

International Survey on Text and Image Copyright Levies



2015 Edition

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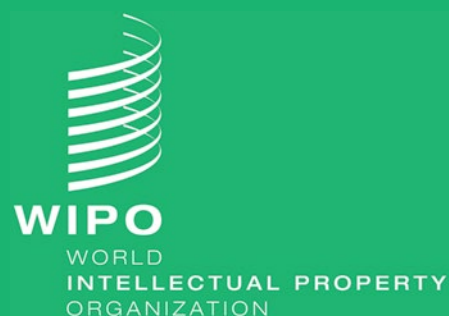
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EXECUTIVE SUMMARY

This is the second 'International Survey of Text and Image Copyright Levies', jointly published by WIPO and IFRRO. It builds on and updates the first survey, which was published in May 2014, 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. It also shows how and why TI levies are different from audio and audio-visual private copying levies. As with the first survey, it uses data from IFRRO members, collated and presented by Paul Greenwood as consultant, with the assistance of representatives of IFRRO members and the IFRRO Secretariat. The methodology and scope are unchanged.

TI levies represent 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. 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 the operators or providers of copying devices on a large scale, 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, multi-function machines, scanners or printers. The levy on such devices or media is normally collected by RROs (Reproduction Rights Organizations), the 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 remuneration for the copying of text and image works as part of the private copying levy, which is normally collected by another CMO.

Currently, there are 30 countries whose legislation provides for TI levies, although the levy scheme is not yet operational in 12 of these. Today, TI levies exist in 16 European Union (EU) Member States as well as five non-EU European countries. Since the last report new legislation has extended the scope of the TI levy system in Portugal and the Netherlands. New legislation in Austria provides detailed criteria for tariff-setting and other matters, although whether these will help or hinder the operation of the levy system remains to be seen. The survey analyzes the provisions of the EU Copyright Directive of 2001 concerning TI levies, and summarizes seven recent CJEU decisions clarifying those provisions, as well as one pending case. Additionally, legislation is currently proposed in Korea that will establish the first such system in an Asian country.

The second report updates the data in the first report 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 and 2014 collections, making extensive use of comparative tables. It shows that TI levy collections amounted to approximately €179 million worldwide in 2014. Approximately €162 million (90.5%) resulted from the equipment levy, €17 million (9.5%) from the operator fee. While the 2014 figure shows a substantial increase of 26% on the total for 2012, the last of the years covered by the first survey, it should be appreciated that, to some extent, the increase is due to back payments following the clarification of liability for the equipment levy on devices such as scanners. Allowing for such distorting factors, the figures for the last eight years show only a modest upward trend.

The report also analyzes the highest levy collections by country from 2007 to 2014, concluding that collections have been roughly constant for the operator fee during this period, varying within a band of 4% for the operator fee, but with much more volatility for the equipment levy, attributable mainly to developments in Germany. It also analyzes the 2014 collections in per capita terms, ranging from €0.002 per head of population in Burkina Faso and Portugal to €2.06 in Belgium.

RROs, along with other players on the national and international level, are constantly striving to improve the levy systems. The IFRRO-WIPO reports aim to provide some of the facts and analysis that will enable informed discussion of TI levies and their place in a system of fair remuneration of authors and publishers.

There is clearly a demand for information on this subject. The 2014 edition was downloaded 10,808 times from the WIPO site. In addition, paper copies have been distributed at IFRRO and WIPO events in 2014 and 2015, and the publication was translated into Korean.

1. GENERAL ANALYSIS

1.1 Introduction

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

- Commentary on developments in, for example, legislation and court proceedings since the publication of the first report
- Data on collections, distributions and tariffs for 2013 and 2014 which was not available at the time of publication of the first report

The various aspects of TI levies that were detailed in the 2014 survey are also included, in summary form, in the present survey, with updates as appropriate. Please refer to the first survey for more detailed discussion. The main changes since the last report are summarized in section 1.2.

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. Together with its predecessor, this report is intended to be a comprehensive and authoritative source of information on TI levies, helping to address the many misconceptions about such levies and to identify areas where the TI levy system is in need of improvement, either in general or with reference to specific countries where the system has not yet been implemented or does not work so well as in others. It is hoped that both reports will be useful in negotiations on levies between right holder organizations and the TI industry, in work on levies by the EC, in developing government policy, and perhaps above all, in helping to educate and inform the public, who constitute the user community in the many levy countries.

Currently, the legislation in 30 countries worldwide provides for a TI levy system (29 in 2014). 21 (20) of these countries are in Europe, with 16(15) being members of the European Union (EU). TI levy systems, and the jurisprudence relating to them, 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 doing so. It should be noted that draft legislation in Korea provides for a private copying levy on devices and media.

1.2 Main Changes Since Last Report

The main changes since the last report are:

- An important judgement of the CJEU, in the REPROBEL case, was delivered on 12 November 2015 (See 1.6).
- Three new issues concerning TI levies are explained and analyzed:
 - Illegal copies (1.10.7)
 - Copies from an illegal source (1.10.6)
 - Questions concerning RRO distribution schemes (1.11).
- A new tariff scheme for the Portuguese equipment levy, which has previously not been fully implemented, was introduced in law in June 2015 (3.1.14). The scheme includes an overall cap on the total levy remuneration from both TI and AV levies.
- The data in the country reports and tables for operational levy schemes now goes up to 2014, rather than 2012 as in the previous report.
- Extensive additions to the Austrian legislation concerning TI levies, with detailed criteria for tariffs, repayments and a cap on total collections, are reproduced in full (unofficial translation) in the country report on Austria (3.1.1).

1.3 Features of Text and Image Levies

1.3.1 Equipment Levies

As set out in more detail in the previous report, TI levies are a means of securing compensation or remuneration for the right holders (authors and/or publishers) for copying from 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 right holders, the right holders 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 remuneration 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 unacceptable intrusion into that sphere
- However, such exceptions have a negative effect on the commercial exploitation of works, for which the right holders should receive equitable remuneration.

The only practical way of collecting the remuneration involved, therefore, is to do so 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, tablets, etc.) that are capable of such copying, either on or from analogue 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 as to which devices and media 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 (See also digest in the chart¹ below).

Devices and media capable of copying TI works only

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

¹ Note on abbreviations used in Figures
 NYI= levy in law but not yet implemented
 NCI= levy in law but not currently implemented
 NS = not specified in law
 D = disputed
 (D)= tariff disputed
 NA = not applicable
 No info= information not available
 TI = text and image
 A/AV= audio and/or audio-visual

At the same time, the tariff on each type of device or support varies from country to country (See table 10). In most cases, the tariffs are unchanged from 2012, with only slight changes in the remainder, except for Portugal, where comprehensive new tariffs were set in June 2015 (Section 3.1.14).

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, blue ray, 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 devices as well as media, but here again there is considerable variation from country to country. The TI levy on devices was historically known as the 'equipment levy' and in this report 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.² 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 RROs by 'large-scale users' of copying devices. In many ways the operator fee resembles the 'site license' of voluntary licensing schemes.

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, 11 have an operator fee as well as an equipment levy. See also the digest in the chart below.

Countries with TI levies

Levy on TI devices	Algeria, Austria, Belgium, Bosnia Herzegovina (NYI), Burkina Faso, Cameroon, Croatia, Czech Republic, Dominican Republic (NYI), Ecuador (NYI), France, Germany, Ghana (NYI), Greece, Hungary, Kosovo (NYI), Lithuania, Luxembourg (NYI), Moldova (NYI), Montenegro (NYI), Nigeria (NYI), Paraguay (NYI), Poland, Portugal, Romania, Serbia (NYI), Slovakia, Slovenia, Turkey (NYI)
Levy on A/AV + TI devices with TI share	Belgium (NYI), Czech Republic, Dominican Republic, France, Germany, Ghana, Kosovo (NYI), Lithuania, Luxembourg (NS), Netherlands (NYI), Nigeria, Paraguay, Portugal, Slovakia
Levy on TI media	Bosnia Herzegovina, Greece, Luxembourg (NS), Nigeria, Poland, Romania, Serbia
Levy on A/AV + TI media with TI share	Belgium (NYI), Czech Republic, Dominican Republic, France, Germany, Ghana, Lithuania, Luxembourg (NS), Netherlands (NYI), Nigeria, Paraguay, Slovakia, Turkey
Operator fee	Austria, Belgium, Bosnia Herzegovina(NYI), Burkina Faso, 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 11 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. See also the digest in the chart below.

² 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

Copy shops	Austria, Belgium, Croatia, Czech Republic, Germany, Greece, Hungary, Lithuania, Poland, Portugal, Slovakia, Slovenia
Schools	Austria, Belgium, Czech Republic, Germany, Hungary, Lithuania, Portugal (sold copies), Slovakia
Higher education institutions	Austria, Belgium, Czech Republic, Germany, Hungary, Lithuania, Portugal (sold copies), Slovakia
Public administration	Belgium, Czech Republic,
Businesses	Belgium, Czech Republic, Lithuania
Libraries	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 in section two 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 second report on TI levies has the same scope and methodology as the first report.

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 publically available, for example through the annual Members' Directory and the information about IFRRO members made available on the organization's website, www.ifrro.org

The data from IFRRO members and other sources has been 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 of REPROBEL, Belgium, as well as from the IFRRO Secretariat.

In many of the 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 concerning levies.

While the compilers of this report have taken every care to ensure the accuracy of the data contained in it, neither they nor the publishers can accept any responsibility or liability for any mistakes or inaccuracies.

1.5 Overview by continent

Europe

TI levies currently exist in 16 EU Member States out of a total of 28, and five 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, Ghana and Nigeria. They are currently only operational in 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, if they so choose, adopt in their national legislation. This includes exceptions to the reproduction right, and these exceptions underpin levies. The Copyright Directive also provides that if member states adopt certain exceptions, they must also provide for ‘fair compensation’ for the right holders. An analysis of the impact of the Copyright Directive on TI levies is given in the next section. There have been no new reports or initiatives from the European Commission directly concerning levies since the 2014 report.

The opposition of manufacturers and importers to the European levies has resulted in a great deal of litigation concerning levies in recent years. Not only have many cases been taken to all levels of the relevant national courts (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). This has clarified and confirmed the interpretation of the directive on some key issues concerning levies. Recent landmark rulings, either in the TI field or with impact thereon, 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’** (462/09, 16/6/2011): collection of fair compensation (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’** (C 521/11, 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): no fair compensation is payable on copies from an illegal source
- **Copydan Bandkopi v Nokia: ‘Copydan’** (C-463/12): levies can be applied a) on multi-function 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 right holders have authorized the copying, including against payment of a license fee. However, d) no fair compensation is payable for copying from an illegal source

The most important recent judgement of the CJEU was in:

- **Reprobel v. HP 'Reprobel'** (C-572/13): here four questions were referred to the CJEU by the Brussels Court of Appeal. The questions were as follows):
 1. Must the term "fair compensation" contained in Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 be interpreted differently depending on whether the reproduction on paper or a similar medium effected by the use of any kind of photographic technique or by some other process having similar effects is carried out by any user or by a natural person for private use and for ends that are neither directly nor indirectly commercial? If the answer is in the affirmative, on what criteria must that difference of interpretation be based?
 2. Must Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 be interpreted as authorizing the Member States to fix the fair compensation payable to right holders in the form of:
 - (a) lump-sum remuneration paid by the manufacturer, importer or intra-Community acquirer of devices enabling protected works to be copied, at the time when such devices are put into circulation on national territory, the amount of which is calculated solely by reference to the speed at which the copier is capable of producing a number of copies per minute, without being otherwise linked to any harm suffered by right holders; and
 - (b) proportional remuneration, determined solely by means of a unit price multiplied by the number of copies produced, which varies depending on whether or not the person liable for payment has cooperated in the collection of that remuneration, which is payable by natural or legal persons making copies of works or, as the case may be, in lieu of those persons, by those who, for consideration or free of charge, make a reproduction device available to others?

If the reply to this question is in the negative, what are the relevant and consistent criteria that the Member States must apply in order to ensure that, in accordance with European Union law, the compensation may be regarded as fair and that a fair balance is maintained between the persons concerned?

3. Must Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 be interpreted as authorizing the Member States to allocate half of the fair compensation due to right holders to the publishers of works created by authors, the publishers being under no obligation whatsoever to ensure that the authors benefit, even indirectly, from some of the compensation of which they have been deprived?
4. Must Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 be interpreted as authorizing the Member States to introduce an undifferentiated system for recovering the fair compensation due to right holders in the form of a lump-sum and an amount for each copy made, which, implicitly but indisputably, covers in part the copying of sheet music and counterfeit reproductions?

The conclusions of the court with respect to these questions were as follows:

1. Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society must be interpreted as meaning that, with regard to the phrase 'fair compensation' contained in those provisions, it is necessary to draw a distinction according to whether the reproduction on paper or a similar medium effected by the use of any kind of photographic technique or by some other process having similar effects is carried out by any user or by a natural person for private use and for ends that are neither directly nor indirectly commercial.
2. Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 preclude national legislation, such as that at issue in the main proceedings, which authorizes the Member State in question to allocate a part of the fair compensation payable to right holders to the publishers of works created by authors, those publishers being under no obligation to ensure that the authors benefit, even indirectly, from some of the compensation of which they have been deprived.
3. Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 preclude, in principle, national legislation, such as that at issue in the main proceedings, which introduces an undifferentiated system for recovering fair compensation which also covers the copying of sheet music, and preclude such legislation which

introduces an undifferentiated system for recovering fair compensation which also covers counterfeit reproductions made from unlawful sources.

4. Article 5(2)(a) and Article 5(2)(b) of Directive 2001/29 preclude national legislation, such as that at issue in the main proceedings, which introduces a system that combines, in order to finance the fair compensation payable to right holders, two forms of remuneration, namely, first, lump-sum remuneration paid prior to the reproduction operation by the manufacturer, importer or intra-Community acquirer of devices enabling protected works to be copied, at the time when such devices are put into circulation on national territory, and, second, proportional remuneration paid after that reproduction operation and determined solely by means of a unit price multiplied by the number of copies produced, which is payable by the natural or legal persons who make those copies, in so far as:
 - the lump-sum remuneration paid in advance is calculated solely by reference to the speed at which the device concerned is capable of producing copies;
 - the proportional remuneration recovered after the fact varies according to whether or not the person liable for payment has cooperated in the recovery of that remuneration;
 - the combined system, taken as a whole, does not include mechanisms, in particular for reimbursement, which allow the complementary application of the criterion of actual harm suffered and the criterion of harm established as a lump sum in respect of different categories of users.

In relation to conclusion 3 above it should be noted that the CJEU did not touch upon the issue of the remuneration of publishers on the basis of national law.

The judgement was delivered as this survey was being finalized. Further analysis and comment will be included in the next survey.

Finally, the following case is pending before the CJEU at the date of publication:

- **Vegap/Egeda/Dama: 'EGEDA' 2014** (whether state funding as an alternative to a levy can provide fair remuneration in accordance with the Copyright Directive)

Where appropriate, this report will briefly summarize these rulings and pending issues in more detail in the Liability section. Note that, of the cases mentioned above, only VG WORT and REPROBEL directly concern article 5.2.a of the Directive. The rest directly concern article 5.2.b.

1.7 Legal Background for Text and Image Levies

As described in more detail in the first report, two articles of the EU Copyright Directive either relate (5.2.a) or can relate (5.2.b) to TI levies:

- 5.2.a permits exceptions or limitations 'in respect of reproductions on paper or any similar medium, effected by the use of any kind of photographic technique or by some other process having similar effects... provided that the right holders receive fair compensation'
- 5.2.b permits exceptions or limitations 'in respect of reproductions on any medium made by a natural person for private use and for ends which are neither directly nor indirectly commercial, on condition that the right holders receive fair compensation'

5.2.a focuses on the end product (a copy on paper or similar medium) and the technique (any kind of photographic technique or some other process having similar effects), whereas 5.2.b applies to any end product and technique, but focuses on who is doing the copying and for what purpose. 5.2.a says nothing about who can benefit from the exception or what the purpose of the copying should be. Thus it is not restricted to natural persons and can apply, for example, to 'own use', or internal copying within companies, state bodies or institutions, libraries, or educational/scientific use.

5.2.b is known as the private copying exception and underpins the European private copying levies for audio and audio-visual works. However some argue that it can also cover private copying of text and image works, even in cases where the said copying results in an end product on paper ('on any medium'), although this is

disputed by others (e.g. Attorney-General Cruz-Villalon in his recent opinion on the Reprobel case.). 5.2.a, by contrast, only applies to copying text and image works.

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), 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 exactly what own use or internal copying is paid for by the levy. Because of this, in 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 like is not being compared with like.

Two factors have contributed to a degree of legal uncertainty concerning European levy systems since 2001:

1. The existing levy systems were not introduced following, or as a result of, the passage of the Copyright Directive. Rather, they were already in place in most cases. Usually, each country simply judged its existing scheme to be in accordance with the Directive.
2. For a long time the exact interpretation of the Directive in relation to levy systems was in doubt, as there were few decisions of the European court (CJEU) relating to them. This lack has been largely rectified in the last few years and the position under European law is now much clearer, although several important issues are very much still open.

As with its predecessor, it is beyond the scope of this report to give a detailed account of all the CJEU decisions in relation to TI levies in the last few years, but some of the most important cases are mentioned in relation to specific topics in the section on liability issues.

EU member states are therefore free under the 2001 Copyright Directive to introduce exceptions within 5.2.a and/or 5.2.b provided the right holders receive 'fair compensation'. The Directive does not specify how that fair compensation is to be provided, or what the exact level should be, although the CJEU has confirmed in Padawan and other cases that levy schemes are a legitimate way of doing so.

Section 2, Table 2 summarizes the exceptions covered by levies in the various countries that use them. See also the digest in the chart below.

Scope of exceptions covered by the levy

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

Table 8 summarizes the institutions and bodies subject to the operator fee, 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 assist in the practical implementation of the system, while the absence of these factors may hinder its development:

1. A suitable Reproduction Rights Organization or RRO to administer it must exist, and must have been authorized.

2. Where there is a RRO duly authorized to collect the levy, both the devices or media subject to the levy, and the tariff to be applied, must be established before collections can begin. The different ways in which this can be achieved is discussed in the next section.
3. The RRO administering the levy must be able to obtain data as to the entry into the national market of devices and media, to enable it to identify and invoice the entities liable to pay the levy. The extent to which national laws provide sufficient provision for this varies.

1.9 Tariff Setting

1.9.1 How Tariffs Are Set

The main points as to tariff setting are summarized below. For more details, please see the 2014 report.

The way in which tariffs can be established varies between the following approaches:

1. In some countries, for example Germany, copyright law only states the general principles to determine whether a device or medium is subject to the levy and, if so, what tariff should apply. Until 2015 this was the case in Austria also, but new legislation in 2015 provides a set of detailed criteria as to the tariffs.
2. In some countries, the devices and media subject to the levy, and in some cases the tariffs, are established by secondary legislation or regulation, with the underpinning copyright legislation again only stating some general principles.
3. In most of the cases where there is provision in the law for a levy system, but this has not yet been implemented (see Table 1), the state regulations or decrees setting out which devices and media are leviable and which tariffs apply have not yet been made.
4. In some countries, the devices and media subject to the levy, and sometimes also the tariffs, are specified in the country's copyright law (e.g. in Greece). While this approach avoids the danger of delay, it is more difficult to introduce new levies on devices or media appearing on the market for the first time, as a result of the lengthy legislative process. Table 9 in section 2 sets out how tariffs are set in the various countries with functioning TI levy schemes. See also the digest in the chart below.

How equipment levy tariffs are set

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 potential 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 Tariff*

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, Slovenia – scanners or Germany – printers.
2. The tariff is a varying fee according to the speed or capacity of devices/media of the same type. For example, Belgium – copiers and multifunctional devices; Austria and Germany – copiers; or Czech Republic – printers.
3. The tariff is a percentage of the import or retail price of the device or medium. For example, Hungary and Romania – all devices levied.
4. The tariff is a combination of the above, for instance a varying fee according to the speed or capacity 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.

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

Section 2, Table 9 summarizes how levy tariffs are set in the 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 similar principles to those for the equipment levy, although tariffs and fair remuneration have been analyzed by the CJEU more in relation to the equipment levy than in relation to the operator fee.

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 on the basis of 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 Concerning Text and Image Levies*

A number of issues have figured in debates about levies in the last few years. Most affect both private copying and TI levies, but sometimes in different ways. The issues listed below were discussed in greater detail in the 2014 report, but the issues of copies from an illegal source and illegal copies (Sections 1.10.6 and 1.10.7) are discussed for the first time here.

1.10.1 *The Issue of Double Payment*

It seems self-evident that, where copying is subject to an existing license, a levy fee should not apply. It is argued therefore that the results of statistical surveys underpinning tariffs should take account of licensed copies. Otherwise the consumer would be paying twice for the same copies. However, the CJEU has made it clear that this argument is specious.

In view of the VG WORT ruling, it is necessary to ask with each exception or limitation in national law, to what extent, if any, the exclusive reproduction right has remained untouched by the existence of the exception or limitation. The latter should 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.

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 to pay extends beyond the manufacturer or importer if they are unknown or fail to supply information. This is an important safeguard in enabling RROs to administer the levy effectively. However, to switch the primary liability to pay the equipment levy from the manufacturer or importer to the retailer, as Mr Vitorino has suggested, would, in the view of RROs administering levies, be impracticable, and would greatly increase administrative costs.

Another issue which 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 and other judgements that in this situation the levy is payable by the foreign retailer, not the domestic consumer (see also the discussion concerning exemption and refund schemes on pages 30–31). Section 2, Table 3 summarizes the position in the 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 multi-functional 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 right holders 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. In Germany, a consultation process is underway for a new Administration of Copyright Act, which may include provisions to speed up and improve the tariff setting process. In Belgium, the tariffs set in the 1997 reprography royal decree have been disputed by (inkjet) manufacturers and importers before the courts of law. Recently, the court of appeal of Brussels has referred preliminary questions to the CJEU (in the REPROBEL case, which has recently given its answers (see 1.6)). These proceedings will take years to conclude. A new royal decree, aimed at both implementing the Copyright Directive by setting the date of entry into force of the underpinning new legislation and setting new tariffs in the field of reprography, has already been on the table for several years.

The Copyright Directive requires all the circumstances of the case to be considered in relation to assessing fair compensation, and harm is cited in the Copyright Directive as only one possible (albeit important) criterion. In addition, there is the issue of possible or potential harm and not actual harm, as explored in the Padawan ruling of the CJEU:

'Where the equipment at issue has been made available to private persons for private purposes it is unnecessary to show that they have in fact made private copies with the help of that equipment and have actually caused harm to the author of the protected work' (C-467/08 at para. 54)

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, but in some cases they go further. 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. This seems both arbitrary and difficult, if not impossible, to implement. The legislation also provides that, for the period 2016 to 2019, the total annual payments for the TI levy (equipment levy and operator fee) together with the levy on storage media which can only be used to copy audio and AV works must not exceed €29 million net of refunds. This provision can be criticized on a number of grounds:

1. The maximum amount of €29 million seems arbitrary, and there is no justification for the amount in the supporting legal documents.
2. The two levies are distinct and are administered by different CMOs; the maximum of €29 million for both together seems to be arbitrary.
3. A limit of €29 million for each of four succeeding years leaves no room for increased usage during that period. If collections are initially within the limit, but then exceed it in the following year(s), this can only be due to an increase in sales of devices and/or media, which should be compensated.
4. Tariffs need to be set in advance, whereas total net collections can only be ascertained in arrears, normally during the following year.
5. The requirement that refunds must be taken into account seems illogical, as the amount subsequently refunded has nothing to do with the amount of fair compensation *prima facie* due to the right owners; moreover, the total refunded may not be known until long after the end of the year of collection.

All in all it seems doubtful whether the new rules for tariff setting will really facilitate the negotiation of fair tariffs

As previously mentioned, an overall cap, of €15 million has also been set by new legislation in Portugal (see Section 3.1.14). This results in a per capita figure of €1.44 compared with €2.93 for Austria (see table 16). However the situation in Portugal can be seen as different from that in Austria, in that the tariff per device is set by law, with provision for any excess over the cap to be used for cultural purposes, whereas in Austria, tariffs are supposed to be negotiated by reference to the complicated and confusing criteria in the new law. Moreover, the application of the Portuguese equipment levy to digital as well as analogue devices should provide for a dramatic increase in the TI levy collections compared with past levels.

1.10.5 *Professional Use*

The CJEU Padawan ruling directly concerned (Spanish) audio and audio-visual 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.

However, the decision has only limited application to TI levies since:

1. 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.
2. 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, that part of the copying from protected works is carried out from illegal sources (i.e. what is copied has been put there without right holder 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* and *COPYDAN*. It has concluded that copies from an illegal source must not be covered by the levy.

1.10.7 *Illegal Copies*

It is also true that at least 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 right holders 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 can occur 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 is 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 in the first place by the foreign seller, not by the end-user. 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, as the EUCJ made clear in its judgement in the *Amazon* case.

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 not yet ruled on ex ante exemptions schemes, unlike reimbursement schemes.

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. Problems may arise in such a case because under existing national laws the notions of importer and import, (or intra-communal acquirer/acquirement) are defined in widely differing ways in different countries, as are the notions of export and intra-communal sales. Further, existing laws may not envisage the specific situation of cross-border online sales.

So 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 a refund of the levy in the other country. This cannot, however, apply where there is no levy in the country of the online seller, so that the RRO administering the levy needs access to data about such sales in order to administer the levy scheme. This is an area where improvement is needed, both in relation to national laws and in developing co-operation between RROs. The problem is currently being examined by a task force within IFRRO's Equipment Levy Forum.

The idea of a pan-European agency or organization that would both assist claims for a refund in the case of cross-border sales and help CMOs to keep track of cross-border transactions has also found favor on all sides. It would appear to be in the interests of all concerned to ensure this concept is explored and implemented, especially in view of the ever-increasing volume of cross-border and online transactions.

The new Austrian legislation includes detailed rules on repayment claims (see country report).

1.10.9 *Visibility of the Levy*

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

- Firstly, it is important that those liable to pay a levy should be able to get information as to the amount of the levy applicable to different product types in the country concerned. The obvious way to achieve this is for the information to be available on the website of the RRO and/or in the underpinning legislation or regulations. The publication of tariffs on their website is standard practice for RROs.
- Secondly, it is also advisable that the amount of the levy should be clearly stated on any invoices relating to the product, from the first offering on the national market onwards, culminating on the invoice to 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 whether there is a levy system, or what the levy amounts are.

1.10.11 *Relationship between the Operator Fee and the Device/Equipment Levy*

As can be seen from Table 16, the relative importance of the two types of TI levy varies considerably. For example, in Belgium, the operator fee represents roughly 42% of total TI levy collections, in Hungary it is 46%, but in Germany it is only about 4.9%, and in Poland about 1%. Overall, the operator fee accounted for 9.48% of 2014 levy collections. The relatively high percentage in Belgium is partly because there the range of institutions and bodies covered by the operator fee is extensive. For many years the industry side has argued that it is unfair to have both an equipment and an operator fee because an element of double payment is involved. Such arguments are easily refuted by reference to the relevant copyright legislation and jurisprudence, which normally makes it clear that the two levies are complementary rather than overlapping. However, this argument has recently arisen in a rather different guise in the context of the second question referred to the CJEU in the REPROBEL case (1.6).

1.11 *A Few Aspects of Distribution*

1.11.1 *General Principles*

TI levies result in global lump sums being paid to RROs or to other CMOs on behalf of authors and publishers. Their task is to ensure that this remuneration, after the payment of administrative fees, is distributed, on at least an annual basis, to the authors and publishers whose works have been copied under the exceptions remunerated by the levies, and/or to see that this money is used for general purposes for the benefit of those authors and publishers. They must carry out this task according to published rules which are fair to all concerned. Since, by definition, the RRO has no data as to the extent 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 in the case of operator fees, it must rely on surveys to distribute the remuneration.

With operator fee remuneration more information may be available as to the copying the remuneration relates to 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 the result of either the identification of the work by sample surveys, or its identification as 'available on the market' in the period to which the distribution relates.

Market availability may be established by a reporting system, where right holders report their recently published works to the RRO, or by databases, or a combination of the two.

2. On a non-title specific basis, where remuneration within each category of work is allocated in other ways than by reference to specific titles, for example by level of publisher turnover.

- The remuneration may be used for general purposes. This is often mandatory by law (see the discussion of social and cultural deductions below).

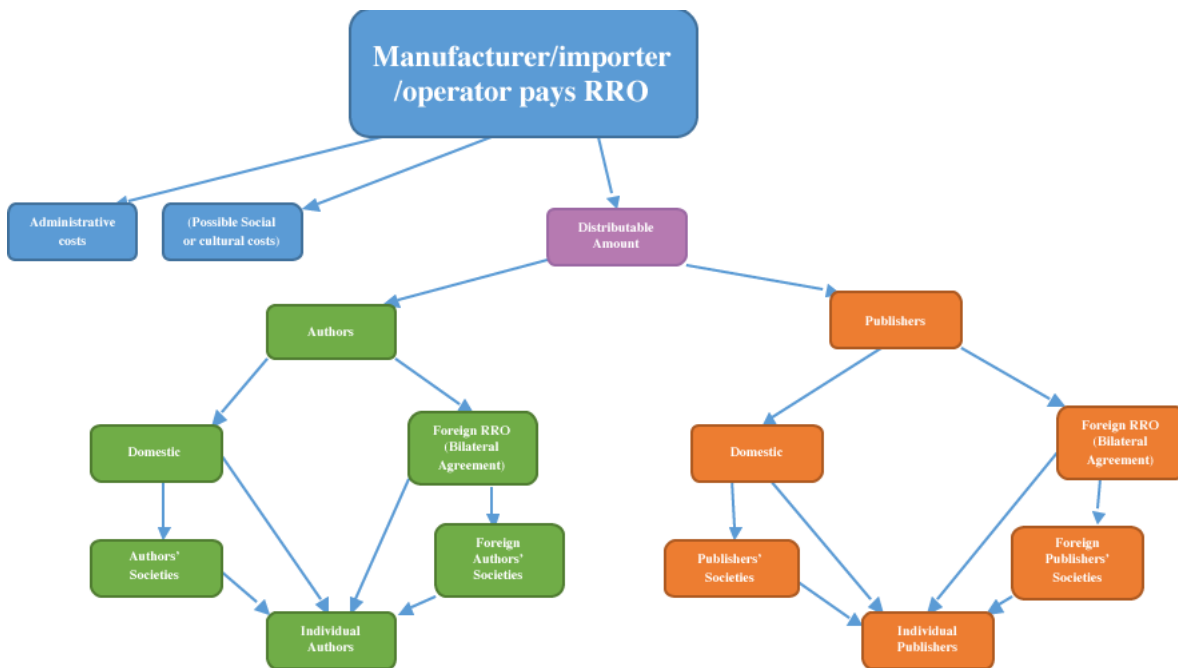
1.11.2 Responsibility for Distribution Between CMOs

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, other CMO or right-holder 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. Repobel in Belgium, albeit via its member CMOs), some are distributing remuneration passed on by other RROs or other CMOs (e.g. VG Bild-Kunst in Germany), some are distributing remuneration from both sources (e.g. VG WORT in Germany).

Most RROs administering TI levy remuneration are doing 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 figure illustrates, in schematized form, typical patterns of distribution of levy remuneration 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 are assigned to authors and half to publishers. An overview is given in Table 13 in 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 how much of the levy remuneration belongs to authors, and how much to publishers. This is known as the author-publisher split. Where the author-publisher split is not pre-determined by law, this is one of the first questions the distribution plan must address. The plan may provide for a uniform split, or for different splits

for different types of work (for example in VG WORT a 50:50 split applies to scientific works, a 70:30 split in favor of authors in other cases.)

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, according to administrative costs in the year in question, as for example with VG WORT in Germany, or be a set fee according to law, as for example in Romania. The maximum administrative fee may also be prescribed by law, as in Poland, where the limit is 20%, and Belgium, where it is 15%. The administrative fees of RROs administering TI levies in 2014 are set out in Table 15.

It should be noted that the costs relate in most cases to the overall administration carried out by the RRO and not just to 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 right holders 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 from year to year and sector to sector, as determined by the governing bodies of the society (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 right holders benefit from the social and cultural funds on a fair and non-discriminatory basis.

1.11.7 Outsiders and Foreign Right Holders

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 right holders. 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 to national non-members, it is important that the fact that the RRO is distributing levy remuneration should be publically known within the country concerned, and that all national authors and publishers should have an equal opportunity to be represented by it. Typically, national legislation or regulation has provisions to ensure that this is the case.

It would be outside the scope of this report to detail the distribution rules of RROs responsible for the distribution of TI levy collections. These rules may follow explicit provisions in national law, for example the German Administration of Copyright Act, or in the statutes of the RROs, or both. The following very general principles apply:

1. Distribution should be in accordance with clear, published rules
2. Distribution should be based on objective and non-discriminatory parameters
3. The rules should be in accordance with the requirements of national law
4. Insofar as the rules are not determined by national law they should be democratically determined by the members of the RRO.

1.12 Trends

The trends reported in last year's report continue:

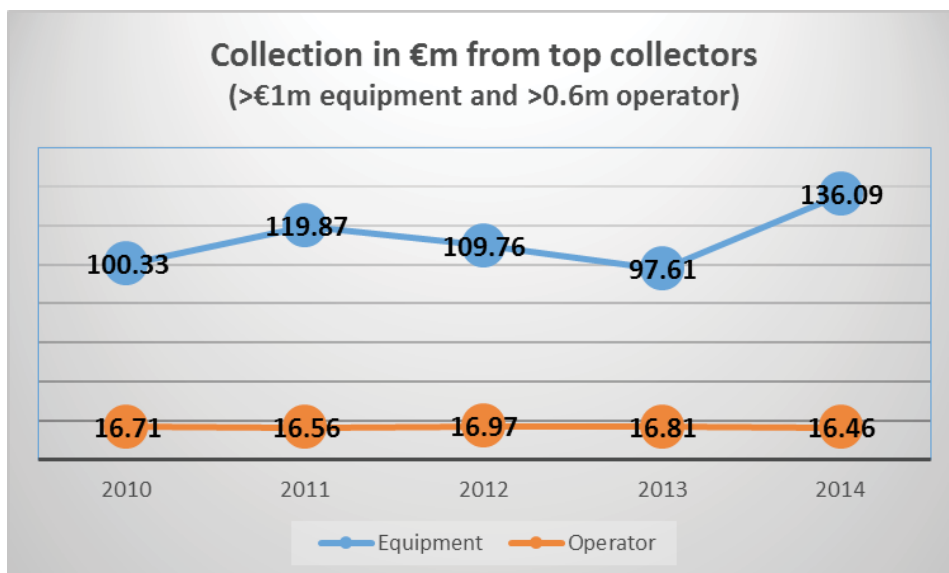
1. A steady increase in the number of countries worldwide that have adopted TI levy schemes. As previously noted there are now 30 countries with TI levies.
2. Levy systems have adapted to technological change, from a situation where only photocopiers could copy text and image works, to a situation where 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 the right-holders 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.
4. A less positive trend over the past twenty years or comes in the long delays in some countries between the provision of TI levies in legislation and the schemes becoming operational.

With **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. 2012 TI levy collections from the five countries where the schemes have recently become operational (Burkina Faso, Cameroon, Croatia, Ghana and Lithuania) accounted for only about €338,000, or 0.24%, of the total worldwide collections of approximately €142 million.

Note: the 2012 figures are repeated here since the 2014 collections data from Cameroon and Burkina Faso is not yet available

Tables 17 and 18 show the countries with the highest equipment and operator fee collections between 2007 and 2014. Note that these are all countries with an equipment levy on those devices and media that can only be used to copy text and image works, rather than audio-visual works, so that, for example, the French collections are not included. The operator fee has been relatively flat, fluctuating within a range of about 4%. The equipment levy collections have shown more fluctuation, even after making allowance for the distorted figures for Germany in 2009 and 2007, and to some extent for 2013 and 2014. The latter case is connected mainly with the resolution of the dispute concerning levies on scanners under the law in force until 2007 as a result of the decision of the CJEU in the VG WORT case (see page 19 of the 2014 survey) and the subsequent decision of the BGH in July 2014. After allowing for such anomalies as these, only a modest upward trend may be discerned.

Figure 2: Collection in m€ from top collectors (>€1m Equipment and >€0.6m Operator)



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, more and more storage media are capable of being used to copy TI works, so that existing TI levy schemes are increasingly being expanded from coverage of devices only to coverage of media (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. However, normally only one levy is applied to the 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. That is the case, for instance, in Belgium, where the scheme has been broadened with effect from 1st December 2013. 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. This RRO may then receive a share relating to TI works from the collecting CMO. For example, the new Dutch private copying levy will be collected by Stichting ThuisKopie, which will in the future pass on a share for TI works to Stichting LIRA (3.2.10).

What is important about such levies for the purposes of this report is the percentage of remuneration allocated to the TI sector. In allocating a fair percentage regard should be had for 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, although the figure of €22.39 million (2012 €12.5m) under the French private copying scheme (Table 16) should be noted. This is an area where we expect to see the coverage being extended in the next few years (see Tables 6 and 7, section 2).

A new trend emerging 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. This has been criticized as both arbitrary and illogical. Moreover, it may not be in accordance with the EU Copyright Directive (see country reports and 1.10.4).

1.13 Final Words

TI levies can generate substantial remuneration at low cost, without imposing an undue financial or administrative burden on users or industry.

In 2014 €179 million was collected worldwide for authors and publishers from TI levies. This compares with a total of €142 for 2012, although in comparing the two figures the distorting factors mentioned in the last section should be taken into account.

As pointed out in the 2014 report, areas where there is a need for improvement can be identified from the comparative analysis in the report. One of the most important needs is to reduce the long delays that can occur before a levy system provided for in legislation becomes operational. It is hoped that the first and second reports together will help negotiations and discussions concerning levy reform both at the international and national levels.

Figure 3: Per Capita collection

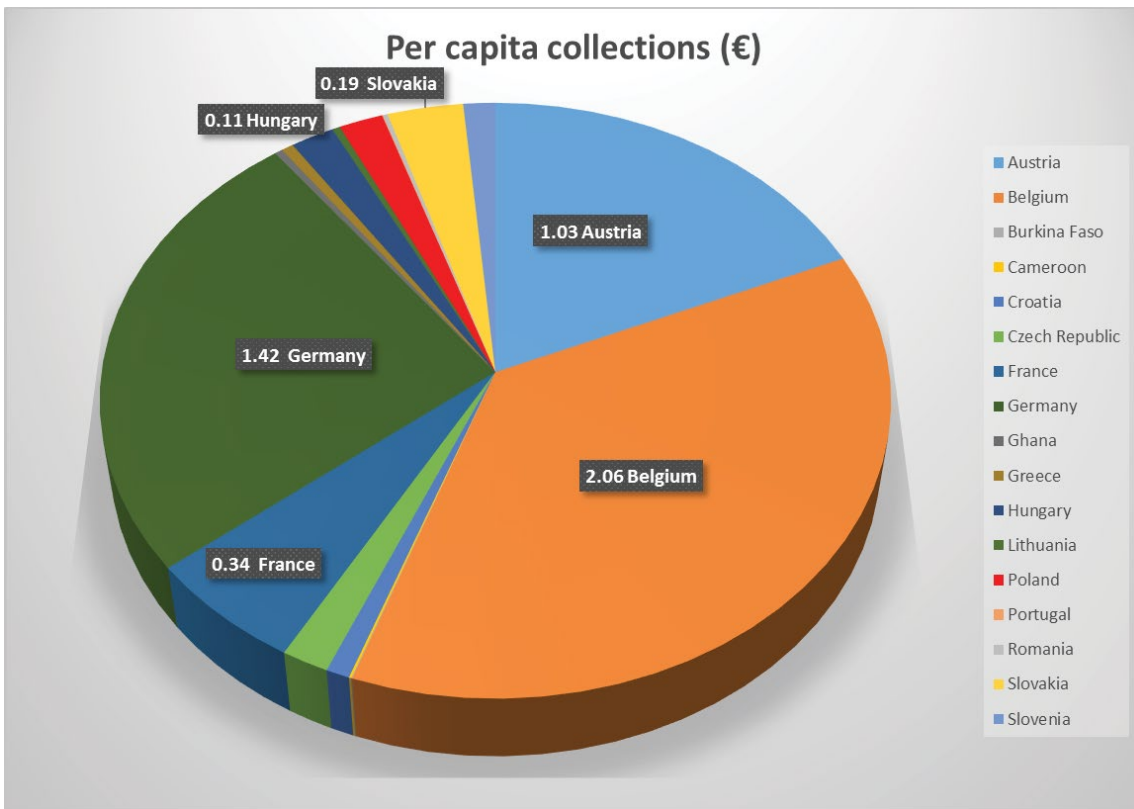
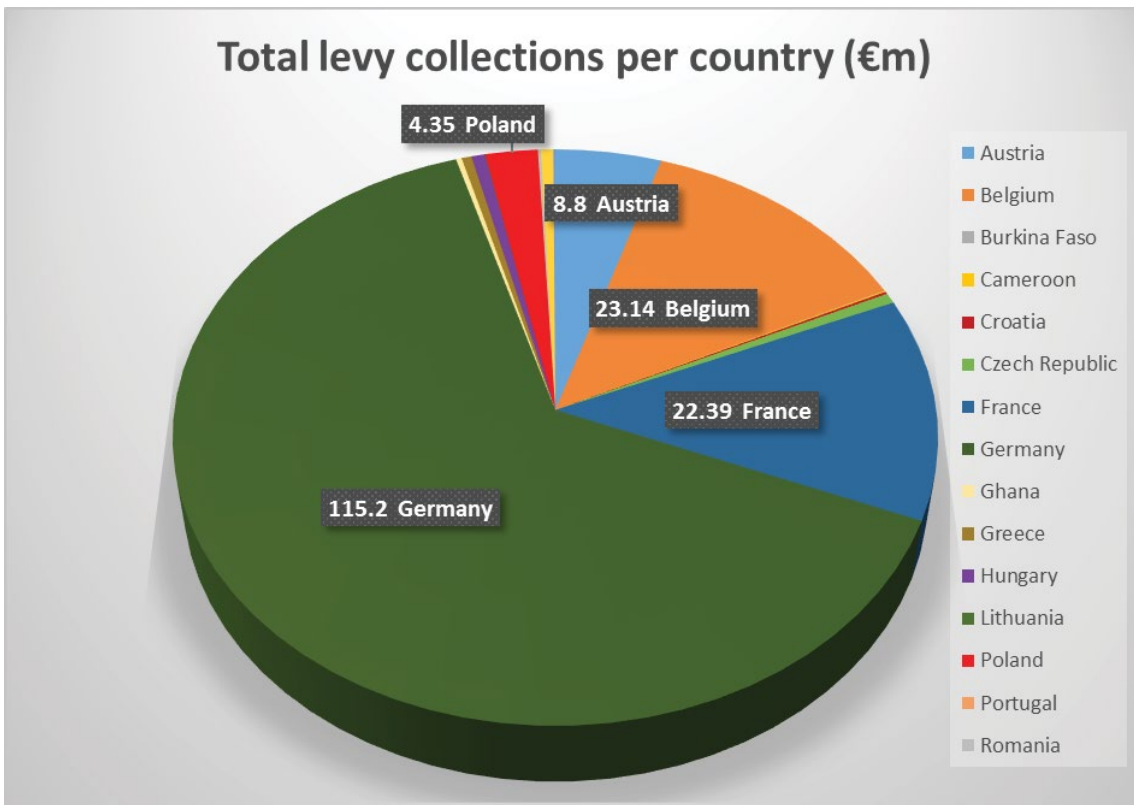


Figure 4: Total collection



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
Algeria	x				
Austria	x				x
Belgium	x	NYI		NYI	x
Bosnia Hercegovina (NYI)	x		x		x
Burkina Faso	x				x
Cameroon	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
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
Algeria		x	
Austria	x	x	x
Belgium	x	x	x
Bosnia Hercegovina (NYI)	x	x	
Burkina Faso	x	x	x
Cameroon		x	
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	
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

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		

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	13.13–1312.52 dep. on speed, cooperation and if bw or color	6.76–47.73 dep. on speed, cooperation and if bw or color	4.88–626.25 dep. on speed and cooperation	12.84–620.45 dep on speed and coop.	5.98% sales price (coop.) EUR 7.00 to 123.76 dep. 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	0.84% import price	As copiers	As copiers	As copiers	As copiers	As copiers	As copiers	N/A
Czech Republic	4.33–487.36.36 dep. on import price	N/A	N/A	N/A	1.62–32.49	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
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	0.6 to 0.7% SP, dep. On speed (color 0.9 to 1%)	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)

Poland	3% sales price	1-2% 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	2.5 per unit	7.5 per unit	5 per unit (ink jet) 10 or 20 dep. On speed (laser)	As copiers
Romania	0.5% import price	N/A	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	N/A
Slovenia	EUR 2.09 to EUR 29.21 dep. on speed	As copiers	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 3.5 per copier per month
Czech Republic	Dilia	.00151 (libraries, museums, educational institutions) .0201 (others) (color double)
France	CFC SEAM (press works only)	NA
Germany	VG WORT (text) VG Bild-Kunst (images)	Copyshops: 88 to 160 according to proximity to higher education institution Retail shops etc. 41.50 Public libraries 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	8 to 115 per copier depending on capacity

Table 11: Operator fee Tariffs (continued)

Poland	KOPIPOL (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 (to retailer)	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 2014 (%)	Social and cultural deductions 2014 (%)	Total deductions (%)
Austria	Literar-Mechana	7.1	5	12.1
Belgium	Reprobel	13.99	0	13.99
Burkina Faso	BBDA	25	10	35
Cameroon	SOCILADRA	No info	33.3	
Croatia	DHK (authors)	N/A	N/A	N/A
	ZANA (publishers)	30	0	30
Czech Republic	Dilia	10.83	0	10.83
France	CFC	11	25 (required by French law)	36
	SOFIA	9	25 (required by French law)	34
Germany	VG WORT (text)	6.4	0.26 (scientific works)	6.66
	VG Bild-Kunst (images)	5.2	Max. 4	Max 9.2
Ghana	CopyGhana	30	0	30
Greece	OSDEL	17	0	17
Hungary	HARR	20	0	20
Lithuania	LATGA-A	35	25 (required by law)	60
Poland	KOPIPOL (authors)	10	0	10
	POLSKA KSIAZKA (publishers)	12.77	0	12.77
Portugal	AGECOP	15.16	20 (required by law)	35.16
Romania	OPERA SCRISA	8	0	8
Slovakia	LITA	25	0	25
Slovenia	SAZOR	No info	0	

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) (2014) Source: World Bank	Per capita collections (€)
Austria	Literar-Mechana	8.10	0.70	8.80	8.534	1.03
Belgium	REPROBEL	13.50	9.64	23.14	11.225	2.06
Burkina Faso	BBDA	2012 0.04	N/A	0.04	17.419	0.002
Cameroon	SOCILADRA	2013 0.12	N/A	0.12	22.818	0.005
Croatia	DHK (authors)	NYI	NYI		4.236	0.05
	ZANA (publishers)	2012 0.096	2012 0.124	0.220		
Czech Republic	Dilia	0.939	0.108	1.047	10.510	0.10
France	CFC (press works only)	1.34	N/A	22.39	66.201	0.34
	SOFIA(literary works)	10.75				
	Sorimage (images) and others	10.30				
Germany	VG WORT (text)	77.43	4.61	115.20	80.889	1.42
	VG Bild-Kunst (images)	31.95	1.21			
Ghana	CopyGhana	0.467	N/A	0.467	24.66	0.02
Greece	OSDEL	0.83	N/A	0.83	26.442	0.03
Hungary	HARR	0.585	0.510	1.095	9.861	0.11
Lithuania	LATGA-A	0.035	0.016	0.052	2.929	0.02
Poland	KOPIPOL (authors)	2.09	0.023	4.35	37.995	0.11
	Copyright POLSKA (publishers)	2.21	0.019			
Portugal	AGECOP	0	0.0067	0.0067	10.397	0.002
Romania	CopyRo/ PERGAM (combined total)	0.244	N/A	0.244	19.910	0.012
Slovakia	LITA	1.00	0.03	1.03	5.418	0.19
Slovenia	SAZOR	0.146	0.018	0.164	2.062	0.08
TOTAL		162.17	17.01	179.18		

Table 17: Equipment levy collections historical analysis: 8 year trends: RROs with collections over €1 million 2014 (figures in € million)

	RRO	2014	2013	2012	2011	2010	2009	2008	2007
Austria	Literar-Mechana	8.10	7.84	7.56	8.16	9.18	7.56	7.56	7.30
Belgium	Reprobel	13.50	12.65	13.41	12.32	12.49	13.42	14.14	12.52
Germany	VG WORT	77.43	49.97	60.28	69.48	61.12	377.15	60.42	29.96
Germany	VG Bild-Kunst	31.95	19.22	21.37	25.24	14.17	95.73	16.89	11.18
Greece	OSDEL	0.83	3.40	2.50	2.88	1.99	2.57	2.01	1.04
Poland	KOPIPOL	2.09	2.19	2.35	0.951	0.944	0.364	0.481	0.458
Poland	Copyright Polska	2.19	2.34	2.295	0.847	0.45	0.401	0.520	0.482
TOTAL		136.092	97.61	109.76	119.87	100.33	497.19	102.02	62.94

Table 18: Operator fee historical analysis: eight year trends for RROs with collections over €0.6 million 2014

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

3. COUNTRY REPORTS

3.1 Countries With Operational Text and Image Levy Systems

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 analogue 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 and universities 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)*
- (4) *In setting the amount of remuneration the following factors shall in particular be taken into account:*
 1. *The playing time in the case of the blank tape levy*
 2. *The capacity of the device in the case of the equipment levy*
 3. *The type and extent of use of the copying device which from the circumstances, in particular the type of establishment, the location of the device and its normal use, is probable, in case of the operator fee*
- (5) *Claims to remuneration under paragraphs (1) and (2) can only be asserted via a collecting society*

(6) *The collecting society shall refund the equitable remuneration:*

1. *to persons who export storage media or copying devices prior to the sale to the end-user;*
2. *to persons who use a storage medium to copy with the consent of the right holders; prima facie evidence shall suffice.*

Additions to Existing Legislation: In Force 1 October 2015:

Copyright Law §42b:

(3) The following persons are liable to pay the remuneration:

1. Whosoever first puts the storage medium or copying device on to the commercial market whether from within or outside the country; whoever offers the storage medium or copying device for sale on a commercial basis, even though 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 Vienna district 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 so as 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 right holders caused by the copying, its effect on the normal exploitation of the work and the legitimate interests of the right holders
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 11% of this price level: insofar an 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. to persons who export the storage medium or copying device to the final user abroad before selling it,
 2. to 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 proved.
- (7) Claims to remuneration under paragraph (1) shall not apply if the person liable to pay the remuneration proves that the storage media are used for copying for own or private use neither by himself nor by a third party
- (8) The collecting society must offer on its website simple, understandable and practical information for the average user concerning making repayment claims and claiming exemption from the obligation to pay remuneration, which is effective and not unduly complicated
- (9) Invoices concerning 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 the Bringing into Circulation of Storage Media and Copying Devices

- 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 §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 2006

- 18a (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 with user organizations concerning the amount of remuneration and the conclusion of a general agreement. 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

- (1) An advisory board shall be established to advise on the device and storage media remuneration under §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 for Justice may make more detailed regulations.

RRO(s) Administering Levy

Text:

Literar-Mechana

Linke Wienzeile 18

Vienna 1060

www.literar.atwww.literar.at

Represents: 17.638 authors, 350 publishers of text works

Scope of Levy

- What copying is covered?
 - Private and own/internal 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
No
- 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: copy shops, schools, universities, higher education institutions, public libraries
- Who is liable to pay the levy?

Manufacturers and importers

Tariffs

- How set?

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), by negotiation.

- Tariffs per device (EUR):

Copiers:

Type	Speed (pages per minute)	Tariff (EUR)	
		Cooperative debtor	Non-cooperative debtor
Black & White	1–9	13.13	23.87
	10–19	39.69	59.66
	20–39	113.50	178.98
	40–69	192.99	298.31
	>69	442.71	656.26
Color	1–39	113.50	357.96
	40–69	192.99	596.62
	>69	442.71	1312.52

Fax machines:

Type	Tariff (EUR)	
	Cooperative debtor	Non-cooperative debtor
Simple fax machines	6.76	11.95
Fax machines with scanner port	13.62	-----
Fax machines with capability of multiple copies	-----	23.87
Fax machines where printing is based on toner	30.40	47.73

Handheld scanner

Debtor type	Speed (Scan per minute)	Resolution (dpi)	Tariff (EUR)
Cooperative debtor			4.80
Non-cooperative debtor	>70		620.45
	36–70	>1199	310.24
		600–1199	262.52
		200–599	214.78
	13–35	>1199	178.98
		600–1199	143.19
		200–599	107.38
	1–12	>1199	47.73
		600–1199	35.79
		200–599	26.25

Automatic scanner:

Debtor type	Speed (Scan per minute)	Resolution (dpi)	Tariff (EUR)
Cooperative Debtor	>70		402.54
	36-70		139.36
	13-35		72.24
	1-12		12.84
Non-cooperative debtor	>70		620.45
	36-70	>1199	310.24
		600-1199	262.52
		200-599	214.78
	13-35	>1199	178.98
		600-1199	143.19
		200-599	107.38
	1-12	>1199	47.73
		600-1199	35.79
		200-599	26.25

Flatbed scanners:

The same tariffs as on automatic scanners are applicable

Printers:

Type	Tariff (EUR)
	Cooperative debtor
Ink-jet printers and ink-jet MFD	5.98% of selling price
Laser printers	5.38% of selling price
All Types	minimum : €2.50 maximum : €105,00

Non cooperative debtors: tariffs apply for Ink-jet printers and Laser printers

Type	Speed (Pages per minute)	Tariff (EURO)
Black & White	0-12	7.07
	13-35	12.38
	36-70	21.21
	>70	61.88
Color	0-12	14.14
	13-35	24.76
	36-70	42.42
	>70	123.76
All Types	minimum : 8.84% of selling price maximum: €185,63	

In the above '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 amount of function copy/scan/fax with an exception for coop. debtors only for inkjet devices (see above)

- Tariffs per medium

N/A

- Operator fee tariff(s)

Contract tariffs (per copier): From €20.87 up to €199.64 per copier according to ppm (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 /public libraries: €182.23

- 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 last six years (€million):

2014	8.80
2013	9.06
2012	8.21
2011	8.59
2010	9.60
2009	7.83

- Total device/media collections for last six years (€million):

2014	8.10
2013	7.84
2012:	7.56
2011:	8.16
2010:	9.18
2009:	7.56

- Total Operator fee collections for last six years

2014	0.7
2013	1.22
2012:	0.65
2011:	0.43
2010:	0.42
2009:	0.27

- How does the RRO get 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 to have effectively paid the levy. In 2014 approx. €0.28 million was refunded, approx. 3% of collections. See §42b.6.1.

Distribution

- Summary of distribution scheme regarding levies

The visual image share, as determined by agreement on the basis of surveys, is passed to Bildrecht, www.bildrecht.at, for further distribution. This share was 11.98% in 2014. 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

2014: 7.1%

- Social and cultural deductions

2014: 5%

3.1.2 Belgium

Legal basis for levy

Reprography: Copyright Act (1994) as implemented by the Royal Decree (RD) of 30 October 1997

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

Important note: the entire Copyright Act 1994 has been incorporated in the new Code of Economic Law (CEL), Chapter XI. The articles of said Act pertaining to reprography (art. 22, §1, 4° and 4°bis – exception for text and visual works; art. 22bis, §1, 1° and 2° – exception for databases; and art. 59–61 – compensation/levy scheme) will become, respectively, art. XI.190, 5° and 6°, art. XI.191, §1, 1° and 2 and XI.235–239 CEL, but **not before January 1st 2016. As a result, the 1994 Act is currently (summer 2015) still in force in the field of reprography.** The articles of said Act pertaining to private copying (art. 22, §1, 5° and 13° – exceptions for copyright; art. 46, 4° and 12° – exceptions for neighboring rights; and art. 55–58 – compensation / levy scheme) have already become, respectively, art. XI.190, 9° and 17°; art. 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 changes to the private copying decree are upcoming to ensure compatibility with EU law in view of recent CJEU rulings (i.e. exemption/reimbursement for professional use).

RRO(s) administering levy

Reprography:

Reprobel bcvba

Square de Meeûs 23/3

1000 Brussels

www.reprobel.be

Members:

Total number of Member Associations: 15

Total Publishers' Associations: 8 (*)

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, REPROCOPY, REPRO PP, REPROGRESS, SEMU, LIBRIUS and SABAM.

SABAM is member of both the Publishers' and the Authors' College (so that the figure of 15 members remains correct).

From December 1st 2013 the remuneration for TI works under the extended private copying scheme is administered by AUVIBEL (www.auvibel.be), the central collecting society for private copying in Belgium

Scope of levy

The reprography exception covers both private use and internal/professional use within companies (including independents & free professions), public bodies, libraries and educational/scientific research institutions, but currently only covers photocopies, not print-outs. Under the still existing legislation, only copies 'from a paper source' are covered by reprography, whereas under the upcoming CEL (see above) all copies 'on a paper support' will be covered. The exception should therefore be extended to print-outs when the 2001/29 directive implementation legislation (the CEL) comes into force and a new reprography tariff royal decree will be in place. The compensation scheme will then also cover both print-outs (operator fee) and stand-alone printers (equipment levy). Scanners will normally leave the scheme, however. The current 1997 reprography royal decree has been under review for some years now. A new decree is expected by the summer of 2016 at the earliest.

- What copying is covered?
See above (photocopying only at present).
- Levy on devices? Which?
 - (a) Devices which can only copy TI works
Currently, mainly copiers, MF machines, fax machines and scanners. Under the upcoming CEL, scanners will normally no longer be subject to the levy, whilst stand-alone printers will be included.
 - (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 1st December 2013. These include tablets and personal computers, but at present the latter are subjected to a zero tariff.
- 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 1st December 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, though technically speaking it is more of an operator fee, the fee to be paid being proportional to the actual volume of reproductions of CW. The 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 cases of sales by online vendors abroad. Some of these online vendors refuse to comply with the Belgian scheme, however, and appropriate legal action has been taken (pending).

- How RRO obtains information to charge the levies
 - Obligation in law on manufacturers/importers/intra-communal requires 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, but not very efficient in practice
- Summary of reimbursement/refund scheme

Repobel will refund the levy on production of appropriate documents such as invoices, proving both re-export of devices and initial payment of levies upon bringing to market thereof. 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 set?

The general principles are set out in the copyright law. The modalities and tariffs are set out in royal decrees. This is true for 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 CPM speed based-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 – graphic resolution based with additional sales price cap (art. 3, §2, RD) – indexed amounts 2015)

Printers

No levies on standalone printers yet. Equipment levy scheme will probably be extended to printers, at the earliest in 2016 though.

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

Private copying scheme tariffs (selection, as listed on Auvibel's website and based on 2013 royal decree)	From 0 to 4GB	€0.15
	More than 4GB to 16GB	€0.50
Memory Card and USB stick	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. provides that the levy must be shown on all invoices from the first bringing on to the market up to and including the sale to the retailer, but visibility of the levy is not mandatory on the invoice to the end user. However the levy is sometimes shown on the invoice to the end user.

Collections

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

- Total levy collections for last six years (€ million):

2014: 23.14
2013: 22.62
2012: 23.79
2011: 22.65
2010: 22.72
2009: 23.73

- Total device/media collections for last six years

2014: 13.50
2013: 12.65
2012: 13.41
2011: 12.32
2010: 12.49
2009: 13.42

- Total Operator fee collections for last six years

2014: 9.64
2013: 9.98
2012: 10.38
2011: 10.33
2010: 10.23
2009: 10.31

- Total collections per capita

(Reprobel homeland reprography collections only)

Population as of 01.01.2015: 11,190,845 inhabitants

Homeland reprography collections 2014: €23,141,150

Collections per capita 2015: €2.07

- 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. €893,731 was refunded in 2014, representing 6.59% of overall equipment invoicing in that year.

Distribution

- Summary of distribution scheme regarding levies

The levy remuneration is distributed to member CMOs representing different categories of TI works, as agreed between the member CMOs on the basis of statistical surveys and negotiations. The main reprography levy distribution split is set by copyright law (50:50 authors/publishers). Within Reprobel, two main distribution bodies exist: the Authors' College and the Publishers' College, each receiving 50% of Reprobel's net reprography collections. The distribution schemes of both colleges are subject to approval/prior revision by the Minister of Economy and a special control unit for CMOs within that Ministry. Reprobel distributes the share of foreign right holders through bilateral agreements with other RROs.

- Administrative deductions

2014 13.99%

- 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 author associations, two publisher 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.

- 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 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

Collection of the levy from the importers is undertaken by customs authorities, not BBDA. There is, however, a legal obligation to show the levy on the invoice to the end-user.

Collections

- Total levy collections for 2012 (€ million):
0.045
- Total collections per capita
Approx. €0.003
- How does the RRO get data to charge levies?
As mentioned above, collection of the levy is undertaken 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

10%

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

- 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 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 (€ million):
2013 0.125
- Total collections per capita
2012: €0.006
- How does the CMO get data to charge levies?
Charging the levy is dealt with by the Cameroonian Customs Directorate General, 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 §74 (3) of the Copyright Act (see above) the levy remuneration must be allocated with to 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 author share, but 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
- 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 set?
By negotiation
- Tariffs per device (EUR):
All devices: 0.84% of import price
- Tariffs per medium
N/A
- Operator fee tariff(s)
€3.5 per month per copier

- Visibility of the levy
No legal obligation to mention the levy on invoices

Collections

- Total levy collections
2012 €124,305 (ZANA)
- Total equipment levy collections
2012 €96,305
- Total operator fee collections
2012 €28,000
- Total collections per capita
€0.028
- How does the RRO get 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:

6327 authors and other right holders

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 musical-dramatical 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, Blue Ray Burners, External Hard Disks
 - 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 set?

By legislation and ordinance of the Ministry of Culture

- Tariffs per device (EUR):

(a) Devices capable of copying TI works only`

Copiers:	€4.33 to €487.36 according to import price
Fax machines:	No
Scanners:	No
Printers:	inkjet €1.62 to €32.49
others:	€4.33 to €243.68
MF machines:	as copiers

(b) Devices capable of copying both A/AV and TI works
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 €0.0151 per page (color double): libraries, museums, educational institutions
€0.0201 per page (color double): 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 2014:

€1,047,000

- Total device/media collections for 2014

€939,000

- Total operator fee collections for 2014

€108,000

- Total collections per capita

€0.099

- 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 refunding 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 right holder, otherwise the rules of Dilia. 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 then 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 2014

10.83

- 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. By 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 right holders; manufacturers and importers; and consumers.

CMO(s) administering levy

The levy is collected by CopieFrance, www.copiefrance.fr. The remuneration is distributed between three colleges, representing audio, audio-visual, and text/image right holders respectively. The text college consists of, for right holders in text works: Sofia, CFC and SCAM, and for right holders in visual image works: Sorimage. SEAM represents right holders in sheet music. Sofia receives the share for the right holders in books and text generally, CFC in press material.

CFC, Sofia and SEAM are IFRRO members.

CFC

Center 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, memory cards.
Memory and hard drives incorporated into a TV, video recorder or decoder
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 tactile tablets with a player function and with a mobile phone operating system or an own operating system
- 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 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 (EUR million) 2014 :
2014 Total private copy levy approx. €228 m. Text approx. €12 m. Visual image approx. €13 m.
CFC share: approx. €0.68 m.
Sofia share: approx. €10.75 m.
Share of Sorimage and other CMOs: approx. €10.30 m

Distribution

- Summary of distribution scheme re 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 2007 German Copyright Law
§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 no payment is received therefore or 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. The copying of a work intended for teaching purposes in schools is however only permissible with the permission of the right holders.*
 2. *for state examinations and examinations in schools, universities, non-commercial institutions of education 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.*

54 Obligation to pay remuneration

- (1) *Where the nature of a work makes it probable that it will be reproduced in accordance with section 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 mediums, of a type which either alone or in combination with other appliances, storage mediums 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 mediums subject to this law will not be used to make reproductions.*

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 mediums 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 mediums, 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.*

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.

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 54h(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.

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 required.

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.

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

Members:

460,197 authors, 12,273 publishers

Image works:

Verwertungsgesellschaft Bild-Kunst (VG Bild-Kunst),

Weberstrasse 61, 53113 Bonn

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.
- 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 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:

§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 section 53 paragraphs (1) to (3). A relevant consideration is the extent to which technical protection mechanisms in the sense of section 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 mediums contained in the appliance or for other appliances or storage mediums which function in conjunction with them*
- (3) *In determining the amount of remuneration the characteristics of the appliances or storage mediums relevant to their operation, especially the performance capability of appliances and the storage capacity and reusability of storage mediums shall be taken into account*
- (4) *The remuneration shall not unreasonably harm the manufacturers of appliances and storage mediums; it must be in a reasonable economic relation to the price level of the appliance or storage medium.*

The Administration of Copyright Act provides as follows (unofficial translation):

- Tariffs

13. (1) 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.
- (2) Collecting societies shall be required to publish the tariffs and any amendment thereto without delay in the official bulletin.
- (3) The basis for calculating the tariffs shall normally be the monetary advantages obtained from exploitation. The tariffs may also be computed on other bases where these result in adequate criteria for the advantages obtained from exploitation, which may be collected in an economically justifiable manner. When establishing tariffs, the proportion of the utilization of a work in the total exploitation shall be taken into appropriate account. In establishing the tariffs and in collecting the remuneration, collecting societies shall have due regard to the religious, cultural and social interests of the persons liable to pay the remuneration, including the interests of youth welfare.

13a Tariffs for devices and storage media: transparency

- (1) The amount of the remuneration for devices and storage mediums shall be determined according to section 54a of the Copyright Law. Before setting tariffs for devices and storage mediums the collecting society must negotiate with associations representing the affected manufacturers concerning equitable remuneration and the conclusion of an inclusive agreement. If the negotiations for an inclusive agreement break down the collecting society by way of exception to section 13 can only set tariffs for the remuneration under section 54a after undertaking empirical surveys in accordance with section 14, paragraph 5a.
- (2) The collecting societies will inform their partners under inclusive agreements as to their income from lump sum remuneration and how it is distributed to categories of recipients.

- Tariffs per device which can only copy TI works(EUR) 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 PCs, where 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)

Not covered by the scheme are tablet computers, external hard drives, external burners.

- 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 12/13. From 1/14 the HI institutions tariff of EUR 405 per device applies also for the government owned devices operated in HI.)

- Visibility of the levy

See §54d UrhG above

Collections

- collections for last eight years (EUR million):

	EL VGW	EL VGBK	Total EL	OL VGW	OL VGBK	Total OL	Total levy
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	658.75	174.47	833.22	33.68	5.73	39.41	872.63

- Total collections per capita

2014 €1.42

- How does the RRO get data to charge levies?

As to the equipment levy, the Copyright Law provides

1. A right to information on imports – penalty of double remuneration – §54e UrhG
2. A right to request information from the manufacturer, importer or dealer – § 54f 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 – §54f(2)
2. A right to inspect copy shops – §54g

- Summary of exemption/refund scheme

In Germany the system of (text and image) levy administration works very well because firstly, there is an organization, BITKOM, which represents about 80% of the importers and manufacturers of leviable products, and, secondly, 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 as to leviable products imported into Germany for re-export without distribution into 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

§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):

§9

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

1. *So far as determinable by reasonable means, every right holder should receive payment according to the use of his work*

2. *So far 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 right holder 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 as 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 right holders 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 at least a non-title specific basis.

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

- Administrative deductions
2014: VG WORT 6.4%, VG Bild-Kunst 5.2%
- Social and cultural deductions
2014: VG WORT 4.02%, VG Bild-Kunst maximum 4%

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 §27 (3) the levy is to be collected by the customs division of Ghana Revenue Authority, and by §27 (7) distributed to the right holders 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 right holders represented approx. 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. By §27 (3) the levy is to be collected by the customs service, and by §27 (7) it must be distributed to the right holders 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

- 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 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
- Total collections per capita
€0.018
- 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 right holders in accordance with these regulations.

- Administrative deductions
30%
- Social and cultural deductions
None

3.1.10 Greece

Legal basis for levy

Copyright Act 1993 as amended

Reproduction for Private Use

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 analogue 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 par. 1 of law 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
PCs – theoretically applicable to TI works, but 0% since 2002, having been 100% up to that time.
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
- On media? Which?
 - (a) Media which can only be used to copy TI works
Copying 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
PCs – until 2002 100% of the levy allocated to TI works, now 0%

- Tariffs per medium
 - (a) Media which can only be used to copy TI works
Copy 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
Only CDs levied: 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 six years (EUR million):

2014 0.83
2013 3.11
2012 2.50
2011 2.88
2010 1.99
2009 2.57

- Total collections per capita

2012 €0.022

- 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 §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) *(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.

OSDEL also obtains data from market research organizations as a cross-check

- 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

17%

- Social and cultural deductions

None

3.1.11 Hungary

Legal basis for levy

Copyright Law 1999 as amended Article 21

- (1) *The authors of the works and the publishers thereof in the form of book, or in periodicals which are reproduced by photocopying or in like manner on paper or on like carrier (hereinafter jointly referred to as by reprography) shall be due to be paid fair and equitable remuneration on private-purpose copying. The remuneration shall be paid, within the deadline indicated in the third sentence of Article 20(2), by the manufacturer of the device suitable for reprography, in the case of manufacture abroad by the person obliged under the law to pay customs duties, or – in the absence of obligation to pay customs duties – by the person who imports the device and by its first domestic distributor under joint liability. For the payment of the remuneration all domestic distributors of the device concerned shall be jointly liable. In addition, the person operating the reprographic device for a consideration is also obliged to pay remuneration. In both cases the remuneration shall be paid to the organization performing the collective administration of rights.*
- (2) *The specification of the devices that may be used for reprography shall be determined by a special regulation.*
- (3) *The remuneration referred to in Paragraph (1) shall be set by the organization performing the collective administration of rights. When determining the said remuneration, it shall take due account of, in particular, the manner of the use of the device and its output characteristics, as well as the place of the operation in the case of its use for a consideration.*
- (4) *The remuneration referred to in paragraph (1) shall not exceed 2% of the manufacturing issue price of the device suitable for reprography, or, in case of a device manufactured abroad, 2% of the value for customs according to applicable legal regulations.*
- (5) *The obligation to pay remuneration shall not apply to the case where the device is put into circulation for export purposes.*

- (6) *Of the amount of the royalties collected that remains after the deduction of the expenses, forty per cent shall be due to the publishers of books and periodicals. Of the remaining sixty per cent, twenty-five per cent shall be due to the authors of non-fiction and scientific works, twenty-five per cent to the authors of other literary works and ten per cent to the authors of works of fine arts and artistic photographs. These shares of the remuneration shall be transferred to the organizations performing the collective administration of rights of the interested right holders.*
- (7) *The distribution proportions determined in Paragraph (5) shall be applied unless otherwise agreed between the affected organizations performing the collective administration of rights and the trade organizations of the right holders concerned before March 31 of every year.*
- (8) *The authors and publishers may only enforce their claims to remuneration by the organizations performing the collective administration of their rights, and they may renounce their remuneration only with effect following the date of distribution and to the extent of the amount due to them.*

CMO(s) administering levy

Text and image works:

HARR

Hungarian Alliance of Reprographic Rights
Pálya u. 4-6
Budapest 1012
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?
§33–35 of the Hungarian Copyright Act provides for exceptions re 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
- 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

Tariffs

- How 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 CMO, 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 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 tariff(s) (1 EUR = 310 HUF)
(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 (EUR million):
2014 1.095 m.
- Total device/media collections
2014 0.585 m.

- Total Operator fee collections

2014 0.510 m

- Total collections per capita

EUR 0.1

- How does the RRO get data to charge levies?

As to the equipment levy, manufacturers, importers and other distributors are obliged to report to HARR. The Copyright Law provides:

Article 22

(1) The commercial manufacturer of the blank audio visual and audio carrier as defined in Article 20 and of device as defined in Article 21, the person obliged under the law to pay custom duties for importing such carrier and device, as well as the importer and the first domestic distributor of such carrier and device, is obliged, before the tenth day of every calendar month, but at the latest within the deadline provided for by Art. 20 (2), to inform the organization performing collective administration of rights on the quantity imported or put into circulation, as well as about the types of such carriers and devices. The organization performing the collective administration of rights may request further information on the figures relating to the putting into circulation and on the sources of procurement; and it may request those operating reprographic devices for a consideration to provide further particulars necessary for determining the fair amount of remuneration.

(2) The failure to meet, and even the incomplete meeting of, the obligation to provide information or particulars and to supply data as required by the provision of Paragraph (1) a lump sum for covering the expenses of the organization performing the collective administration of rights is to be paid in addition to the remuneration due, which lump sum shall be of the same amount as the remuneration due to be paid.

- 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 amount of successful claims is then credited in the next monthly invoice to that company.

Distribution

- Summary of distribution scheme re levies

The author-publisher split is determined by national law. Subject to that, the rules of HARR determine the allocation to the member CMOs, which each distribute the money further 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 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 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 of (as provided in this Annex) reprographic facilities sold in civil circulation in the Republic of Lithuania, manufactured in the Republic of Lithuania or brought to the territory of the Republic of Lithuania from the first sale price before taxes.

- Operator fee tariff(s)
From €0.72 to €8.44 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
2014 €51,784.35
- Total device/media collections
2014 €35,762
- Total operator fee collections
2014 €16,022
- Total collections per capita
2014 €0.017678

- 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 1.57 % of collections in 2014.

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 in the following shares:

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 as follows, on the basis of population surveys:

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 4 February 1994 on copyright and related rights, as amended, Article 20 and Article 20¹. Decisions of the Minister of Culture and Arts 16 August 1995 and 20 November 2003 (authorizing KOPIPOL) and 10 March 2003 (authorizing Copyright Polska, formerly known as Polska Książka).

Poland 1994 (2010): WIPO

Article 23. 1. It shall be permitted to use free of charge the work having been already disseminated for purposes of personal use without the permission of the author. This provision shall not authorize to build constructions according to other authors' architectural works as well as architectural and urban planning works and to use electronic data bases possessing the features of a piece of work unless this applies to one's own scientific use not connected with any profit-gaining purposes.

2. The scope of personal use shall include use of single copies of works by a circle of people having personal relationships, and in particular any consanguinity, affinity or social relationship.

Article 20. 1. Producers and importers:

- (1) of tape recorders, video recorders and other similar devices;
 - (2) of photocopiers, scanners and other similar reprographic devices which allow to make copies of all or a part of a published work;
 - (3) of blank carriers used for fixing, within the scope of personal use, works or objects of related rights, with the help of the devices listed in subparagraphs 1 and 2 – shall be obliged to pay to collective management organizations specified in paragraph 5 which act to the benefit of artists, artistic performers, producers of phonograms and 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 competent for culture and protection of the national heritage, having consulted collective management organizations, associations of authors, artistic performers, organizations of producers of phonograms, producers of 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 designed use thereof for functions other than reproduction of works, the manner of collection and distribution of the fees as well as the collective management organizations authorized to collect such fees.

Article 20¹. 1. Any person who is in possession of any reprographic devices and conducts economic activities within the scope of reproduction of works for the personal use of third parties, shall be obliged to pay, through a collective management organization, fees at 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 right holder. Such fees shall be paid to authors and publishers in equal parts.

2. The Minister competent for culture and protection of the national heritage, having consulted collective management organizations, associations of authors and publishers as well as respective chamber 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, the manner of collection and distribution of the fees as well as 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:

12 author associations, 35 publisher 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 set in Art. 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 ca. 30% (the exact figure depends of the annual split scheme 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.

Art. 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 right holders in the audio-visual sector.

- 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 right holders 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 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):

2014	KOIPOL: 2.12	Copyright Polska: 2.23
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Total: 4.35

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

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

2014 KOIPOL: €23,000

Copyright Polska: €19,000

Total: €42,000

- Total collections per capita

2014 KOIPOL: €0.055

Copyright Polska: €0.058

Total: €0.113

- 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 Repopol, 70% of the publisher share is allocated to books (Copyright Polska) and 30% to press (SW Repopol).

- Administrative deductions

KOIPOL:

2014: 10%

2013: 10%

Copyright Polska:

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 62/98, of September 1st, as last amended in 2015 by Law 49/2015, of June 5th

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 by Article 82 to a levy on devices and media, 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:

two author and visual artists CMOs, one publisher CMO, total number of board members – three, total number of member associations – seven

Scope of levy

- What copying is covered?

Private use (equipment levy), internal use by public libraries, non-commercial documentation centers, scientific institutions (operator fee)

- Levy on devices? Which?

- (a) Devices which can only copy TI works

Until recently the legislation provided for a levy on analogue devices only, and excluded digital devices. As purely analogue 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 tariffs 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 set?

By Law 49/2015, of June 5th

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

Multi-function devices or ink-jet 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 in most cases.

The law of June 2015 provides that if in any year the total device and media levies exceed €15 million, the excess will be allocated to the Portuguese Cultural Development Fund, a public fund controlled by the government, which supports the promotion and dissemination of culture.

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)

Distribution

- Summary of distribution scheme regarding levies

Law 49/2015 of June 5th 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)

- 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 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, multi-functional devices and printers) was collected by CopyRo. From that date these levies were collected by PERGAM. Since the 24th of February 2014, Opera Scrisa.ro has been the collector of the remuneration.

Scope of levy

Art. 34.

- (1) *It shall not be a violation of copyright, for the purposes of this law, the reproduction of a work, without the author's consent for personal use or for use by a normal family circle, provided that the work has already been disclosed to the public, while the reproduction does not contravene to the normal use of the work or prejudice the author or the owner of the 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 apparatus dedicated for copying, in the situation provided for in paragraph (1), a compensatory remuneration established by negotiation, according to the provisions of this law, shall be paid.*

Art. 107.

- (1) *The authors of works susceptible for being reproduced through sound or audio-visual recordings, on any kind of physical medium, as well as the ones of the works susceptible for being reproduced*

on paper, directly or indirectly, under the conditions provided for under Art. 34 paragraph (1) shall be entitled, together with the publishers, producers and with the performers, as the case may be, to compensatory remuneration for the private copy, in accordance with Article 34 paragraph (2). The beneficiaries cannot waive the right to compensatory remuneration for the private copy.

- (2) Compensatory remuneration for private copy shall be paid by the manufacturers and importers of physical media or devices provided for in Art. 34 paragraph (2), regardless of whether the procedure is an analogical or digital one.
- (3) Importers and manufacturers of physical media and devices, provided for in Art. 34 paragraph (2), are bound to register themselves with the Romanian Copyright Office, with the National Registry of Private Copy and may only carry out the said activities of import and production, subject to prior obtaining of the Registration Certificate from the Romanian Copyright Office. The certificate is issued by the Romanian Copyright Office based on evidences regarding the object of activity legally stated and of the Sole Registration Certificate with the Trade Registry, within five days from their submittal.
- (4) The list of physical media and devices for which compensatory remuneration for private copy is owed, as well as the quantum of such remuneration is negotiated every two years, within a committee consisting of:
 - (a) one representative of each main collective management organizations, which activate for a category of rights each, on the one hand;
 - (b) one representative for each of the main associative structures mandated by manufacturers and importers of physical media and devices, appointed from them, and one representative each of the first three manufacturers and importers of physical media and devices, established on the basis of the turnover and market-share in the respective field, provided that they are stated with Romanian Copyright Office on the own responsibility, on the other hand.
- (5) In view of initiating the negotiation in accordance with the procedures provided under Article 131 paragraph (2)–(4), the collective management organizations and associations of manufacturers and importers of physical media and devices shall file with the Romanian Copyright Office an application containing the list of the physical media and devices, application that will be published in the Official Gazette of Romania, Part I. according to the Romanian Copyright Office general manager's decision, as well as the quanta of the remunerations that are to be negotiated. The list will be prepared separately for the devices and physical media from the sound and audio-visual fields and for the devices and physical media from the graphical field and they shall be negotiated in two committees.
- (6) The remunerations are in percentages and calculated at the value in custom for importers, respectively to the invoiced value without VAT, with the occasion of putting into circulation of products by the producers, and it shall be paid in the following month of import or date of invoicing.
- (7) The remunerations negotiated by the parties are in percentages and owed for the devices and physical media provided under Art. 34 paragraph (2), as well for A4 paper sheets for photocopier and digital supports.
- (8) The compensatory remuneration for private copy is a procentual quota from the value provided for in paragraph (6), as follows:
 - (a) A4 paper sheets for photocopier: 0.1%;
 - (b) other physical media: 3%;
 - (c) devices: 0.5%.
- (9) The negotiations for the establishment of the list of physical media and devices for which such remuneration is owed, are convened by the Romanian Copyright Office within 15 days from the publishing date of the negation request in the Official Gazette of Romania, Part I and are carried out according to the proceedings provided for in Art. 131.³

³ <http://www.orda.gov.ro/default.aspx?pagina=650&lang=en>

Art. 107⁴.

(1) *Compensatory remuneration for private copy is collected by a management organization sole collector for the works reproduced after sound and audio-visual recording and by another sole collector management organization for the works reproduced from paper, in accordance with the conditions provided for under Art. 133 paragraph (6)–(8). The two collective management organizations, having duties of sole collector, are designated through the majority vote of the beneficiary collective management organizations, at the first summoning, or majority vote of those present, at the second summoning. The collective management organizations designated by voting will file with the Romanian Copyright Office the minutes of the proceedings in accordance with which they have been designated. Within five work days as from the filing, the Romanian Copyright Office shall appoint the sole collector by the general manager's decision which shall be published in the Official Gazette of Romania, Part I.*

Art. 107⁵.

(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.*

(1⁶) *In the case of paper recorded copies, by analogical proceeding, the remuneration shall be divided in equal shares between authors and publishers. The due sums for publishers are distributed only through publishers associations, based on a protocol established between them which include the criteria for distribution as well the shares owed to each association. At distribution protocol negotiations only publishers associations shall take part fulfilling the conditions established by the Romanian Copyright Office general manager's decision.*

- What copying is covered?

Personal use and use within a family circle (see A 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)

⁴ <http://www.orda.gov.ro/default.aspx?pagina=650&lang=en>

⁵ <http://www.orda.gov.ro/default.aspx?pagina=650&lang=en>

⁶ <http://www.orda.gov.ro/default.aspx?pagina=650&lang=en>

- 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)
- Operator fee?
 - No
- Who is liable to pay levy?
 - Manufacturers, importers and intra-communal acquirers

Tariffs

- How 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 A 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: 0.5% of import price
 - Printers: 0.5% of import price
 - Multi-functional Devices: 0.5% of import price
 - (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 object 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 (EUR):
 - 2012 €167,000
 - 2013 final amount undisclosed by PERGAM
 - 2014 0.244 (PERGAM 01.01–23.02 + OPERA SCRISA 24.02–31.12)

- Total collections per capita

2012 €0.007

2013 to be determined

2014 €0.012

- 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 as to 50% to authors and 50% to publishers.

Under Romanian law, CMOs can only directly represent authors, but PERGAM distributes a 50% share to publishers via the publisher associations. As to the authors' share, 10% is distributed to the CMO representing visual artists (VISARTA). The remainder has to be split as to 70% to PERGAM and 30% to CopyRo, according to a decision of the Appeal Court.

- 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)

§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 the 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 par. (1), shall have the right to compensation of remuneration.*
- (5) *The author of a work, which can be reproduced and publicly distributed according to par. (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:

2421 represented authors including 651 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?

§24 (1) covers private copying by natural persons on any medium. §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):

§5

Definitions of certain notions

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

§24

- (1) *The compensatory remuneration according to par. (4) and (5) shall be paid through collective administration organization (§79) for*
 - (a) *a blank carrier of a type usually used for reproduction according to par. (1) by its manufacturer, recipient from a member state (hereinafter 'recipient'), importer from third country (hereinafter 'importer') or other person which places the carrier for the purposes of sale onto the Slovak market for the first time, in the amount of 6% of the sale price or import price of the carrier,*
 - (b) *a device for making reproductions of sound or audio-visual recordings by its manufacturer, recipient, importer or other person which places the device for the purposes of sale onto the Slovak market for the first time, in the amount of 3% of the sale price or import price of such devices,*
 - (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 onto the Slovak market for the first time, in the amount of 3% of the sale price or import price of the equipment; if the equipment is part of an object, the compensation of*

remuneration is paid from a proportional part of the sale price or of the import price of this object,

- (d) a personal computer by its manufacturer, recipient, importer or other person which places the personal computer for the purposes of sale onto the Slovak market for the first time, in the amount of 0.5% of the sale price or import price of the hard disc, which is built in into the personal computer; for this equipment the compensation according to let. c) is not paid,
- (e) copying services against payment by its provider, in amount of 3% from total income for these 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.

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

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 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 LITA represents, 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, BR 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 LITA represents, 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 (EUR):
 - 2012 EUR €340,000 for reprography
 - 2013 EUR €320,000 for reprography, EUR 0.105 for private copying (only the LITA share)
 - 2014 EUR €890,000 for reprography, EUR €115,000 for private copying (only the LITA share)
- Total device/media collections (EUR):
 - 2012 €310,000 for reprography
 - 2013 €290,000 for reprography, €105,000 for private copying (only the LITA share)
 - 2014 €860,000 for reprography, €115,000 for private copying (only the LITA share)
- Total Operator fee collections
 - 2012 €0.03 for reprography
 - 2013 €0.03 for reprography, N/A for private copying (only the LITA share)
 - 2014 €0.03 for reprography, N/A for private copying (only the LITA share)
- Total collections per capita
 - 2012 €0.062 for reprography
 - 2013 €0.058 for reprography, N/A for private copying (only the LITA share)
 - 2014 €0.162 for reprography, N/A for private copying (only the LITA share)

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

There is an obligation in the copyright law, §24 (9) and (10) for the manufacturers or importers to report to the CMO the type, quantity and import or sale 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 documentation

Distribution

- Summary of distribution scheme regarding levies

Distribution of reprographic levies is according to rules of LITA. These provide for an author-publisher split of 73:27. The authors' share is divided into 85% for the authors of text (24% periodicals, 76% non-periodicals), and 15% 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. *upon 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, to the term appliances for sound or visual fixation other appliances, which enable getting the same effect, are assimilated.*

- (6) *The right to remuneration under paragraph (1) of this Article may not be waived, assigned during the life of the author, and is not subject to execution.*

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 right holders 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 be permitted with respect to written works to the extent of the whole book, graphic editions of musical works, electronic databases and computer programs, and in the form of building of architectural structures, unless otherwise provided by this Act or by contract.*
 - (5) *Notwithstanding paragraph (4), it shall be permissible, under the conditions of paragraph (1):*
 1. *to reproduce a written work to the extent of the whole book, if such work is out of print for a minimum of two years;*
 2. *to reproduce a graphic edition of musical work by means of handwritten transcription.*
- Levy 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 set?

By government decree: see above

- Tariffs per device (EUR):

(a) Devices which can only copy TI works

See article 4 of the government decree above

(b) Devices which can copy both A/AV 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

- Total equipment levy collections (EUR)

2013: €118,000

2014: €146,000

- Total Operator fee collections (EUR)

2013: €19,000

2014: €18,000

- Total collections per capita

2013: €0.066

2014: €0.079

- 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 right holders; the copyright law provides for a 50:50 split between authors and publishers, remuneration is then distributed between the right holders pursuant to the internal rules of SAZOR.

- Administrative deductions

No information

- Social and cultural deductions

None

3.2 Countries where the levy system has not yet been implemented

3.2.1 *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 18th August 2011. The scheme is understood to be in the early stages of operation. Details will be provided in the next report. Scope of levy

Copying for private purposes

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

3.2.3 *Dominican Republic*

Legal basis for levy

Copyright Law 2000 as amended (law 65-00).
Art. 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 right holder 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 the decree of 2001 No 362-01, implementing the application of law 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 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 right holder. 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 right holders, 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

3.2.4 *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.

3.2.5 *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).

3.2.6 *Kosovo*

Legal basis for levy

Copyright Law 2011: article 39(3) provides for an equipment levy and operator fee re 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

3.2.7 *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 right holders. The details of the scheme are to be fixed by regulation but no regulation has been made to date.

Scope of levy

Copying for private use

IFRRO member(s)?

LUXORR

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

3.2.8 *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

31 August 1989 St.
98 min.
Chisineau
MD 2004

The right-holders decided that the levies are to be administered by ReproMold, (Fondul Literar), Str. 31 August 1989, 98 mun. Chisinau, MD 2004. Although ReproMold has been granted full authorization to do so, as yet no remuneration has been passed to it because of administrative problems. Collections in 2014 amounted to €2,542. As yet no remuneration has been passed on to ReproMold because of administrative problems. Collections of the operator fee have not yet started.

3.2.9 *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

3.2.10 *Netherlands*

Legal basis for levy

Article 16c of the Copyright Act, implementing article 5.2.b of the Copyright Directive, permits copying by private persons for their own personal use, subject by article 16c to the payment of fair compensation. By 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 have never received a share of private copying levies before and a distributing society has not yet been appointed.

Scope of levy

Private copying as above

IFRRO members?

Stichting LIRA

Kruisweg 793-795
Hoofddorp, 2130 KB
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.

3.2.11 *Nigeria*

Legal basis for levy

Nigerian Copyright Law 1988 as amended (codified 2004)

Scope of levy

§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 2012 (the Order) issued by the Ministry of Justice. The collector for all levies is the National Copyright Commission (NCC). Collections are due to start during 2014. 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 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

By A.4 of the Order the NCC shall distribute the remuneration as follows:

- 10% for the promotion of creativity
- 20% for the NCC anti-piracy program
- 10% for administration
- 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

3.2.12 *Paraguay*

Legal Basis for Levy

Copyright Act 1998 as amended: §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. §37 provides for the details of the scheme to be determined by regulation on the proposal of the National Directorate of Copyright, but so far no regulations have been made so far as is known.

Scope of Levy

Private use

IFRRO Member(s)

None

3.2.13 *Serbia*

Legal basis for levy

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

Scope of levy

Private use

IFRRO member(s)?

Not yet. However, a Serbian RRO was founded on 25 February 2014 by one publishers' association, two authors' associations and two translators' associations:

Organizacija za ostvarivanje reprografskih prava

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

3.2.14 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 materials carrying works such as blank video cassettes, audio cassettes, computer discs, CDs, DVDs and all kinds of technical equipment which serve the reproduction of intellectual and artistic works are obliged to collect every month and deposit, until the middle of the following month at the latest, in a special account to be opened with a national bank in the name of the Ministry of Culture and Tourism, an amount to be determined by the Council of Ministers not exceeding 3% of the manufacturing or importation costs. (Addition: 14.7.2004 – 5217/17) A quarter of the amounts collected in the special account shall be transferred to the account of the Ministry of Culture Central Accounting Office and shall be recorded as revenue in the budget.*

(Amendment: 21.2.2001 – 4630/23; 14.7.2004 – 5217/17) The amounts remaining in this account shall be used 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)

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

ACRONYMS AND ABBREVIATIONS

Acronyms

Acronym	Meaning
CJEU	Court of Justice of the European Union
CMO	Collective management organization
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
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

For more information contact WIPO at www.wipo.int

World Intellectual Property Organization

34, chemin des Colombettes
P.O. Box 18
CH-1211 Geneva 20
Switzerland

Telephone:
+4122 338 91 11

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+4122 733 54 28