	Y	Y	Y	Y
Canada		Y					
Cabo Verde	Y	Y	Y	Y	Y	Y	
Croatia	Y	Y	Y	Y	Y	Y	Y
Czech Republic	Y	Y	Y	Y	Y	Y	Y
Denmark	Y	Y	Y			Y	Y
Finland							State funding
France	Y	Y	Y	Y	Y	Y	Y
Germany	Y	Y	Y	Y	Y	Y	Y
Ghana	Y	Y	Y				
Greece	Y	Y	Y	Y	Y	Y	Y
Hungary	Y	Y	Y	Y	Y	Y	Y
Iceland							State funding
Israel	Y						
Italy	Y	Y	Y	Y	Y	Y	Y
Japan	Y	Y	Y				
Latvia		Y	Y	Y	Y		
Lithuania		Y	Y	Y	Y	Y	Y
Malawi	Y	Y	Y	Y	Y	Y	Y
Moldova	Y	Y	Y	Y	Y	Y	Y
Morocco	Y	Y	Y	Y	Y	Y	Y
Netherlands				Y	Y		Y
Norway							State funding
Poland	Y	Y	Y	Y	Y	Y	Y
Portugal	Y	Y	Y	Y	Y	Y	Y
Romania	Y	Y	Y	Y	Y	Y	Y
Russian Federation	Y	Y	Y	Y	Y	Y	Y
Serbia	Y	Y	Y	Y	Y		Y
Slovak Republic	Y	Y	Y	Y	Y	Y	Y
Slovenia	Y	Y	Y	Y	Y	Y	Y
Spain	Y	Y	Y	Y	Y	Y	Y
Sweden	Y	Y	Y	Y	Y		Y
Switzerland	Y	Y	Y	Y	Y		
Ukraine	Y	Y	Y	Y	Y	Y	Y
USA		Y					

<sup>16</sup> In some countries, the actual levy is on the memory inserted and not on the device



\* Y/: YES

Country	External HDD	Multimedia External HDD	Smart phones	PC	Tablets	Embedded GPS with hard disk	Cloud services	E-reader and wearables (smartwatch)
Algeria	Y	Y	Y	Y	Y			
Austria	Y	Y	Y	Y	Y	Y	not yet	
Belgium	Y	Y	Y	Y				
Bulgaria	Y	Y						
Canada								
Cabo Verde	Y	Y	Y	Y	Y			
Croatia	Y	Y	Y	Y	Y	Y		
Czech Republic	Y	Y	Y	Y	Y			Y
Denmark								
Finland								
France	Y	Y	Y		Y	Y	Y/nPVR	
Germany	Y	Y	Y	Y	Y			
Ghana								
Greece	Y	Y	Y	Y	Y			
Hungary	Y	Y	Y		Y			
Iceland								
Israel								
Italy	Y	Y	Y	Y	Y			
Japan								
Latvia			Y					
Lithuania	Y	Y	Y	Y	Y			
Malawi	Y	Y	Y	Y	Y			
Moldova	Y	Y		Y			?	
Morocco	Y	Y	Y	Y	Y	Y		
Netherlands	Y	Y	Y	Y	Y		Y	Y
Norway								
Poland	Y	Y	Y					
Portugal	Y	Y	Y	Y	Y	Y		Y
Romania	Y	Y	Y	Y				
Russian Federation	Y	Y	Y	Y	Y			Y
Serbia								
Slovak Republic	Y	Y	Y	Y	Y			
Slovenia	Y	Y	Y	Y	Y			Y
Spain	Y	Y	Y	Y	Y			
Sweden	Y	Y	Y	Y	Y			
Switzerland			Y		Y		Y/nPVR	
Ukraine	Y	Y	Y	Y	Y			
USA					Y			

<sup>16</sup> In some countries, the actual levy is on the memory inserted and not on the device

<sup>17</sup> ? means that there is no certainty as to whether this specific device falls within the definitions provided by the CMO in the tariff section of the country chapter.



# ANNEX 3: RELEVANT CASE LAW FROM THE EUROPEAN COURT OF JUSTICE OF THE EUROPEAN UNION

1/7

In Europe, the private copying exceptions as laid down in the national laws of EU member states are based on Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society (InfoSoc Directive):<sup>18</sup>

Article 5 Exceptions and limitations

[...]

2. Member States may provide for exceptions or limitations to the reproduction right provided for in Article 2 in the following cases: [...]

(b) in respect of reproductions on any medium made by a natural person for private use and for ends that are neither directly nor indirectly commercial, on condition that the rightsholders receive fair compensation which takes account of the application or non-application of technological measures referred to in Article 6 to the work or subject-matter concerned;

National judges may refer preliminary questions to the Court of Justice of the European Union (ECJ) with regard to the interpretation of the Directive. The ECJ has delivered several judgments on private copying exception in the past years. The answers that the ECJ has given to the preliminary questions in these cases are listed below. The full texts of the judgments are available at <https://curia.europa.eu/>.

## **C-467/08, October 21, 2010 – Padawan/SGAE**

Indiscriminate application of the private copying levy

1. The concept of “fair compensation”, within the meaning of Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society, is an autonomous concept of European Union law which must be interpreted uniformly in all the Member States that have introduced a private copying exception, irrespective of the power conferred on the Member States to determine, within the limits imposed by European Union law in particular by that directive, the form, detailed arrangements for financing and collection, and the level of that fair compensation.

2. Article 5(2)(b) of Directive 2001/29 must be interpreted as meaning that the “fair balance” between the persons concerned means that fair compensation must be calculated on the basis of the criterion of the harm caused to authors of protected works by the introduction of the private copying exception. It is consistent with the requirements of that “fair balance” to provide that persons who have digital reproduction equipment, devices and media and who on that basis, in law or in fact, make that equipment available to private users or provide them with copying services are the persons liable to finance the fair compensation, inasmuch as they are able to pass on to private users the actual burden of financing it.

3. Article 5(2)(b) of Directive 2001/29 must be interpreted as meaning that a link is necessary between the application of the levy intended to finance fair compensation with respect to digital reproduction equipment, devices and media and the deemed use of them for the purposes of private copying. Consequently, the indiscriminate application of the private copying levy, in particular with respect to digital reproduction equipment, devices and media not made available to private users and clearly reserved for uses other than private copying, is incompatible with Directive 2001/29.

## **C-462/09, June 16, 2011 – Stichting de ThuisKopie/Opus GmbH**

Cross-border transactions

1. Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society, in particular Article 5(2)(b) and (5) thereof, must be interpreted as meaning that the final user who carries out, on a private basis, the reproduction of a protected work must, in principle, be regarded as the person responsible for paying the fair compensation provided for in Article 5(2)(b). However, it is open to the Member States to establish a private copying levy chargeable to the persons who make reproduction equipment, devices and media available to that final user, since they are able to pass on the amount of that levy in the price paid by the final user for that service.

<sup>18</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32001L0029&from=EN>



## ANNEX 3: RELEVANT CASE LAW FROM THE EUROPEAN COURT OF JUSTICE OF THE EUROPEAN UNION

2/7

2. Directive 2001/29, in particular Article 5(2)(b) and (5) thereof, must be interpreted as meaning that it is for the Member State which has introduced a system of private copying levies chargeable to the manufacturer or importer of media for reproduction of protected works, and on the territory of which the harm caused to authors by the use for private purposes of their work by purchasers who reside there occurs, to ensure that those authors actually receive the fair compensation intended to compensate them for that harm. In that regard, the mere fact that the commercial seller of reproduction equipment, devices and media is established in a Member State other than that in which the purchasers reside has no bearing on that obligation to achieve a certain result. It is for the national court, where it is impossible to ensure recovery of the fair compensation from the purchasers, to interpret national law in order to allow recovery of that compensation from the person responsible for payment who is acting on a commercial basis.

### **C-277/10, February 9, 2012 – Luksan/Van der Let**

Author is entitled directly and originally to the right of fair compensation

1. Articles 1 and 2 of Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission, and Articles 2 and 3 of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society in conjunction with Articles 2 and 3 of Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property and with Article 2 of Directive 2006/116/EC of the European Parliament and of the Council of 12 December 2006 on the term of protection of copyright and certain related rights, must be interpreted as meaning that rights to exploit a cinematographic work such as those at issue in the main proceedings (reproduction right, satellite broadcasting right and any other right of communication to the public through the making available to the public) vest by operation of law, directly and originally, in the principal director. Consequently, those provisions must be interpreted as precluding national legislation which allocates those exploitation rights by operation of law exclusively to the producer of the work in question.

2. European Union law must be interpreted as allowing the Member States the option of laying down a presumption of transfer, in favor of the producer of a cinematographic work, of rights to exploit the cinematographic work such as those at issue in the main proceedings (satellite broadcasting right, reproduction right and any other right of communication to the public through the making available to the public), provided that such a presumption is not an irrefutable one precluding the principal director of that work from agreeing otherwise.

3. European Union law must be interpreted as meaning that, in his capacity as author of a cinematographic work, the principal director thereof must be entitled, by operation of law, directly and originally, to the right to the fair compensation provided for in Article 5(2)(b) of Directive 2001/29 under the 'private copying' exception.

4. European Union law must be interpreted as not allowing the Member States the option of laying down a presumption of transfer, in favor of the producer of a cinematographic work, of the right to fair compensation vesting in the principal director of that work, whether that presumption is couched in irrefutable terms or may be departed from.

### **C-457/11-C-460/11, June 27, 2013 – VG Wort/Kyocera**

Technological measures, consequences of an authorization to reproduce

1. With regard to the period from 22 June 2001, the date on which Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society entered into force, to 22 December 2002, the date by which that directive was to have been transposed into national law, acts of using protected works or other subject-matter are not affected by that directive.

2. In the context of an exception or limitation provided for by Article 5(2) or (3) of Directive 2001/29, an act by which a rightholder may have authorized the reproduction of his protected work or other subject-matter has no bearing on the fair compensation owed, whether it is provided for on a compulsory or an optional basis under the relevant provision of that directive.



# ANNEX 3: RELEVANT CASE LAW FROM THE EUROPEAN COURT OF JUSTICE OF THE EUROPEAN UNION

3/7

3. The possibility of applying technological measures under Article 6 of Directive 2001/29 cannot render inapplicable the condition relating to fair compensation provided for by Article 5(2)(b) of that directive.

4. The concept of 'reproductions effected by the use of any kind of photographic technique or by some other process having similar effects' within the meaning of Article 5(2)(a) of Directive 2001/29 must be interpreted as including reproductions effected using a printer and a personal computer, where the two are linked together. In this case, it is open to the Member States to put in place a system in which the fair compensation is paid by the persons in possession of a device contributing, in a non-autonomous manner, to the single process of reproduction of the protected work or other subject-matter on the given medium, in so far as those persons have the possibility of passing on the cost of the levy to their customers, provided that the overall amount of the fair compensation owed as recompense for the harm suffered by the author at the end of that single process must not be substantially different from the amount fixed for a reproduction obtained by means of a single device.

## **C-521/11, July 11, 2013 – Amazon/Austro-Mechana**

Indiscriminate application combined with a reimbursement scheme, payment of the revenue in part to social or cultural institutions, double payment in cross-border transactions.

1. Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society must be interpreted as meaning that it does not preclude legislation of a Member State which indiscriminately applies a private copying levy on the first placing on the market in its territory, for commercial purposes and for consideration, of recording media suitable for reproduction, while at the same time providing for a right to reimbursement of the levies paid in the event that the final use of those media does not meet the criteria set out in that provision, where, having regard to the particular circumstances of each national system and the limits imposed by that directive, which it is for the national court to verify, practical difficulties justify such a system of financing fair compensation and the right to reimbursement is effective and does not make repayment of the levies paid excessively difficult.

2. Article 5(2)(b) of Directive 2001/29 must be interpreted as meaning that, in the context of a system of financing of fair compensation under that provision by means of a private copying levy to be borne by persons who first place recording media suitable for reproduction on the market in the territory of the Member State concerned for commercial purposes and for consideration, that provision does not preclude the establishment by that Member State of a rebuttable presumption of private use of such media where they are marketed to natural persons, where the practical difficulties of determining whether the purpose of the use of the media in question is private justify the establishment of such a presumption and provided that the presumption established does not result in the imposition of the private copying levy in cases where the final use of those media clearly does not fall within the case referred to in that provision.

3. Article 5(2)(b) of Directive 2001/29 must be interpreted as meaning that the right to fair compensation under that provision or the private copying levy intended to finance that compensation cannot be excluded by reason of the fact that half of the funds received by way of such compensation or levy is paid, not directly to those entitled to such compensation, but to social and cultural institutions set up for the benefit of those entitled, provided that those social and cultural establishments actually benefit those entitled and the detailed arrangements for the operation of such establishments are not discriminatory, which it is for the national court to verify.

4. Article 5(2)(b) of Directive 2001/29 must be interpreted as meaning that the obligation undertaken by a Member State to pay, on the placing on the market, for commercial purposes and for consideration, of recording media suitable for reproduction, a private copying levy intended to finance the fair compensation under that provision may not be excluded by reason of the fact that a comparable levy has already been paid in another Member State.

## **C-435/12, April 10, 2014 – ACI Adam/Stichting de ThuisKopie**

Lawful nature of the origin of the copy

1. EU law, in particular Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society, read in conjunction with paragraph 5 of that article, must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which does not distinguish the situation in which the source from which a reproduction for private use is made is lawful from that in which that source is unlawful.



## ANNEX 3: RELEVANT CASE LAW FROM THE EUROPEAN COURT OF JUSTICE OF THE EUROPEAN UNION

4/7

2. Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights must be interpreted as not applying to proceedings, such as those in the main proceedings, in which those liable for payment of the fair compensation bring an action before the referring court for a ruling against the body responsible for collecting that remuneration and distributing it to copyright holders, which defends that action.

### **C-463/12, March 5, 2015 – Copydan Båndkopi/Nokia Danmark**

Equal treatment, reimbursement scheme, consequences of an authorization to reproduce

1. Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society does not preclude national legislation which provides that fair compensation is to be paid, in accordance with the exception to the reproduction right for copies made for private use, in respect of multifunctional media such as mobile telephone memory cards, irrespective of whether the main function of such media is to make such copies, provided that one of the functions of the media, be it merely an ancillary function, enables the operator to use them for that purpose. However, the question whether the function is a main or an ancillary one and the relative importance of the medium's capacity to make copies are liable to affect the amount of fair compensation payable. In so far as the prejudice to the rightholder may be regarded as minimal, the making available of such a function need not give rise to an obligation to pay fair compensation.

2. Article 5(2)(b) of Directive 2001/29 does not preclude national legislation which makes the supply of media that may be used for copying for private use, such as mobile telephone memory cards, subject to the levy intended to finance fair compensation payable in accordance with the exception to the reproduction right for copies for private use, but does not make the supply of components whose main purpose is to store copies for private use, such as the internal memories of MP3 players, subject to that levy, provided that those different categories of media and components are not comparable or the different treatment they receive is justified, which is a matter for the national court to determine.

3. Article 5(2)(b) of Directive 2001/29 must be interpreted as not precluding national legislation which requires payment of the levy intended to finance fair compensation, in accordance with the exception to the reproduction right for copies for private use, by producers and importers who sell mobile telephone memory cards to business customers and are aware that those cards will be sold on by those customers but do not know whether the final purchasers of the cards will be individuals or business customers, on condition that: the introduction of such a system is justified by practical difficulties; the persons responsible for payment are exempt from the levy if they can establish that they have supplied the mobile telephone memory cards to persons other than natural persons for purposes clearly unrelated to copying for private use, it being understood that the exemption cannot be restricted to the supply of business customers registered with the organization responsible for administering the levy; the system provides for a right to reimbursement of that levy which is effective and does not make it excessively difficult to repay the levy and only the final purchaser of such a memory card may obtain reimbursement by submitting an appropriate application to that organization.

4. Article 5(2)(b) of Directive 2001/29, read in the light of recital 35 in the preamble to that directive, must be interpreted as permitting the Member States to provide, in certain cases covered by the exception to the reproduction right for copies for private use, for an exemption from the requirement under that exception to pay fair compensation, provided that the prejudice caused to rightholders in such cases is minimal. It is within the discretion of the Member States to set the threshold for such prejudice, it being understood that that threshold must, inter alia, be applied in a manner consistent with the principle of equal treatment.

5. Directive 2001/29 is to be interpreted as meaning that, where a Member State has decided, pursuant to Article 5(2) of that directive, to exclude, from the material scope of that provision, any right for rightholders to authorize reproduction of their works for private use, any authorization given by a rightholder for the use of files containing his works can have no bearing on the fair compensation payable in accordance with the exception to the reproduction right for reproductions made in accordance with Article 5(2)(b) of that directive with the aid of such files and cannot, of itself, give rise to an obligation on the part of the user of the files concerned to pay remuneration of any kind to the rightholder.



# ANNEX 3: RELEVANT CASE LAW FROM THE EUROPEAN COURT OF JUSTICE OF THE EUROPEAN UNION

5/7

6. The implementation of technological measures under Article 6 of Directive 2001/29 for devices used to reproduce protected works, such as DVDs, CDs, MP3 players and computers, can have no effect on the requirement to pay fair compensation in accordance with the exception to the reproduction right in respect of reproductions made for private use by means of such devices. However, the implementation of such measures may have an effect on the actual level of such compensation.

7. Directive 2001/29 precludes national legislation which provides for fair compensation, in accordance with the exception to the reproduction right, in respect of reproductions made using unlawful sources, namely from protected works which are made available to the public without the rightsholder's consent.

8. Directive 2001/29 does not preclude national legislation which provides for fair compensation, in accordance with the exception to the reproduction right, in respect of reproductions of protected works made by a natural person by or with the aid of a device which belongs to a third party.

## **C 572/13, November 12, 2015 – HP/Reprobel**

Allocation of fair compensation to publishers, copying of sheet music

1. Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society must be interpreted as meaning that, with regard to the phrase "fair compensation" contained in those provisions, it is necessary to draw a distinction according to whether the reproduction on paper or a similar medium effected by the use of any kind of photographic technique or by some other process having similar effects is carried out by any user or by a natural person for private use and for ends that are neither directly nor indirectly commercial.

2. Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 preclude national legislation, such as that at issue in the main proceedings, which authorizes the Member State in question to allocate a part of the fair compensation payable to rightsholders to the publishers of works created by authors, those publishers being under no obligation to ensure that the authors benefit, even indirectly, from some of the compensation of which they have been deprived.

3. Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 preclude, in principle, national legislation, such as that at issue in the main proceedings, which introduces an undifferentiated system for recovering fair compensation which also covers the copying of sheet music, and preclude such legislation which introduces an undifferentiated system for recovering fair compensation which also covers counterfeit reproductions made from unlawful sources.

4. Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 preclude national legislation, such as that at issue in the main proceedings, which introduces a system that combines, in order to finance the fair compensation payable to rightsholders, two forms of remuneration, namely, first, lump-sum remuneration paid prior to the reproduction operation by the manufacturer, importer or intra-Community acquirer of devices enabling protected works to be copied, at the time when such devices are put into circulation on national territory, and, second, proportional remuneration paid after that reproduction operation and determined solely by means of a unit price multiplied by the number of copies produced, which is payable by the natural or legal persons who make those copies, in so far as:

- the lump-sum remuneration paid in advance is calculated solely by reference to the speed at which the device concerned is capable of producing copies;
- the proportional remuneration recovered after the fact varies according to whether or not the person liable for payment has cooperated in the recovery of that remuneration;
- the combined system, taken as a whole, does not include mechanisms, in particular for reimbursement, which allows the complementary application of the criterion of actual harm suffered and the criterion of harm established as a lump sum in respect of different categories of users.



# ANNEX 3: RELEVANT CASE LAW FROM THE EUROPEAN COURT OF JUSTICE OF THE EUROPEAN UNION

6/7

## **C- 572/14, April 21, 2016 - Austro-Mechana v. Amazon**

International jurisdiction for national courts in cases regarding the payment of private copying remunerations

1. It must be recalled that the “fair compensation” referred to in Article 5(2)(b) of Directive 2001/29, according to the case-law of the Court mentioned in paragraph 19 of the present judgment, intends to compensate authors for the private copy made without their authorization of their protected works, so that it must be regarded as compensation for the harm suffered by the authors resulting from such unauthorized copy by the latter. Therefore, the failure by Austro-Mechana to collect the remuneration provided for in Paragraph 42b of the UrhG constitutes a harmful event within the meaning of Article 5(3) of Regulation No 44/2001. The fact that, under the Austrian system relating to the financing of that “fair compensation”, the latter must be paid not to the holders of an exclusive reproduction right that it aims to compensate, but to a copyright-collecting society is irrelevant in that respect.

2. Article 5(3) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters must be interpreted as meaning that a claim seeking to obtain payment of remuneration due by virtue of a national law, such as that at issue in the main proceedings, implementing the “fair compensation” system provided for in Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, falls within “matters relating to tort, delict or quasi-delict”, within the meaning of Article 5(3) of that regulation.

## **C-470/14, June 9, 2016 – EGEDA**

Fair compensation financed by General State Budget

Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society must be interpreted as precluding a scheme for fair compensation for private copying which, like the one at issue in the main proceedings, is financed from the General State Budget in such a way that it is not possible to ensure that the cost of that compensation is borne by the users of private copies.

## **C-110/15, September 22, 2016 – Nokia Italia/SIAE**

Ex ante exemption, reimbursement scheme

EU law, in particular, Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society, must be interpreted as precluding national legislation, such as that at issue in the main proceedings, that, on the one hand, subjects exemption from payment of the private copying levy for producers and importers of devices and media intended for use clearly unrelated to private copying to the conclusion of agreements between an entity which has a legal monopoly on the representation of the interests of authors of works, and those liable to pay compensation, or their trade associations, and, on the other hand, provides that the reimbursement of such a levy, where it has been unduly paid, may be requested only by the final user of those devices and media.

## **C-37/16, January 18, 2017 - Minister Finansów/SAWP**

Application of VAT by CMOs in collecting private copying remunerations

1. Do authors, performers and other rightsholders supply services, within the meaning of Articles 24(1) and 25(a) of Council Directive 2006/112/EC of November 28, 2006 on the common system of value-added tax, to producers and importers of audio recorders and similar devices and blank media, on whom collective management organizations levy on behalf of those authors, performers and other rightsholders, but in their own name, fees on those devices and media by virtue of their sale?

Verdict 31 - 33:

It is apparent from the order for reference that fees such as those at issue in the main proceedings are intended to finance fair compensation for holders of reproduction rights. However, the fair compensation does not constitute the direct consideration for any supply of services, because it is linked to the harm resulting for those rightsholders from the reproduction of their protected works without their authorization (see, to that effect, judgment of 21 October 2010, Padawan, C 467/08, EU:C:2010:620, paragraph 40).



# ANNEX 3: RELEVANT CASE LAW FROM THE EUROPEAN COURT OF JUSTICE OF THE EUROPEAN UNION

7/7

Consequently, a transaction such as that at issue in the main proceedings cannot be regarded as being carried out for consideration, for the purposes of Article 2(1)(c) of the VAT Directive. Accordingly, and in the light of the consideration set out in paragraph 24 of the present judgment, even supposing that holders of reproduction rights may effect an assignment of intangible property, within the meaning of Article 25(a) of the VAT Directive, to producers and importers of blank media and of recording and reproduction devices, an issue which it is not necessary to examine, that transaction is in any event not covered by the directive.

It follows from all the foregoing that the answer to the first question is that the VAT Directive must be interpreted as meaning that holders of reproduction rights do not make a supply of services, within the meaning of that directive, to producers and importers of blank media and of recording and reproduction devices on whom organizations collectively managing copyright and related rights levy on behalf of those rightsholders, but in their own name, fees in respect of the sale of those devices and media.

## **C-265/16, November 29, 2017 - VCAST Limited/R.T.I. SpA**

Communication to the public or private copying, provision of a cloud computing service for the remote video recording of copies of works protected by copyright, without the consent of the author concerned — Active involvement of the service provider in the recording

1. The Court has held that, while Article 5(2)(b) of Directive 2001/29 must be understood as meaning that the private copying exception prohibits the rightsholder from relying on his exclusive right to authorize or prohibit reproductions with regard to persons who make private copies of his works, that provision must not be understood as requiring, beyond that express limitation, the copyright holder to tolerate infringements of his rights which may accompany the making of private copies (see, to that effect, judgment of 10 April 2014, ACI Adam and Others, C-435/12, EU:C:2014:254, paragraph 31).

2. It follows from the case-law that, in order to rely on Article 5(2)(b), it is not necessary that the natural persons concerned possess reproduction equipment, devices or media. They may also have copying services provided by a third party, which is the factual precondition for those natural persons to obtain private copies (see, to that effect, judgment of October 21, 2010, Padawan, C-467/08, EU:C:2010:620, paragraph 48).

3. Although the private copy exception means that the rightholder must abstain from exercising his exclusive right to authorize or prohibit private copies made by natural persons under the conditions provided for in Article 5(2)(b) of Directive 2001/29, the requirement for a strict interpretation of that exception implies that that rightholder is not deprived of his right to prohibit or authorize access to the works or the subject matter of which those same natural persons wish to make private copies. Directive 2001/29/EC of the European Parliament and of the Council of May 22, 2001 on the harmonization of certain aspects of copyright and related rights in the information society, in particular Article 5(2)(b) thereof, must be interpreted as precluding national legislation which permits a commercial undertaking to provide private individuals with a cloud service for the remote recording of private copies of works protected by copyright, by means of a computer system, by actively involving itself in the recording, without the rightsholder's consent.

## **Pending Austrian Case before the ECJ on Cloud Copying (C-433/20)**

In the Austrian case docket No. 33 R 50/20w, the Upper Provincial Court of Vienna has filed, on September 7, 2020 the following preliminary questions to the ECJ:

1. Is the expression 'on any medium' in Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society ('Directive 2001/29') to be interpreted as meaning that it also includes servers owned by third parties which make available to natural persons (customers) for private use (and for ends that are neither directly nor indirectly commercial) storage space on those servers which those customers use for reproduction by storage ('cloud computing')?

2. If so: is the provision cited in Question 1 to be interpreted as meaning that it is applicable to national legislation under which the author is entitled to equitable remuneration (remuneration for exploitation of the right of reproduction on storage media), in the case: - where a work (which has been broadcast, made available to the public or recorded on a storage medium produced for commercial purposes) is by its nature likely to be reproduced for personal or private use by being stored 'on a storage medium of any kind which is suitable for such reproduction and, in the course of a commercial activity, is placed on the market in national territory', - and where the storage method used in that context is that described in Question 1?



# GDPR NOTICE

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## ABOUT BIEM/CISAC/STICHTING DE THUISKOPIE



**BIEM** is an international organization gathering authors' societies administering recording and mechanical rights of protected musical works, with a view to the efficient administration of those rights. BIEM represents 60 mechanical rights societies operating in 58 countries. Aside from the negotiation of a standard agreement with the International Federation of the Phonographic Industry (IFPI), BIEM's role is not only to assist in technical collaboration between its member societies, to help in solving problems that arise between individual members, but also to contribute to the defense and development of copyright protection in the domain of mechanical rights.



**CISAC** is the leading worldwide organization of authors' societies. With 232 authors' collective management societies in 120 countries, CISAC represents more than 4 million creators from all geographic areas and all artistic repertoires (including music, audiovisual, drama, literature and visual arts). CISAC works to protect the rights and promote the interests of creators worldwide. CISAC enables collective management organizations (CMOs) to seamlessly represent creators across the globe and ensure that royalties flow to authors for the use of their works anywhere in the world.

de ThuisKopie



**Stichting de ThuisKopie** (Home Copying Foundation) is the private copying collecting society of the Netherlands. ThuisKopie is the sole organization in the Netherlands appointed by the Minister of Justice, to collect the remunerations from importers/manufacturers of media and devices used by consumers for private copying. It distributes the collected private copying remunerations to the organizations representing the interests of the entitled rightsholders like composers, lyricists, audiovisual and audio producers, authors of literary-dramatic works, journalists, screenwriters, visual authors, photographers, illustrators, visual artists, performing artists, broadcasters and directors. The rightsholders are represented in the board of the Foundation.



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