

# International Survey on Text and Image Copyright Levies



2016 Edition

International  
Federation of  
Reproduction  
Rights  
Organisations

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# **International Survey on Text and Image Copyright Levies 2016 Edition**





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## EXECUTIVE SUMMARY

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This is the third 'International Survey of Text and Image Copyright Levies', jointly published by the World Intellectual Property Organization (WIPO) and the International Federation of Reprographic Rights Organizations (IFRRO). It builds on and updates the first two surveys published in 2014 and 2015, and analyzes the origins, scope and current use of these levies around the world, and their role in ensuring easy legal access to copyright material. The Survey also shows how and why text and image (TI) levies are different from audio and audio-visual private copying levies. As with the first two surveys, it uses data from IFRRO members, collated and presented by Paul Greenwood, a consultant, with the assistance of representatives of IFRRO members and the IFRRO Secretariat. The methodology and scope are unchanged.

TI levies are copyright fees paid for the use of text and image works under exceptions or limitations to the exclusive right of reproduction in copyright law. These exceptions or limitations normally include private use by natural persons, like the private copying levy, but often also extend, unlike the private copying levy, to own or internal use by legal persons such as companies or educational institutions and to other than private uses by natural persons (e.g. professional use). The levies consist primarily of a fee, known as the equipment levy, paid by the manufacturers or importers of devices or media that can be used to make such copies. This fee is normally passed down the chain of supply so that it is ultimately borne by the end-user. In many countries, the equipment levy is supplemented by an 'operator fee', which is a periodical fee paid by large-scale operators or providers of copying devices, such as copy shops or public libraries.

The equipment levy applies primarily to devices or media that can be used to copy text and image works only, either alone or in conjunction with other devices or media, such as copiers, scanners and multifunctional or stand-alone printers. The levy on such devices or media is normally collected by Reproduction Rights Organizations (RROs) and Collective Management Organizations (CMOs) in the text and image sector, and distributed to authors and publishers either directly or through other representative organizations. However, in some countries, RROs also receive a share of the money for the copying of text and image works as part of the private copying levy, which is normally collected by a different CMO.

According to the survey, 33 countries currently have legislations that provide for TI levies, although the levy scheme is not yet operational in 15 of them. Today, TI levies exist in 16 European Union (EU) Member States and seven non-EU European countries. The survey presents the provisions of the 2001 EU Copyright Directive on TI levies, and summarizes 10 recent CJEU decisions clarifying those provisions, including three judgements delivered since the 2015 Survey. Additionally, legislation is currently proposed in Korea that will establish the first such system in an Asian country.

The survey, like its predecessors, highlights a number of issues relating to TI levies including, in particular, the issue of whether publishers can share in compensation or remuneration schemes relating to copyright exceptions or limitations arising from rulings at both the EU (REPROBEL) and national (*Bundesgerichtshof* Germany, VOGEL) levels.

The third survey updates the data in the first two surveys for all operational TI schemes, examining which devices or media are levied, which locations are subject to an operator fee, tariffs for both the equipment levy and operator fee as well as 2015 collections, making extensive use of comparative tables. It shows that TI levy collections amounted to approximately 359 million euros worldwide in 2015. Approximately 345 million euros (96%) resulted from the equipment levy and 14.5 million euros (4.5%) from the operator fee. While the 2015 figure shows a substantial increase of over 100% on the total for 2014, it should be appreciated that the increase is largely due to back payments following the clarification of liability for the equipment levy on devices such as printers in Germany. Allowing for such distorting factors, the figures for the last eight years show only a modest upward trend.

The survey also analyzes the highest levy collections by country from 2007 to 2015, concluding that, until 2014, collections had been roughly constant for the operator fee during this period, varying within a band of 4%, but show a drop of 16% in 2015 compared to 2014. There has been greater volatility for the equipment levy, mainly due to developments in Germany. The survey also analyzes the 2015 collections in per capita terms, ranging from 0.002 euros per capita in Burkina Faso and Portugal to 2.18 euros in Belgium.<sup>1</sup>

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<sup>1</sup>This does not include the German figure of 3.50 euros per person for the reason already alluded to.

RROs, along with other players on the national and international level, are constantly striving to improve the TI levy systems. IFRRO-WIPO surveys seek to provide some of the facts and developments that will enable informed discussion of TI levies and their place in a system of fair remuneration of authors and publishers for the use of their works under exceptions or limitations to copyright.

# 1. GENERAL ANALYSIS

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## 1.1 Introduction

This survey supplements and updates the 'International Survey of Text and Image Copyright Levies' jointly published by WIPO and IFRRO in May 2014 and December 2015. It includes, in particular:

- Commentary on developments in legislation and court proceedings since publication of the first two surveys. Some commentary contained in the first two surveys is also included, but in abbreviated form. The reader should refer to the first two surveys for more detailed discussion.
- Data on collections, distributions and tariffs for 2015, which was not available at the time of publication of the last survey

The main changes since the last survey are summarized in section 1.2.

As with the two previous surveys, the most important and lengthy part of the survey is the presentation of detailed data in a comparative format. The commentary on legislation and court judgements is merely intended to inform the reader of current issues relating to TI levies rather than to provide a complete legal analysis, which would be beyond the intended scope.

Text and image levies on copying for private and own/internal use (TI levies) cover, not only copying of text and still images for private use, but also, and more importantly, a range of copying for various specified purposes by both natural and legal persons, which is permitted under legal exceptions to the right of reproduction of the work. This and previous surveys are intended to be a comprehensive and authoritative source of information on TI levies. It addresses the many misconceptions about such levies and identifies areas where the TI levy system is in need of improvement, either in general or in specific countries where the system has not yet been implemented or does not work as well as in other countries. It is hoped that all surveys will be useful in negotiations on levies between rightholder organizations and the TI industry, in work on levies in various countries and organizations, in developing government policy and, perhaps and above all, in helping to educate and inform the public, which constitutes the user community in the many levy countries.

Currently, the legislation in 33 countries worldwide provides for a TI levy system (30 in 2015). Some 23 (21) of these countries are in Europe, with 16 being members of the European Union (EU). TI levy systems, and the attendant jurisprudence, have developed largely within the EU member states. Nevertheless, an increasing number of countries outside the EU, especially in South America and Africa, have adopted TI levy systems, and more are currently considering their adoption. It should be noted that draft legislation in Korea provides for a private copying levy on devices and media (See country report on page 107).

## 1.2 Main changes since last survey

The main changes since the last report are:

- Four important recent judgements of the CJEU, in the REPROBEL, AMAZON 2, EGEDA and SIAE cases are summarized. The REPROBEL judgement, published shortly before publication of the last survey, is especially important for TI levies on a number of issues;
- An important new issue, namely - "Challenges to the right of publishers to participate in levy remuneration" – is explained and analyzed;
- The data in the country reports and tables for operational levy schemes now includes 2015 data;
- The total collection figure for the equipment levy of 359,475 million euros is well above the 2014 figure of approximately 179 million euros. However, this is due to the inclusion of substantial payments from previous years in Germany (see page 67).

## 1.3 Features of text and image levies

### 1.3.1 Equipment levies

As set out in greater detail in the previous surveys, TI levies are a means of securing compensation or remuneration for the rightholders (authors and/or publishers) for copying of their copyright-protected works, in cases where an exception or limitation to the exclusive right of reproduction exists in national legislation.

The central idea of the levy system is that, where national law permits copies to be made from copyright-protected works without the authorization of the rightholders, the rightholders should receive fair compensation or remuneration in the form of a fee or levy on devices or media which are or can be used to make such copies, paid to a CMO on their behalf. The levy is paid in the first instance by the manufacturers or importers of devices or media placed on the national market, and passed down the chain of supply so that it is ultimately borne by the end-user. The CMOs distribute the money collected to the rightholders, either directly or via their member organizations. The rationale for the levy system is as follows:

- Certain exceptions to the reproduction right may be justified: firstly, because they serve a social need; and, secondly, because it is not possible to enforce the reproduction right in the private sphere, at least without an unacceptable level of intrusion into that sphere.
- However, such exceptions have a negative effect on the commercial exploitation of works, for which the rightholders should receive equitable remuneration.

Most, if not all, countries have found that the practical way of collecting such levies is via the manufacturers and importers of devices and storage media that can be used for copying.

Today there are many devices (multifunctional reproduction devices, printers, scanners, faxes, USB sticks, external hard disks, PCs, tablets, mobile phones etc.) that are capable of such copying, either on or from analog or digital media or sources, and either alone or in conjunction with other devices or media. This has led to a large number of legal disputes both in national and European courts pertaining to the devices and media that should or can be subject to levies under national and/or European legislation. As a result, the devices and media subject to the TI levy at any given time have varied considerably from country to country. The current position is set out in section 2, Table 5 (Also see the summary in the chart<sup>2</sup> below).

#### Countries with operational levy schemes: Devices and media capable of copying TI works only

<b>Copiers</b>	Austria, Belgium, Burkina Faso, Cameroon, Croatia, Czech Republic, Germany, Greece, Hungary, Lithuania, Poland, Portugal, Romania, Slovakia, Slovenia
<b>Fax machines</b>	Austria, Belgium, Burkina Faso, Cameroon, Croatia, Germany, Poland, Slovakia, Slovenia
<b>Scanners</b>	Austria, Belgium, Burkina Faso, Cameroon, Croatia, Germany, Greece, Poland, Romania, Slovakia, Slovenia
<b>Printers</b>	Austria, Burkina Faso, Czech Republic, Germany, Hungary, Poland, Romania, Slovakia, Slovenia
<b>MF (multi-function) machines</b>	Austria, Belgium, Burkina Faso, Croatia, Czech Republic, Germany, Ghana (NYI), Greece, Hungary, Lithuania, Poland, Romania, Slovakia, Slovenia
<b>Copy paper</b>	Greece, Poland, Romania

At the same time, the tariff on each type of device or media varies from country to country (See table 10). In most cases, the tariffs are unchanged from 2012, with only slight changes in some countries, except for Portugal, where comprehensive new tariffs were set in June 2015 (Section 3(1)(14)). These enabled substantial collections to be made for the equipment levy which could not be implemented previously.

<sup>2</sup>Note on abbreviations used in Figures

NYI= levy in law but not yet implemented

When TI levies were first introduced, they were confined to devices such as photocopiers, since there was no storage medium equivalent to the video or audio cassette in the audio-visual sphere. Over the course of time, this situation has changed and today text and images can be copied on various types of media (CD, DVD, blu-ray discs, PCs, tablets, USB sticks, memory cards, internal or external hard drives, smartphones, etc.) as can audio and audio-visual works. This has resulted in TI levies applying to both devices and media, although there is considerable variation from country to country. The TI levy on devices was historically known as the ‘equipment levy’ and in this survey that term will be used to denote TI levies on both devices and media.

### 1.3.2 Operator fees

A third area of variation between TI levy schemes is that often the equipment levy is supplemented by an operator fee. <sup>3</sup>Operator fees, like equipment levies, vary considerably. The operator fee is a flat fee or a fee proportional to the number of copies made, paid to authors and publishers via RROs by ‘large-scale users’ of copying devices. In many ways, the operator fee resembles the ‘site license’ of voluntary licensing schemes.

Even with operator fees, there are variations as to which operators should pay the fee. For example, while the German operator fee excludes business and public administration, the Belgian operator fee includes these sectors, while the Polish operator fee is confined to copy shops.

Table 1 shows that, of the 17 countries with operational levy schemes, 12 have an operator fee as well as an equipment levy. Also, see the summary in the chart below.

#### Countries with TI levies

<b>Levy on TI devices</b>	Albania (NYI), Algeria, Austria, Belgium, Bosnia Herzegovina (NYI), Burkina Faso, Cameroon, Côte d’Ivoire (NYI), Croatia, Czech Republic, Dominican Republic (NYI), Ecuador (NYI), Germany, Ghana (NYI), Greece, Hungary, Kosovo (NYI), Lithuania, Luxembourg (NYI), Macedonia (NYI), Moldova (NYI), Montenegro (NYI), Nigeria (NYI), Paraguay (NYI), Poland, Portugal, Romania, Serbia (NYI), Slovakia, Slovenia, Turkey (NYI)
<b>Levy on A/AV + TI devices with TI share</b>	Belgium, Czech Republic, Dominican Republic (NYI), France, Germany, Ghana, Kosovo (NYI), Lithuania, Netherlands (NYI), Nigeria, Paraguay (NYI), Slovakia
<b>Levy on TI media</b>	Bosnia Herzegovina, Greece, Luxembourg (NS), Nigeria, Poland, Romania, Serbia
<b>Levy on A/AV + TI media with TI share</b>	Belgium Czech Republic, Dominican Republic (NYI), France, Germany, Ghana, Lithuania, Netherlands (NYI), Nigeria (NYI), Paraguay (NYI), Slovakia, Turkey (NYI)
<b>Operator fee</b>	Austria, Belgium, Bosnia Herzegovina(NYI), Burkina Faso, Côte d’Ivoire (NYI), Croatia, Czech Republic, Germany, Hungary, Kosovo (NYI), Lithuania, Luxembourg (NS), Moldova (NYI), Montenegro (NYI), Poland, Portugal, Serbia (NYI), Slovakia, Slovenia

Table 8 shows that, in those 12 countries, the application of the operator fee varies considerably, from copy shops only in Poland to a wide range of locations in Belgium and the Czech Republic. Also, see the summary in the chart below.

<sup>3</sup>This can also be referred to as an operator levy, as in the 2014 report, but the expression ‘operator fee’ is considered preferable, both to reflect the fact that the payment is a periodical fee and to avoid confusion with the equipment levy.

## Locations covered by operator fee in operational systems

<b>Copy shops</b>	Austria, Belgium, Croatia, Czech Republic, Germany, Greece, Hungary, Lithuania, Poland, Portugal, Slovakia, Slovenia
<b>Schools</b>	Austria, Belgium, Czech Republic, Germany, Hungary, Lithuania, Portugal (sold copies), Slovakia
<b>Higher education institutions</b>	Austria, Belgium, Czech Republic, Germany, Hungary, Lithuania, Portugal (sold copies), Slovakia
<b>Public administration</b>	Belgium, Czech Republic,
<b>Businesses</b>	Belgium, Czech Republic, Lithuania
<b>Libraries</b>	Austria, Belgium, Czech Republic, Germany, Hungary, Lithuania, Portugal, Slovakia, Slovenia

### 1.3.3 Tariffs

TI levy systems vary by country, not only as to which devices and media are subject to the levy, which exceptions are linked to the levies, and whether or not there is a supplementary operator fee, but also in the tariff structure and the tariffs that apply to the same types of device or media, or operators (See tables 10 and 11).

Table 1 on page 27 shows the type of levies applied in all countries with TI levies, including where such levies are provided for in the country's legislation but the system has not yet been implemented.

## 1.4 Methodology and Scope

This third survey on TI levies has the same scope and methodology as the previous surveys.

IFRRO has for many years regularly collected data from its members about all aspects of their work, including the administration of TI levies. Some of this data has been made publicly available, for example, through the annual Members' Directory and the information about IFRRO members made available on the organization's website, [www.ifrro.org](http://www.ifrro.org). Since 2014 this information is made available through the international surveys prepared in collaboration between WIPO and IFRRO.

The data from IFRRO members and other sources was collected and compiled by an independent consultant, Mr. Paul Greenwood, formerly the international affairs manager of VG WORT in Germany, with the invaluable assistance of a reference group consisting of Dr. Robert Staats, joint CEO of VG WORT, and Mr. Kurt Van Damme, the Deputy Managing Director and General Counsel of REPROBEL, Belgium, as well as the IFRRO Secretariat.

In many of the country by country reports, English translations of extracts from laws, decrees and regulations have been included in the text. Most of these translations originate from the WIPO collection of international laws. In some cases, unofficial translations have been used, while in others the translation originates from the copyright authority of the country concerned.

We are indebted to IFRRO members in countries with levy schemes for their assistance in identifying the latest legislation, regulations and decrees governing levies.

*While the compilers of this survey 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.*

## 1.5 Overview by continent

### Europe

TI levies currently exist in 16 EU Member States out of a total of 28, and seven non-EU states.



### *North America*

There are no TI levy schemes

### *South America and the Caribbean*

There are no changes since the last report. TI levy schemes exist in Paraguay, Ecuador and the Dominican Republic, although they are not yet operational. The copyright legislation providing for them was passed in 1998, 1999 and 2000 respectively.

### *Africa*

TI levy schemes exist in Algeria, Burkina Faso, Cameroon, Côte d'Ivoire, Ghana and Nigeria. They are currently only operational in Algeria, Burkina Faso, Cameroon and Ghana.

### *Asia and Australasia*

As previously noted, a TI levy scheme is proposed in Korea.

## **1.6 EU developments concerning text and image levy systems**

Although TI levies do exist in countries outside the EU, the EU is both the cradle and the heartland of TI levy systems. EU member states must comply with legislative instruments—directives, regulations etc.—adopted by the European Parliament and Council of Ministers. There was no overarching directive concerning copyright until 2001 (Directive EC 2001/29—the 'Copyright Directive'). The Copyright Directive impacts directly on TI levy systems, since it prescribes the exceptions to the exclusive rights of reproduction and making available, which member states may adopt in their national legislation, if they so desire. These include exceptions to the reproduction right that underpin levies. The Copyright Directive also provides that if member states adopt certain exceptions, they must also provide for 'fair compensation' for the rightholders. An analysis of the impact of the Copyright Directive on TI levies is given in the next section. There has been a great deal of litigation concerning levies in recent years. Not only have many cases been brought before the relevant national courts at all levels (because both parties have regarded issues of principle as being at stake), but in some cases, the national courts have referred specific issues, usually concerning the interpretation of the Copyright Directive, to the Court of Justice of the European Union (CJEU). Ultimately, the CJEU has clarified and confirmed the interpretation of the directive on some key issues concerning levies. Recent landmark rulings that concern or impact on the TI field include:

- Padawan (C 467/08, 21/10/2010): assessment of fair compensation (article 5(2)(b)); professional use; harm as an autonomous concept under EU law; potential harm.
- Opus/de Thuiskopie: 'Opus' (C 462/09, 16/6/2011): collection of fair compensation ( article 5(2)(b)); cross-border sales/online vendors: obligation on member states to ensure that compensation schemes are effective.
- VG WORT (C 457/11 to C-460/11, 27/6/2013): scope of article 5(2)(a); fair compensation on a chain of devices (printers, PCs etc.); right to compensation independent of express or implied consent to copying.
- Austra-Mechana/Amazon: 'Amazon 1' (C 521/11, judgement 11/7/2013): general private copying levy is in accordance with EU law given an effective and non-onerous system of reimbursement; legitimacy of use of fair compensation for social and cultural purposes/indirect compensation of the author; in cross-border sales the levy is still payable in the importing state even if a levy was paid in the exporting state.
- ACI Adam (C-435/12, 10/4/2014): EU law precludes national legislation that fails to make a distinction between a situation in which reproduction for private use is made from a lawful source, and one in which that source is unlawful.
- Copydan Bandkopi v Nokia: 'Copydan' (C-463/12, 5/3/15): levies can be applied: (a) on multifunctional media such as memory cards in mobile phones, even though copying is not the main function of the device/media; (b) even where the mobile phone in question may be used exclusively for business purposes;

and (c) where the rightholders have authorized the copying covered by an exception, including against payment of a license fee. However, (d) no fair compensation is payable for copying from an illegal source

The most important recent judgements of the CJEU have been delivered in:

- **Reprobel v. HP 'REPROBEL' (C-572/13):**

In November 2015, the CJEU ruled, in essence, that:

- When providing for fair compensation, a remuneration scheme for reprography should take into account the difference between reproductions made by natural persons for their personal use and which are not-for-profit, and all other reproductions (i.e. reproductions made by legal entities for their internal use and by natural persons for other uses or purposes);
- Such a scheme cannot compensate reproductions of sheet music and reproductions from an illegal source (or, more generally, reproductions made outside the scope of the underpinning exception or limitation to copyright);
- Publishers are not rightholders in the sense of articles 5.2.a and b. Consequently, a national compensation scheme that allocates part of the authors' fair compensation to publishers runs counter to EU law when publishers are under no legal obligation to make the authors benefit, even directly, from their share (for further comment and analysis see Section 1(11)(8) "Challenges to the right of publishers to participate in remuneration")
- A dual levy system consisting of an equipment levy on reproduction devices (such as copiers and multifunctional devices) to be paid upfront upon import of the device on the national territory and of an operator fee to be paid "post factum" by entities that put such devices at the disposal of end users for making reproductions of copyright works, is not, in principle, at variance with EU law. However:
  - The equipment levy tariff cannot exclusively be based on the reproduction capacity (i.e. the maximum speed) of the device, and should not, as a rule, be instituted if the end-user can be identified;
  - The operator fee should not be based on whether or not the operator cooperated in the collection of the fee;
  - A reimbursement scheme should be instituted for the benefit of payers of the operator if the combination of an equipment levy, which compensates potential harm, and an operator fee, which compensates actual harm, would lead to overcompensation of rightholders in the field (vis-à-vis certain categories of users).

The Repobel case was pleaded on the merits before the Court of Appeal of Brussels in October 2016. The ruling of the national court was not available at the time of compilation of the current survey. It should be noted that several other national lawsuits between Repobel and importers or online vendors are pending at first instance and appeals levels.

See Belgium country report, page 50 for information on the repercussions of the ruling in Belgium.

- EGEDA and others v Administración del Estado C:470/14 judgement 9 June 2016 ("EGEDA")

Until 2011 both AV and TI levy schemes existed in Spain. In 2012 the Spanish government introduced legislation, supported by a Royal Decree, whereby levies would thenceforth be financed from the General State Budget rather than being paid by manufacturers or importers of devices, who then passed the cost on to end users, as in conventional levy schemes. Under this scheme the amount of fair compensation was to be set by the government taking into account the revenue available in each year, and the total proposed payments were well below the levels payable under the conventional levy schemes in previous years. Legal proceedings were started by EGEDA, a CMO administering the audio-visual levy and various other CMOs, challenging the legality of this legislation. The Spanish courts referred the case to the CJEU for a preliminary ruling as to whether such schemes were in accordance with article 5(2)(b) of the Directive.

The CJEU held that a scheme providing for fair compensation for private copying, which is financed by the State budget in such a way that it is not possible to ensure that the cost of compensation is borne by the users



of private copies, is contrary to EU law. However, payment of said compensation from the state budget was not ruled out as such. It confirmed, based on previous CJEU case law, that Member States are free to establish a scheme whereby the manufacturers or importers of devices are liable to finance the fair compensation even though they are not the legal persons ultimately liable to pay it. For a scheme to be permitted, it must enable the cost of the fair compensation to be borne ultimately and solely by users of private copies.

In November 2016, as a result of the CJEU judgement, the Spanish Supreme Court declared the Royal Decree of 2012 establishing the state-funding scheme to be void and inapplicable. It follows that the Spanish compensation system for private copying will have to be reviewed, most likely from 2012 onwards. For the purposes of data analysis in this and previous surveys, Spanish levy schemes have not been included.

- **Austro-Mechana v Amazon C-572/14 judgement 17 February 2016 (Amazon 2)**

Austro-Mechana is an Austrian collecting society administering the Austrian AV private copying levy. Amazon is an online supplier based in Germany and Luxembourg, whose business includes supplying recording media to users in Austria through online orders. The question at issue was whether the failure of Amazon to pay the Austrian private copying levy to Austro-Mechana constituted a “tort, delict or quasi-delict” rather than a contractual obligation, under Article 5(3) of Council Regulation (EC) 44/2001, which provides that “ in matters relating to tort, delict or quasi-delict a person domiciled in a Member State may, in another Member State, be sued in the courts of the place where the harmful event occurred or may occur”. The court held that the failure of Amazon to pay fair compensation under Austrian law potentially harmed the rightholders and is indeed a tort, and that Austro-Mechana was therefore entitled to sue Amazon in Austria for payment of the fair compensation. This decision underpins previous decisions to the effect that in the case of online sales the foreign supplier shall pay the levy charged by the country of the consumer (see, among others, *Opus de Thuiskopie* (page 14) and *Amazon / Austro Mechana I*, (page 14).

- **Nokia Italia v SIAE C 110/15 22 September 2016 (SIAE)**

This case concerned the levy exemption and refund scheme operated by the Italian CMO, SIAE, in relation to the A/AV private copying levy. That scheme offered ex-ante exemption from the levy to manufacturers and importers of devices “intended for use clearly unrelated to private copying” on a contractual basis combined with entitlement to a refund for final users only. The court held that EU law “must be interpreted as precluding national legislation ... which, 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, when it has been unduly paid, may be requested only by the final user of those devices or media”.

Note that the SIAE case directly concerns private copying and that further analysis is needed on the implications that this very recent judgement would have for TI schemes. Of the cases mentioned above, only VG WORT and REPROBEL directly concern article 5(2)(a) of the EU Directive. The rest directly concern article 5(2)(b)

## 1.7 Legal background of text and image levies

As previously explained, the exceptions to the reproduction right linked to TI levies vary considerably. Some schemes may be confined to private copying, either on any medium (article 5.2.b), or on paper or a similar medium (article 5(2)(a) and (b), or both. Other schemes, for example in Germany and Belgium, cover private and own use/internal copying and/or copying for educational purposes. There are also variations in the specific type of own use or internal copying that is paid for by the levy. Consequently, when comparing tariffs for a given device or medium, the type and extent of copying which the levy is supposed to cover has to be taken into account, otherwise the comparison would be skewed.

As in previous surveys, it is beyond the scope of this survey to give a detailed account of all CJEU decisions relating to TI levies in the last few years. However, some of the most important cases are mentioned in the preceding section and in the section on liability issues. Our purpose is merely to sketch the issues relevant to TI levies, rather than present a detailed or authoritative account of such issues.

EU member states are therefore free – within the boundaries set by the CJEU - under the 2001 Copyright Directive to introduce exceptions within article 5(2)(a) and/or article 5(2)(b), provided the rightholders receive ‘fair compensation’. The Directive does not specify how such fair compensation should be paid, or its exact amount, although the CJEU has confirmed in Padawan and other cases that levy schemes can be a legitimate way of doing so.

Section 2, Table 2 summarizes the exceptions covered by levies in the various countries that use them. Also, see the summary in the chart below.

### Scope of exceptions covered by the levy

Levy coverage	TI levy countries
Levy covers own use/ internal copying	Albania (NYI), Austria, Belgium, Bosnia Herzegovina (NYI), Burkina Faso, Côte d'Ivoire (NYI, NS), Croatia, Czech Republic, Dominican Republic (NYI, NS), Germany, Macedonia (NYI), Moldova (NYI), Montenegro (NYI), Nigeria (NYI, NS), Portugal, Slovakia, Slovenia
Levy covers TI private copying	Albania (NYI), Algeria, Austria, Belgium, Bosnia Herzegovina (NYI), Burkina Faso, Cameroon, Côte d'Ivoire (NYI, NS), Croatia, Czech Republic, Dominican Republic (NYI), Ecuador (NYI), France, Germany, Ghana, Greece, Hungary, Kosovo (NYI), Lithuania, Luxembourg (NYI), Moldova (NYI), Montenegro (NYI), Netherlands (NYI), Nigeria (NYI, NS), Paraguay (NYI), Poland, Portugal, Romania, Serbia (NYI), Slovakia, Slovenia, Turkey (NYI)
Levy covers educational copying	Austria, Belgium, Burkina Faso, Germany, Montenegro (NYI), Nigeria (NYI, NS)

Table 8 summarizes the institutions and bodies liable to the operator fees, where applicable.

## 1.8 Practical implementation of text and image levies

Assuming the copyright law of a country provides for a TI levy, there are a number of factors that can facilitate the practical implementation of the system, and whose absence may hinder its development. These are:

1. A suitable and duly authorized reproduction rights organization (RRO) to administer the system.
2. Where there is a duly authorized RRO to collect the levy, both the devices or media subject to the levy, and the tariff to be applied, must be clearly defined before collection can begin. The different methods for achieving this are presented in the next section.
3. The RRO administering the levy must be able to obtain data on the entry of devices and media into the national market, in order to identify and invoice the entities liable to pay the levy. The extent to which national laws sufficiently provide for this mechanism varies.

## 1.9 Tariff Setting

### 1.9.1 How Tariffs Are Set

The main points on tariff-setting are summarized below. For more details, please see the previous surveys.

Tariffs are set through the following approaches:

- (a) In some countries, for example Germany, the copyright law only states the general principles for determining whether a device or medium is liable to the levy and, if so, the tariff that should apply.
- (b) In some countries, the devices and media subject to the levy, and in some cases the tariffs themselves, are established by secondary legislation or regulations, with the underpinning copyright legislation only stating some general principles.
- (c) In most cases where there is provision in the law for a levy system, but which has not yet been implemented (see Table 1), State regulations or decrees defining devices and media liable to the levy as well as the applicable tariffs have not yet been issued.

(d) In some countries, the devices and media subject to the levy, and even the tariffs in some cases, are specified in the national copyright law (e.g. in Greece). Table 9 in section 2 shows how tariffs are set in the various countries that have functioning TI levy schemes. Also see the summary in the chart below.

### How equipment levy tariffs are set (operational schemes)

Tariffs set by law	Czech Republic, Greece, Hungary, Lithuania, Poland, Romania, Slovakia
Tariffs set by regulation or decree	Belgium, Burkina Faso, Cameroon, Czech Republic, Ghana, Hungary, Poland, Portugal, Slovenia
Tariffs set by negotiation/courts	Austria, Croatia, Germany,
Tariffs set by tribunal/commission	France

#### 1.9.2 Level of tariffs

The following principles have been endorsed by the CJEU in Padawan and other recent judgements:

1. The levy scheme should provide for fair compensation, inter alia, for the harm suffered by rightholders as a result of the copying of or from their copyright works.
2. Fair compensation should take into account the volume of reproductions of copyright works within the national territory (assessed on the basis of a statistical survey).
3. Leviability of devices and media under an equipment levy scheme should be based on the potential use thereof.
4. Tariffs for the equipment levy on the other hand should be based on the actual use of the type of device or media to copy text and image works.
5. The only way to measure actual use of devices and media is by conducting statistical surveys.
6. All interested parties should be consulted in the tariff-setting process.

#### 1.9.3 Types of tariffs

There are four types of tariff for the equipment levy (see Table 10):

1. The tariff is a flat fee per unit for all devices/media of the same type (technology or function or both). For example, scanners in Slovenia, printers in Germany, or CDs and DVDs in Belgium.
2. The tariff is a fee that varies with the objective, speed or storage capacity of devices/media of the same type. For example, copiers and multifunctional devices in Belgium; copiers in Austria and Germany; printers (all speeds) in Czech Republic; and most private copying devices / media (storage capacity) in Belgium.
3. The tariff is a percentage of the import or retail price of the device or medium. For example, all devices are levied in Hungary and Romania.
4. The tariff is a combination of the above; for instance, a fee that varies with the speed or another criterion of the device/medium but with a percentage of the retail price serving as a cap on the levy, or the other way around (i.e. a percentage of the retail price but with a minimum and/or a maximum amount). For example, all devices levied in Burkina Faso and printers in Austria, as well as scanners in Belgium.

A national equipment levy could be based on just one of the types of tariffs above, but could also be a combination of tariff types differently applied to specific device or media types (e.g. a flat levy for a given technology, and a speed-based levy for another). This is the case in both Austria and Germany.

Section 2, table 9 summarizes how levy tariffs are set in countries with operational levy systems. Table 10 sets out the current tariffs for different types of device/media in the various countries.

Fair tariffs for the operator fee are based on principles similar to those of the equipment levy, although the CJEU has analyzed tariffs and fair remuneration more in relation to the equipment levy than to the operator fee (with the REPROBEL ruling being the exception to the general rule).

#### **1.9.4 Use of statistical surveys**

As noted in the last section, both CJEU judgements and practical experience have confirmed that the only way to set fair tariffs for both the equipment levy and the operator fee is through empirical surveys. These surveys measure what is known as 'objective possibility of use'. Copying behavior is observed over a limited period in various locations, including copy shops, libraries, schools and higher education institutions, enterprises, State bodies, and more. Reproductions on paper from copyright-protected sources are identified and recorded according to either categories of works (non-fiction books, fiction books, scientific journals, newspapers, etc.) or on a title-specific basis (sample surveys) which can then be extrapolated to cover the whole territory or the relevant section thereof. Such statistical surveys in the TI field can be used not only for tariff-setting and the negotiation of agreements, but also for the purpose of distribution to rightholders.

### **1.10 Liability and other issues pertaining to text and image levies**

A number of issues have emerged in debates on levies over the past few years. Most of them relate to both private copying and TI levies, albeit in different ways. The issues listed below were discussed in greater detail in the 2014 and/or 2015 surveys. However, the issue of the right of publishers to participate in levy remuneration is discussed for the first time in this survey.

#### **1.10.1 The Issue of double payment**

It is argued that the results of statistical surveys underpinning tariffs should be reduced to take account of licensed copies. Otherwise the consumer would be paying twice for the same copies.

In view of the VG WORT ruling, it is necessary to point out with each exception or limitation in national law, the extent, if any, to which the exclusive reproduction right has remained untouched by the existence of the exception or limitation. The latter could be analyzed on the basis of: (1) the scope of the relevant exception or limitation; and (2) the existence, under national law, of any 'contractual override' provision, explicitly providing that, in some instances or for some usages, a contractual license may prevail over the exception or limitation. However, as a general rule, the relationship between compensation under an exception or limitation and remuneration on the basis of an exclusive right is binary: it's either one or the other, says the CJEU, and in principle there can be no overlap between the two.

This reasoning was confirmed by the COPYDAN ruling, which further provided that there is no obligation for the user to pay a license fee for uses covered by an exception.

#### **1.10.2 Who is liable to pay the equipment levy?**

In countries with an equipment levy, liability to pay is imposed on either the manufacturer or the importer. In some countries, for example Germany and Slovakia, this liability extends beyond the manufacturer or importer if they are unknown or fail to supply information. This is an important safeguard that enables RROs to administer the levy effectively. However, recent legislation in Spain provided for the levy remuneration to be paid from the state budget, but this has been challenged in court proceedings brought by a number of Spanish CMOs. The case ("EGEDA") was referred to the CJEU and its judgement June 9, 2016 is summarized in section 1.6. above.

Another issue that has arisen in recent years is the question of who should pay the equipment levy when products are sold, usually online, to consumers by foreign retailers. The CJEU has held in the Opus ruling, Amazon 2, and other judgements that the levy in such situations is payable by the foreign retailer, not the domestic consumer (also see the discussion on exemption and refund schemes on page 30). Section 2, Table 3 summarizes the position in countries with TI levies

### 1.10.3 *On which devices or media can levies be applied?*

The answer to this question was obvious when photocopiers were the only copying machines. Today, however, a chain of devices and/or media is often involved in the process of making a digital or paper copy. In the VG WORT judgement of 2013, the CJEU held that it was legitimate to apply levies to all devices in the chain, provided the total remuneration paid is not 'substantially different from the amount fixed for a reproduction obtained by means of a single device'.

In the COPYDAN case, the court held that a levy may be imposed on multifunctional media, such as mobile phone memory cards, even if copying is not the main function or purpose of such media. However, a member state may exclude media (or devices) from the levy if it takes the view that the harm to rightholders caused by the subordinate copying function is minimal. The CJEU did not define the minimal harm threshold, but left this for the member states.

### 1.10.4 *Tariff-setting process*

A good procedural framework for tariff-setting is in the interest of all affected parties, though in some levy countries the procedure may be slow. The Copyright Directive requires all the circumstances of the case to be considered when assessing fair compensation, and harm is cited in the Copyright Directive as only one possible (albeit important) criterion.

The new detailed criteria for tariffs in Austria (see country report) seem intended to reflect the principles of the Copyright Directive as interpreted by the CJEU, although they go further in some cases. In particular, they provide that the levy on storage media may not exceed 6%, and the device levy may not exceed 11%, of the 'typical price level' of the storage medium or device concerned.

An overall cap of 15 million euros has also been set by new legislation in Portugal (see Section 3(1)(14)). See the 2015 survey for comments on these provisions.

### 1.10.5 *Professional use*

The CJEU Padawan ruling directly concerned (Spanish) audio and audio-visual (A/AV) private copying levies. It decided that if the levy covers only A/AV private copying, then devices used by companies, organizations and other legal persons and by natural persons (such as independent workers) for other than private use, should be excluded, since they were subject to 'professional use', not private use.

1. Apparently the decision has only limited application to TI levies since:
2. Many TI levies (as already noted in Table 2) expressly include internal or own use copying within companies, State bodies, institutions and organizations, and copying by natural persons for other than private use.
3. There is empirical evidence that employees use devices in their place of work for private or personal copying (whether permitted by the employer or not).

### 1.10.6 *Copies from an illegal source*

It is undoubtedly true, as shown by surveys conducted by RROs, that part of the copying from protected works is carried out from illegal sources (i.e. what is copied has been put there without the rightholder's authorization). The question therefore arises whether, in assessing the amount of fair compensation to be paid, account should be taken of copies made in this way.

The CJEU has already addressed this issue in ACI Adam, COPYDAN and REPROBEL, concluding that copies from an illegal source must not be covered by the levy.

### 1.10.7 *Illegal copies*

It is also true that some copying is illegal in the sense that, although the source may be legal, the copying is outside the scope of national exceptions; for example, because more than a short fragment of a book has been copied. The interests of the rightholders are prejudiced by such illegal copying. The question therefore



arises whether it is legitimate for national law to provide that fair compensation under a levy scheme should cover illegal copies as well as copies produced under exceptions.

#### **1.10.8 *The cross-border issue: Refunds and exemptions***

What happens when a device or medium on which the equipment levy has been paid is exported? This may happen when the original manufacturer, an importer, or a distributor, sends it as part of a consignment to a foreign distributor, or when a retailer fulfils an order placed by a customer resident or based abroad, often online. What happens if the country to which the product is exported or sold also has a levy scheme?

The CJEU has determined these issues in the *Opus/de Thuiskopie* and *Amazon* cases:

- Regardless of whether a levy has already been paid in the country from which the device or medium has been imported, it shall still be subject to the levy in the country of import because the levy compensates harm suffered in the country where the end-user resides.
- The appropriate fair compensation must be calculated on the basis of the criteria in the country where the end-user resides.
- In a cross-border transaction, the levy of the country of import should be paid by the foreign seller, not by the end-user (in the first instance, although the cost might be passed on).
- The cross-border seller is nevertheless entitled to a refund for a levy paid in the country of export if and when this possibility exists under the law of that country. Effective and non-burdensome refund schemes are an important part of all levy schemes.
- Where products subject to the equipment levy are imported, but not placed on the national market (i.e. are 'in transit'), and subsequently re-exported, it is possible to exempt the products in question from the levy by means of an *ex ante* exemption scheme. The legislation in some countries provides for this.

Note that the CJEU has only ruled on *ex ante* exemptions schemes in the *SIAE* case referred to above.

The challenge of internet cross-border sales is not so much to put refund schemes in place, since they already exist in all the TI levy countries, as to ensure that the levy of the country of the end-user is paid. To ensure that the RRO administering the levy in the country of the end-user can apply the levy to the online seller, it is important that it should be notified of any claim for refund of the levy in the other country.

#### **1.10.9 *Visibility of the levy***

There are two aspects to the question of visibility of levies:

- Firstly, it is important that those liable to pay a levy should be able to get information as to the levy amount applicable to various product types in the country concerned. The obvious way to achieve this is make the information available on the website of the RRO and/or in the underpinning legislation or regulations. Publication of tariffs on their website is standard practice for RROs.
- Secondly, it is also advisable that the levy amount be clearly stated on any invoices relating to the product, from the first offering on the national market right down to final invoicing of the consumer. Table 12 shows that there is a legal requirement to do so only in a minority of cases.

#### **1.10.10 *Impact on prices and sales of devices and media***

Manufacturers and importers have claimed that levies increase prices and have a negative impact on sales. However, surveys conducted by IFRRO and other organizations have concluded that there is no discernible trend. Prices vary from country to country irrespective of the existence of a levy system or the magnitude of the levy amount.

### 1.10.11 *Relationship between the operator fee and the device/equipment levy*

As evident from Table 16, the relative magnitude of the two types of TI levies varies considerably. For example, the operator fee represents roughly 45.2% of total TI levy collections in Belgium, 39% in Hungary, but only 0.64% in Poland. Overall, the operator fee accounted for 4 % of 2015 levy collections, although the distorting effect of the German equipment levy collections in 2015 should, once again be taken into account. The relatively high percentage in Belgium partly stems from the fact that the range of institutions and bodies covered by the operator fee is extensive.

## 1.11 Aspects of Distribution

### 1.11.1 *General principles*

The payment of TI levies involves global lump sums being paid to RROs or to other CMOs on behalf of authors and publishers. The task of these bodies is to ensure that this remuneration, after payment of administrative fees, is distributed, at least annually, to the authors and publishers whose works have been copied under the exceptions remunerated by the levies, and/or ensure that the funds are used for general purposes that benefit said authors and publishers. They must carry out this task according to published rules that are fair to all concerned. Since the RRO has no data on the scope or nature of copying carried out with each of the millions of specific devices or media subject to equipment levies and, at best, only partial data on operator fees, it must rely on surveys to distribute the funds.

With regard to operator fee remuneration, more information may be available on the copying, to which the remuneration relates, than in the case of equipment levy remuneration.

The levy remuneration may be distributed in three ways:

1. On a title-specific basis: This involves the allocation of remuneration to specific works. This can be based on identification of the works through sample surveys, or their identification as 'available on the market' during the period to which the distribution relates.
2. Market availability may be established by a reporting system, where rightholders report their recently published works to the RRO, or by databases, or a combination of the two.
3. On a non-title-specific basis: In this case, remuneration within each category of work is allocated in ways other than reference to specific titles. For example, it can be based on publisher turnover.
4. Used for general purposes: The remuneration may be used for general purposes as stipulated by law (see the discussion of social and cultural deductions - section 1.1.6 below).

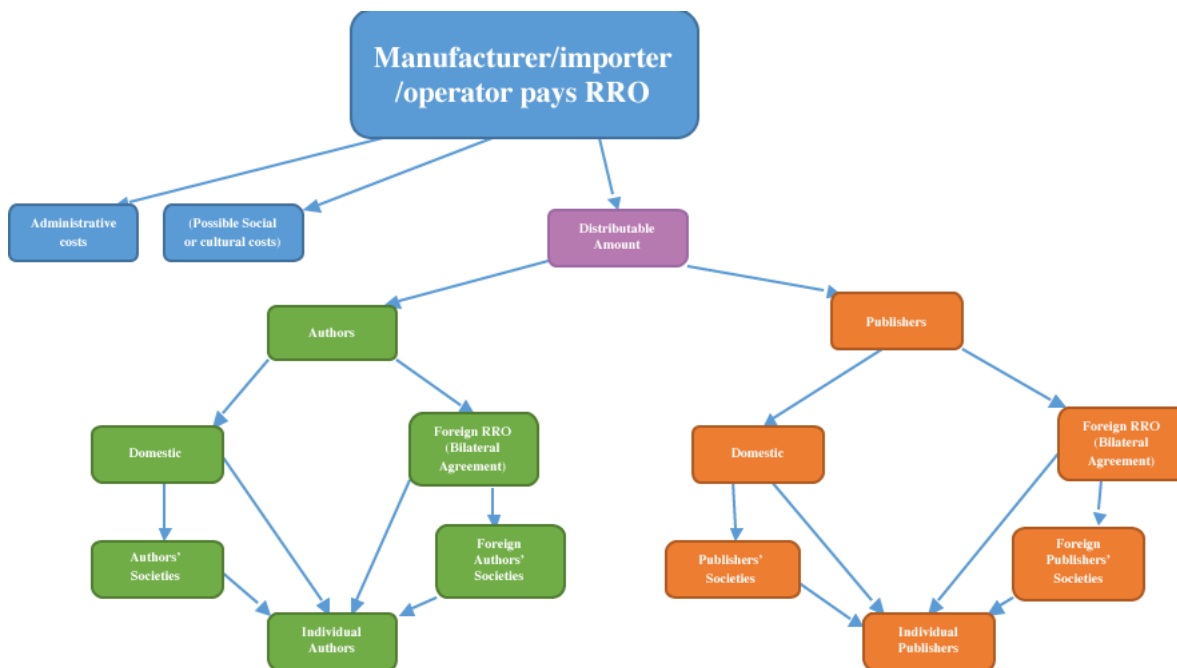
### 1.11.2 *Responsibility for distribution between CMOs*

Levies on devices or media that can only copy text or image works are normally collected by RROs. The RRO that collects the levy may, however, not be responsible for all aspects or stages of distribution, but may pass on an agreed share of the levy in each sector to another RRO, CMO or rightholder organization, which represents the authors/and or publishers in that sector. However, levies on devices or media which can copy both audio/audio-visual and TI works, are usually collected by another CMO. The TI share of the levy is, or should be, passed on to an RRO. Some RROs in the TI sector are, therefore, distributing remuneration which they originally collected (e.g. Reprobel in Belgium, albeit via its member CMOs); some distribute remuneration passed on by other RROs or CMOs (e.g. VG Bild-Kunst in Germany); while others distribute remuneration from both sources (e.g. VG WORT in Germany).

Most RROs administering TI levy funds do so on behalf of both authors and publishers of text works. In some case, however, they represent only authors, or only publishers.

#### **Figure 1: How the levy is utilized**

The diagram below is a schematic presentation of the typical distribution patterns for levy remuneration followed by RROs



### 1.11.3 Determination of distribution schemes

In most countries, the distribution scheme is determined by the membership of the RRO, usually subject to approval of, or review by, a supervisory body such as the Patent and Trademark Office in Germany or the Control Unit for collecting societies in Belgium. In some countries, however, elements of the distribution plan are fixed by law or regulation. For example, in Belgium, the law requires that half of the royalties be assigned to authors and half to publishers. An overview is given in Table 13, section 2.

### 1.11.4 The author-publisher split

In most cases, the RRO distributes to authors and publishers, either directly, or via representative organizations (trade organizations or CMOs) which are usually members of the RRO. It is therefore necessary to determine the respective proportions of the levy remuneration that belong to authors and to publishers. This is known as the author-publisher split. Where the author-publisher split is not pre-determined by law, this becomes one of the first issues that the distribution plan must address. The plan may provide for a uniform split, or for different splits for different types of work.

However, it should be noted that the right of publishers to participate in compensation or remuneration schemes pertaining to exceptions and limitations to copyright has been challenged recently, primarily in the wake of the REPROBEL case (see section 1.13)

Table 13 shows the current position on the author-publisher split in countries with operational levy schemes

### 1.11.5 Deduction of administrative fees

Administrative fees vary from RRO to RRO and from year to year. They may be set by the RRO annually, based on administrative costs in the year in question (e.g. as done by VG WORT in Germany) or be defined by law (as is the case in Romania). The administrative fee ceiling may also be prescribed by law, as in Poland where the ceiling is 20% and Belgium where it is 15%. The administrative fees for RROs administering TI levies in 2015 are set out in Table 15.

It should be noted that the costs generally relate to all the administrative activities carried out by the RRO and not just its administration of TI levies



### 1.11.6 *Social and cultural deductions*

In some countries with TI levies, remuneration is allocated to social and/or cultural purposes. The money may be used for social funds, which for example provide pensions or other financial assistance to rightholders in case of need; or cultural purposes, such as helping to fund cultural events or the publication of meritorious works. The RROs concerned are usually obliged or authorized by law to make such deductions (often with a cap on the allocation for this purpose) although the amount deducted may vary per year and per sector, as determined by the governing bodies of the organization (see section 2, Table 15).

The maximum level of social and cultural deductions in the TI sector is normally 10% and in most sub-sectors the figure is much lower. Nevertheless, it should be noted that in the *Amazon v Austro-Mechana* case, which involved the private copying levy, the CJEU approved a social and cultural deduction of 50%, provided the rightholders benefit from the social and cultural funds on a fair and non-discriminatory basis.

### 1.11.7 *Outsiders and foreign rightholders*

1. The distribution rules of each RRO must allow for the fact that the levy collections relate to all works copied within the country concerned, not only to works written or published by members of the RRO. The rules must therefore address the issue of national non-members (sometimes referred to as outsiders) and foreign rightholders. The share of the levy remuneration attributable to foreign works can be determined by statistical surveys, market availability or other objective data, and distributed through bilateral agreements with foreign RROs. As regards national non-members, it is important to publicize the distribution of levy remuneration by the RRO throughout the country concerned, and to ensure that all national authors and publishers have an equal opportunity to be represented by it. Typically, national legislation or regulations have provisions to ensure that this is the case.

### 1.11.8 *Challenges to publishers' right to participate in TI compensation schemes*

As explained above, levy remuneration has always been regarded by RROs and their members (authors and publishers), as well as most EU legislators, as belonging partly to authors and partly to publishers. However, in recent years this notion has been challenged.

In its *REPROBEL* judgement of November 2015 (C-572/13) (see page 15), the CJEU, after examining the "third question" referred to it, ruled as follows (emphasis added):

*"44. By its third question..., whether Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 preclude national legislation, ....., which authorizes the Member State in question to allocate a part of the fair compensation payable to rightholders to the publishers of works created by authors, the publishers being under no obligation to ensure that the authors benefit, even indirectly, from some of the compensation of which they have been deprived.*

*45. It should be noted (that this) question refers to a situation in which the compensation paid to publishers corresponds to a substantial reduction in the compensation which should normally be payable to reproduction rightholders by virtue of Directive 2001/29.*

*46. Pursuant to Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29, the possibility for Member States to provide for the exceptions referred to in those provisions is subject to fulfilment by those States of their obligation to ensure that reproduction rightholders receive fair compensation.*

*47. However, publishers are not among the reproduction rightholders listed in Article 2 of Directive 2001/29.*

*48. Since, first, the fair compensation .....is intended to compensate for the harm suffered by rightholders as a result of the reproduction of their works without their authorization and, second, publishers are not exclusive reproduction rightholders pursuant to Article 2 of Directive 2001/29, publishers do not suffer any harm for the purposes of those two exceptions. They cannot, therefore, receive compensation under those exceptions when such receipt would have the result of depriving reproduction rightholders of all or part of the fair compensation to which they are entitled under those exceptions.*

49. It follows from the foregoing that the answer to the third question is that 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 rightholders 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.”

The CJEU effectively ruled that:

- Publishers are not rightholders in the sense of article 5.2(a) and (b) of the Directive;
- Publishers therefore cannot receive fair compensation when such receipt would have the result of depriving the authors of all or part of their fair compensation on the basis of said articles;
- As a result, a national compensation scheme (for reprography and private copying) that allocates part of the fair compensation due to authors to the publishers of their works runs counter to EU law when those publishers are under no obligation to ensure that the authors benefit, even indirectly, from some of the compensation of which they have been deprived.

No longer remunerating publishers for reprography (and, in some cases, private copying) – alongside the authors as the original rightholders - would run counter to the law and established practice in so many countries when there is no evidence that the vast majority of authors have any objection to a publisher share. The current legislation in ten EU member states with TI levies (see Table 13) provides for both authors and publishers to receive a share from reprography (and, in some instances, also private copying) collections.

However, the REPROBEL decision appears to leave open a possible entitlement for publishers to receive levy remuneration outside the terms of the Directive on the basis of national legislation. The CJEU recently clarified its initial HP ruling in a completely non-related case pertaining to the French legislation on out-of-commerce works (Soulier, C-301/15). In recital 48 of the Soulier ruling, the CJEU stated: “It follows that, if Directive 2001/29 does not prohibit Member States from granting certain rights or certain benefits to third parties, such as publishers, it is provided that those rights and benefits do not harm the rights which that directive gives exclusively to authors (see, to that effect, judgment of 12 November 2015, *Hewlett-Packard Belgium*, C 572/13, EU:C:2015:750, paragraphs 47 to 49).” Nevertheless, European legislation is necessary to clarify this issue at the European law level.

In 2016, the German Bundesgerichtshof considered the publisher share issue in the case of *Vogel v VG WORT*. Firstly, it decided that Section 63a of the German Copyright Act, which was intended to support distribution to publishers, as far as remuneration rights for exceptions are concerned, did not, as a matter of interpretation of European law, do so. Secondly, it decided that the statutes of an RRO could only confer a share on publishers on the basis of rights acquired from authors, which they could not do in advance for remuneration rights or with respect to rights previously transferred to a collecting society. However, the court decided that already existing remuneration rights, which were not transferred to a collecting society, were transferable to publishers and could be the basis for their participation in the distribution.

It may be observed that if a publisher share is completely denied, this would leave publishers, whose interests are also prejudiced by mass copying, without remuneration. Whether this would be compliant with the international copyright framework (Berne, WIPO, TRIPS) as well as European and national constitutional law may be disputed.

The legitimacy of a publisher share has been recognized by the European Commission in its proposed directive on Copyright in the Digital Single Market of 14/9/2016, article 12 of which reads as follows:

*Article 12: Claims to fair compensation*

*Member States may provide that where an author has transferred or licensed a right to a publisher, such a transfer or a license constitutes sufficient legal basis for the publisher to claim a share of the compensation for uses of the work made under an exception or limitation to the transferred or licensed right.*

Note that the proposed article would apply to fair compensation in relation to all exceptions and limitations.

Note also the proposed new legislation in Belgium for a sui generis remuneration for publishers (page 50).

In December 2016, the German parliament passed an amendment to the Collective Management Organizations Law of 2016 (Verwertungsgesellschaftengesetz: VGG), so that the relevant sections of the VGG now read (unofficial translation):

#### Section 27

##### Distribution Plan

- (1) Collective Management Organizations shall establish rules precluding arbitrary acts of distribution of the revenue from rights (Distribution Plan).
- (2) If the Collective Management Organization administers rights for multiple rightholders on a joint basis, it can provide in its Distribution Plan that the income from the administration of those rights be distributed in fixed shares, regardless of who transferred the rights.

#### Section 27a

##### Income from authors' claims to legal remuneration

- (1) After publication of a work or its registration with the Collective Management Organization, the author can consent to the participation of the publisher in the income from claims to the legal remuneration referred to in § 63a sentence 1 of the Copyright Law.
- (2) The Collective Management Organization shall specify the amount of the publisher share in accordance with paragraph 1.

## 1.12 Trends

The trends reported in the previous surveys continue:

1. A steady increase in the number of countries worldwide that have adopted TI levy schemes. As previously noted there are now 33 countries with TI levies.
2. Levy systems have adapted to technological change, from a situation where only photocopiers could copy text and image works, to a situation where copying can be effected using a wide range of digital devices and media.
3. The legitimacy of levy systems as a means of securing remuneration for rightholders for the use of their works under exceptions in the copyright law has been strengthened by the 2001 Copyright Directive and its interpretation by European Court decisions. These CJEU decisions have also clarified many issues in the detailed operation of levy systems, although some fundamental issues still need to be decided or clarified at the political EU level.
4. A less positive trend over the past twenty years has been the long delays in some countries between inclusion of TI levy provisions in the legislation and the schemes becoming operational.

As regards revenue trends, worldwide collections can be expected to increase as the number of operational schemes increases. However, the initial collections in small or developing countries are likely to be low.

Tables 17 and 18 show the countries with the highest equipment and operator fee collections between 2007 and 2015. Note that these are all countries that apply an equipment levy on devices and media that can only be used to copy text and image works, rather than audio-visual works. Hence, French collections or Belgian private copying collections, for instance, are not included. Until 2015, the operator fee had been relatively flat, fluctuating within a range of about 4%. However, it dipped by about 16% in 2015 relative to the 2014 figure. Equipment levy collections have shown greater fluctuation, mainly because of fluctuations in the

figures for Germany, with especially high figures for 2009 and 2015. In both cases these increases stemmed from the receipt of remuneration for a number of previous years following court decisions. The 2015 total of 282.81 million euros resulted mainly from back payments for printers for the years 2001 to 2007, as result of the court decisions of the BGH and the CJEU (“VG WORT” case). Allowing for this distortion, only a modest upward trend in equipment levy collections can be discerned.

**Figure 2: Collections (in million euros) from top collectors (>€1m Equipment and >€0.6m Operator)**



The final column of Table 16 shows huge variations in per capita levy collections in the levy countries. The lowest figure is 0.002 euros in Burkina Faso, followed by about 2 cents per capita in Croatia, Lithuania and Ghana, although it should be noted that the levies in Croatia and Ghana have only been partially implemented. The highest figure of 3.50 euros per capita in Germany results from the inflation of German collections by collections for the past (see page 105). The next highest figure is 2.18 euros for Belgium.

As to the characteristics of TI levy systems, three related trends have been evident over the past twenty years:

Firstly, the number of different types of device or medium on which copies can be made has increased year on year.

Secondly, an increasingly wide variety of storage media can be used to copy TI works. Consequently, existing TI levy schemes are being expanded from coverage of devices only to coverage of media and devices (See Table 7).

Thirdly, in a lot of cases the new types of copying device/media are capable of copying audio and audio-visual works, as well as text and still images. Yet, only one levy is normally applied to a device. Often, such devices and media are initially covered by an audio and audio-visual private copying scheme, which is then extended to TI works. The tendency has been for the levies on such devices or media to be collected by the audio-visual CMO, or an ad-hoc CMO, rather than the RRO that administers TI levies. The RRO may then receive a share relating to TI works from the collecting CMO. What is important about such levies for the purposes of this survey is the percentage of remuneration allocated to the TI sector. In allocating a fair percentage, consideration should be given to: (a) the fact that private copying of TI works encompasses the production of a paper copy as well as a digital copy; and (b) the fact that the relevant exceptions may include own use/internal use as well as private copying. However, a TI share is currently passed on in only a few countries and this trend has not yet had a major effect on collections for TI levies. It is to be expected that coverage will be extended to this area in the next few years (see Tables 6 and 7, section 2).

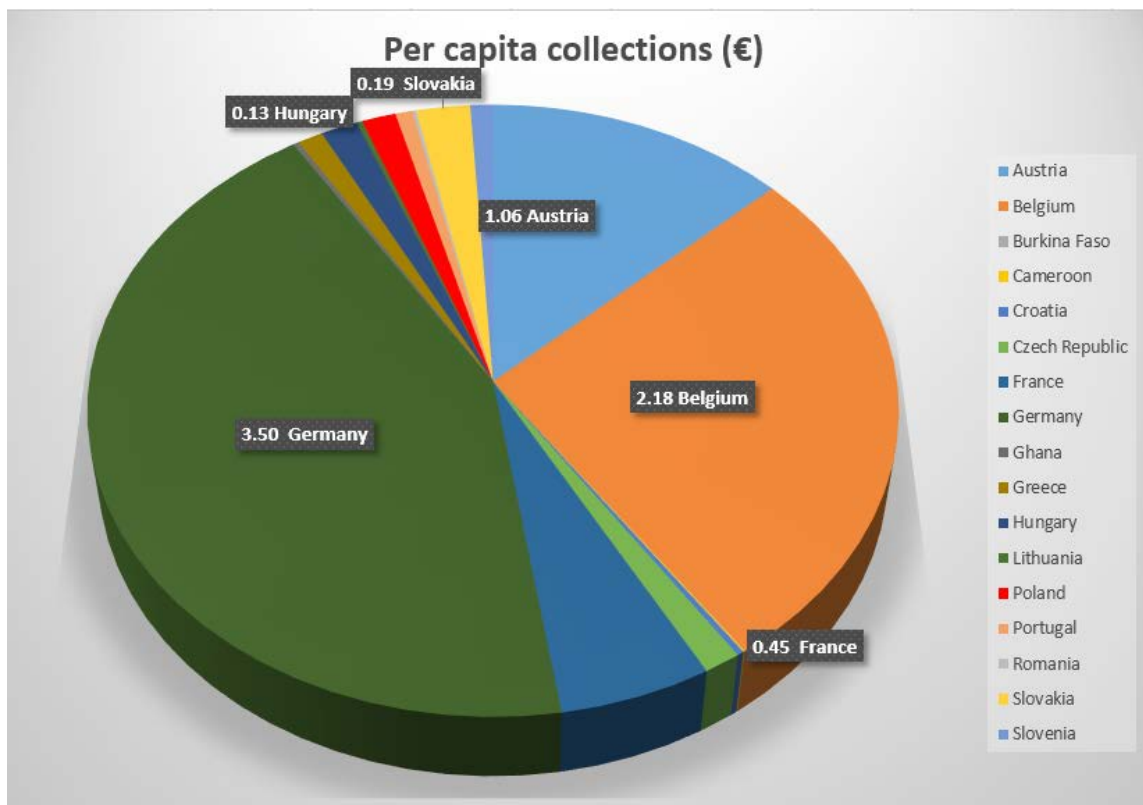
A new trend that emerged in 2015 has been the imposition, in Austria and Portugal, of an overall limit or cap on both the TI levy and the A/AV copying levy (see country reports and section 1.10.4).

### 1.13 Final words

In 2015, over 359 million euros was collected worldwide from TI levies. This compares with a total of 179 million euros for 2014 although in comparing the two figures the distorting factors mentioned in the last section should be taken into account. As noted in previous surveys, the underlying trends of a steady increase in collections and in the geographical scope of TI levies have continued.

As pointed out in the 2015 survey, areas needing improvement can be identified from the comparative analysis in the survey. One of the key issues to be resolved is the reduction of the long delays that can occur before a levy system provided for in the legislation becomes operational. It is hoped that these surveys will facilitate negotiations and discussions on levy reform at the international and national levels.

**Figure 3: Per Capita collection**





## 2. COMPARATIVE TABLES

**Table 1: Countries with TI levies**

TI levy country	Levy on TI devices	Levy on A/AV + TI devices with TI share	Levy on TI media	Levy on A/AV + TI media with TI share	Operator fee
Albania (NYI)	x				
Algeria	x				
Austria	x				x
Belgium	x	x		x	x
Bosnia Hercegovina (NYI)	x		x		x
Burkina Faso	x				x
Cameroon	x				
Côte d'Ivoire (NYI)	x				x
Croatia	x				x
Czech Republic	x	x		x	x
Dominican Republic (NYI)	x	x		x	
Ecuador (NYI)	x				
France		x		x	
Germany	x	x		x	x
Ghana	NYI	x		x	
Greece	x		x		
Hungary	x				x
Kosovo (NYI)	x	x			x
Lithuania	x	x		x	x
Luxembourg (NYI)	NS	NS	NS	NS	NS
Macedonia (NYI)	x		x		
Moldova (NYI)	x				x
Montenegro (NYI)	x				x
Netherlands (NYI)		x		x	
Nigeria (NYI)	x	x	x	x	
Paraguay (NYI)	x	x		x	
Poland	x		x		x
Portugal	x				x
Romania	x		x		
Serbia (NYI)	x		x		x
Slovakia	x	x		x	x
Slovenia	x				x
Turkey (NYI)	x			x	

**Table 2: Scope of exceptions covered by the levy**

TI levy country	Levy covers own use/ internal copying	Levy covers TI private copying	Levy covers educational copying
Albania (NYI)	x	x	
Algeria		x	
Austria	x	x	x
Belgium	x	x	x
Bosnia Hercegovina (NYI)	x	x	
Burkina Faso	x	x	x
Cameroon		x	
Côte d'Ivoire (NYI)	?	?	?
Croatia	x (natural persons only)	x	
Czech Republic	x	x	
Dominican Republic (NYI)	NS	x	
Ecuador (NYI)		x	
France		x	
Germany	x	x	x
Ghana		x	
Greece		x	
Hungary		x	
Kosovo (NYI)		x	
Lithuania		x	
Luxembourg (NYI)		x	
Macedonia (NYI)	x	x	
Moldova (NYI)	x	x	
Montenegro (NYI)	x	x	x
Netherlands (NYI)		x	
Nigeria (NYI)	NS	NS	NS
Paraguay (NYI)		x	
Poland		x	
Portugal	x	x	
Romania		x	
Serbia (NYI)		x	
Slovakia	x	x	
Slovenia	x	x	
Turkey (NYI)		x	

**Table 3: Liability to pay device/medium levy<sup>4</sup>**

TI levy country (with operational levy system)	Device/ medium levy payable by manufacturers or importers	...by wholesalers	...by retailers
Austria	x		
Belgium	x		
Burkina Faso	x		
Cameroon	x		
Croatia	x		
Czech Republic	x		
France	x (A/AV+TI devices/media only)		
Germany	x	x	x
Ghana	x		
Greece	x		
Hungary	x		
Lithuania	x	x	
Poland	x		
Portugal	x		
Romania	x		
Slovakia	x	x	x
Slovenia	x		

<sup>4</sup> In this and the following tables the operational TI levy schemes in different countries are analysed and compared. Note, however, that although Algeria now has an operational scheme, it has not been included in the country lists in these tables because there is currently no available detailed information on the areas it covers.



**Table 4: Exemption and refund schemes (re device or media levies)**

TI levy country (with operational levy system)	CMO (s) administering TI levy	Exemption scheme?	Refund scheme?	Both?
Austria	Literar-Mechana		x	
Belgium	Reprobel		x	
Burkina Faso	BBDA			
Cameroon	SOCILADRA			
Croatia	DHK (authors) ZANA (publishers)	NA x		
Czech Republic	Dilia	x	x	x
France	CFC (press) Sofia (text) Sorimage (images) SEAM (song books)		x x x x	
Germany	VG WORT (text) VG Bild-Kunst (images)	x x	x x	x x
Ghana	CopyGhana	x		
Greece	OSDEL	x	x	x
Hungary	HARR	x	x	x
Lithuania	LATGA-A		x	
Poland	KOPIPOL (authors) COPYRIGHT POLSKA (publishers)		x x	
Portugal	AGECOP			
Romania	CopyRo PERGAM	x x	x x	x x
Slovakia	LITA	x		
Slovenia	SAZOR			

**Table 5: Devices and media capable of copying TI works only**

TI levy country (with operational levy system)	Copiers	Fax machines	Scanners	Printers	MF (multi-function) machines	Copy paper
Austria	x	x	x	x	x	
Belgium	x	x	x		x	
Burkina Faso	x	x	x	x	x	
Cameroon	x	x	x			
Croatia	x	x	x		x	
Czech Republic	x			x	x	
France						
Germany	x	x	x	x	x	
Ghana	NYI	NYI	NYI	NYI	NYI	NYI
Greece	x		x		x	x
Hungary	x			x	x	
Lithuania	x				x	
Poland	x	x	x	x	x	x
Portugal	x		x	x	x	
Romania	x		x	x	x	x
Slovakia	x	x	x	x	x	
Slovenia	x	x	x	x	x	

**Table 6: Devices subject to both TI and A/AV private copying levies**

(Percentage of total levy for TI copying in brackets where determined)

TI levy country (with functional levy system)	PC	CD Burner	DVD Burner	Blue ray device	Mobile phone	Smart phone/l phone	Tablet	E readers	MP3/4 player
Austria	All NA								
Belgium	NYI	x	x	x		x	x		x
Burkina Faso	All NA								
Cameroon	All NA								
Croatia	All NA								
Czech Republic	x	x	x	x			x	x	x
France		x (7.2)	x (7.2)	x (7.2)	x (7.2)	x (7.2)	x (7.2)		x (7.2)
Germany	x	x(d)	x(d)	x(d)	x(d)	x(d)	NYI		x (d)
Ghana		x (9)	x (9)		x (9)	x (9)			x (9)
Greece	x(0)								
Hungary	All NA								
Lithuania	x (2.66)	x(2.66)	X(2.66)		x(2.66)	x (2.66)	X(2.66)	x(2.66)	x(2.66)
Poland	All NA								
Portugal	All NA								
Romania	All NA								
Slovakia	x(100)	x (2.652)	x (2.652)	x (2.652)	NYI	NYI	NYI	NYI	NYI
Slovenia	NA	x (NCI)	x (NCI)	x (NCI)	x (NCI)	x (NCI)	NA	NA	x (NCI)

**Table 7: Media subject to both audio/audio-visual private copying levies and TI levies**

Percentage of total levy for TI levy where determined

TI levy country (with operational levy system)	Hard disc	USB	CD/CD Rom	DVD	Blu-ray disc	Memory card
Austria	All NA					
Belgium	x	x	x	x	x	x
Burkina Faso	All NA					
Cameroon	All NA					
Croatia	All NA					
Czech Republic	x(10)	x(5)	x(3)	x(10)	x(10)	x(5)
France	x (13.6)	x (19.0)	x (1.75)	x (2)	x (0)	x (26.66)
Germany	x (d)	x(d)	x(d)	x(d)	x(d)	x (d)
Ghana	x (9)	x (9)	x(9)	x(9)		x(9)
Greece	All NA					
Hungary	All NA					
Lithuania	x (2.66)	x(2.66)			x (2.66)	x (2.66)
Poland	All NA					
Portugal			x (0)	x (0)		
Romania	All NA					
Slovakia	NYI	x (2.652)	x(2.652)	x(2.652)	x(2.652)	x(2.652)
Slovenia	x (NCI)	x (NCI)	x (NCI)	x (NCI)	x(NCI)	x (NCI)

**Table 8: Locations covered by operator fee**

TI levy country (with operational operator fee)	Covers copy shops	Covers schools	Covers higher education institutions	Covers public administration	Covers businesses	Covers libraries
Austria	x	x	x			x
Belgium	x	x	x	x	x	x
Burkina Faso	NA					
Cameroon	NA					
Croatia	x					
Czech Republic	x	x	x	x	x	x
France	NA					
Germany	x	x	x			x
Ghana	NA					
Greece	NA					
Hungary	x	x	x			x
Lithuania	x	x	x		x	x
Poland	x					
Portugal	x	x (sold copies)	x (sold copies)			x
Romania	NA					
Slovakia	x	x (sold copies)	x (sold copies)			x (sold copies)
Slovenia	x					x

**Table 9: How equipment levy tariffs are set**

TI levy country (with operational levy system)	Tariffs set by law	Tariffs set by regulation or decree	Tariffs set by negotiation/courts	Tariffs set by tribunal/ commission
Austria			x	
Belgium		x		
Burkina Faso		x		
Cameroon		x		
Croatia			x	
Czech Republic	x	x		
France				x
Germany			x	
Ghana		x		
Greece	x			
Hungary	x	x		
Lithuania	x			
Poland	x	x		
Portugal		x		
Romania	x			
Slovakia	x			
Slovenia		x		

**Table 10: Tariff summary for devices and media subject only to TI levies (not audio and AV private copying levies). All figures in Euros**

TI levy country (with operational levy system)	copiers	fax	Hand scanner	Auto/Flatbed scanner	Printer-ink jet	Printer-laser	MF machine	paper
Austria	13.21-1321.22 Depending on speed, cooperation and if b/w or color	6.80-48.05 depending on speed, cooperation and if b/w or color	4.83-624.60 depending on speed and cooperation	12.92-624.40 dep on speed and coop	6.01% sales price (coop.) Min. 2.50 Max. 105 EUR 7.00 to 124.46 depending on speed (no coop.)	5.38% sales price Min E2.50 max. 105 (coop.) No coop. as ink jet.	Higher of function copy/scan/fax	N/A
Belgium	5.01-1839.43 dep. on speed	As copiers	2.01-10.04 dep. on dpi with 2% sales price cap	7.35-100.31 dep. on dpi with 2% sales price cap	NYI	NYI	As copiers	N/A
Burkina Faso	0.25% import price or speed based	As copiers	As copiers	As copiers	As copiers	As copiers	Higher of function copy or scan	N/A
Cameroon	5% sales price	as copiers	as copiers	N/A	N/A	N/A	N/A	N/A
Croatia	0.9% import price	As copiers	As copiers	As copiers	0.4% import price	0.4% import price	As copiers	
Czech Republic	4.36-490.91 dep. on import price	N/A	N/A	N/A	1.64-32.73	4.33-243.68	As copiers	N/A
France	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Germany	25-87.5 dep. on speed	5-10.00	4.09	12.5	5.0	12.5	Inkjet 15 Laser - as copiers	N/A
Ghana	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Greece	4% import price	N/A	4% import price	4% import price	N/A	N/A	4% import price	4% of import
Hungary	2% import price	N/A	N/A	N/A	2% import price	2% import price	2% import price	N/A

**Table 10: Tariff summary for devices and media subject only to TI levies (not audio and AV private copying levies). All figures in Euros (continued)**

Lithuania	1.8 to 2.0 % sales price, depending on speed (color 2.7 to 3%)	N/A	N/A	N/A	N/A	N/A	N/A	0.6 to 0.7% SP, dep. on speed	N/A
Poland	3% sales price	1-2% sales price	2% sales price	2% sales price	3% sales price	1.5% sales price	1.5% sales price	2.8-3% sales price	1.25% sales price
Portugal	5 per unit	N/A?	2 per unit	2 per unit	2 per unit	2.5 per unit	7.5 per unit	5 per unit (inkjet)	As copiers
Romania	0.5% import price	N/A	As copiers	As copiers	As copiers	As copiers	As copiers	As copiers	0.1% import price
Slovakia	3% of import or sales price	As copiers	As copiers	As copiers	As copiers	As copiers	As copiers	As copiers	N/A
Slovenia	EUR 2.09 to EUR 29.21 dep. on speed	As copiers	EUR 2.09	EUR 2.09	EUR 2.09	As copiers	As copiers	As copiers	N/A

**Table 11: Operator fee Tariffs**

TI levy country (with operational levy system)	RRO(s) administering TI levy	Summary of operator fee tariff (EUR)
Austria	Literar-Mechana	Contract tariff: 20.87–199.64 per copier per year Further education 407.93 Libraries: 182.23
Belgium	Reprobel	Standard cooperation tariff: 0.0151 (educational sector, libraries) 0.0201 in other cases (color double) Higher non-cooperation tariff
Burkina Faso	BBDA	NA
Cameroon	SOCILADRA	NA
Croatia	DHK (authors) ZANA (publishers)	NYI 3.2 per copier per month
Czech Republic	Dilia	.005 per page (libs, museums, educational institutions) .0015 (others) (color double)
France	CFC SEAM (press works only)	NA
Germany	VG WORT (text) VG Bild-Kunst (images)	Copy shops: 88 to 160 according to proximity to higher education institution Retail shops etc. 41.50 Public libs 183 per machine Higher education 405 p.m. Schools: negotiated with state governments Further education: lump-sum contracts
Ghana	CopyGhana	NA
Greece	OSDEL	NA
Hungary	HARR	Monthly per device: Copy shops 6.50–39.70 Retail shops 2.90–29.70 Higher education 26.50 Libraries and public institutions 3.90–12.00 Others: 2.60–9.70
Lithuania	LATGA-A	0.72 to 8.44 per copier depending on capacity

**Table 11: Operator fee Tariffs (continued)**

Poland	KOIPOL (authors) POLSKA KSIAZKA (publishers)	Copy shops only: Depends on % of copyright protected works: To 25% 1% of turnover 26–75% 1.5% turnover + 75% 3% turnover
Portugal	AGECOP	3% of sales price of copies
Romania	CopyRo PERGAM	NA
Slovakia	LITA	3% of income from copying services
Slovenia	SAZOR	EUR 0.004 per copy

**Table 12: Visibility of the equipment levy**

TI levy country (with operational levy system)	Legal obligation to show levy on invoices	Levy shown on invoice to end user in practice
Austria	no	No
Belgium	yes	sometimes
Burkina Faso	yes (to end user)	Yes
Cameroon	no	No
Croatia	no	No
Czech Republic	no	sometimes
France	yes	Yes
Germany	yes (only b2b level)	No
Ghana	no	No
Greece	yes	Yes
Hungary	no	No
Lithuania	Only from first seller	If first sale to end user
Poland	no	No
Portugal	NA	NA
Romania	no	Yes
Slovakia	no	No
Slovenia	no	No



**Table 13: How distribution schemes are determined**

TI levy country (with operational levy system)	Distribution scheme determined by law or regulation	...by RRO	...subject to approval/review by state body?	Author-publisher split by law or regulation	A-P split by RRO rules
Austria		x			50:50
Belgium		x	x	50:50	
Burkina Faso	x			65:35	
Cameroon	x	x		50:50	
Croatia		x		To be decided	
Czech Republic		x		60:40	
France		x		50:50	
Germany	x	x	x		70:30 for fiction and press works, otherwise 50:50
Ghana		x		60:40	
Greece		x		50:50	
Hungary		x		60:40	
Lithuania	x	x		60:40	
Poland		x		50:50	
Portugal		x		50:50	
Romania		x	x	50:50	
Slovakia		x			73:27
Slovenia		x		50:50	

**Table 14: Types of distribution schemes**

TI levy country (with operational levy system)	CMO(s) administering TI levy	Distribution to right holders directly	Distribution right holders via other CMO or right holder organization
Austria	Literar-Mechana	x	x (image share)
Belgium	Reprobel		x
Burkina Faso	BBDA		x
Cameroon	SOCILADRA	No info	
Croatia	Zana	x	
Czech Republic	Dilia	x	
France	Sofia	x	
	CFC	x	
	Sorimage	x	
	SEAM	x	
Germany	VG WORT	x	X (image share)
	VG Bild-Kunst	x	
Ghana	CopyGhana		x
Greece	OSDEL	x	
Hungary	HARR		x
Lithuania	LATGA-A	x	
Poland	KOPIPOL		x
	POLSKA KSIAZKA		x
Portugal	AGECOP		x
Romania	Copyro	x	
	PERGAM	x	x
Slovakia	LITA	x	
Slovenia	SAZOR	x	

**Table 15: Administrative charges and social and cultural deductions as a percentage of domestic income**

TI levy country (with operational levy system)	CMO(s) administering TI levy	Administrative charge 2015 (%)	Social and cultural deductions 2015 (%)	Total deductions (%)
Austria	Literar-Mechana	6.9	7	13.9
Belgium	Reprobel	16.02	0	16.02
Burkina Faso	BBDA	25	5	30
Cameroon	SOCILADRA	No info	3.3	
Croatia	DHK (authors)	N/A	N/A	N/A
	ZANA (publishers)	30	0	30
Czech Republic	Dilia	10.89	0	10.89
France	CFC	11	25 (required by French law)	36
	SOFIA	9	25 (required by French law)	34
Germany	VG WORT (text)	2.54	1.58	4.12
	VG Bild-Kunst (images)	4	Max. 4	Max 8
Ghana	CopyGhana	25	0	25
Greece	OSDEL	30	17.5	37.5
Hungary	HARR	20	0	20
Lithuania	LATGA-A	35	25 (required by law)	60
Poland	KOPIPOL (authors)	25	0	25
	POLSKA KSIAZKA (publishers)	12.93	0	12.93
Portugal	AGECOP	4.87	20 (required by law)	35.16
Romania	OPERA SCRISA	8	0	8
Slovakia	LITA	25	0	25
Slovenia	SAZOR	10	0	10

**Table 16: TI levy collections 2014**

TI levy country (with operational levy system)	RRO(s) administering TI levy	Device/medium levy collections per CMO (€million)	Operator fee collections per CMO (€million)	Total levy collections per country (€million)	Population (approx. millions) (2015) Source: World Bank	Per capita collections (€)
Austria	Literar-Mechana	8.37	0.69	9.06	8.611	1.06
Belgium	REPROBEL	13.39	11.03	24.42	11.285	2.18
Burkina Faso	BBDA	0.044	N/A	0.044	18.105	0.002
Cameroon	SOCILADRA	0.124	N/A	0.124	23.344	0.005
Croatia	DHK (authors)	NYI	NYI	0.10	4.224	0.02
	ZANA (publishers)	0.065	.035			
Czech Republic	Dilia	1.094	0.103	1.197	10.551	0.11
France	CFC, SOFIA, Sorimage) and others	30.3	N/A	30.3	66.808	0.45
Germany	VG WORT (text)	230.32	1.77	284.88	81.413	3.50
	VG Bild-Kunst (images)	52.49	0.30			
Ghana	CopyGhana	0.519	N/A	0.519	27.409	0.02
Greece	OSDEL	0.98	N/A	0.98	10.80	0.09
Hungary	HARR	0.775	0.511	1.286	9.844	0.13
Lithuania	LATGA-A	0.037	0.015	0.052	2.910	0.02
Poland	KOIPOL	2.20	0.0139	4.458	37.999	0.12
	Copyright POLSKA	2.23	0.015			
Portugal	AGECOP	0.603	0.0064	0.609	10.348	0.06
Romania	Opera Scrisa	0.256	N/A	0.256	19.832	0.013
Slovakia	LITA	1.00	0.025	1.025	5.424	0.19
Slovenia	SAZOR	0.146	0.018	0.164	2.062	0.08
<b>TOTAL</b>		<b>344.943</b>	<b>14.532</b>	<b>359.475</b>		

**Table 17: Equipment levy collections historical analysis: 8 year trends: RROs with collections over €1 million 2012 (figures in € million)**

	RRO	2015	2014	2013	2012	2011	2010	2009	2008	2007
Austria	Literar-Mechana	8.37	8.10	7.84	7.56	8.16	9.18	7.56	7.56	7.30
Belgium	Reprobel	13.39	13.50	12.65	13.41	12.32	12.49	13.42	14.14	12.52
Germany	VG WORT	1.094	0.939							
Germany	VG Bild-Kunst	230.32	77.43	49.97	60.28	69.48	61.12	377.15	60.42	29.96
Greece	OSDEL	52.49	31.95	19.22	21.37	25.24	14.17	95.73	16.89	11.18
Poland	KOPIPOL	0.98	0.83	3.40	2.50	2.88	1.99	2.57	2.01	1.04
Poland	Copyright Polska	2.21	2.09	2.19	2.35	0.951	0.944	0.364	0.481	0.458
<b>TOTAL</b>		<b>311.10</b>	<b>137.03</b>	<b>97.61</b>	<b>109.76</b>	<b>119.87</b>	<b>100.33</b>	<b>497.19</b>	<b>102.02</b>	<b>62.94</b>

**Table 18: Operator fee historical analysis: eight year trends for RROs with collections over 0.6 million euros 2014 and/or 2015**

Country	RRO	2015	2014	2013	2012	2011	2010	2009	2008	2007
Austria	Literar-Mechana	0.69	0.70	1.22	0.65	0.43	0.42	0.27	0.27	0.29
Belgium	Reprobel	11.03	9.64	9.98	10.38	10.33	10.23	10.31	10.89	9.11
Germany	VG WORT	1.77	4.91	4.61	4.91	4.81	5.10	5.28	5.12	8.46
Germany	VG Bild-Kunst	0.30	1.21	1.00	1.03	0.99	0.96	0.94	0.87	0.94
<b>TOTAL</b>		<b>13.79</b>	<b>16.46</b>	<b>16.81</b>	<b>16.97</b>	<b>16.56</b>	<b>17.17</b>	<b>16.80</b>	<b>17.15</b>	<b>18.80</b>

## 3. COUNTRY REPORTS

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### 3.1 Countries With Operational Text and Image Levy Systems

#### 3.1.1 Algeria

##### *Legal basis for levy*

Article 47 of the law of 31 December 1999 provides for the manufacturers and importers of 'reprographic devices' to pay a levy of 3% of the value of the device for private copying. This was followed by an implementing decree (No. 11-294) of August 18, 2011 and by an inter-ministerial decision from 27 May 2013 that lists the reprographic devices subject to a levy.

##### *Scope of levy*

Copying for private purposes

##### *RRO(s) administering levy*

National Office of Copyrights and Related Rights (ONDA)  
Ministry of Communication and Culture  
49 rue Adberrezak Hamia 16000 Bolghine  
Algeria  
www.onda.dz

##### *IFRRO member(s)?*

None

##### *Collections*

We understand that as of March 2016, ONDA had collected a total of 2 million euros for reprography levies, while 23 million euros have been collected for private copying levies.

##### *Distribution*

The revenue collected is used for social and cultural purposes, pursuant to the law, and not distributed to authors and publishers

#### 3.1.1 Austria

##### Legal Basis for Levy

Copyright Law 1936 as amended (unofficial translation):

§42:

- (1) *Anyone may make single copies on paper or a similar medium for their own use.*
- (2) *Anyone may make single copies on other media than specified in paragraph (1) for own use for research purposes, as long as this is justified for non-commercial purposes.*
- (3) *Anyone may make single copies for their own use in the context of reporting events of the day insofar as this concerns analog use.*
- (4) *Any natural person may make single copies of a work on media other than specified in paragraph (1) if it is for private use and neither directly nor indirectly for commercial purposes.*

- (5) *Subject to (6) and (7) below, copying in order to make the work available to the public with the aid of the copy shall not constitute copying for private or own use. Copies made for private or own use may not be made available to the public.*
- (6) *Schools, universities and other educational institutions may make and distribute as many copies as needed for the purpose of teaching or study in a specific school class or educational event (copying for own school use); this also applies to sheet music. However, this may be effected on media other than specified in paragraph (1) only if for non-commercial purposes. The permission to copy for own school use does not apply to works which by their nature and designation are intended for school or teaching use.*

§42b

- (2) *If from the nature of a work it can be expected that it will be copied by a reprographic or similar process for own use, the author shall be entitled to equitable remuneration (reprography remuneration),*
  1. *if a device which by its nature is designed to make copies is brought into commercial circulation in the domestic market (equipment levy); and*
  2. *if a copying device is operated in schools, universities, vocational training institutions or other further educational institutions, research institutions, public libraries or in locations where copying machines are available against payment (operator fee).*

***Additions to Existing Legislation: In Force 1 October 2015:***

**Copyright Law Section 42b:**

- (3) The following persons are liable to pay the remuneration:
  1. Whosoever first puts the storage medium or copying device for sale on the market, whether from within or outside the country, shall be liable. Whosoever offers the storage medium or copying device for sale on a commercial basis, even if that person is not the first to do so, shall be liable as a guarantor and debtor. However, a person who, within six months, obtains storage media with a capacity of not more than 10,000 hours, or is a small business in the sense of UStG 1994, shall be exempt from the storage media remuneration. If the defendant is not domiciled for legal purposes in Austria, the courts of the first district of Vienna shall have jurisdiction.
- (4) In calculating the remuneration the following circumstances in particular shall be taken into account:
  1. The previously comparable tariffs and total volume of remuneration, in order to avoid unreasonable changes;
  2. Comparable tariffs and volume in Member States of the European Union or the European Economic Area;
  3. Harm to the rightholders caused by the copying, its effect on the normal exploitation of the work and the legitimate interests of the rightholders;
  4. The advantage to the person who copies and to those liable to pay the remuneration, taking into account the economic development of the sector affected, including the turnover from devices and storage media;
  5. The extent to which storage media and devices are used on average to copy for own or private use and the total volume of such uses, taking account also of the application of technical protection measures to the copying, subject to the payment of remuneration;
  6. The characteristics of the storage media and devices relevant to use, especially the performance of devices and the storage capacity and reusability of media;
  7. The economic interests of the manufacturers, dealers and importers of devices and storage media, which may not be unreasonably prejudiced;



8. An economically reasonable relation between the remuneration and the typical price level of the devices and storage media, in that the storage media remuneration may not exceed 6%, and the device remuneration may not exceed 11% of this price level; however, if almost exclusive use of a device or storage medium, in accordance with paragraph 1 or 2, is proved by empirical evidence, this limit may be exceeded;
  9. In the case of the operator remuneration, the type and extent of use of the copying device, which is probable in the circumstances, especially the type of operator, the location of the device and the normal usage.
- (6) The collecting society must repay paid remuneration:
1. persons who export the storage medium or copying device to the final user abroad before selling it; and
  2. the final user who purchased the storage medium at a price which includes the paid remuneration but who does not use it, or permit it to be used, for copying for own or private use.

The facts on which the repayment claim is based must be satisfactorily proven.

- (7) Claims to remuneration under paragraph (1) shall not apply if the person liable to pay the remuneration proves that the storage media will not be used for copying for own or private use by himself or a third party.
- (8) The collecting society must offer on its website simple, understandable and practical information for the average user concerning making reimbursement claims and claiming exemption from the obligation to pay remuneration. Such information must be effective and not unduly complicated.
- (9) Invoices for the sale or otherwise putting into circulation of the storage media or devices specified in paragraphs (1) and (2) must refer to the remuneration applying to the said storage media or device.

#### ***Duty to report introduction into circulation of storage media and copying devices***

##### ***Section 90a:***

- (1) Whoever first brings into commercial circulation storage media or copying devices from a location in Austria or abroad shall, without prejudice to the duty to supply information under 87a paragraph (1), be obliged to inform the body specified in §42b in writing by the end of the fifteenth day after the end of each calendar month the type and number of the items to a common collecting body. The collecting societies shall nominate to their supervisory authority a common collecting office for the storage medium and reprography remuneration; the supervisory authority shall publish this information on their website.
- (2) If the person responsible does not fulfil his obligation to report or performs it only partially or otherwise incorrectly, double remuneration can be claimed as to the remuneration affected.

##### ***Amendment of Section 116***

(11) For the years 2016 to 2019 the yearly income from storage medium remuneration and reprography remuneration must not exceed €29 million before deduction of refunds.

##### ***Amendment of the Collecting Societies Law 2016:***

##### ***Tariff for devices and media***

##### ***Section 38:***

- (1) (Before setting new tariffs for devices and storage media, the collecting societies shall ascertain the actual use of the devices or storage media through empirical investigations, and on that basis negotiate the amount of remuneration and the conclusion of a general agreement with user organizations.

Before the publication of a tariff, the Bundesarbeitskammer ('Austrian Federal Chamber of Labor') must be given the opportunity to express its position.

- (2) The specifications for, and results of, the empirical surveys shall be made public.

#### Advisory Board for Device and Storage Media Remuneration

##### **Section 39:**

- (1) An advisory board shall be established to advise on the device and storage media remuneration under Section 42b UrhG.
- (2) The task of the advisory board shall be to observe and evaluate the market for copying devices and storage media, to take account of new devices or storage media or a change in consumer behavior, and to facilitate the conclusion or renegotiation of general agreements.
- (3) The advisory board shall consist of representatives of both the societies collecting the remuneration and the user organizations.
- (4) The supervisory authority for collecting societies shall support the advisory board in fulfilling its obligations. It shall publish an annual report on the activities of the advisory board on its website.
- (5) The Federal Minister of Justice may formulate more detailed regulations.

#### RRO(s) Administering Levy

Text:

##### **Literar-Mechana**

Linke Wienzeile 18

Vienna 1060

[www.literar.at](http://www.literar.at)[www.literar.at](http://www.literar.at)

Represents: 18.458 authors, 492 publishers of text works

#### Scope of Levy

- What copying is covered?
  - Private and own/internal use
- Levy on devices? Which?
  - (f) Devices which can only copy TI works  
Copiers, fax machines, scanners, printers, MF machines
  - (g) Devices which can copy both audio/audio-visual and TI works  
No
- Levies on media? Which?
  - (a) Media which can only be used to copy TI works  
No
  - (b) Media which can be used to copy both audio/audio-visual and TI works  
TI share under negotiation: Analog A/V media, CD, DVD, USB sticks, mobile phone storage, tablets, PCs, HDDs and recorders, storage cards, smartwatches
- Operator fee?  
Yes: copy shops, schools, universities, higher education institutions, public libraries
- Who is liable to pay the levy?  
Manufacturers and importers

## Tariffs

- How are tariffs set?

By negotiation; apart from the requirement to take into account capacity in the case of the equipment levy, and type of establishment, location and normal use in the case of the operator fee (see A 42b.4 above).

- Tariffs per device (EUR):

### Copiers:

Type	Speed (pages per minute)	Tariff (EUR)	
		Cooperative debtor	Non-cooperative debtor
Black & White	1-9	13.21	24.02
	10-19	39.93	60.06
	20-39	114.17	180.17
	40-69	194.14	300.29
	>69	445.34	660.61
Color	1-39	114.17	360.34
	40-69	194.14	600.58
	>69	445.34	1321.22

### Fax machines:

Type	Tariff (EUR)	
	Cooperative debtor	Non-cooperative debtor
Simple fax machines	6.80	12.03
Fax machines with scanner port	13.70	-----
Fax machines with capability of multiple copies	-----	24.02
Fax machines where printing is based on toner	30.58	48.05

### Handheld scanner

Debtor type	Speed (Scan per minute)	Resolution (dpi)	Tariff (EUR)
Cooperative debtor			4.83
Non-cooperative debtor	>70		620.60
	36-70	>1199	312.30
		600-1199	264.26
		200-599	216.21
	13-35	>1199	180.17
		600-1199	144.14
		200-599	108.09
	1-12	>1199	48.05
		600-1199	36.03
		200-599	26.43

Automatic scanner:

Debtor type	Speed (Scan per minute)	Resolution (dpi)	Tariff (EUR)
Cooperative Debtor	>70		404.93
	36-70		140.19
	13-35		72.67
	1-12		12.92
Non-cooperative debtor	>70		624.60
	36-70	>1199	312.30
		600-1199	264.26
		200-599	216.21
	13-35	>1199	180.17
		600-1199	144.14
		200-599	108.09
	1-12	>1199	48.05
		600-1199	36.03
		200-599	26.43

Flatbed scanners:

The same tariffs as on automatic scanners are applicable

Printers:

Type	Tariff (EUR)
	Cooperative debtor
Inkjet printers and inkjet MFD	6.01% of selling price
Laser printers	5.41% of selling price
All Types	minimum: €2.50; maximum: €105,00

Non cooperative debtors: Tariffs apply to both inkjet printers and laser printers

Type	Speed (pages per minute)	Tariff (EURO)
Black & White	0-12	7.11
	13-35	12.45
	36-70	21.34
	>70	62.23
Color	0-12	14.22
	13-35	24.90
	36-70	42.68
	>70	124.46
All Types	minimum: 8.89% of selling price; maximum: €186,70	

In the above tables, 'cooperative debtor' means a debtor (manufacturer or importer) who has concluded an agreement with Literar-Mechana based on the conditions of general agreements between LM and the Austrian Chamber of Commerce.

## MF devices:

Higher number of functions (copy/scan/fax) with an exception for cooperative debtors only for inkjet devices (see above)

- Tariffs per medium

N/A

- Operator fee tariff(s)

Contract tariffs (per copier): From 20.87 to 199.64 euros per copier, depending on ppm (from 1 to more than 70), color or B/W, location (copy shops, small business, others) and proximity to high school. Others: high schools (407.93 euros); public libraries (182.23 euros)

- Visibility of the levy

Under the new §42b (9) of the Copyright Act (see above) there is now an obligation to mention the levy on invoices

## Collections

- Total levy collections for the last six years (in millions of euros):

2015	9.06
2014	8.80
2013	9.06
2012	8.21
2011	8.59
2010	9.60

- Total device/media collections for the last six years (in millions of euros):

2015	8.37
2014	8.10
2013	7.84
2012:	7.56
2011:	8.16
2010:	9.18

- Total Operator fee collections for the last six years (in millions of euros)

2015	0.69
2014	0.7
2013	1.22
2012:	0.65
2011:	0.43
2010:	0.42

- How does the RRO obtain data to charge levies?

Data is obtained under contracts with manufacturers and importers and/or trade bodies representing them.

- Summary of exemption/refund scheme

If devices or media on which the levy has been paid are re-exported to another State, the levy is refunded by Literar-Mechana to the last entity in the supply chain that effectively pays the levy. In 2015, approximately 0.37 million euros was refunded, representing approximately 4% of collections See §42b.6.1.

## Distribution

- Summary of distribution scheme for levies

The visual image share, as determined by agreement on the basis of surveys, is passed on to Bildrecht, [www.bildrecht.at](http://www.bildrecht.at), for further distribution. This share was 11.98% in 2015. The remaining text share is distributed by Literar Mechana to individual authors and publishers, according to categories of works, reflecting actual use as revealed by statistical surveys. Entitlement to remuneration within each category of works is based on reporting by members of their recently published works.

- How is the distribution scheme determined – legal basis?

By the rules of Literar-Mechana

- Administrative deductions

2015: 6.9%

- Social and cultural deductions

2015: 7%

### 3.1.2 *Belgium*

#### Legal basis for levy

Reprography: Copyright Act (30 June 1994) as implemented by the Royal Decree (RD) of October 30, 1997 (in force until December 31, 2016)

Private copying: Code of Economic Law (2014), Chapter XI, and RD of October 18, 2013 extending the private copying scheme to text and image works.

The entire Copyright Act 1994 has been incorporated into the Code of Economic Law (CEL), Chapter XI. However, the articles of the 1994 Act pertaining to reprography (art. 22(1)(4) and (4bis) – exception for text and visual works; art. 22bis(1)(1) and (2) - exception for databases; and articles 59 to 61 – compensation/levy scheme), will remain in force until December 31, 2016. The articles of the 1994 Act pertaining to private copying (art. 22(1)(5) and (13) - exceptions for copyright; art. 46(4) and (12) – exceptions for neighboring rights; and articles 55 to 58 – compensation / levy scheme) have already become, respectively, article XI.190(9) and (17); article XI.217(7) and (16); and art. XI.229-234 CEL. Both royal decrees mentioned above (compensation / levy schemes and tariffs) are still in place, though major changes to the reprography scheme (cf. below) as well as smaller changes to the private copying scheme (i.e. exemption/reimbursement for professional use) are expected soon.

The CJEU ruling in REPROBEL (see page 15) will most probably lead to a significant review of the reprography levy scheme. In October 2016, the Belgian federal government proposed draft legislation that intends, among others things, to:

- Scrap the equipment levy on B2B reproduction devices altogether (the part of the current Belgian equipment levy scheme for reprography based on article 5(2)(a) of the Copyright Directive);
- Shift the equipment levy on B2C reproduction devices (the part of the current Belgian equipment levy scheme for reprography based on article 5(2)(b) of the Copyright Directive) from the reprography scheme administered by Repobel to the private copying scheme administered by Auvibel. It should be noted that the installing or not of such an equipment levy in the future will depend on a harm assessment currently conducted by the government to assess whether or not there is minimal harm as a result of reproductions on paper by natural persons for their private and non-commercial use;
- Put all or most of the emphasis on the operator fee in the field of reprography, that would become either the only or the major collection source in the levy scheme (which, technically, would become more of a legal license than a proper levy scheme);

- Provide for a separate sui generis remuneration for publishers on the basis of national law (see page 28), alongside the fair compensation due to authors on the basis of the Copyright Directive.
- The new Belgian legislation in the field of reprography is likely to enter into force on 1 January 2017. The proposed new scheme will be installed for one year only and is therefore transitory in nature. In the meantime, the government will conduct an assessment of the harm suffered by both authors and publishers as a result of reproductions on paper under exceptions or limitations to copyright.

#### RRO(s) administering levy

##### Reprography:

##### **Reprobel bcvba**

Square de Meeûs 23/3

1000 Brussels

[www.reprobel.be](http://www.reprobel.be)

##### Members:

Total number of Member Associations: 15

Total Publishers' Associations: 7 (\*)

Total Creators' (authors and visual artists) Associations: 8

(\*) Reprobel members are Belgian CMOs representing right holders of reprographic & PLR rights for text and visual works.

Authors' CMOs: ASSUCOPIE, deAuteurs, JAM/SAJ, SABAM, SACD, SCAM, SOFAM and VEWA.

Publishers' CMOs: COPIEBEL, COPIEPRESSE, LICENSE2PUBLISH, REPRO PP, REPROGRESS, SEMU, LIBRIUS and SABAM.

SABAM is member of both the Publishers' and the Authors' College but is counted only as a member of the Authors' College in the figure above.

From December 1st 2013 the remuneration for TI works under the extended private copying scheme is administered by AUVIBEL ([www.auvibel.be](http://www.auvibel.be)), the central CMO for private copying in Belgium.

#### Scope of levy

The current reprography levy scheme (equipment levy + operator fee) – in place until December 31, 2016 - covers both private use and internal/professional use within companies (including independents & liberal professions), public bodies, libraries and educational/scientific research institutions. However, the scheme only covers photocopies, not print-outs.

- What copying is covered?  
See above (photocopying only at present).
- Levy on devices? Which?
  - (a) Devices which can only copy TI works  
Copiers, multifunctional printers, faxes and scanners.  
Not: stand-alone printers.
  - (b) Devices which can copy both audio/audio-visual and TI works  
Existing levies on a wide range of devices (e.g. CD and DVD burners, smartphones) extended to TI works from 1<sup>st</sup> December 2013. These include tablets and personal computers, but at present the latter are subjected to a zero tariff.
- Levies on media? Which?
  - (a) Media which can only be used to copy TI works  
No.



(b) Media which can be used to copy both audio/audio-visual and TI works

As from December 1, 2013, the private copying levy applies to a wide range of media which can be used to copy both audio/audio-visual and TI works (Media subjected to private copying levy include, among others, USB sticks, external hard drives and memory cards).

- Operator fee?

Yes. Fee is proportional to the actual volume of reproductions of CW. The operator fee covers copy shops, schools, higher education institutions, public administration, businesses and libraries.

- Who is liable to pay levy?

Manufacturers, (professional and occasional) importers or intra-communal acquirers.

Wholesale distributors and retailers, but only when acting as importers or acquirers; for example, in case of sales abroad by online vendors.

- How RRO obtains information to charge the levies

- Obligation in law on manufacturers/importers/intra-communal acquirers requires them to declare monthly AND to report (upon formal information request from Repobel)

- Obligation in law for other distributors/retailers to report (upon formal information request from Repobel)

- Data obtained from market research organizations (mainly IDC)

- Information can be obtained from tax & customs authorities, albeit not very efficient in practice

- Summary of reimbursement/refund scheme

Repobel refunds the levy on production of appropriate documents such as invoices, proving both re-export of devices and initial payment of levies upon introduction of the items into the market. The reimbursement scheme is generally considered to be efficient. However, the scheme can be improved in order to provide better matching of initial levy payments and reclaimed amounts upon re-export.

(Note: private copying–draft regulation pertaining to reimbursement/exemption scheme for professional use–see above)

#### Tariffs

- How are tariffs set?

The general principles are set out in the copyright law. The modalities and tariffs are set out in royal decrees. This applies to both reprography and private copying (legal license with an equipment levy and an operator fee for reprography; legal license with an equipment levy for private copying)

- Tariffs per device which can only copy TI works (EUR):

#### Copiers, faxes and MF devices:

(MF devices attract the higher levy for copiers or scanners. In practice, copier levy applies)

< 6 cpm B & W + color €5.01

6–9 cpm B&W + color €18.39

10–19 cpm B&W + color €60.20

20–39 cpm B&W + color €195.65

40–59 cpm B&W + color €324.41

60–89 cpm B&W + color €811.02

> 89 cpm B&W + color €1,839.43

(Tariff applicable to copiers, faxes and MFDs; Technology neutral and based on CPM speed – indexed amounts 2015)

#### Hand scanners:

< 200 DPI €2.01

200–299 DPI €4.01

300–399 DPI €6.02

400–599 DPI €8.03

600–1199 DPI €10.04

#### Automatic scanners:

< 200 DPI €3.34

200–299 DPI €5.85

300–399 DPI €8.37

400–599 DPI €10.88

600–1199 DPI €13.38

#### Flatbed scanners:

< 200 DPI €7.35

200–299 DPI €25.08

300–399 DPI €43.48

400–499 DPI €61.87

500–599 DPI €80.25

600–1199 DPI €100.33

(Tariff applicable to scanners: Based on graphic resolution with additional sales price cap (art. 3, §2, RD) – indexed amounts 2015)

#### Printers

No levies on stand-alone printers.

- Tariffs for devices and medium which can copy both TI works and A/AV works

Memory Card and USB stick	From 0 to 4GB	€0.15
	More than 4GB to 16GB	€0.50
	More than 16GB	€1.35

MP3 player, MP4 player, mobile phone with MP3 and/or MP4 function, tablets	From 0 to 2GB	€1.00
	More than 2GB to 16GB	€2.50
	More than 16GB	€3.00

External hard disk drive	From 0 to 500GB	€1.30
	More than 500GB to 1TB	€6.75
	More than 1TB	€9.00

CD-R data	€0.12
DVD	€0.40

- Operator fee tariff(s)

B&W Cooperation:	€0.0201 (standard tariff)
B&W Cooperation:	€0.0151 (for education & public lending institutions)
B&W Non-cooperation:	€0.0334 (standard tariff)
B&W Non-cooperation:	€0.0251 (for education & public lending institutions)
Color Cooperation:	€0.0402 (standard tariff)
Color Cooperation:	€0.0302 (for education & public lending institutions)
Color Non-cooperation:	€0.0668 (standard tariff)
Color Non-cooperation:	€0.0502 (for education & public lending institutions)

#### Indexed tariffs 2015 – photocopies only

- Visibility of the levy

Article 21 of the 1997 R.D.: visibility of levy is mandatory throughout the value chain (from first introduction into market to end sale).

#### Collections

(Reprobel homeland reprography levy collections only—all data as approved by AGM)

- Total levy collections for the last six years (in million euros):

2015:	24.42
2014:	23.14
2013:	22.62
2012:	23.79
2011:	22.65
2010:	22.72

- Total device/media collections for last six years

2015:	13.39
2014:	13.50
2013:	12.65
2012:	13.41
2011:	12.32
2010:	12.49

- Total Operator fee collections for last six years

2015:	11.03
2014:	9.64
2013:	9.98
2012:	10.38
2011:	10.33
2010:	10.23

- Total collections per capita

(Reprobel homeland reprography collections only)

Population (01.01.2016): 11,267,910 inhabitants

Homeland reprography collections 2015: €24,420,006

Collections per capita 2015: €2.17

- Summary of exemption/refund scheme

The reprography equipment levy can be refunded to the person or entity re-exporting the device on production of purchase and sales invoices, valid transport documents as proof of re-export and a completed and signed information sheet. The sum of 922,089 euros was refunded in 2015, representing 6.58% of overall equipment invoicing in that year

#### Distribution

- Summary of distribution scheme for levies

The levy remuneration is distributed to member CMOs representing different categories of TI works, as agreed between the member CMOs of the two Colleges on the basis of statistical surveys and negotiations. The main reprography levy distribution split is currently still set by copyright law (50/50 authors/publishers) – this may change in the upcoming review of the reprography scheme (see above). Within Repobel, two main distribution bodies exist: the Authors' College and the Publishers' College, each receiving 50% of Repobel's net reprography collections. The distribution schemes of both colleges are subject to approval/prior revision by the Minister of the Economy and a special control unit for CMOs within this Ministry. Repobel distributes the share of foreign authors and publishers through bilateral agreements with other RROs or, where appropriate, other CMOs.

- Administrative deductions

2015: 4.15 million euros  
(official cost ratio FY 2015: 16.02% on the basis of collections in the last 3 fiscal years)

Social and cultural deductions

None

### 3.1.3 *Burkina Faso*

Bureau Burkinabé du Droit d'Auteur

#### Legal basis for levy

Copyright Law 032/99/AN 22 December 1999

#### RRO(s) administering levy

Text and image:

**BBDA**

Sect. 4 22 rue 4.55  
Villa de la Victoire  
01 BP 3926 Ouagadougou 01  
bbda@yahoo.fr  
www.bbda.bf

#### Members:

eight authors' associations, two publishers' associations

#### Scope of levy

- What copying is covered?  
Private use, educational use, public administration, business use
- Levy on devices? Which?

- (a) Devices which can only copy TI works  
Copiers, fax machines, scanners, printers, MF machines
- (b) Devices which can copy both audio/audio-visual and TI works  
There is also a levy for audio and audio-visual private copying, administered by BBDA, but to date, this has not included a TI share.

- Levy on media? Which?
  - (a) Media which can only be used to copy TI works  
No
  - (b) Media which can be used to copy both audio/audio-visual and TI works  
N/A
- Operator fee?
  - Yes
- Who is liable to pay levy?
  - Manufacturers and importers

#### Tariffs

- How are tariffs set?
  - By decree in accordance with article 82 of the Copyright Law.

#### Tariffs per device (EUR):

Copiers:	0.25% of import price
Fax machines:	0.25% of import price
Scanners:	0.25% of import price
Printers:	0.25% of import price
MF machines:	0.25% of import price

#### Alternative tariff – all devices

Speed less than 20 copies per minute	approx. €46
Speed 20–40 cpm	approx. €69
40 + cpm	approx. €91

- Tariffs per medium  
N/A
- Operator fee tariff(s)  
N/A
- Visibility of the levy

The levy is collected from importers by customs authorities, not BBDA. However, there is a legal obligation to show the levy on the invoice to the end-user.

#### Collections

- Total levy collections for 2015 (in million euros):  
0.044 million
- Total collections per capita

Approximately 0.002 million

- How does the RRO obtain data to charge levies?

As mentioned above, the levy is collected by the customs, not BBDA

- Summary of exemption/refund scheme

None

#### Distribution

- Summary of distribution scheme regarding levies

Distribution is on a title-specific basis, using surveys in accordance with a ministerial regulation. The author-publisher split is 65:35.

- Administrative deductions

25%

- Social and cultural deductions

5%

#### 3.1.4 Cameroon

##### Legal basis for levy

Copyright Law 2000 as amended

##### RRO(s) administering levy

Text and image:

##### **SOCILADRA**

Société civile des droits de la littérature et des arts dramatiques

BP5970

Yaoundé

##### Members:

No information

##### Scope of levy

- What copying is covered?

*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.*

- Levy on devices? Which?

(a) Devices which can only copy TI works  
Copiers, scanners, fax machines

(b) Devices which can copy both audio/audio-visual and TI works  
No

- Levy on media? Which?

(a) Media which can only be used to copy TI works  
No

(b) Media which can be used to copy both audio/audio-visual and TI works  
No?

- Operator fee?

No

- Who is liable to pay levy?

Manufacturers or importers

#### Tariffs

- How are tariffs set?

By government decree

- Tariffs per device (€):

5% of sale price of copiers

- Visibility of the levy

The invoice to the importer is issued by customs officials, and SOCILADRA is not involved in invoicing.

#### Collections

- Total levy collections (in million euros):

2015 0.124 million

- Total collections per capita

2015: 0.005 million

- How does the CMO get data to charge levies?

The levy is charged by the Directorate General for Customs in Cameroon, not SOCILADRA.

- Summary of exemption/refund scheme

Under article 73 of the Copyright Act (see above) the levy is charged on all devices put into circulation in Cameroon, so there is no scope for exemption, and no refund scheme.

#### Distribution

- Summary of distribution scheme regarding levies

According to Section 74 (3) of the Copyright Act (see above), the levy remuneration must be allocated equally, with one third to a State cultural fund, one third to authors, and one third to publishers.

- Administrative deductions

No information received



- Social and cultural deductions

One third. See above

### 3.1.5 Croatia

Legal basis for levy

Copyright Law 2003 as amended

CMO(s) administering levy

Text:

#### **ZANA**

Croatian Publishers' Reprographic Right Association

Amruseval 10

Zagreb 1000

Members:

80 publishers

Note: ZANA was established in 2007 to administer the publishers' share of the levy; another society, DHK, the Croatian Writers' Association, will administer the authors' share. However, this has not yet been implemented. Both DHK and ZANA are IFRRO members.

Scope of levy

- What copying is covered?

Copying for private and other personal use of a natural person

Copyright Law 2003 as last amended 2011. Translated excerpt reproduced by kind permission of ZANA.

#### 3.3.1 Rights to remuneration RIGHT TO REMUNERATION FOR REPRODUCTION OF A COPYRIGHT WORK FOR PRIVATE OR OTHER PERSONAL USE Article 32

- (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.*
- (5) *The obligation to pay the appropriate remuneration referred to in paragraph (1) shall arise:*

*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;*

*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;*

*in respect of the first sale in the Republic of Croatia or import in the Republic of Croatia of new photocopying appliances.*

- (6) *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.*
- (7) *Authors may not renounce the rights to remuneration referred to in paragraphs (1) and (2) of this Article.*

#### REPRODUCTION OF THE WORK FOR PRIVATE OR OTHER PERSONAL USE Article 82

*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 on devices? Which?
  - (a) Devices which can only copy TI works  
Copiers, fax machines, scanners, MF machines
  - (b) Devices which can copy both audio/audio-visual and TI works  
No
- Levy on media? Which?
  - (a) Media which can only be used to copy TI works  
No
  - (b) Media which can be used to copy both audio/audio-visual and TI works  
No
- Operator fee?  
Yes, for copy shops.

#### Current disputes/issues

- Who is liable to pay the equipment levy?  
Manufacturers and importers

#### Tariffs

- How are tariffs set?  
By negotiation
- Tariffs per device (EUR):  
Printers 0.4% of import price  
Other devices: 0.9% of import price

- Tariffs per medium  
N/A
- Operator fee tariff(s)  
The sum of 3.2 euros per month per copier
- Visibility of the levy  
No legal obligation to mention the levy on invoices

#### Collections

- Total levy collections  
2015 €100,000 (ZANA)
- Total equipment levy collections  
2015 €65,000
- Total operator fee collections  
2015 €35,000
- Total collections per capita  
€0.028
- How does the RRO obtain data to charge levies?  
There is an obligation in law for manufacturers and importers to report. Data is also obtained through agreements with trade bodies, or importers have agreements with the RRO.
- Summary of exemption/ refund scheme  
Devices destined for re-export are exempt

#### Distribution

- Summary of distribution scheme regarding levies  
ZANA distributes to publishers only.
- Administrative deductions  
30%
- Social and cultural deductions  
None

#### 3.1.6 *Czech Republic*

##### Legal basis for levy

Copyright Act 2000, consolidated 2006

##### RRO(s) administering levy

Text :

**Dilia**

Theatrical, Literary and Audio-Visual Agency, Association of Authors  
Krátkého 1

19003 Prague 9  
www.dilia.cz

**Members:**

6641 authors and other rightholders

**Scope of levy**

- What copying is covered?

**Article 25**

**Right to Remuneration in Connection with Reproduction of Work for Personal Use and for Legal Person's Own Internal Use**

- (1) *For works that were made public and may be reproduced:*
- (a) *for personal use by a natural person or for the own internal use by a legal person or a sole trader (Articles 30 and 30a), using a device for making printed reproductions on paper or other similar base; or*
  - (b) *for personal use by a natural person (Article 30) on the basis of an audio, audio-visual or any other fixation or broadcasting by the transfer thereof by means of a device to blank record carriers, the author is entitled to remuneration in connection with such reproduction of the work.*
- (2) *The person liable to pay remuneration pursuant to Paragraph (1) shall be:*
- (a) *the producer of the devices for making reproductions of fixations, 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");*
  - (b) *the producer, importer or consignee of technical devices for making printed reproductions;*
  - (c) *the producer, importer or consignee of blank record carriers;*
  - (d) *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;*
  - (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 consideration, the device for making printed reproductions.*
- (3) *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.*
- (4) *Entitlement to the remuneration to be paid by the persons defined in Paragraph (2) (b) shall depend on the probable number of devices designated for making print reproductions of works under Article 30a. For the calculation of the amount of the remuneration in respect of the devices designated for making print reproductions, the probable number of these devices is set at 20%. The remuneration is calculated on the basis of the average price of the device exclusive of the value added tax.*
- (5) *Entitlement to the remuneration to be paid by the persons defined in Paragraph (2) (e) shall depend on the probable number of the print reproductions of works made in accordance with Article 30a.*

*The rules set out in Points 6 and 7 of the Annex hereto shall apply to the calculation of remuneration in respect of the print reproductions made.*

- (6) The persons referred to in Paragraph (2) above shall submit to the relevant collective rights manager – always in summary for half of the calendar year and not later than by the end of the following calendar month – information on the facts relevant for setting the amount of the remuneration, including, but not limited to, information on the type and number of the sold, imported or received devices for making reproductions of fixations, devices for making printed reproductions, and the blank record carriers, and also on the total number of the printed reproductions made by the devices for providing paid reproduction services.*
- (7) The Ministry of Culture (hereinafter the “Ministry”) shall issue a Decree to define the types of devices to make print reproductions and the types of blank record carriers on which a remuneration is to be paid in accordance with Paragraph (1) above and also to define amount of the lump-sum remuneration depending on the type of device for making the printed reproductions and types of blank record carriers. This Decree shall also define types of devices for making reproductions of fixations on which a remuneration is to be paid in accordance with Paragraph (1) above; level of this remuneration is indicated in the Annex to this Act.*
- (8) Remuneration shall not be paid where the devices referred to in Paragraph (3) (a) and (b) are exported or consigned for resale or where blank record carriers are exported or consigned for resale. Also, remuneration shall not be paid in the case of devices and blank record carriers if these are intended only to be used within the Czech Republic for the reproduction of works on the basis of license agreements by persons who use them so in the course of their own activities.*

#### **Article 30a Reproduction on Paper or Other Similar Base**

- (1) Copyright is not infringed by:*
    - (a) a natural person who for its own personal use,*
    - (b) a legal person or a sole trader who for their own internal use,*
    - (c) anybody, who upon order, for personal use by a natural person,*
    - (d) anybody, who upon order, for a legal person’s or a sole trader’s own internal use makes a printed reproduction of a work on paper or other similar base by the photographic technique or by any other process with similar effects, except where a printed reproduction is made of the musical notation of a musical work or dramatico-musical work and where – in cases under Clauses (c) and (d) above – the remuneration is paid in a regular and timely manner in accordance with Article 25.*
  - (2) Provisions of Article 30 (4) to (6) shall apply mutatis mutandis.*
- Levy on devices? Which?
    - (a) Devices which can only copy TI works  
Copiers, printers, MF machines
    - (b) Devices which can copy both audio/audio-visual and TI works  
PCs, tablets, e-readers, CD burners, DVD burners, blu-ray burners, external hard disks
  - Levy on media? Which?
    - (a) Media which can only be used to copy TI works  
No
    - (b) Media which can be used to copy both audio/audio-visual and TI works  
CDs, DVDs, Memory cards, USB sticks
  - Operator fee?

Yes, covering copy shops, schools, higher educational institutions, public administration. Businesses and libraries, in each case where copying services are made available for a fee

- Who is liable to pay levy?

Manufacturers, importers or intra-communal acquirers, upon first bringing the device into the national market. Operators of copying services.

#### Tariffs

- How are tariffs set?

By legislation and ordinance of the Ministry of Culture

- Tariffs per device (EUR):

(a) Devices capable of copying TI works only

Copiers:	€4.36 to €490.91 according to import price
Fax machines:	No
Scanners:	No
Printers:	inkjet €1.64 to €32.73
others:	€4.36 to €245.45
MF machines:	as copiers

(b) Devices capable of copying both A/AV and TI works

TI share, collected by Czech Music CMO OSA

TI share, collected by Czech Music CMO OSA

- Tariffs per medium

TI share, collected by Czech Music CMO OSA

- Operator fee tariff(s)

Based on €0.0102/0.0051 per page (color/BW): libraries, museums, educational institutions  
€0.0029/0.0015 per page (color/BW): other operators

- Visibility of the levy

There is no legal obligation to mention the equipment levy on invoices, but many retailers do so in the invoice to the end-user

#### Collections

- Total levy collections for 2015:

€1,197,420

- Total device/media collections for 2015

€1,094,121

- Total operator fee collections for 2015

€103,299

- Total collections per capita

€0.113

- How does the RRO get data to charge levies?



As to the equipment levy, the Copyright Law imposes an obligation on the manufacturers and importers to report the bringing of devices or media into the national market

- Summary of exemption/ refund scheme

Dilia permits importers to exclude from their declarations devices destined for re-export, as well as refund of the levy where it is proved that a device on which the levy has been paid has been re-exported.

#### Distribution

- Summary of distribution scheme

National law determines the allocation between different categories of rightholders, otherwise Dilia rules apply. A 15% share is sent to OOAS, representing authors of visual and plastic art. The remainder is divided 60:40 between authors and publishers as required by law. The Dilia rules provide that, 'Royalties shall be distributed on the basis of the registration of all literary, dramatic and scientific works, including cartographic works that were published by printing or electronically'

Distribution to authors of registered works depends on two factors:

1. Type of work: a) scientific works and schoolbooks b) non-fiction literature, poetry and cartographic works c) other literature
2. Number of pages

Distribution to publishers depends on two factors:

1. Type of work: a) scientific literature and schoolbooks b) other works
2. Date of publication

- Administrative deductions in 2015

10.89

- Social and cultural deductions

None

### 3.1.7 France

#### Legal basis for levy

Intellectual Property Code as last amended 2012. A L311-1 provides for remuneration to be paid to the authors and publishers of works for private copying on any medium from a legal source on to a digital medium. The same article also provides for remuneration to be paid to authors, performing artists and producers for the private copying of phonograms or videograms. According to A L 311, the devices and media subject to the levy and the tariffs are to be determined by a commission chaired by a government representative and made up of representatives of the rightholders; manufacturers and importers; and consumers. Since the legislation on Freedom of Creation adopted on July 7, 2016, three representative of the consumer, culture and economic governance sit on the Commission.

#### CMO(s) administering levy

The levy is collected by CopieFrance, [www.copiefrance.fr](http://www.copiefrance.fr). The remuneration is distributed between three colleges, representing audio, audio-visual, and text/image rightholders respectively. The text college comprises Sofia, CFC and SCAM, which represent rightholders for text works; and Sorimage, which represents rightholders for visual image works. SEAM represents rightholders for word music. Sofia receives the share of rightholders for books and text generally, while CFC covers press material.

CFC, Sofia and SEAM are IFRRO members.

#### CFC



Centre Français d'exploitation du droit de Copie  
20, rue des Grands Augustins  
Paris 755006  
www.cfcopies.com

### **Sofia**

Société Française des Intérêts des Auteurs de l'Écrit  
199 bis., boulevard Saint-Germain  
75345 Paris  
www.la-sofia.org

### **SEAM**

43 rue du Rendez-vous  
75012 Paris  
www.seamfrance.fr

#### Scope of levy

- What copying is covered?
  - Private use
- Levy on devices? Which?
  - (a) Devices which can only copy TI works  
N/A
  - (b) Devices which can copy both audio/audio-visual and TI works  
TV set with integrated hard disc, video recorder, TV decoder/ADSL box, MP3/MP4 Walkman, mobile phone, tablets, USB sticks, memory cards.  
Memory and hard drives incorporated into a TV, video recorder or decoder  
NPVR (Network Personal Video Recorder) of TV or Radio online (Law on Freedom of Creation, art. 15, July 7, 2016, art. L. 311-4 § 3 Intellectual property Code).  
Standard external hard drives  
External multimedia hard drives with audio and/or video outputs and/or computer outputs  
MP3/MP4 players  
Mobile phones with music or video playing function  
Multimedia touch tablets with a player function and with a mobile phone operating system or an own operating system
- Levy on media? Which?
  - (a) Media which can only be used to copy TI works  
No
  - (b) Media which can be used to copy both audio/audio-visual and TI works  
CD R and RW data  
DVD Ram, DVD R and DVD RW  
Micro floppy disc 3.5  
Non-dedicated USB key  
Memory cards  
Memory cards sold bundled together
- Who is liable to pay levy?
  - The manufacturers and importers of devices and media subject to the levy

#### Tariffs

- How are tariffs set?

By a special commission (see above)

- Tariffs per device (EUR):
  - (a) Devices which can only be used to copy TI works  
N/A
  - (b) Devices which can be used to copy both audio/ audio-visual and TI works: share of TI works  
In 2014 the text share was approximately 5% of the total private copy levy, and the image share approximately 6%
  - (c) Media which can only be used to copy TI works  
N/A
  - (d) Media which can be used to copy both audio/audio visual and TI works  
Text and image share as for devices

- Visibility of the levy

The private copying levy paid has to be shown on invoices under the law of December 20 2011, as implemented by a decree no. 2013-1141 of December 10 2013, in force from 1 April 2014.

#### Collections

- Total TI levy collections (in million euros) 2015:

2015 Total private copy levy	Approximately 229 million euros
Text	Approximately 16.8 million euros
Visual image	Approximately 13.5 million euros
CFC share:	Approximately 0.68 million euros
Sofia share:	Approximately 11.5 million euros
Share of Sorimage and other CMOs:	Approximately 12.4 million euros

#### Distribution

- Summary of distribution scheme for levies

A. L311-7 of the IP Code provides for the remuneration for TI works to be split equally between authors and publishers

CFC distributes remuneration to individual authors and publishers on the basis of surveys.

Sofia also distributes to authors and publishers on the basis surveys conducted by Sofia and Sorimage on private copying by consumers.

- Administrative deductions

CFC currently 11%, Sofia 9%.

- Social and cultural deductions

All the French societies administering the private copy levy are obliged to deduct 25% for cultural purposes by article L321-9 of the IP Code.

### 3.1.8 Germany

#### Legal basis for levy

Based on German Copyright Act 1965 as amended (UrhG)

Unofficial translation from 2008 German Copyright Law

Article 53: Reproduction for private and other personal/own uses:

- (1) *It shall be permissible for a natural person to make single copies of a work for private use on any medium, provided they do not serve for-profit purposes either directly or indirectly and that a copy obviously illegally made or made available to the public was not used as the basis for reproduction. A person authorized to make such copies may also cause such copies to be made by another person, provided that no payment is received therefor, or that it concerns copying on paper or a similar medium, effected by means of any kind of photomechanical technique or by some other process having similar effects.*
- (2) *It shall be permissible to make, or cause to be made, single copies of a work:*
  1. *for personal/own scientific use, if and to the extent that such reproduction is necessary for this purpose and does not serve commercial purposes;*
  2. *to be included in personal files, if and to the extent that reproduction for this purpose is necessary, and provided a personal copy of the work is used as the model for reproduction;*
  3. *for personal information concerning current events, in the case of a broadcast work;*
  4. *for other personal/own uses,*
    - (a) *in the case of small parts of published works or individual contributions published in newspapers or journals;*
    - (b) *in the case of a work which has been out of print for a minimum of two years.*

*This applies in the case of sentence 1 number 2 only if in addition:*

1. *The copying on paper or a similar medium is carried out by a photomechanical process or other process having a similar effect or*
2. *it is an exclusively analogue use or*
3. *the archive serves the public interest and does not serve a commercial purpose either directly or indirectly*

*This applies in the cases of sentence 1 numbers 3 and 4 only if in addition one of the conditions of sentence 2 numbers 1 or 2 applies*

- (3) *It shall be permissible to make or cause to be made copies of small parts of a work, of small works or of individual articles published or made available to the public in newspapers or periodicals for own use:*
  1. *for illustration in teaching in schools, in non-commercial institutions of education and further education or in institutions of vocational training in a quantity required for those participating in the teaching. However, copying of a work intended for teaching purposes in schools is can only be done with the permission of the rightholders.*
  2. *for state examinations and examinations in schools, universities, non-commercial institutions of learning and further education and in vocational training in the required quantity, if and to the extent that such reproduction is necessary for this purpose.*
- (4) *Reproduction*
  - (a) *of graphic recordings of musical works,*
  - (b) *of a book or periodical in the case of essentially complete copies, shall only be permissible, where not carried out by manual copying, with the consent of the copyright owner or in accordance with paragraph (2) item 2, or for personal use in the case of a work that has been out of print for at least two years.*

- (5) Paragraph (1) as well as paragraph (2), numbers (2) to (4) and paragraph (3) number (2), shall not apply to database works the elements of which are individually accessible by electronic means. Paragraph (2) number (1) and paragraph (3) number (1) shall apply to such database works on condition that the scientific use or the use in teaching does not serve commercial purposes.

#### **Article 54: Obligation to pay remuneration**

- (1) Where the nature of a work makes it probable that it will be reproduced in accordance with Article 53 paragraphs (1) to (3), the author of the work shall be entitled to the payment of equitable remuneration from the manufacturers of appliances and storage media, of a type which, either alone or in combination with other appliances, storage media or accessories, are used to produce such reproductions.
- (2) The entitlement under paragraph (1) does not apply in so far as it can be expected from the circumstances that the appliances or storage media subject to this law will not be used to make reproductions.

#### **Article 54b: Liability of dealer or importer to pay remuneration**

- (1) In addition to the manufacturer, any person who commercially imports or reimports the appliances or storage media into the territory to which this law applies or who deals therein shall be jointly liable.
- (2) The importer shall be the person who introduces the appliances or the video or audio recording media, or causes them to be introduced, into the territory to which this Law applies. Where the importing is based on a contract with a person foreign to that territory, the importer shall be that contractual party alone who is domiciled in the territory to which this law applies. Any person who acts simply as forwarding agent, carrier or the like in the introduction of the goods shall not be considered the importer. A person who introduces goods from third countries, or causes them to be introduced, into a free zone or a free warehouse in accordance with Article 166 of Council Regulation (EEC) No. 2913/92 of October 12, 1992 establishing the Community Customs Code (OJ No. L 302, page 1) shall only be deemed the importer if the items are used in that territory or if they are released for free circulation for customs purposes.
- (3) The dealer's obligation to pay remuneration shall not apply,
1. where a person required to pay the remuneration, from whom the dealer obtains the appliances or recording mediums, is bound by an inclusive contract concerning the remuneration or,
  2. if the dealer notifies the receiving office designated in accordance with Article 54h(3) in writing of the nature and quantity of the appliances and recording mediums received and of his source of supply by January 10 and July 10 for each preceding half calendar year.

#### **54c Liability of operator of copying devices to pay remuneration**

- (1) Where appliances of the type referred to in Article 54 (1), which are used to copy by means of a photographic technique, or by a process having a similar effect, are operated in schools, universities or vocational training institutions or other educational and further education institutions (educational institutions), research institutions, public libraries or in institutions which have available appliances for the making of photocopies on payment, the author shall also be entitled to payment of equitable remuneration from the operator of the appliance.
- (2) The amount of the total remuneration payable by the operator shall depend on the extent of use of the appliance which is probable in the circumstances, especially the location and normal application.

#### **Article 54d: Obligation to refer**

Invoices for the sale or other placing on the market of appliances or recording mediums referred to in Article 54(1), in which turnover tax in accordance with Article 14 (2) sentence 1 number 2 of the Law on Turnover Tax is to be shown separately shall include a note stating the copyright remuneration payable in respect of the appliance or recording medium.

#### Article 54e: Obligation to report

- (1) *Any person who commercially imports or reimports appliances or storage media into the territory to which this law applies shall have the obligation in respect of the author to report in writing the nature and quantity of the items imported to the receiving office designated in accordance with Article 54(h) (3) monthly by the tenth day after the expiry of each calendar month.*
- (2) *Where the person required to report does not satisfy the obligation to report or only does so incompletely or otherwise incorrectly, twice the rate of remuneration may be required.*

#### Article 54f: Obligation to provide information

- (1) *The author may require information from those persons required to pay remuneration under Article 54 or Article 54b as to the nature and quantity of appliances and storage media sold or otherwise put into circulation on the territory to which this law applies. The dealer's obligation to provide information shall also extend to naming his sources of supply; it shall also subsist in the cases under the Article 54b (3) number 1. Article 26(6) shall apply mutatis mutandis.*
- (2) *The author may require information necessary to assess the remuneration from the operator of an appliance in an institution within the meaning of the first sentence of Article 54c (1).*
- (3) *Where the person required to provide information fails to satisfy the obligation or only satisfies it incompletely or otherwise incorrectly, twice the rate of remuneration may be charged.*

#### Article 54g: Inspection visits

*Insofar as necessary for the assessment of the remuneration owed by the operator under Article 54c, the author can require the operator to permit him, during normal working or business hours, to inspect the works and business premises where devices for the production of copies in return for payment are made available. The inspection visit must be so conducted so as to avoid unnecessary disturbance of the business.*

#### Article 54h: Collecting Societies, Handling of Reports

- (1) *Claims under Articles 54 to 54c, 54e (2) 54f and 54g may only be asserted through a collecting society.*
- (2) *Each copyright owner shall be entitled to an equitable share in the remuneration paid under Articles 54 to 54c. Works protected by technical protection measures in accordance with article 95a shall not be taken into account in the distribution of the remuneration.*

RRO(s) administering levy

Text works:

**Verwertungsgesellschaft WORT (VG WORT),**

Untere Weidenstrasse 5, 81543 Munich

[www.vgwort.de](http://www.vgwort.de)

Members:

460,197 authors, 12,273 publishers

Image works:

**Verwertungsgesellschaft Bild-Kunst (VG Bild-Kunst),**

Weberstrasse 61, 53113 Bonn

[www.bildkunst.de](http://www.bildkunst.de)

Members:

Approx. 51,000 right holders

Both VG WORT and VG Bild-Kunst are IFRRO members.

## Scope of levy

- What copying is covered?
  1. Private copying from text and image works (§53 (1) UrhG)
  2. Archival and other own/internal uses ('single' copies; normally small parts) §53 (2) UrhG)
  3. Teaching or examination purposes (small parts/single articles) – §53 (3)
- Levy on devices? Which?
  - (a) Devices which can only copy TI works
    - Photocopiers
    - Multi-function devices
    - Fax machines
    - Scanners
    - Printers
  - (b) Devices which can copy both audio/audio-visual and TI works
    - PCs, CD Burners, CVD Burners, blue ray device, smart phone, tablets, MP3/MP4 devices.
- Levy on media? Which?
  - (a) Media which can only be used to copy TI works
    - No
  - (b) Media which can be used to copy both audio/audio-visual and TI works
    - Hard disks, USB, CD/CD Rom, DVD, Blue Ray disc, memory cards
- Operator fee?

Yes, see §54c UrhG
- Who is liable to pay levy?

See §§ 54, 54b UrhG

## Tariffs

- How are tariffs set?

By negotiation with the representatives of the manufacturers or importers – see §13a (1) of the Administration of Copyright Act, below. As to the amount of the remuneration, the legislation provides as follows:

### Article 54a of the Copyright Act (unofficial translation):

- (1) *The criterion for the amount of the remuneration shall be to what extent the type of appliance or storage medium in question is actually used to make reproductions according to article 53 (1) to (3). A relevant consideration is the extent to which technical protection mechanisms in the sense of article 95a are applied to the works in question.*
- (2) *The remuneration for appliances shall be so determined as to be equitable having regard to the obligation to pay remuneration for the totality of storage media contained in the appliance or for other appliances or storage media which function in conjunction with them.*
- (3) *In determining the amount of remuneration, the characteristics of the appliances or storage media relevant to their operation, especially the performance capability of appliances and the storage capacity and reusability of storage media shall be taken into account.*
- (4) *The remuneration shall not unreasonably harm the manufacturers of appliances and storage media; it must be in a reasonable economic relation to the price level of the appliance or storage medium.*



The Collecting Societies Act (“Verwertungsgesellschaftengesetz” 2016) provides as follows (unofficial translation):

- Tariffs

### **Article 38**

Collecting societies shall draw up tariffs in respect of the remuneration they demand for the rights and claims they administer. Where inclusive contracts have been concluded, the rates of remuneration agreed upon in such contracts shall constitute the tariffs.

### **Article 39**

Tariff design

- (1) *The pecuniary advantages of rights usages shall be the basis of calculation for tariffs. Other methods of calculation of tariffs may be applied as far these methods use adequate and economically acceptable references for the advantages compensated.*
- (2) *Tariff-setting shall refer to the respective share of work usage and take into account the economic value of services provided by the collecting society.*
- (3) *The collecting society shall adequately take into account religious, cultural and social demands of the users, including youth welfare.*
- (4) *The collecting society shall inform the users affected about the criteria applied.*

Tariffs per device which can only copy TI works (in euros, plus VAT):

Copiers:	Speed to 14 ppm	25.00
	15–39 ppm	50.00
	40 + ppm	87.50
Fax machines:	Thermo or inkjet	5.00
	Laser	10.00
Scanners:	Manual	4.09
	Flatbed	12.50
Printers:	Inkjet	5.00
	Laser	12.50
MF machines	Inkjet	15.00
	Laser	as copiers

- Tariffs per device which can be used to copy both audio/audio visual and TI works

Tariffs are currently subject to legal dispute, except for PCs on which an agreement was reached in January 2014. The share to be passed on by the collecting body, the ZPÜ, to VG WORT and VG Bild-Kunst for text and image works respectively has not yet been determined. The agreed tariffs for the period 1 January 2011 to 31 December 2016 are as follows:

- Consumer PCs: €10.55 (plus VAT)
- Business PCs: €3.20 (plus VAT)
- PCs with a screen size under 12.5 inches: €8.50 (plus VAT)
- Workstations, from 1 January 2014 onwards: €3.20 (plus VAT)

Tablet computers, external hard drives, external burners are not covered by the scheme.

- Tariffs for media which can be used to copy both audio/audio visual works and TI works

As above.



- Operator fee tariff(s)

Copy shops

Depend on proximity to higher education institute:

Within 500m €160

+ 500m €119

No HI in town €88

Other outlets for copying against payment: €41.50 per device

Public Libraries: €163 per device

HI institutions (including libraries): €405 per device

Schools: lump sum contracts negotiated with state governments

Further education institutions (Hochschulen): lump-sum contracts (valid until December 13. From January 2014 the HI institutions' tariff of 405 euros per device also applies to government-owned devices operated in HI.)

- Visibility of the levy

See §54d UrhG above

#### Collections

- Collections for last eight years (in million euros):

	EL VGW	EL VGBK	Total EL	OL VGW	OL VGBK	Total OL	Total levy
2015	230.32	52.49	282.81	1.77	0.30	2.07	284.88
2014	77.43	31.95	109.38	4.61	1.21	5.82	115.20
2013	49.97	19.22	69.19	4.61	1.00	5.61	74.80
2012	60.62	19.98	80.60	4.91	1.03	5.94	86.54
2011	69.48	25.24	94.72	4.81	0.99	6.24	100.96
2010	61.12	13.50	74.62	5.10	0.96	6.06	70.68
2009	377.15	95.73	472.88	5.28	0.94	6.22	479.10
2008	60.42	12.90	73.32	5.12	0.87	5.99	79.31
2007	29.96	7.12	37.08	8.46	0.94	9.40	46.48
Total	1016.47	278.13	1294.6	44.67	8.24	53.35	1337.95

The sum of 155.5 million euros was collected for printers sold on the market between 2001 and 2007. The agreement with the industry ended an ongoing lawsuit on the question whether printers were subject to the levy under the old German law. In 2015, remunerations for PCs sold between 2001 and 2007, also subject to the lawsuit, were still being paid.

- Total collections per capita

2015 €3.50

- How does the RRO obtain data to charge levies?

As to the equipment levy, the Copyright Law provides

1. A right to information on imports—penalty of double remuneration—Article 54(e) UrhG
2. A right to request information from the manufacturer, importer or dealer—Article 54(f) UrhG

In practice information is obtained under general contracts with organizations representing the manufacturers or importers, such as Bitkom

As to the operator fee the Copyright Law provides

1. A right to request information from operators—penalty of double remuneration—Article 54(f)(2)
2. A right to inspect copy shops—Article 54(g)

- Summary of exemption/refund scheme

In Germany, administration of the TI (text and image) levy system works very well because: (i) there is an organization, BITKOM, which represents about 80% of the importers and manufacturers of leviable products; and (ii) there is good cooperation between BITKOM and VG WORT, which also administers the collection of levies for the copying of images for VG Bild-Kunst. BITKOM has set up an organization to deal with the supply of data to VG WORT on behalf of BITKOM member companies as a service provider (BITKOM Service Gesellschaft mbH). This includes data on leviable products imported into Germany for re-export without distribution within the German market, so that the levies on such products can be discounted in the invoices sent by VG WORT to BITKOM members, provided the relevant transactions are attested by certificates from chartered accountants.

Where products are imported into Germany but not placed on the German market by manufacturers or importers who are members of BITKOM, the levy must be paid, but a refund can be claimed from VG WORT on production of documentary evidence. Equally, where the product is placed on the German market but subsequently sold to a consumer in another Member State, the cross-border seller can claim a refund of the levy from VG WORT.

#### Distribution

- Legal basis for distribution scheme

**Article 7 of the Administration of Copyright Act provides as follows (unofficial translation):**

##### *Distribution of Revenue*

7. *A collecting society shall distribute the revenue from its activities according to fixed rules (distribution plan) that prevent any arbitrary act of distribution. The distribution plan shall conform to the principle that culturally important works and performances are to be promoted. The principles of the distribution plan shall be incorporated in the statutes of collecting societies.*

#### Distribution scheme for levy remuneration

##### VG WORT

**The statutes of VG WORT provide (unofficial translation):**

##### Article 9

*The following basic principles must be observed in the Distribution Plan:*

1. *As long as it is determinable by reasonable means, every rightholder should receive payment according to the use of his work*
2. *As long as the individual share according to use in this sense cannot be identified, general rules for assessment and distribution shall be applied to approximate that share, in which*
  - (a) *measurement of use and*
  - (b) *the cultural or artistic significance of the work of each rightholder are taken into account to an appropriate extent*
3. *The publishers are entitled to a share of the income of VG WORT appropriate to the services which they perform as publishers.*

Detailed rules are provided for the distribution of remuneration in the Distribution Plan according to the following categories of works:

- Fiction
- Press material

- Non-fiction books
- Non-fiction journals
- Digital off-line publications
- On-line publications

Remuneration is allocated to each category of work on the basis of statistical surveys pertaining to the extent of relevant copying of each category in different locations, using different devices/media.

Within each category, remuneration is allocated to individual recently-published works on the basis of reports, and database information.

Distribution to foreign rightholders is effected on the basis of bilateral agreements with other RROs. The extent of copying in Germany of categories of works from specific countries is ascertained through statistical surveys, and the corresponding share of the distributable remuneration for that category of works is paid to the foreign sister society at least annually on a non-title-specific basis.

VG Bild-Kunst's distribution scheme is similar to that of VG WORT.

- Administrative deductions  
2015: VG WORT 2.545%; VG Bild-Kunst 5.2%
- Social and cultural deductions  
2015: VG WORT 1.585%, VG Bild-Kunst maximum 3% (Cultural deduction) and maximum 1% (Social deduction)

### 3.1.9 Ghana

#### Legal basis for levy

**Copyright Act 2005 (Act 690).** Section 27 (1) provides for a device and media levy with tariffs to be set by government regulation. According to Section 27 (3), the levy is to be collected by the customs division of Ghana Revenue Authority, and pursuant to Section 27 (7) is to be distributed to the rightholders by an authorized CMO. Implementing regulations were passed in 2010.

#### RRO(s) administering levy

Text and image:

#### **CopyGhana**

P.O. Box LT 172,  
Larterbiokoshie,  
Accra

#### Members:

One authors' association, one publishers' associations, one journalists' association, one photographers' association, one visual artists association. Total rightholders represented is approximately 8000.

#### Scope of levy

- What copying is covered?

Section 19 (1) of the 2005 Copyright Law covers private copying. Section 27 (1) provides for a device and media levy with tariffs to be set by government regulation. According to Section 27 (3), the levy is to be collected by the customs service, and pursuant to Section 27 (7), it must be distributed to the rightholders by an authorized CMO. Implementing regulations were passed in 2010. Although these provide for a TI share from the levy on devices and media which can be used to copy both A/AV and TI works, the levy on devices which can be used to copy TI works only has not yet been implemented.

- Levy on devices? Which?

- (a) Devices which can only copy TI works  
Not yet implemented
- (b) Devices which can copy both audio/audio-visual and TI works  
CD Burners, DVD burners, MP3/MP4 players, mobile phones, smart phones
- Levy on media? Which?
  - (a) Media which can only be used to copy TI works  
No
  - (b) Media which can be used to copy both audio/audio-visual and TI works  
CDs, DVDs, hard discs (external), memory cards, USB sticks
- Operator fee?
  - No
- Who is liable to pay levy?
  - Manufacturers or importers

#### Tariffs

- How are tariffs set?
  - By regulation
- Tariffs per device (EUR):
  - 20% of the cost, insurance and freight value
- Tariffs per medium
  - As for devices
- Operator fee tariff(s)
  - N/A
- Visibility of the levy
  - There is no legal obligation to show the levy on any invoices

#### Collections

- Total levy collections:
  - 2014 €467,834.66
  - 2015 €519,271
- Total collections per capita
  - €0.02
- How does the CMO get data to charge levies?
  - N/A as the levy is collected by the custom division of Ghana Revenue Authority
- Summary of exemption/ refund scheme
  - There is provision in Article 17 for devices or media destined for re-export to be exempted from the levy, but this is not common in Ghana. There is no refund scheme.

## Distribution

- Summary of distribution scheme regarding levies

### Section 19 of the Copyright Regulations 2010 provides as follows: Distribution of levies paid

19. (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 audio-visual 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.*
- (3) *Each society shall set out rules to distribute the allocation made to the society to its members.*

CopyGhana distributes its share of the levy remuneration to the member associations representing different categories of rightholders in accordance with these regulations.

- Administrative deductions  
25%
- Social and cultural deductions  
None

### 3.1.10 Greece

Legal basis for levy

Copyright Act 1993 as amended

### Reproduction for Private Use

#### **Article 18:**

- (1) 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.

(2) *The freedom to make a reproduction for private use shall not apply when the act of reproduction is likely to conflict with normal exploitation of the work or to prejudice the author's legitimate interests, and notably:*

- (a) *when the reproduction is an architectural work in the form of a building or similar construction;*
- (b) *when technical means are used to reproduce a fine art work which circulates in a restricted number of copies, or when the reproduction is a graphical representation of a musical work.*

(3) *If, for the free reproduction of the work, use is made of technical media, such as recording equipment for sound or image or sound and image, equipment or parts incorporated or not in the main computer unit operating in conjunction therewith, used solely for digital reproduction or digital transcription to or from analog media (with the exception of printers), magnetic tapes or other devices for the reproduction of sound or image or sound and image, including digital reproduction devices—such as CD-RW, CD-R, portable optical magnetic discs with a capacity of more than 100 million digits (over 100 MB), storage media/diskettes of less than 100 million digits (less than 100 MB)—photocopy machines, photocopy paper, equitable remuneration is due to the creator of the work and the beneficiaries of related rights under this provision, with the exception of assets to be exported. The remuneration is set at 6% of the value of the devices for the reproduction of sound or image or sound and image, including devices or parts not incorporated or not susceptible to incorporation in the main computer unit (with the exception of scanners), magnetic tapes or other devices suitable for the reproduction of sound or image or sound and image as well as digital reproduction devices—with the exception of storage media/diskettes of less than 100 million digits (less than 100 MB)—and at 4% of the value of the photocopy machines, scanners, photocopy paper and storage media (diskettes) with a capacity of less than 100 million digits (less than 100 MB). In any event, the value is calculated on import or distribution from the factory. The remuneration is paid by the importers or producers of such items and is noted in the invoice; it is collected by collecting societies operating with the approval of the Ministry of Culture and covering in whole or in part the concerned category of beneficiaries. The remuneration collected for the import or production of photocopy machines, photocopy paper, storage media (diskettes) of less than 100 million digits and scanners (4%) is distributed in half between the intellectual creators and editors. The remuneration collected for the import or production of recording devices and sound or image or sound and image devices, devices and parts not incorporated in the main computer unit (6%), as well as digital reproduction devices, with the exception of storage media (diskettes) of less than 100 million digits, is distributed as follows: 55% to the intellectual creators, 25% to the performers or performing artists and 20% to the producers of recorded magnetic tapes or other recorded devices for sound or image or sound and image.*

**As amended by article 14(1) of Law No. 3049/2002**

*The concept of 'photocopying machines or devices' also includes any multi-machine capable of reproduction by photocopy.*

RRO(s) administering levy

Text and image:

**OSDEL**

Greek Collecting Society for Literary Works

73, Themistokleous Street,

10683 Athens

www.osdel.gr

Members:

4,220 writers and 679 publishers

Scope of levy

- What copying is covered?

Private use

- Levy on devices? Which?
  - (a) Devices which can only copy TI works  
Photocopiers, MF machines, scanners
  - (b) Devices which can copy both audio/audio-visual and TI works  
There is a private copy levy on various other devices but this is distributed for A/AV works only.  
There is current litigation concerning mobile phones and smart phones
- Levy on media? Which?
  - (a) Media which can only be used to copy TI works  
Photocopying paper
  - (b) Media which can be used to copy both audio/audio-visual and TI works  
As for devices
- Operator fee?
 

No
- Who is liable to pay levy?
 

Manufacturers, importers or intra-communal acquirers

#### Tariffs

- How set?
 

In primary legislation/copyright law
- Tariffs per device (EUR):
  - (a) Devices which can only be used to copy TI works  
Copiers: 4% of import price  
Fax machines: N/A  
Scanners: 4% of import price  
Printers: N/A  
MF machines: 4% of import price
  - (b) Devices which can be used to copy both audio/ audio-visual and TI works: share of TI works
- Tariffs per medium
  - (a) Media which can only be used to copy TI works  
Photocopy paper: 4% of import price or manufacturer's sale price
  - (b) Media which can be used to copy both audio/audio visual and TI works  
Digital storage media: 6% of import price or manufacturer's sale price (100% allocated to A/AV)
- Visibility of the levy
 

The levy is shown on invoices through the supply chain

#### Collections

- Total levy collections for last seven years (in million euros):
 

2015	0.98
2014	0.83
2013	3.11



2012 2.50  
2011 2.88  
2010 1.99  
2009 2.57

- Total collections per capita

2015 €0.09

- How does the RRO get data to charge levies?

CMOs are entitled to request those liable to pay the levy to provide a statutory statement under Article 18 (4) of the Copyright Act –

(4) *Every collecting society is entitled to request at any time any debtor, by written notification, to declare the following by statutory statement of Law 1599/1986 to the Copyright Organization:*

(a) *the total value of the sound or visual or audio-visual recording equipment, the sound or visual or audio-visual recordings, photocopier machines, photocopier paper, computers or other technical means used for the reproduction of sound which he imported or made available and*

(b) *that this is the real total value, without any omissions. Within one month from the notification, the debtor is obliged to submit the said statutory statement to the Copyright Organization which should be signed by the debtor, if a personal enterprise, or the statutory representative, if a company.*

(5) *The collecting societies are not entitled to request the same debtor to submit a new statutory statement before the lapse of at least six months from the submission of the previous one.*

(6) *If the debtor does not comply with the obligation to submit the statutory statement referred to above, the one-member district court, by the procedure of injunction measures, may order the immediate submission of the statutory statement; in case of non-compliance, a pecuniary fine of one to ten million drachmas will be imposed in favor of the applicant collecting society.*

(7) *If within twenty days from the publication of the said court order, the debtor does not comply with the obligation to submit the statutory statement, the time limit of six months is lifted regardless of any other sanction, and the collecting society is entitled to request the submission of a statutory statement every month. In this case, the provisions of the previous paragraph apply for every statutory statement.*

(8) *Every collecting society, at its own cost, is entitled to request the investigation of the accuracy of the contents of any statutory statement by a certified accountant appointed by the Copyright Organization. In case the debtor refuses to comply with the said investigation, the one-member district court may order it to in accordance with the above. The report of the certified accountant is submitted to the Copyright Organization and each collecting society is entitled to receive a copy. There cannot be carried out a new investigation for the same statement at the request of other collecting societies.*

- Summary of exemption/refund scheme

The levy is charged on all devices entering the Greek market, but end users who use a device for other than private purposes can claim a refund.

#### Distribution

- Summary of distribution scheme regarding levies

The author-publisher split is set by law at 50:50. Otherwise distribution is according to the rules of OSDEL, which provide for title-specific distribution to individual authors and publishers on the basis of objective availability.

- Administrative deductions  
30%
- Social and cultural deductions  
17,5%

### 3.1.11 Hungary

#### Legal basis for levy

The 2016 XCIII Law on Collective Administration of Copyright and Related Rights (CMO law), implementing the EU's CRM Directive, was enacted in Hungary recently. At the same time the 1999. LXVII Law on Copyright was amended as well.

The new CMO Law replaces the 85 – 95/P sections of the old Copyright Law. In practice, it means that from now on all regulations related to collective management of copyright will be found in the new Law. Thus, it generally regulates the operation of the Hungarian RRO (HARR) as well.

Article 21-22 of the Copyright Law provides for the collection of equipment and operator levy under the reprography and private copying exception of the Copyright Directive. Fees shall be paid by the manufacturers of equipment being used for reprography and, in case of manufacturing abroad, fees shall be paid by those obliged to pay custom duties for importing such equipment. In the absence of an obligation to pay custom duty, any natural and legal person bringing such equipment into Hungary and also the first domestic distributor of reprographic equipment shall be universally liable for paying reprographic remuneration. Moreover, fees shall be paid by any legal entity or natural persons who operate such equipment for profit.

#### CMO(s) administering levy

##### Text and image works:

##### **HARR**

Hungarian Alliance of Reprographic Rights

Pálya u. 4-6

Budapest 1012

[www.reprografia.hu](http://www.reprografia.hu)

##### Members:

four associations:

**ARTISJUS** (musical authors and publishers)

**MASZRE** (book authors and publishers)

**HUNGART** (visual artists)

**REPRPRESS** (newspaper and periodical publishers)

#### Scope of levy

- What copying is covered?  
Articles 33-35 of the Hungarian Copyright Act provides for exceptions to private copying
- Levy on devices? Which?
  - (a) Devices which can only copy TI works  
Copiers, printers, MF machines
  - (b) Devices which can copy both audio/audio-visual and TI works  
The following devices are subject to the private copying levy and collected by ARTIJUS but this is for audio/audio-visual private copying only:  
  
Tablets, mobile phones, smart phones

- Levy on media? Which?
  - (a) Media which can only be used to copy TI works  
N/A
  - (b) Media which can be used to copy both audio/audio-visual and TI works  
The following media are subject to the private copying levy and collected by ARTIJUS but this is for audio/audio-visual private copying only:  
  
CDs, DVDs, BR discs, hard discs, memory cards, USB sticks
- Operator fee?  
Yes, but only payable by institutions which make copy machines available to the public against payment
- Who is liable to pay levy?  
Manufacturers, importers or intra-communal acquirers, operators

#### Tariffs

- How are tariffs set?  
In the case of the equipment levy, the upper limit of the tariff is set by law. Otherwise all tariffs are set by the collecting RRO, but are subject to approval by the Minister of Justice
- Tariffs per device (EUR):
  - (a) Devices capable of copying TI works only  
Copiers: 2% of import price  
Fax machines: N/A  
Scanners: N/A  
Printers: 2% of import price  
MF machines: 2% of import price
  - (b) Devices capable of copying A/AV and TI works  
N/A
- Tariffs per medium
  - (a) Media capable of copying TI works only  
N/A
  - (b) Media capable of copying both A/AV works and TI works  
The following media are subject to the private copying levy and the funds are collected by ARTIJUS but only for audio/audio-visual private copying:  
  
CDs, DVDs, BR discs, hard discs, memory cards, USB sticks
- • Operator fee tariff(s) (1 euro = 310 Hungarian forint)  
(Per machine per month, depending on location and speed)
 

Copy shops:	€6.50 to €39.70
Retail shops:	€2.90 to €29.70
Higher education:	€26.50
Libraries and public institutions:	€3.90 to €12.00
Others:	€2.60 to €9.70
- Visibility of the levy  
No legal obligation to include the levy on invoices

## Collections (1 EUR = 310 HUF)

- Total levy collections (in million euros):

2015: 1.286 million

- Total device/media collections

2015: 0.775 million.

- Total Operator fee collections

2015: 0.511 million

- Total collections per capita

€0.13

- How does the RRO obtain data to charge levies?

As to the equipment levy, manufacturers, importers and other distributors are obliged to report to HARR.

As to the operator levy, operators are obliged to report use of machines, and on-the-spot inspections are also possible.

- Summary of exemption/ refund scheme

The Copyright Act provides for exemption in case of re-export. However, as the main distribution centers for central Europe are located outside Hungary, few claims arise in practice. If a device is imported and later sold cross-border, the original importer can claim a refund from HARR. The number of successful claims is then credited in the next monthly invoice to that company.

## Distribution

- Summary of distribution scheme re levies

There is no author-publisher split determined by national law. The introduction of new provisions constitutes a major alteration to the framework of the reprography levy system administered by the Hungarian RRO (HARR) and its member organizations. The new legislation acknowledges only authors as original rightholders but, at the same time, grants publishers the "entitled to claim share" status. While collection of the reprographic fee is continuous, publishers' share of the fair compensation collected under the reprography and private copying exception of the Copyright Directive is bound to an agreement of rightholders (authors) and entities entitled to claim share (publisher). Since there is no such agreement, reprographic remuneration is only due for authors.

HARR distributes the collected funds according to the agreement of its member associations which each further distribute the money according to their own rules.

- Administrative deductions

20%

- Social and cultural deductions

None

### 3.1.12 Lithuania

#### Legal basis for levy

Copyright Law 2012 as amended; regulations on reprography remuneration February 6 2002

#### RRO(s) administering levy

Text and image:

#### **Association LATGA (IFRRO member)**

Agency of Lithuanian Copyright Protection Association

J. Basanaviciaus str. 4B

Vilnius 0118

www.latga.lt

#### Members:

4256 right holders: 2049 music works authors, publishers and lyricists; 1239 authors of dramatic, literary and audio-visual works, 961 visual arts authors, seven collective members

The levy on devices/media which can copy both A/AV and TI works is collected by AGATA, [www.agata.lt](http://www.agata.lt) and a one third share is passed to Association LATGA as representing authors, as required by law.

#### Scope of levy

- What copying is covered?  
Private use
- Levy on devices? Which?
  - (a) Devices which can only copy TI works  
Copiers, MF machines (collected by Association LATGA)
  - (b) Devices which can copy both audio/audio-visual and TI works  
PCs, tablets, E Readers, CD Burners, DVD Burners, BR burners, MP3/MP4 players, mobile phones, smart phones (collected by AGATA)
- On media? Which?
  - (a) Media which can only be used to copy TI works  
No
  - (b) Media which can be used to copy both audio/audio-visual and TI works  
CDs, DVDs, hard discs, memory cards, USB sticks (collected by AGATA)
- Operator fee?  
Yes (collected by Association LATGA). Copy shops, schools, universities, further education institutions, libraries which provide copying services against payment.
- Who is liable to pay levy?  
Manufacturers, importers or intra-communal acquirers  
Wholesale distributors

## Tariffs

- How are tariffs set?  
In primary legislation
- Tariffs per device (%) (translation reproduced by kind permission of Association LATGA):

Equipment	Capacity	Levy in percentage
1. Non color copiers		1.8–2.00%
	(from 12 to 23 copies per minute)	1.8%
	(from 24 to 45 copies per minute)	1.9%
	(from 46 to 90 copies per minute)	2.00%
2. Color copiers		2.7–3.00%
	(from 12 to 23 copies per minute)	2.7%
	(from 24 to 45 copies per minute)	2.85%
	(from 46 to 90 copies per minute)	3.00%
3. Multifunctional devices making black and white copies		0.6–0.7 %
	(from 12 to 23 copies per minute)	0.6 %
	(from 24 to 45 copies per minute)	0.65 %
	(from 46 to 90 copies per minute)	0.7 %
4. Multifunctional devices making color copies		0.9–1.00 %
	(from 12 to 23 copies per minute)	0.9 %
	(from 24 to 45 copies per minute)	0.95 %
	(from 46 to 90 copies per minute)	1.00 %

Note: The rate is determined as a percentage (as provided in this Annex) of reprographic facilities introduced into the national market, manufactured in the Republic of Lithuania or brought into the national territory, based on the first sales price before tax.

- Operator fee tariff(s)  
From 0.72 to 8.44 euros per copier depending on capacity
- Visibility of the levy  
There is a legal obligation to show the equipment levy on the invoice from the first seller

## Collections

- Total levy collections  
2015 €52,079
- Total device/media collections  
2015 €37,186
- Total operator fee collections  
2015 €14,893
- Total collections per capita  
€ 0.02

- How does the RRO get data to charge levies?

Through the obligation on manufacturers and importers to report contained in the copyright law

- Summary of exemption/ refund scheme

The levy can be refunded by Association LATGA on re-export or professional use. However, this only accounted for 3.64% of collections in 2015.

#### Distribution

- Summary of distribution scheme regarding levies

Distribution is governed by legislation and the rules of Association LATGA. The levy on devices which can only be used to copy TI works, and the operator fee, is distributed by Association LATGA as followings:

Non-fiction authors	20%
Fiction authors	15%
Image authors	15%
Journalists	10%
Publishers	40%

The levy remuneration from devices and media which can be used to copy AVAV and TI works, received from AGATA, is distributed by Association LATGA, based on population surveys, as follows:

Music authors	67%
Audio/audio-visual authors	24%
Image authors	5%
Text authors	3%
Drama authors	1%

(Text-image share 8% of author share, 2.66% share of total levy)

- Administrative deductions

35%

- Social and cultural deductions

The law requires 25% of the levy collections to be passed to the Ministry of Culture, which uses it for the support of right holders.

### 3.1.13 Poland

#### Legal basis for levy

Act of February 4, 1994 on copyright and related rights, as amended, Article 20. Decisions of the Minister of Culture and Arts August 16, 1995 and November 20, 2003 (authorizing KOPIPOL) and March 10, 2003 (authorizing Copyright Polska, formerly known as Polska Książka).

#### Poland 1994 (2010): WIPO

*Article 23. 1. It shall be permitted to use already published works free of charge for personal purposes without the permission of the author. This provision shall not authorize the making of constructions based on 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, except for personal scientific use not connected with any profit-making 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.*



Article 20. 1. Producers and importers of:

- (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) blank carriers used for recording, for personal use, works or objects of related rights, with the help of the devices listed in subparagraphs 1 and 2 shall liable to pay to the collective management organizations specified in paragraph 5 which act on behalf of artists, performers, producers of phonograms and videograms, 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 videograms.
  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 in charge of culture and protection of the national heritage, having consulted collective management organizations, associations of authors, artistic performers, organizations of producers of phonograms, producers of videograms 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 intended 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.

Article 20<sup>1</sup>. 1. Any person who is in possession of any reprographic devices and conducts economic activities relating to reproduction of works for the personal use of third parties, shall be obliged to pay, through a collective management organization, fees up to 3% of proceeds generated from such activities, to authors and publishers, unless the reproduction is done on the basis of a contract signed with a rightholder. Such fees shall be paid to authors and publishers on a 50:50 basis.

2. The Minister in charge of culture and protection of the national heritage, having consulted collective management organizations, associations of authors and publishers as well as the respective chambers of commerce, shall define, by way of a regulation, the fees referred to in paragraph 1, taking into account the share of works reproduced for personal use in all of the reproduced materials and the manner of collection and distribution of the fees. It shall also designate the organization or collective management organizations authorized to collect such fees.

## RRO(s) administering levy

### Text and image:

#### **KOPIPOL**

Warszawska 30 lok. 19  
25-312 Kielce  
www.kopipol.pl

### Members:

75 author associations, four publisher associations

### Text and image:

#### **Copyright Polska** (formerly as Polska Książka)

Ul. Sarego 2  
31-047 Krakow  
www.copyrightpolska.pl

### Members:

76 authors and authors' associations, 36 publishers and publishers' associations

### Press material:

#### **SW Repropol** (not IFRRO member)

Note: equipment and operator fees are collected by KOPIPOL and Copyright Polska, each accounting for 50% of the levies, as stipulated in Article 20(4) of the Polish Copyright Act by the Ministry of Culture and National Heritage. By agreement between Copyright Polska and SW Repropol, Copyright Polska transfers approximately 30% (the exact figure depends on the annual split formula approved by the board of directors of Copyright Polska, taking into account the results of annual private surveys undertaken jointly with the Polish Chamber of Press Publishers) of its share of the levies to SW Repropol.

## Scope of levy

- What copying is covered?

Private use

- Levy on devices? Which?

- (a) Devices which can only copy TI works

Copiers, fax machines, scanners, printers, MF devices, large format devices.

Article 20(1)(2) of the Copyright Act provides for a levy on 'photocopiers, scanners and other similar reprographic devices' that may be used to make copies of a part or a whole of a published work.

- (b) Devices which can copy both audio/audio-visual and TI works

The audio/audio-visual private copying levy applies to CD burners, DVD burners, and MP3 players. This levy is not collected by KOPIPOL or Copyright Polska, but by CMOs representing rightholders in the audio-visual sector.

- Levy on media? Which?

- (a) Media which can only be used to copy TI works  
A3 and A4 paper.

- (b) Media which can be used to copy both audio/audio-visual and TI works

The audio/audio-visual private copying levy applies to CDs, DVDs, Blu-ray discs, hard discs, memory cards, and USB sticks, but there is no TI share. This levy is not collected by KOPIPOL or Copyright Polska, but by CMOs representing rightholders in the audio-visual sector. The TI RROs are currently lobbying for a share in this levy.

- Operator fee?

The law provides for any person who makes a copying device available to third parties for copying for private use to pay the operator fee. In practice, this is only collected from copy shops.

- Who is liable to pay levy?

Producers and importers of devices and media which can be used to make copies for private use.

#### Tariffs

- How are tariffs set?

By the Minister of Culture and National Heritage.

- Tariffs per device (EUR):

Copiers:	3% of sales price
Fax machines:	1–2% of sales price
Scanners:	2–3% of sales price
Printers:	1.5% of sales price
MF devices:	2.8–3% of sales price
Large format devices:	up to 1% of sales price

- Tariffs per medium

Printing paper: 1.25% of sales price

- Operator fee tariff(s)

Depends on the proportion of copyright-protected material in total material copied in a copy shop:

- up to 25%: 1% of copying turnover
- 26–75%: 1.5% of copying turnover
- over 75%: 3% of copying turnover

- Visibility of the levy

There is no legal obligation to show the levy on invoices.

#### Collections

- Total levy collections (EUR million):

2015	KOIPOL	2.216	Copyright Polska: 2.25
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**Total: 4.46**

2014	KOIPOL: 2.12	Copyright Polska: 2.23
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**Total: 4.35**

- Total device/media collections for last six years (in million euros)

2015	KOIPOL: 2.202	Copyright Polska: 2.234
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**Total: 4.436**

2014	KOIPOL: 2.09	Copyright Polska: 2.21
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**Total: 4.31**

2013	KOIPOL: 2.19	Copyright Polska: 2.34
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**Total: 4.53**

2012 4.64  
2011 1.80  
2010 1.39  
2009 0.76

- Total Operator fee collections

2015 KOIPOL: 13,982 Copyright Polska: 15,000

**Total: 28,982**

2014 KOIPOL: 23,000 Copyright Polska: 19,000

**Total: 42,000**

- Total collections per capita

2015

**Total: 0.12**

- How does the RRO get data to charge levies?

Under Article 105.2 of the Copyright Act, CMOs may demand the submission of information, and access to documents, to determine remuneration owed by liable parties.

- Summary of exemption/refund scheme

There is no provision for exemption or reimbursement in the legislation, but a refund could be claimed under the provisions of the Civil Code relating to unjust enrichment.

#### Distribution

- Summary of distribution scheme regarding levies

The distribution scheme is determined by the CMOs administering the levy, which are subject to authorization and supervision by the Minister of Culture and National Heritage. Article 20.4 of the Copyright Act provides for a 50:50 author-publisher split of levy remuneration. By agreement between Copyright Polska and SW Repropol, 70% of the publisher share is allocated to books (Copyright Polska) and 30% to press (SW Repropol).

- Administrative deductions

KOIPOL:

2015: 25%

2014: 10%

2013: 10%

Copyright Polska:

2015: 12.93%

2014: 12.77%

2013: 12.88%

- Social and cultural deductions

None made by KOIPOL or Copyright Polska.

### 3.1.14 Portugal

#### Legal basis for levy

1985 Copyright Law and Law No. 62/98 of September 1, as last amended in 2015 by Law N. 49/2015 of June 5

Article 75 of the Copyright Law permits reproduction by public libraries, non-commercial documentation centers or scientific institutions subject to equitable remuneration (operator fee). Article 81 provides a private use exception subject to a levy on devices and media under Article 82, with tariffs to be established by executive decree. An extensive range of tariffs was set by the amendment of June 2015 (No. 49/2015).

#### RRO(s) administering levy

##### Text and image:

##### **AGECOP** (IFRRO member)

Associação para a Gestão da Cópia Privada  
Avenida Estados Unidos da América, nº 94, 7º B  
Lisbon 1700-178  
www.agecop.pt

##### Members:

total number of Member Associations: 7. The members of AGECOP are all the collecting societies representing authors, artists, publishers and music audio-visual producers

##### Scope of levy

- What copying is covered?  
Private use (equipment levy)
- Levy on devices? Which?
  - (a) Devices which can only copy TI works  
Until recently the legislation provided for a levy on analog devices only, and excluded digital devices. As purely analog devices hardly exist anymore, this meant that the equipment levy is not being implemented. This situation was changed by the law passed in June 2015 which set levies for a wide range of digital devices and media in relation to private copying
  - (b) Devices which can copy both audio/audio-visual and TI works  
Yes, however no share has yet been assigned to the private copying of TI works
- On media? Which?
  - (a) Media which can only be used to copy TI works  
No, paper is specifically excluded
  - (b) Media which can be used to copy both audio/audio-visual and TI works  
Yes, as for devices
- Operator fee?  
Yes, for internal use by public libraries, non-commercial documentation centers, and scientific institutions. Also applies to copy shops and other establishments where copies for private use are sold on a commercial basis.
- Who is liable to pay the equipment levy?  
Manufacturers and importers.

## Tariffs

- How are tariffs set?

By Law No. 49/2015 of June 5th

- Tariffs per device capable of copying TI works only (in euros):

Multifunctional devices or inkjet photocopiers: €5

MF devices or laser photocopiers: up to 40 pages per minute €10  
+ 40 pages per minute €20

Scanners: €2

Printers – Ink-jet: €2.5  
– Laser: €7.5

- Tariffs per device or media capable of coping both TI and A/AV works

The law of June 2015 introduced a wide range of tariffs on devices and media capable of copying both TI and A/AV works, partly based on performance or capacity but subject to a maximum per unit of 15 euros in most cases.

## Operator fee tariff(s)

3% of sales price of photocopies

- Visibility of the levy

N/A

## Collections

- Total Operator fee collections for 2012  
€27,149.23 (invoiced)
- Total operator fee collections for 2013  
€10,072.71 (invoiced)
- Total operator fee collections for 2014  
€6,735.45 (invoiced)
- Total collections of levies on equipment and other mediums for 2015  
€602,714.41 (invoiced)

## Distribution

- Summary of distribution scheme regarding levies

Law 49/2015 of June 5<sup>th</sup> provides for an author-publisher split of 50:50. The operator fee remuneration is passed on to the CMOs representing authors and publishers in this proportion.

- Administrative deductions

2012: 16.89% (of the total amount received)

2013: 25.22% (of the total amount received)

2014: 15.16% (of the total amount received)

2015: 4.87% (of the total amount received)

- Social and cultural deductions

The law establishes an obligation to retain 20% for collective cultural purposes such as workshops, scholarships and the promotion of public awareness of copyright.

### 3.1.15 Romania

Legal basis for levy

Copyright Law No.8/ 1996 as amended

CMO(s) administering levy

Text:

**PERGAM**

Bd. Mircea Voda 35,  
Bl. M27,  
Sc 1. Et 6, apt 17,  
Sector 3,  
COD 030663  
Bucharest  
www.pergam.ro

Text

**CopyRo** (IFRRO member)

5A Paleologu Street  
3rd floor, apt 3,  
Sector 2  
Bucharest 010616  
www.copyro.ro

Text

**Opera Scrisa.Ro** (IFRRO member)

1 Boteanu Street, Corp Boema  
Sector 1,  
010027  
Bucharest  
www.operascrisa.ro

Note: Until March 2012, the levy on devices/media capable of copying TI works only (copiers, scanners, multifunctional devices and printers) was collected by CopyRo. From that date these levies were collected by PERGAM. Since February 24, 2014, Opera Scrisa.ro is the collector of the remuneration.

Scope of levy

#### **Article 34**

- (1) *It shall not be a violation of copyright, for the purposes of this law, to reproduce 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, and the reproduction does not contravene the normal use of the work or prejudice the author or the owner of the utilization 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 devices used 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**

- (1) *The authors of works that can be reproduced through sound or audio-visual recordings, on any kind of physical medium, and authors of works that can be reproduced on paper, directly or indirectly, under the conditions provided for under Article 34(1) shall be entitled, together with the publishers, producers and performers, as the case may be, to compensatory remuneration for the private copy, in accordance with Article 34(2). The beneficiaries cannot waive the right to compensatory remuneration for the private copy.*
- (2) *Compensatory remuneration for private copy shall be paid by manufacturers and importers of physical media or devices provided for in Article 34(2), regardless of whether the procedure is an analog or digital one.*
- (3) *Importers and manufacturers of the physical media and devices, provided for in Article 34(2), are bound to register with the Romanian Copyright Office, the National Registry of Private Copy and may engage in the said activities of import and production only after obtaining a Registration Certificate from the Romanian Copyright Office. The certificate is issued by the Romanian Copyright Office based on evidence confirming the object of activity legally stated and of the Sole Registration Certificate with the Trade Registry, within five days from their submission.*
- (4) *The list of physical media and devices for which compensatory remuneration for private copy is paid, as well as the amount of such remuneration is negotiated every 3 years, within a committee consisting of:*
  - (a) *one representative of each main collective management organizations, which collects levies for a particular category of rights, on the one hand; and*
  - (b) *one representative of 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 based on the turnover and market-share in their respective fields, as stated to the Romanian Copyright Office on the own responsibility, on the other hand.*
- (5) *In order to initiate the negotiation in accordance with the procedures provided for under Article 131 paragraphs (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. The application shall be published in the Official Gazette of Romania, Part I, by decision of the General Manager of the Romanian Copyright Office, as well as the amount of remunerations to be negotiated. Separate lists will be prepared for the devices and physical media used for sound and audiovisual recordings and for the devices and physical media used for graphical reproduction and shall be negotiated in two different committees.*
- (6) *The remunerations are in percentages and calculated for importers based on the value at customs, and for producers based on the invoiced value net of VAT at the time of introduction into the market. They shall be paid in the month following date 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 for under Article 34(2), as well for A4 paper for photocopiers and digital media.*
- (8) *The compensatory remuneration for private copy is a percentage of the value referred to in paragraph (6), applied as follows:*
  - (a) *A4 paper sheets for photocopier: 0.1%;*
  - (b) *other physical media: 3%;*
  - (c) *devices: 0.5%.*
- (9) *Negotiations on the establishment of the list of physical media and devices for which such remuneration is due, are organized by the Romanian Copyright Office within 15 days from the date*

of publication of the negotiation request in the Official Gazette of Romania, Part I and are conducted following the procedure outlined in Article 131.<sup>2</sup>

#### Article 107<sup>1</sup>.

- (1) *Compensatory remuneration for private copy is collected by a management organization that is the sole collector for the works reproduced from sound and audiovisual recordings and by another management organization that is sole collector for works reproduced from paper, in accordance with the conditions provided for under Article 133(6) to(8). The two collective management organizations, serving as sole collectors, are designated by majority vote of the beneficiary collective management organizations at their first convocation, or by majority vote of those present, at the second convocation. The collective management organizations designated by vote shall file with the Romanian Copyright Office the minutes of the proceedings in which they were designated. Within 5 working days following the filing, the Romanian Copyright Office shall appoint the sole collector by decision of the general manager, which shall be published in the Official Gazette of Romania, Part I.*

#### Article 107<sup>2</sup>.

- (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 audio-visual 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.*
- (1<sup>5</sup>) *In the case of paper copies produced through analog means, the remuneration shall be divided equally between authors and publishers. The amounts due to publishers are distributed only through publishers' associations, based on a protocol established between them that includes the criteria for distribution as well the shares owed to each association. Distribution protocol negotiations shall be attended only by publishers' associations that fulfill the conditions established in the decision of the Romanian Copyright Office general manager.*

- What copying is covered?

Personal use and use within a family circle (see Article 34(1) above)

- Levy on devices? Which?

(a) Devices which can only copy TI works  
Copiers, scanners, printers, multi-functional devices

(b) Devices which can copy both audio/audio-visual and TI works  
N/A (no TI share for written works). For written works, we requested legislative amendments, on March 4, 2016. The draft is still being debated.

- On media? Which?
  - (a) Media which can only be used to copy TI works  
Paper
  - (b) Media which can be used to copy both audio/audio-visual and TI works  
N/A (no TI share for written works). For written works, we requested legislative amendments, on March 4, 2016. The draft is still being debated.
- Operator fee?
  - No
- Who is liable to pay levy?
  - manufacturers, importers and intra-communal acquirers

#### Tariffs

- How are tariffs set?
  - Under Article 107, as interpreted in Romania, the devices or media subject to levies are negotiated between the interested parties, but the tariffs are set by law (see Article 107(4) to (9) above).
- Tariffs per device (EUR):
  - (a) Devices which can only be used to copy TI works
    - Copiers: 0.5% of import price
    - Scanners: ditto
    - Printers: ditto
    - Multifunctional devices: ditto
  - (b) Devices which can be used to copy A/AV and TI works: share allocated to TI works  
N/A
- Tariffs per medium
  - (a) Media which can only be used to copy TI works  
Copy paper: 0.1% of import price
  - (b) Media which can be used to copy A/AV and TI works: share allocated to TI works  
N/A
- Operator fee tariff(s)
  - N/A
- Visibility of the levy
  - There is no legal obligation to show the levy on invoices, but in practice invoices show the purpose of the remuneration (private copy), the device/medium for which the remuneration is due, the general identification data and the basis for determining the remuneration.

#### Collections

- Total levy collections for (in million euros):
  - 2013 0.207 (PERGAM)
  - 2014 0.244 (0.096 - PERGAM (01.01-23.02) + 0.148 - OPERA SCRISA (24.02-31.12))
  - 2015 0.256 (OPERA SCRISA)

- How does the CMO get data to charge equipment levies?

Through the Romanian Copyright Office which, as a governmental agency, has access to data from the National Customs Authority, the Frontier Police and the National Authority for Fiscal Administration. Under Article 107(3) of the Copyright Law, importers and manufacturers must register with the Romanian Copyright Office and the National Register of Private Copy.

- Summary of exemption/ refund scheme

No levies are charged on goods in the duty-free zone awaiting re-export. Refunds are available on export to an EU state.

#### Distribution

- Summary of distribution scheme re levies

The law requires the remuneration to be distributed equally, 50 per cent to authors and 50 per cent to publishers.

Under Romanian law, CMOs can only directly represent authors, but OPERA SCRISA.RO distributes a 50 per cent share to publishers via the publisher associations. As to the authors' share, 10 per cent is distributed to the CMO representing visual artists (VISARTA). The balance has to be split in proportions of 70 per cent to PERGAM and 30 per cent to CopyRo, according to a decision of the Appeal Court. From its share, CopyRo gives 7 per cent to OSRO.

- Administrative deductions

COPYRO: 10% (when COPYRO was the sole collector, but 5% in case of remuneration passed on by PERGAM)

PERGAM : 10% collector's fee + 5% distribution fee

OPERA SCRISA.RO 8% collector's fee

- Social and cultural deductions

COPYRO: none

PERGAM: 10%

OPERA SCRISA.RO: none

#### 3.1.16 Slovakia

##### Legal basis for levy

Copyright Act 2003 as last amended 2013 (unofficial translation reproduced by kind permission of LITA)

#### Article 24

##### Reproduction of work which was made public

- (1) *A natural person can, without the consent of the author, reproduce for his/her personal purposes and not for direct or indirect commercial ends a work, which was made public; there is no obligation to pay the remuneration to the author for such use.*
- (2) *A natural or legal person can reproduce without the consent of the author a work, which was made public, by transferring this work onto paper or similar medium by means of a reprographic or other technological device;*
- (4) *The author of a work, which can be reproduced according to the paragraph(1), shall have the right to compensation of remuneration.*

- (5) *The author of a work, which can be reproduced and publicly distributed according to paragraph (2), shall have the right to compensation of remuneration.*

#### CMO(s) administering levy

Text and image:

**LITA** (IFRRO member)

Mozartova 9

Bratislava 1

www.lita.sk

#### Members:

2933 represented authors including 659 authors who are members

The private copy levy on devices and media which can copy both A/AV and TI works is collected by SOZA on behalf of four CMOs, including LITA

#### Scope of levy

- What copying is covered?

Article 24 (1) covers private copying by natural persons on any medium. Article 24 (2) covers copying by legal or natural purposes on paper or similar medium ('reprography')

- Levy on devices? Which?

The Copyright Law provides (unofficial translation):

#### Article 5

##### Definitions of certain notions

- (9) *A reprographic or other technological device is a device that does reproductions by means of electromagnetic radiation or otherwise. It is in particular, a copy machine, a scanner, a fax and a hard disc built into a personal computer*

#### Article 24

- (1) *The compensatory remuneration according to paragraphs (4) and (5) shall be paid through collective management organizations (§79) for*
- (a) *a blank carrier of a type usually used for reproduction according to paragraph (1) by its manufacturer, recipient from a member state (hereinafter 'recipient'), importer from third country (hereinafter 'importer') or other person who places the carrier for the purposes of sale on the Slovak market for the first time, in the amount of 6% of its sales price or import price;*
  - (b) *a device for making reproductions of sound or audio-visual recordings by its manufacturer, recipient, importer or other person who places the device for the purposes of sale on the Slovak market for the first time, in the amount of 3% of its sales price or import price;*
  - (c) *reprographic or other technological equipment for making of reproductions of works by its manufacturer, recipient, importer or other person which places the equipment for the purposes of sale on the Slovak market for the first time, in the amount of 3% of its sales price or import price; if the equipment is part of an object, the compensation of remuneration is calculated based on a proportional part of the sales price or import price of the object;*
  - (d) *a personal computer by its manufacturer, recipient, importer or other person who places the personal computer for the purposes of sale on the Slovak market for the first time, in the amount of 0.5% of the sale price or import price of the hard disc built into the personal computer; for this equipment, the compensation under item (c) is not paid;*

(e) *copying services against payment by its provider, in the amount of 3% from total income for such services;*

- (a) Devices which can only copy TI works  
Copiers, fax machines, scanners, MF machines, printers.  
LITA collects levy on reprography also for PCs, tablets and e-readers.

Devices which can copy both audio/audio-visual and TI works  
Levies collected (more or less) without problems: Mini-system or microsystem with function of copying through USB or otherwise; MP3 and MP4 player; radio+recorder with recording function; set top box with built-in hard disc or a function for copying through USB or otherwise

Levies collected only from some manufacturers/ importers or with more problems: Multimedia recorder or player with burning function or with internal hard disc or with a function for copying through USB or otherwise; minidisc recorder; external optical carriers with burner; internal optical carriers with burner - not built into the PC; smart TV with built-in hard disc or function of copying through USB or otherwise; tablet and mobile/smart phone

(b) Currently disputed: smart TV

- On media? Which?

(a) Media which can only be used to copy TI works  
N/A

(b) Media which can be used to copy both audio/audio-visual and TI works  
Levies collected (less or more) without problems: flash discs (USB, UFS, MS, MSD and others); optical carriers (Blu-ray disc, DVD, DVD-RW, CD, CD-RW and others); memory cards (SD, mini SD, micro SD, PCMCIA, MMC and others); external hard disks (HDD, SSD and others)

Levies collected only from some manufacturers/importers or with more problems: minidisc (MD, HI-MD); internal hard disks - not built into the PC (HDD, SSD and others); Video cassettes (VHS, HDV, Hi-8, Digital 8, Mini DV and others)

- Operator fee?

Yes: where copy devices are made available against payment (currently only collected from copy shops including copy shops in libraries)

- Who is liable to pay levy?

Primary responsibility: manufacturers, importers and intra-communal acquirers

Secondary responsibility: wholesale and retail distributors

#### Tariffs

- How are tariffs set?

In the copyright law

- Tariffs per device (EUR):

(a) Devices which can only be used to copy TI works  
Copiers: 3% of import or selling price  
Fax machines: 3% of import or selling price  
Scanners: 3% of import or selling price  
Printers: 3% of import or selling price  
MF machines: 3% of import or selling price

- Tariffs per medium



- (a) Devices which can be used to copy A/AV and TI works: share allocated to TI works  
 PCs: 0.5% of the import/ sale price of the hard disc (100% allocation to TI works)  
 CD burners, DVD burners, Blu-ray burners: The share is contained in the LITA share of the joint collection for private copying (share for all categories of authors represented by LITA, i.e. authors of literary, audio-visual, dramatic works and works of visual arts and photography)
- (b) Media which can be used to copy A/AV and TI works: share allocated to TI works  
 CDs, DVDs, Blu-ray discs, memory cards, USB sticks: The share is contained in the LITA share of the joint collection for private copying (share for all categories of authors represented by LITA, i.e. authors of literary, audio-visual, dramatic works and works of visual arts and photography)

- Operator fee tariff(s)

3% of income from copying services

- Visibility of the levy

There is no legal obligation to show the levy on invoices either throughout the supply chain or on the invoice to the end-user

#### Collections

- Total levy collections (in euros):

2012 340,000 euros for reprography, 127,000 euros for private copying (only the LITA share)

2013 320,000 euros for reprography, 105,000 euros for private copying (only the LITA share)

2014 890,000 euros for reprography, 115,000 euros for private copying (only the LITA share)

2015 665,000 euros for reprography, 365,000 euros for private copying (only the LITA share)

- Total device/media collections (in euros):

2012 310,000 euros for reprography, 127,000 euros for private copying (only the LITA share)

2013 290,000 euros for reprography, 105,000 euros for private copying (only the LITA share)

2014 860,000 euros for reprography, 115,000 euros for private copying (only the LITA share)

2015 640,000 euros for reprography, 365,000 euros for private copying (only the LITA share)

- Total operator fee collections

2012 30,000 euros for reprography

2013 30,000 euros for reprography, N/A for private copying (only the LITA share)

2014 30,000 euros for reprography, N/A for private copying (only the LITA share)

2015 25,000 euros for reprography, N/A for private copying (only the LITA share)

- Total collections per capita

2012 0.062 euros for reprography

2013 0.058 euros for reprography, N/A for private copying (only the LITA share)

2014 0.162 euros for reprography, N/A for private copying (only the LITA share)

2015 0.19 euros

- How does the RRO get data to charge equipment levies?



There is an obligation in the copyright law, Article 24 (9) and (10) for manufacturers or importers to report to the CMO the type, quantity and import or sales price of imported or sold devices or media. Similarly, copy shops have to report their total income from copying services. If these obligations are not fulfilled the levy fee payable is doubled. This is backed up by a secondary obligation on other distributors and provision for the duty office and statistical office to assist the CMO.

- Summary of exemption/refund scheme

Exemption can be claimed provided this is in due time and supported by sufficient documentatio

#### Distribution

- Summary of distribution scheme regarding levies

Distribution of reprographic levies is according to LITA rules. These provide for an author-publisher split of 73:27. The authors' share is divided into 80% for the authors of text (10% periodicals, 90% non-periodicals), and 20% for the authors of images.

Distribution is title- and author-specific and based on library lending statistics and recently published works.

- Administrative deductions

25%

- Social and cultural deductions

None

#### 3.1.17 Slovenia

##### Legal basis for levy

Copyright and Related Rights Act

#### Article 37 Right to remuneration

- (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.*
- (3) *Remuneration under paragraph (1) of this Article, with respect to photocopying shall be paid:*
  1. *upon the first sale or importation of new appliances for photocopying; and*
  2. *based on number of photocopies made for sale; i.e. monthly on their probable number.*
- (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, 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.*

### Article 38 Persons liable

- (1) *Persons liable to pay remuneration under the foregoing Article are: manufacturers of appliances for sound or visual reproduction; manufacturers of appliances for photocopying; manufacturers of blank audio or video fixation media; and holders of appliances who are offering photocopying services against payment. Jointly liable with manufacturers are importers of appliances and fixation media, unless such imports are intended for private and non-commercial use, as part of their personal luggage (de minimis imports).*
- (2) *Manufacturers mentioned in the foregoing paragraph are not liable to pay remuneration with respect to such appliances or fixation media which are made for exportation.*
- (3) *The persons mentioned in paragraph (1) of this Article shall not be persons liable to pay remuneration for such appliances or fixation media which they have sold or imported for the first time for the purposes of: 1. commercial reproduction of authors' works for which the authorization of the rightholders should be obtained; or 2. reproduction of authors' works for the benefit of disabled persons, when it is directly related to their disability. (4) Persons mentioned in paragraph (1) of this Article shall, on request of a collecting society, at the end of each quarter submit information about the type and number of sold or imported appliances and media, mentioned in the foregoing Article, as well as such information about the photocopies sold, as is necessary for the calculation of the remuneration due. The collecting society may only use the information obtained for the purpose for which it was provided, and shall not disclose it to unauthorized persons.*

### Article 39 Amount of remuneration

- (1) *The amounts of remuneration for private and other internal reproduction which belong collectively to all persons entitled under this Act shall be set by the Government of the Republic of Slovenia.*
- (2) *The amounts mentioned in the foregoing paragraph shall be set separately: for each appliance for sound fixation and each appliance for visual fixation; for each fixation appliance which due to its design, does not require separate mediums for its operation (double the amount); for each sound and visual fixation medium depending on the possible duration of the fixation; for each appliance for photocopying, depending on its capability (number of copies per minute), and its capacity to make color copies (double the amount of black-and-white copying); as well as for each photocopy made for sale.*

#### RRO(s) administering levy

Text and image:

**SAZOR**

Kersnikova 10a

Ljubljana 1000

www.sazor.si

#### Members:

82 members and 474 right holders with the right to remuneration (who are not members of the RRO)

#### Scope of levy

- What copying is covered?

### Article 50 Private and other internal reproduction

- (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 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 on devices? Which?
    - (a) Devices which can only copy TI works  
The current government decree on amounts of remuneration for private and other internal reproduction provides:

#### Article 4

- (1) *The amount of remuneration for photocopying to be paid upon the first sale or importation of new appliances for photocopying shall be for each appliance that, according to the producer declaration, makes possible photocopying or reproduction by techniques similar to photocopying (fax machines, printers, photo-printers and other similar appliances):*
    - (a) *of 3 copies/pages per minute €2.09*
    - (b) *of 12 copies/pages per minute €8.34*
    - (c) *of 13–36 copies/pages per minute €12.52*
    - (d) *of 36–72 copies/pages per minute €20.86*
    - (e) *of more than 72 copies/pages per minute €29.21*
    - (f) *scanners, irrespective of number of copies €2.09*
  - (2) *The remuneration for appliances under this Article that make possible the making of only black and white copies shall be half of the above amounts.*
- (b) Devices which can copy both audio/audio-visual and TI works  
The government decree specifies tariffs on a range of devices. However, this part of the decree has not been implemented since 2010, as no CMO has yet been authorized to collect the above levies after that period.
- On media? Which?
    - (a) Media which can only be used to copy TI works  
No
    - (b) Media which can be used to copy both audio/audio-visual and TI works  
Again, tariffs are set in the government decree but are not implemented at present.
  - Operator fee?

Yes – on copies made for sale to natural persons (copy shops, libraries, etc.).

- Who is liable to pay levy?

Manufacturers and importers

#### Tariffs

- How are tariffs set?

By government decree: see above

- Tariffs per device (in euros):

(a) Devices which can only copy TI works  
See article 4 of the government decree above

(b) Devices which can copy both AVAV works and TI works  
Momentarily not implemented – see above.

- Tariffs per medium

(a) Media which can only copy TI works  
N/A

- Operator fee tariff(s)

By article 5 of the government decree, €0.004 per copy made for sale to natural persons.

- Visibility of the levy

There is no legal obligation to show the levy on any invoices in the supply chain

#### Collections

- Total levy collections (EUR):

2013: €137,000

2014: €164,000

2015: €164,000

- Total equipment levy collections (EUR)

2013: €118,000

2014: €146,000

2015: €146,000

- Total Operator fee collections (EUR)

2013: €19,000

2014: €18,000

2015: €18,000

- Total collections per capita

2013: €0.066

2014: €0.079

2015: €0.08

- How does the RRO get data to charge levies?

Entities liable to pay the levy are obliged to provide information to the RRO on request—Article 38 (3) above

- Summary of exemption/refund scheme

In practice not needed

#### Distribution

- Summary of distribution scheme regard levies

The levy remuneration is distributed to rightholders; the copyright law provides for a 50:50 split between authors and publishers. Remuneration is then distributed between the rightholders pursuant to the internal rules of SAZOR.

- Administrative deductions

10%

- Social and cultural deductions

None

## 3.2 Countries where the levy system has not yet been implemented

### 3.2.1 *Albania*

#### Legal basis for levy

Article 31 of the Copyright Law of 31/3/2016 provides for “reasonable remuneration” for copying for private or other personal use, payable by the manufacturers or importers of reproduction devices and storage media. The equipment and fees under article 31 is to be specified by the Council of Ministers.

#### Scope of levy

Extent of permitted copying unspecified, except that it must not constitute a complete book. Under Article 72, natural persons may copy copyright-protected works for private or other personal use. The extent of permitted copying is unspecified, except that it must not constitute a complete book, unless it has been on the market for at least two years.

#### IFRRO member(s)?

None

### 3.2.2 *Bosnia-Herzegovina*

#### Legal basis for levy

Copyright Law 2010 as amended—article 36 provides a right to remuneration for private and other internal use. Under article 37 an equipment levy is payable by the manufacturers and importers of devices or media. There is also an operator fee where photocopies are provided against payment.

#### Scope of levy

Private and other internal use

#### IFRRO member(s)?

None

A RRO was formed during the summer of 2016. Its name is 'Original' and it is a separate entity from the already existing CMO 'Sine Qua Non'. The RRO is seeking a license to start operating and managing reprographic rights on behalf of authors and publishers.

### 3.2.3 Côte d'Ivoire

#### Legal basis for levy

Article 106 of the new Copyright Law of July 26, 2016 (26-555) establishes an equipment and operator levy. It is anticipated that the new levies will be administered by the existing RRO, BURIDA, which is an IFRRO member.

Address:

Cocody,  
Les-Deux Plateaux  
Les Vallons Rue J 81,  
Abidjan,  
BPV 258  
www.burida.ci

### 3.2.4 Dominican Republic

#### Legal basis for levy

#### Copyright Law 2000 as amended (law 65-00).

##### Article 37

*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 rightholder to obtain equitable remuneration for the reprographic reproduction or for the private copying of a sound or audio-visual 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.*

*Article 53 of Decree No 362-01 of 2001 to implement the application of Law No. 65-00, then provides that the details of the levy scheme provided for under Article 37 shall be set out in a special regulation. This is Decree No. 548 of 2004, which provides for a levy on a wide range of devices and media, payable by manufacturers or importers, or by distributors in default (article 3), only through collecting societies representing different categories of rightholder. The author-publisher split in the case of TI works shall be 50:50 (article 3).*

*Article 4 provides that the remuneration shall be a percentage of the value of relevant devices or media, to be negotiated between the rightholders, or CMOs representing them, or set by the National Copyright Office in default of agreement. The percentages are to be reviewed every five years.*

This scheme has not yet been implemented so far as TI works are concerned.

#### Scope of levy

Personal use

IFRRO members?

None

### 3.2.5 *Ecuador*

#### Legal basis for levy

Copyright Law 1999 as amended: articles 105-108 establish a private copying levy on 'reproduction equipment'.

#### Scope of levy

Copying for private purposes

#### IFRRO member(s)?

None

AEDRA, Asociación Ecuatoriana para la Gestión Colectiva de Derechos Reprograficos de Auteur, has been approved to collect the TI levy, but an implementing decree is needed before the levy can become operational.

### 3.2.6 *Korea*

The introduction of a TI levy scheme for private use is under consideration in Korea. When operational, the scheme will probably be administered by the Korean Reproduction and Transmission Rights Association (KORRA), which is an IFRRO member (This scheme is not referred to in the comparative tables section as legislation is not yet in place).

### 3.2.7 *Kosovo*

#### Legal basis for levy

Copyright Law 2011: Article 39(3) provides for an equipment levy and operator fee for sold copies. Under article 40, tariffs for the equipment levy are to be set by government regulation 'for each photocopying appliance including fax machine, scanners etc.', depending on capacity. The regulation has not yet been passed so far as is known.

#### Scope of levy

Copying for private use

#### IFRRO member(s)?

None

### 3.2.8 *Luxembourg*

#### Legal basis for levy

Article 10.4 of the Copyright Law 2001 as amended provides an exception for private copying subject to the payment of equitable remuneration to the rightholders. The details of the scheme are to be fixed by regulation but no regulation has been drafted to date.

#### Scope of levy

Copying for private use

#### IFRRO member(s)?

#### **LUXORR**

7 rue Alcide de Gasperi  
1615 Luxembourg  
www.luxorr.lu



### 3.2.9 Macedonia

#### Legal basis for levy

Article 46 of the Copyright Law, as last amended in 2016, provides as follows (unofficial translation)

#### Right of fair compensation

##### Article 46

- (1) The reproduction for private purpose shall be subject to payment of fair compensation.
- (2) 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 for making photocopies intended for sale, on a monthly basis, according to the possible number of photocopies.
- (3) All other devices used to achieve the same effect shall be considered as equipment for audio and video fixation, and other reproduction techniques shall also be considered as copying.
- (4) 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, carried out for private use.
- (5) The right of compensation under paragraph 1 of this Article may not be subject to a waiver, disposal or judicial execution.

#### *Entities liable to pay compensation*

##### Article 47

- (1) Producers and importers of equipment for sound and visual fixation, photocopying equipment, blank audio or audio-visual carriers, as well as persons providing photocopying services, shall be liable 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 copyright and related rights collective management organization, to submit data concerning the type and number of sold or imported equipment and audio or audiovisual carriers, as well as data concerning the produced photocopies.

#### Amount of the compensation

##### Article 48

- (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 audio or audio-visual 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 to take account of price fluctuations and cost of living in the Republic of Macedonia.

## Use with compensation

### Article 54

The use of a copyright work with fair compensation shall apply to the following cases:

1. Reproduction on paper or any similar medium, by way of photocopying or any other analogous technique or other process having similar effects, with the exception of graphic editions of a musical work (sheet music);
2. Reproduction on any medium, made by a natural person for private use, without direct or indirect commercial advantage;

#### Scope of levy

Extent of permitted copying does not appear to be specified

#### IFRRO member

None

#### Scope of levy

Extent of permitted copying does not appear to be specified

#### IFRRO member

None

### 3.2.10 *Moldova*

#### Legal basis for levy

Article 27 of the 2008 Copyright Law provides for an equipment and operator fee. The equipment levy, of 3% of the value of devices used for private copying, is payable by manufacturers, importers and distributors. The minimum tariff for the operator fee is to be established by government regulation.

#### Scope of levy

Not clear, but appears to cover private use, and own/internal use except where the copies are made by libraries or archive services, in teaching establishments for study or research and for replacement of lost or destroyed copies, in all cases on a non-profit basis.

#### IFRRO Member(s)?

#### **ReproMold**

Uniunea Scrittorilor (Fondul Literar), Str. 31 August 1989, 98 min. Chisineau, MD 2004.

Repromold has been authorized to administer the TI levy by AGEPI, but for the time being the equipment levy is being collected by AsDAC, which also administers the A/AV private copying levies. Collections from September 2011 to June 2016 amounted to 6656 euros, but yet no remuneration has been passed on to Repromold because of administrative and legal problems also involving a third CMO, ANPCI. Collection of the operator levy has not yet begun.

### 3.2.11 *Montenegro*

#### Legal basis for levy

2011 Copyright Law

#### Scope of levy

Articles 35-37: Applies to devices which can only be used to copy TI works. An operator fee also applies where copies are sold. Levies cover private copying, own/internal use, and teaching.

IFRRO member(s)?

None

### 3.2.12 *Netherlands*

Legal basis for levy

Article 16(c) of the Copyright Act, implementing article 5(2)(b) of the Copyright Directive, permits copying by private persons for private personal use, subject to the payment of fair compensation under article 16c. Through a regulation of 2013, levies are payable on an extensive list of devices capable of copying both audio/ audio-visual and text/image works. The private copying levy is administered by Stichting de ThuisKopie. The share of text and image works is currently under negotiation. The text share for authors will be passed on to Stichting LIRA, for voice performing artists of audio books to Stichting Norma of Jacob Bontiusplaats 9, 1018 Amsterdam, and for images to Stichting Pictoright, Sarphatistraat 606-608, 1018 Amsterdam. Publishers are entitled to a share of private copying insofar as they are deemed by law to be the original rightholder (e.g. employer's copyright).

Scope of levy

Private copying as above

IFRRO members?

**Stichting LIRA**

Kruisweg 793-795

Hoofddorp, 2130 KB

[www.lira.nl](http://www.lira.nl)

Note: Stichting LIRA and Stichting ThuisKopie, as well as Stichting Reprorecht (IFRRO member), which administers the legal license relating to the copying of text/image works by businesses and institutions, share the CEDAR service center.

### 3.2.13 *Nigeria*

Legal basis for levy

Nigerian Copyright Law 1988 as amended (codified 2004)

Scope of levy

Article 40 provides for a levy on 'any material used or capable of being used to infringe copyright'. The details of the scheme are contained in the Copyright (Levy on Materials) Order of 2012 (the Order) issued by the Ministry of Justice. The collector for all levies is the National Copyright Commission (NCC). The Order gives the NCC wide powers to enforce payment of the levy, including:

- The right to inspect documents and records on the premises of manufacturers and importers
- The right to confiscate leviable material and seal storage premises in case of non-payment of the levy

The Order also contains an exemption scheme whereby the Ministry of Justice (MoJ) may issue exemption certificates for materials intended for re-export.

The Order provides for the levy to be a percentage of the cost, insurance and freight value of imported materials or the ex-factory cost of materials manufactured in Nigeria, according to the following bands:

3%: media which can copy both TI and A/AV works

2%: devices which can copy both TI and A/AV works, and photocopying paper

1%: devices which can only copy TI works

Under Article 4 of the Order, the NCC shall distribute the remuneration as follows:

- (a) 10% for the promotion of creativity

- (b) 20% for the NCC anti-piracy program
- (c) 10% for administration
- (d) The remaining 60% between approved collecting societies

The implementation of the scheme in terms of distribution has not yet started, but it is expected to do so shortly. It is expected that REPRONIG (see below) will be appointed to administer the TI share.

IFRRO member(s)

**REPRONIG** (RRO member)

Suite 13/14 Block E, Expoyo Complex, Sanngo  
GPO Box 12324  
Dugbe Ibadan  
Oyo State  
Nigeria

### 3.2.14 *Paraguay*

Legal Basis for Levy

Copyright Act 1998 as amended: Article 34 provides for a levy which appears to cover both devices/media which can only be used to copy TI works, and devices/ media which can be used to cover A/AV works also. Article 37 provides for the details of the scheme to be determined by regulation on the proposal of the National Directorate of Copyright. However, no regulations have been made so far.

Scope of Levy

Private use

IFRRO Member(s)

None

### 3.2.15 *Serbia*

Legal basis for levy

2011 Copyright Law: equipment levy on devices and media under article 39 (1) and (2); operator fee for copy shops article 39 (5). The Serbian RRO 'OORP' was authorized to administer the levy in October 2015.

Scope of levy

Private use

IFRRO member(s)?

Yes, Organizacija za ostvarivanje reprografskih prava (OORP) became a Provisional RRO member of IFRRO in February 2016

**OORP**

Makedonska 5,  
'Staklenac', 11 sprat,  
11000 Beograd  
Serbia

<http://oorp.rs/wp/>

### 3.2.16 Turkey

#### Legal basis for levy

*Copyright Law 1951 as amended: article 38 provides exception for private use; article 44 provides for an equipment levy to be paid to the Ministry of Culture and Tourism: (Amendment: 21.2.2001 - 4630/23) Natural and legal persons who manufacture or import for commercial purposes any kind of recording materials such as blank video cassettes, audio cassettes, computer discs, CDs, DVDs and all kinds of technical equipment used for 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 balance in this account shall be used to strengthen the intellectual property system and the execution of cultural and artistic activities. The rules and procedures governing the distribution and use of these funds shall be determined through by-laws to be issued by the Ministry of Culture and Tourism. The allowance which is necessary for activities that protect the cultural heritage within and outside the country shall be deposited 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 through by-laws to be issued by the Ministry of Culture.*

*Amending legislation is currently under consideration which would provide for the distribution of part of the remuneration to the rightholders and establish an operator fee.*

#### Scope of levy

Private use

IFRRO member(s)?

YAYBIR (RRO member)

Publishers Copyright & Licensing Society – PCLS.tr

Inonu Caddesi Opera Palas Apt. No:55 Kat:2

Gumussuyu Beyoglu Istanbul 34437 Turkey

www.yaybir.org.tr

*BESAM (RRO member)*

*Copyright Holders Association of Literary and Scientific Works*

*Sahne Sokak*

*Ali Han No: 307*

*Galatasaray*

*Istanbul*

*TBYM (Creator and Publisher Association Member)*

*Turkish Press and Publishers Copyright & Licensing Society*

*Binbirdirek Mh. Dostluk Yurdu Sk. 1/3*

*Sultanahmet/ Fatih*

*Istanbul 34110*

*(Amendment: 21.2.2001 – 4630/23; 14.7.2004 – 5217/17) 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.

(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.

Amending legislation is currently under consideration which would provide for the distribution of part of the remuneration to the right holders and establish an operator fee.

#### Scope of levy

Private use

IFRRO member(s)?

**YAYBIR** (RRO member)

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Sultanahmet/ Fatih

Istanbul 34110

## ACRONYMS AND ABBREVIATIONS

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### Acronyms

<b>Acronym</b>	<b>Meaning</b>
CJEU	Court of Justice of the European Union
CMO	Collective management organization
D	disputed
DRM	Digital rights management
EC	European Commission
EU	European Union
GDP	Gross domestic product
IFRRO	International Organization of Reproduction Rights Organizations
IT	Information technology
MFD	Multifunctional device
NCI	levy in law but not currently implemented
NS	not specified in law
NYI	levy in law but not yet implemented
PC	Personal computer
PDMA	Deutsches Patent- und Markenamt
RRO	Reproduction Rights Organization
TI	Text and image TPM Technological protection measures
VG	Verwertungsgesellschaft
WIPO	World Intellectual Property Organization
ZPÜ	Zentralstelle private Überspielungsrechte

### Abbreviations

NYI = levy in law but not yet implemented

NCI = levy in law but not currently implemented

NS = not specified in law

D = disputed



