

International Survey on Text and Image Copyright Levies



2014



International Survey on Text and Image Copyright Levies 2014

Table of Contents

FOREWORD	5
EXECUTIVE SUMMARY	6
1. GENERAL ANALYSIS	7
1.1 Introduction	7
1.2 Features of Text and Image Levies	7
1.2.1 Equipment levies	7
1.2.2 Operator levies	9
1.2.3 Tariffs	10
1.3 Methodology and Scope	11
1.4 Overview by Continent	11
1.5 Developments concerning Text and Image Levy Systems	12
1.6 Legal Background for Text and Image Levies	13
1.7 Practical Implementation of Text and Image Levies	15
1.8 Tariff Setting	16
1.8.1 How tariffs are set	16
1.8.2 Level of tariffs	17
1.8.3 Types of tariff	17
1.8.4 Use of statistical surveys	18
1.9 Liability and Other Issues Concerning Text and Image Levies	18
1.9.1 The issue of double payment	18
1.9.2 Who is liable to pay the equipment levy?	19
1.9.3 On which devices or media can levies be applied?	19
1.9.4 Tariff setting process	19
1.9.5 Professional use	20
1.9.6 The cross-border issue: refunds and exemptions	20
1.9.7 Visibility of the levy	21
1.9.8 Impact on prices and sales of devices and media	21
1.9.9 Relationship between the operator levy and the device/equipment levy	21
1.10 A few Aspects of Distribution	22
1.10.1 General principles	22
1.10.2 Responsibility for distribution between CMOs	22
1.10.3 Determination of distribution schemes	23
1.10.4 The author-publisher split	23
1.10.5 Deduction of administrative fees	23
1.10.6 Social and cultural deductions	23
1.10.7 Outsiders and foreign rightholders	24
1.11 Trends	24
1.12 Final Words	26

2. COMPARATIVE TABLES	29
3. COUNTRY REPORTS	44
3.1 Countries with Operational Text and Image Levy Systems	44
Austria	44
Belgium	50
Burkina Faso	55
Cameroon	57
Croatia	59
Czech Republic	62
France	66
Germany	69
Ghana	78
Greece	81
Hungary	85
Lithuania	89
Poland	92
Portugal	96
Romania	98
Slovakia	103
Slovenia	107
3.2 Countries Where the Levy System Has Not Yet Been Implemented	111
ALGERIA	111
BOSNIA-HERZEGOVINA	111
DOMINICAN REPUBLIC	111
ECUADOR	112
KOSOVO	112
LUXEMBOURG	112
MOLDOVA	113
MONTENEGRO	113
NIGERIA	113
PARAGUAY	114
SERBIA	114
TURKEY	115
ACRONYMS AND ABBREVIATIONS	117

Figures

Figure 1:	Devices and media capable of copying TI works only	9
Figure 2:	Countries with TI levies	10
Figure 3:	Locations covered by operator levy	10
Figure 4:	Scope of exceptions covered by the levy	15
Figure 5:	Locations covered by operator levy	15
Figure 6:	How equipment levy tariffs are set	17
Figure 7:	Collection in €m from top collectors (>€1m equipment and >€0.6m operator)	25
Figure 8:	Per capita collections	27
Figure 9:	Total collections	27

Tables

Table 1:	Countries with TI levies	30
Table 2:	Scope of exceptions covered by the levy	31
Table 3:	Liability to pay device/medium levy	32
Table 4:	Exemption and refund schemes (re device or media levies)	32
Table 5:	Devices and media capable of copying TI works only	33
Table 6:	Devices subject to both TI and a/av private copying levies	34
Table 7:	Media subject to both audio/audio-visual private copying levies and TI levies	34
Table 8:	Locations covered by operator levy	35
Table 9:	How equipment levy tariffs are set	35
Table 10:	Tariff summary for devices and media subject only to TI levies (not audio and a-v private copying levies)	36
Table 11:	Operator levy tariffs	38
Table 12:	Visibility of the equipment levy	39
Table 13:	How distribution schemes are determined	40
Table 14:	Types of distribution schemes	40
Table 15:	Administrative charges, and social and cultural deductions, as a percentage of TI levy income	41
Table 16:	TI levy collections 2012	42
Table 17:	Equipment levy collections, historical analysis: six year trends, RROs with collections over €1 million in 2012	42
Table 18:	Operator levy, historical analysis: six year trends, RROs with collections over €0.6 million in 2012	43

FOREWORD

The World Intellectual Property Organization (WIPO) and the International Federation of Reproduction Rights Organisations (IFRRO) are pleased to present this first international survey on copyright levies in the text and image sector. The publication provides an international overview of the functioning of the various models of text and image levies which are currently in operation across the world. The survey demonstrates that the practice of operating levies is a commonly used way to provide authors and publishers with remuneration for certain uses of their copyright works.

This publication has been prepared within the framework of the Cooperation Agreement concluded between WIPO and IFRRO in 2003. This provides a basis for the two organisations to work together in promoting awareness about the practice and operation of the copyright system worldwide.

The task of compiling this report was entrusted to Mr Paul Greenwood, who recently retired after 20 years at the Reprographic Rights Organization VG Wort in Germany.

The publication provides transparent information on the administration of the levy system with regard to authors, publishers, users of copyright works, manufacturers, importers and other stakeholders. It is hoped that the survey will add another perspective on copyright-related income streams for creators, publishers and rightholders, and will be of interest and relevance to copyright experts, researchers and policy-makers around the world.

May 2014

Olav Stokkmo
Chief Executive Officer IFRRO

Francis Gurry
Director General WIPO

EXECUTIVE SUMMARY

The *International Survey of Text and Image Copyright Levies*, jointly published by WIPO and IFRRO, is the first comprehensive study of text and image levies (TI levies). It analyses the origins, scope and current use of these levies around the world, their role in ensuring easy legal access to copyright material, and shows how and why TI levies are different from audio and audio-visual private copying levies.

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 which 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 levy', which is a periodical fee paid by those who operate or provide copying devices on a large scale, such as copy shops and public libraries.

The equipment levy applies primarily to devices or media which can be used to copy text and image works only, either alone or in conjunction with other devices or media such as copiers, multifunction machines, scanners and printers. The levy on such devices or media is normally collected by reproduction rights organisations (RROs), the collective management organisations (CMOs) in the text and image sector, and distributed to authors and publishers either directly or through other representative organisations. However, in some countries RROs also receive a share for the copying of text and image works as part of the private copying levy, which is normally collected by another CMO.

TI levies were first introduced in Germany in 1985. Currently, there are 29 countries worldwide whose legislation provides for TI levies, although the levy scheme is not yet operational in 12 of these. Such levy schemes have mainly developed in Europe. Today, TI levies exist in 15 European Union (EU) member states, as well as six non-EU European countries. The report focuses on the application to TI levies of the principles regarding exceptions or limitations, and fair compensation, set out in the EU Copyright Directive of 2001, and explains how the provisions of the Directive have been interpreted and clarified by decisions of the Court of Justice of the European Union (CJEU) in recent years. Against this background, it identifies and explains how and why the TI levy schemes both within and outside the EU vary considerably.

The report gives up-to-date data, and makes extensive use of comparative tables, for all operational TI schemes regarding the devices and media which are levied, the locations which are subject to an operator levy, the tariffs for the equipment and operator levies, and the 2012 collections. It shows that TI levy collections amounted to approximately €142 million worldwide in 2012. Approximately €125.32 million (87.4%) resulted from the equipment levy, and €18.04 million (12.6%) from the operator levy. The report also analyses the highest levy collections by country from 2007 to 2012, concluding that collections have been roughly consistent during this period, varying within a band of 15% for the equipment levy and 12% for the operator levy, and without a discernible trend up or down. It also analyses the 2012 collections in pro capita terms, ranging from €0.001 per head of population in Ghana to €2.10 in Belgium.

RROs, along with other players at the national and international levels, are constantly striving to improve the levy systems. This report aims to provide some of the facts and analysis which will enable informed discussion of TI levies and their place in a system of fair remuneration for authors and publishers.

1. GENERAL ANALYSIS

1.1 Introduction

Text and image levies (TI levies) for private and own/internal use copying have been around for some 28 years. They cover not only the 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. Nevertheless, there is a tendency in discussions about levy systems to either overlook them or to treat them as a poor relation of (audio and audio-visual) private copying levies. This report is intended to be a comprehensive and authoritative source of information on TI levies.

Another reason why such a report is needed is to address the many misconceptions about TI levies, including the contentions that they are equivalent to a tax, impose an unjustified burden on industry, have a scope which is uncertain, use tariffs which are unjust, and do not distribute remuneration properly to the rightholders through collective management organisations (CMOs). Often such misconceptions are based on a lack of information or a failure to appreciate the complexities of TI levies. This report is intended to enable the reader to make an informed judgement on all such issues.

A third reason for this report is that it will help 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. This is in tune with the current approach of the European Commission (EC), which has changed in the last few years from a simple response to demands from the IT industry for levies to be abolished, to a consideration of how levy systems can be improved in the interests of all players, not least the copyright holders.

The data contained in this report has been provided by CMOs with membership of the International Federation of Reproduction Rights Organisations (IFRRO), and which manage the collection and distribution of levies for the reproduction of text and image works. The relevant CMOs in the text and image sector are referred to as Reproduction Rights Organisations (RROs). The report is published on behalf of IFRRO and WIPO jointly.

It is hoped and intended that the report will be useful in negotiations on levies between rightholder organisations and the IT 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.

At present, the legislation in 29 countries worldwide provides for a TI levy system. 21 of these countries are in Europe, with 15 in the European Union (EU). TI levy systems, and the jurisprudence relating to them, have developed largely within the EU member states, as will be reflected in this report. 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.

1.2 Features of Text and Image Levies

1.2.1 *Equipment levies*

Briefly, TI levies are a means of securing compensation or remuneration for the rightholders (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 authorisation of the rightholders, the rightholders should receive fair compensation or remuneration paid to a CMO on their behalf in the form of a fee or levy on devices or media which are, or can be used, to make such copies. 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 organisations. This system was first introduced in Germany in 1965 for audio/audio-visual private copying (colloquially known as 'home taping' at the time), and extended to copying text and still images in 1985. The rationale for the levy system was and remains as follows:

- Certain exceptions to the reproduction right are justified, firstly, because they serve a social need and, secondly, because it is not possible to enforce the reproduction right in the private sphere, at least without an unacceptable intrusion into that sphere.
- However, such exceptions have a negative effect on the commercial exploitation of works, for which the rightholders should receive equitable remuneration.
- The only practical way of collecting this remuneration is to do so via the manufacturers and importers of devices and storage media that can be used for copying, who are, according to a decision of the German Federal Court in 1958, at least indirectly responsible for copying by end-users by providing the equipment or media that allows them to do so.

The German Copyright Law of 1985 not only extended the existing levy system to text and image works, it also linked it to a much wider range of exceptions than was the case for audio and audio-visual copying, where it applied only to copying by a natural person for non-commercial purposes, typically recording music with a tape recorder, or a TV programme on a video tape. The new law linked the levy not only to the private copying of text or images but also, and more importantly, to a range of 'own/internal use' copying by not only natural persons but also legal persons such as companies, state bodies and organisations. Moreover, for private copying no limitation was placed on the extent of a work which could be copied (to allow only the taping of part of a piece of music or a TV programme was not seen as a sensible approach); whereas only copying of extracts from text works (such as a chapter from a book or a single article in a journal) was permitted, and the copying of a whole book or journal was expressly forbidden. Thus, the German levy system as it applied to text and image works was, and is, much more complex than that applying to audio and audio-visual works, both in its scope and limitations.

The German approach to TI levies was followed in a large number of countries across the world. Some countries, however, such as Spain and Greece, only followed it with respect to the private copying of TI works, and did not extend their approach to 'own/internal use'. (Spain subsequently abandoned the TI equipment levy in favour of a state-funded compensation scheme.) Where a levy has been extended to own/internal use, the detail of what is permitted by the exceptions linked to it may differ from the German TI levy system. For instance, whereas in some countries (such as Belgium) copying from a book is subject to a 'short fragment' criterion, in others (such as Poland and Romania) much more substantial portions of a book may be copied. There are also differences about how many (paper) copies are permitted. For example, in Germany case law has determined that at least seven copies are permissible, but in other countries the exception is either more restrictive or wider regarding the number of copies which can be made. This is another source of variation between TI levy schemes, which has no counterpart in purely private copying levy schemes.

In 1985, only one type of device was capable of copying text and image works: the photocopier. Today, there are many devices (e.g. multifunctional reproduction devices, printers, scanners, faxes, USB sticks, external hard disks and tablets) which 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 the national and European courts about 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 a given time have varied considerably from country to country. The current position is set out in Chapter 2, Table 5. See also the summary in Figure 1¹ below.

¹ Note on abbreviations
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

Figure 1: 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

At the same time, the tariffs on each type of device or support vary from country to country. See Table 10.

When TI levies were first introduced, they were confined to devices (i.e. photocopiers) since there was then no storage medium equivalent to the video or audio-cassette used in the audio-visual sphere. Over time this situation changed, and today text and images can be copied on various types of media (e.g. CDs, DVDs, Blu-ray disks, tablets, USB sticks, memory cards, internal or external hard drives and smartphones), as can audio and audio-visual works. This has resulted in TI levies applying to devices and 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 the term will be used to denote TI levies on both devices and media.

1.2.2 Operator levies

A third area of variation between TI levy schemes is that often the equipment levy is supplemented by an operator levy, and like equipment levies, such operator levies vary considerably. An operator levy is a periodical fee – 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, an operator levy resembles the 'site licence' of voluntary licensing schemes.

When TI levies were first developed, in the 1980s, the only devices capable of TI copying, photocopiers, were situated in an identifiable range of institutions where they were made available to either the general public, for example in copy shops, or a section of the public, for example students and teachers in a school or university.

Today, the situation is different. Almost all of the devices and media which can be used to make TI copies are situated not only in institutions of various types and in copy shops, but also in commercial enterprises and – in very large numbers – private homes. Further, many of the devices and media are portable, and can be used in any location. However, none of the operator levies reviewed covers private homes, nor do they cover the use of portable devices outside the locations subject to the operator levy, such as copy shops and libraries. Of course, devices and media used in private homes and elsewhere are, or can be, subject to the equipment levy. This is one reason why operator levies could never replace equipment levies, as some have proposed.

Within operator levies, there is variation about which operators should pay the levy. For example, the German operator levy excludes business and public administration, although the Belgian operator levy includes these sectors, while in Poland, the operator levy is confined to copy shops.

Table 1 shows that of the 18 countries with operational levy schemes, 12 have an operator levy as well as an equipment levy. See also the summary in Figure 2 below.

Figure 2: Countries with TI levies

Levy on TI devices	Algeria (nyi), 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 (analogue only, nci), 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), Nigeria, Paraguay, Portugal (analogue only), 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), Nigeria, Paraguay, Slovakia, Turkey
Operator levy	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 of the 12 aforementioned countries, the locations to which the operator levy applies varies considerably, from copy shops only in Poland to a wide range of locations in Belgium and the Czech Republic. See also the summary in Figure 3 below.

Figure 3: Locations covered by operator levy

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

1.2.3 Tariffs

As will be demonstrated later, TI levy systems vary not only regarding 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 levy, but also regarding the tariff structure and the tariffs which apply in different countries to the same types of device and media, and to operators (see Tables 10 and 11). Such variation has been criticised as a fundamental weakness of levies, and especially TI levies; but it is merely an expression of the fact that the details of the levy schemes are at the discretion of national legislators, as confirmed by the Court of Justice of the European Union (CJEU). Instead, what needs to be considered is whether each levy system strikes a balance between securing fair compensation or remuneration to the right owners, and not imposing an undue burden on the IT industry or end-user. Moreover, to apply a uniform tariff on a type of device or media throughout the EU, for example, regardless of which exceptions are within the national levy scheme, which devices and media are levied and whether there is an operator levy as well as an equipment levy, would obviously be inappropriate and unjust.

Even where the same exceptions are covered, and there is or is not the same type of operator levy scheme, tariffs should also reflect possible differences in the type and volume of copying between countries, and take into account other relevant economic factors such as the GDP of a country and the size of its reproduction device market, to name but two.

Table 1 in Chapter 2 shows the types of levy in all countries with TI levies, including where such levies are provided for in the legislation but have yet to be implemented.

1.3 Methodology and Scope

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, the annual Members' Directory and the information about IFRRO members is available on the website, www.ifrro.org. More detailed data, for example the status reports prepared for the annual World Congress and AGM, which is hosted each year by a different IFRRO member (in October 2013 the event took place in Istanbul), is available to IFRRO members. This data has included a summary of levy systems, but has not dealt with all aspects of them, and to date has been confined to only some of the European countries with operational TI levies. Further, until now the IFRRO has not developed a detailed and comprehensive report on TI levies, and kept this updated on an annual basis. This report has drawn on existing data from the sources mentioned, supplemented by a survey conducted from December 2013 to January 2014 addressed to all IFRRO members involved in TI levies.

The aforementioned survey focused on issues for which existing data was missing or incomplete. In particular, whereas existing data covered levies on devices and media which can only be used to copy text and image works, including traditional copying machines, printers and scanners, the survey enquired whether in each country there was a levy on devices and media which can copy both audio/audio-visual and TI works, such as PCs and USB sticks, and if so whether a share was being allocated and paid to TI works. The questionnaire was sent to all IFRRO members administering levy schemes, and met with a very good response.

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, and a member of the IFRRO Secretariat.

In many of the national 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, 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.

1.4 Overview by Continent

Europe

TI levies currently exist in 15 EU member states from a total of 28, and six non-EU states.

The first TI levy legislation was introduced in Germany in 1985, followed by Spain in 1989.

Spain no longer has a TI levy system; fair compensation for private copying is now funded by the state. Between 1990 and 2000, TI levy system legislation was introduced in a significant number of European countries. These included Austria and Belgium within the EU, as it then was, and also several Eastern European countries, such as Poland and Hungary, which have subsequently joined the EU. IFRRO made an important contribution to the implementation of the TI levies in the Eastern European countries between 1997 and 2000 under the EU PHARE programme (PHARE was an assistance programme to help such countries to develop economically, and to enable them to apply for EU membership). More recently, since 2000, TI levy legislation has also been introduced in a number of countries in the Balkan region, Bosnia-Herzegovina, Croatia, Kosovo, Montenegro and Serbia, although only the system in Croatia has been (partially) implemented to date.

North America

There are no TI levy schemes.

South America and the Caribbean

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

There are no TI levy schemes.

1.5 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, such as directives and regulations, adopted by the European Parliament and Council of Ministers. The EU civil service, known as the European Commission (EC), is responsible for proposing new EU legislation in draft form. The EC also produces studies, impact assessments and recommendations relevant to the functioning of the internal market in all areas, including copyright. There was no overarching directive concerning copyright until 2001 (Directive EC 2001/9, 'the Copyright Directive'). The Copyright Directive directly influences TI levy systems because 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, including exceptions to the reproduction right which underpin levies. Further, the Copyright Directive provides that if member states adopt certain exceptions, they must also provide for 'fair compensation' for the rightholders. Although the Copyright Directive does not go into detail about the form which such remuneration schemes may take, it is clear, as confirmed by the European Court, that levies constitute an appropriate and legitimate means of providing for fair compensation. The Copyright Directive regulates the form which remuneration schemes may take, what activities they may compensate and the level of compensation only in broad terms or as general principles. A great deal is left for member states to determine. Outside Europe, national governments have even more latitude, subject to the copyright conventions and, usually, the use of successful European TI schemes as a model.

Within Europe, the manufacturers and importers of devices and media subject to the TI levies have lobbied extensively for their abolition, or at least for their reform in various areas. The EC has responded to such calls principally by refereeing discussions between interested parties, notably the RROs and the IT industry, and more recently by appointing Antonio Vitorino as a mediator. After consulting interested parties, Mr Vitorino issued a report in January 2013.² In the report Mr Vitorino expresses the opinion that levies 'will remain relevant in the immediate future'. He goes on to say that there is therefore a need 'to ensure the greatest possible consistency, effectiveness and legitimacy of the levy systems that are in place today'. He then makes a series of recommendations about how levy systems can be improved in order to achieve these goals. These apply, with one exception, to both private copying and TI levy systems. Each of these recommendations will be briefly examined in the context of the section on liability issues below.

The latest developments are, firstly, an impact assessment by the EC, which will focus on reimbursement/refund schemes, and professional use. Since professional use is covered by many TI levy schemes, in contrast to audio/audio-visual levy schemes, the topic is more relevant to private copying levies than TI levies. Comments on reimbursement/refund schemes and professional use are to be found in the section on liability issues. Secondly, levies are part of a general copyright review by the EC, which takes the form of a public consultation.

The opposition of the manufacturers and importers to the European levies has also resulted in a great deal of litigation in recent years. Not only have many cases been taken to all types of 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 CJEU. The

² http://ec.europa.eu/internal_market/copyright/docs/levy_reform/130131_levies-vitorino-recommendations_en.pdf; for IFRRO comments see http://www.ifrro.org/sites/default/files/ifrro_comments_vitorinoreport_april2013.pdf

Court has clarified and confirmed the interpretation of the Directive on some key matters concerning levies. Recent landmark rulings include *Padawan* (C 467/08, 21/10/2010), *Opus/de Thuiskopie* (462/09, 16/6/2011), *VG WORT* (C 457/11 to C-460/11, 27/6/2013) and *Austra-Mechana/Amazon* (C 521/11, 11/7/2013). In the *Copydan Bandkopi v Nokia* (concerning memory cards and fair compensation – C-463/12), *ACI Adam* (concerning copying from an illegal source – C-435/12) and *Reprobel v HP* (concerning dual remuneration schemes, illegal reproductions and the author/publisher distribution split – C-572/13) cases, important preliminary questions have recently been referred to the CJEU which still need to be addressed by the Court. Where appropriate, this report will briefly summarise these rulings in the liability section.

1.6 Legal Background for Text and Image Levies

The Berne Convention allows member states to provide for exceptions and limitations to the exclusive reproduction right of the author provided they meet the 'three step test', the three steps being that the exception must be confined to special cases, must not conflict with normal exploitation of the work, and not unreasonably prejudice the legitimate interests of the author. The EU Copyright Directive went into more detail about the exceptions allowed in EU member states. Two Articles 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 rightholders 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 rightholders receive fair compensation'.

5.2.a focuses on the end product (a copy on paper or a 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'; internal copying within companies, state bodies and institutions, and libraries; and 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, 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'). In contrast, 5.2.a only applies to copying text and image works. 5.2.a is sometimes said to cover 'reprography', although this term can lead to misunderstandings and is best avoided in our view. As was confirmed in the *VG WORT* ruling of the CJEU of June 2013, 'reprography' should not be understood to refer only to the use of analogue technology, even though the term was once synonymous with analogue photocopying and there is a reference to the (analogue) process of photocopying in 5.2.a. This is because the term covers 'other processes having similar effects', such as printouts. Nor does it only refer to copying from an analogue (paper) original, since 5.2.a makes no mention of the source of copies, but only makes a reference to the end product, a paper copy. It also needs to be borne in mind that devices such as PCs, which in themselves can only produce and store a digital copy, may be used in connection with other devices, such as printers, to produce a paper copy, and can therefore be subject to a levy under 5.2.a as well as 5.2.b, as the CJEU has recently confirmed (see below).

The confusion about the term 'reprography' is compounded if it is used to refer to 'reprography levies', as for example in the *Vitorino* report. This gives the impression that levies for text and image copying only concern the production of a paper copy (photocopy or printout) under 5.2.a, whereas in fact they can also concern the production of a digital or paper copy for private purposes under 5.2.b. For this reason, we have avoided the use of the term 'reprography' in this report and refer instead to text and image levies (TI levies).

An important reason why these rather esoteric distinctions are important for a correct understanding of TI levies is that levies are copyright royalties payable for specific copying acts covered by exceptions or limitations. In establishing which devices or media should be levied, and what tariffs should apply, a clear understanding of which uses are subject to the levy in each country is essential.

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. Others, for example in Germany and Belgium, cover private and own use/ internal copying and/or copying for educational purposes. Equally, there are 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, regard has to be paid to the type and extent of copying which the levy is supposed to cover, otherwise like is not being compared with like.

For example, one country may restrict the extent of copying permitted under a particular exception to up to 5%, while another may permit the copying of up to 15% a book or may use the abstract and undefined concept of a 'short fragment', although most exceptions would normally allow the copying of a full chapter from a book or one complete article from a journal. This point is often overlooked when apparent variations in tariffs are criticised and greater harmonisation is called for. It is hoped that the data contained in this report will help bring greater clarity to this area.

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

1. It should not be thought that the existing levy systems were introduced following, and as a result of, the passage of the Copyright Directive. Rather, they were already in place in most cases, and, usually, each country adjudged its existing scheme to be in accordance with the Directive. Partly because of this, national legislation may not make it clear whether an exception is in accordance with 5.2.a or 5.2.b or both. In some countries, such as Belgium, the existing scheme, which dates back to 1994, still needs to be adjusted to the Directive, at least for reproductions on paper.
2. For a long time, the exact interpretation of the Directive in relation to levy systems was in doubt because the CJEU had made few decisions. This 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.

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 at liberty under the 2001 Copyright Directive to introduce exceptions within 5.2.a and/or 5.2.b on the grounds that they provide for the rightholders to receive 'fair compensation'. The Directive does not specify how that fair compensation is to be provided, or what the exact level thereof should be, although the CJEU has confirmed in *Padawan* and other cases that levy schemes are a legitimate way of doing so.

The Copyright Directive provides a range of other exceptions to both the reproduction and making available rights in Article 5.3. However, these exceptions are not subject to the requirement of fair remuneration. Nevertheless, in many countries the 5.3 exceptions have been made subject to remuneration. For example § 53 of the German Copyright Act, which lists the exceptions linked to the TI levy, includes the use of works as an illustration for teaching (Article 5.3 (a) of the Directive). However, in all the countries with levy schemes, both the equipment levy and the operator levy are only applied to exceptions to the reproduction right, and not to the making available right, even though the same devices and media are usually involved in both copying and making available. For example in Germany, making available to the public by dedicated terminals in libraries and other institutions, permitted by Article 5.3 (o) of the Directive, is remunerated by the payment of fees to VG WORT rather than through levies.

Chapter 2, Table 2 summarises the exceptions covered by levies in the various countries. See also the summary in Figure 4 below.

Figure 4: 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 (nyi), 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 summarises the institutions and bodies subject to the operator levy, where applicable. See also the summary in Figure 5 below.

Figure 5: Locations covered by operator levy

Copy shops	Austria, Belgium, Croatia, Czech Republic, Germany, 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

Outside Europe, several countries have introduced levy schemes, although many have not yet been implemented or are in the early stages of implementation. In introducing these schemes, such countries have been heavily influenced by developments in Europe.

1.7 Practical Implementation of Text and Image Levies

Assuming the copyright law of the country concerned provides for a TI levy, there are a number of factors which can assist the practical implementation of the system, just as the absence of these factors may hinder its development:

1. Firstly, although most legislation refers to the levy payments being made to or for authors and/or publishers, it is universally recognised that for individual rightholders to collect the levy relating to their works is completely impossible because of the number of claims which would be involved and the relatively small amount of most claims. An entity is therefore needed to collect the levy on behalf of authors and/or publishers. The obvious candidate for this role is an RRO. Some copyright legislation, for example in Germany, Belgium and Slovakia, expressly provide that levy claims can only be asserted via a CMO, which may have a factual or legal monopoly in this field, and in most levy countries there is legislation providing for the authorisation and supervision of RROs (and CMOs for that matter), inter alia in relation to levies which they collect. In some countries which provide for TI levies, the system has not yet been implemented because no suitable RRO to administer it yet exists, or has yet been authorised. Examples are the Dominican Republic and Moldova (see Chapter 3B). In some countries, the legislation provides for the equipment levy to be collected by the customs authorities (e.g. Ghana) or the national copyright office (e.g. Nigeria), with a proportion further distributed to CMOs representing different categories of rightholder.
2. Secondly, where there is an RRO duly authorised 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 are discussed in the next chapter.

3. The third factor which ensures the effectiveness of equipment levy schemes is that the RRO administering the levy must be able to obtain data about the entry to the national market of devices and media. Such data must be sufficient to enable the RRO to identify and invoice the entities liable to pay the levy. The extent to which national laws provide sufficient provision for this varies. In some countries, trade bodies representing a substantial number of the manufacturers or importers exist, with which the RRO can conclude cooperation agreements, for example Bitkom in Germany. In others, such bodies do not exist, so that the RRO must either conclude agreements directly with a large number of individual companies or rely on the enforcement of the copyright law through court actions to get the information it requires, as for example in Poland. In some countries, such as Belgium, the copyright legislation/regulation gives specific controlling or auditing rights to the RRO.

1.8 Tariff Setting

1.8.1 *How tariffs are set*

The way in which tariffs can be established varies between countries:

1. In some countries, for example Germany and Austria, the 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. Tariffs are supposed to be agreed between the collection agencies and the industry side. If disputes arise, these must be resolved by arbitration or litigation. In some countries, there are specialist bodies authorised to deal with such disputes, such as the 'Schiedsstelle' of the German Patent and Trade Mark Office, DPMA, but their decisions are not always final and may be overruled by the normal courts. In Romania, the devices or media subject to the levy are negotiated between the interested parties, but the tariffs are set by law.
2. In some countries, the devices and media subject to the levy, and in some cases the tariffs as well, are established by secondary legislation or regulation, with the underpinning copyright legislation again only stating some general principles. An example is Belgium, where the regulations on leviability and tariffs are contained in royal decrees. The danger of this approach is that it can lead to delay before the levy can be implemented, and that a review of the regulation in light of changed economic or legal circumstances can take a considerable amount of time. It is of course important that both the remuneration and the tariffs are fair and that the rightholders and their societies should be fully consulted before the tariff is set. The advantage is that legal certainty is provided and that dispute resolution is not needed as a general rule (since the law sets the tariffs), provided of course that the regulation itself is not disputed before a court of law. Moreover, these regulations may provide for automatic indexation of the tariffs to ensure that they remain in keeping with the inflation rate (as is the case in Belgium, for instance).
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 reason is that the state regulation or decree setting out which devices and media are leviable and which tariffs apply has not yet been made. An extreme example of this is Luxembourg, where the 2001 Copyright Law provides the basis for a levy, with the details to be established by regulation, but to date no regulation has been made.
4. In some countries, the devices and media subject to the levy, and sometimes also the tariffs, are specified in the copyright law (e.g. Greece). While this approach avoids the danger of delay, the problem is that it is more difficult to introduce new levies on devices or media appearing on the market for the first time because of the lengthy legislative process. Again, it is essential that the rightholders should be fully consulted concerning the tariffs.

Table 9 in Chapter 2 shows how tariffs are set in the various countries with functioning TI levy schemes. See also the summary in Figure 6 below.

Figure 6: 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

1.8.2 *Level of tariffs*

The Copyright Directive does not provide criteria for the assessment of compensation, although it does mention harm to the rightholders as a possible criterion. This led to claims that it was incumbent on the authors and publishers to prove actual harm, akin to damages; but it was clarified in the Padawan case (C 467/08 21/10/2013) that what is in issue is possible or potential harm rather than actual harm. Thus, for example, if a device is made available to a natural person, it can be presumed that he will use it to copy for private purposes.

In the Padawan decision, the CJEU also held that fair compensation is an autonomous community concept which should be interpreted uniformly within the EU. However, the CJEU has also held that the practical modalities of the compensation schemes (such as tariff structure and tariffs) and the concrete level of compensation remain at the discretion of member states.

In summary, 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 on the national territory (assessed on the basis of a statistical survey);
3. the 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 the actual use of devices and media is by conducting statistical surveys;
6. all interested parties should be consulted in the tariff-setting process.

1.8.3 *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; 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; 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), as is the case for example, for all devices levied in Burkina Faso, and for printers in Austria.

A national equipment levy can be solely based on one of the types of tariff 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).

Chapter 2, Table 9 summarises 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 levy are based on similar principles as those for the equipment levy, although tariffs and fair remuneration have been analysed by the CJEU more in relation to the equipment levy than in relation to the operator levy. Operator levy tariffs are usually set on a sector-by-sector basis. In Belgium, for example, operator levy agreements can be of the following types:

1. Framework agreements negotiated between the national RRO Reprobel and a representative operator organisation, with a centralised payment by said organisation on behalf of all of its members.
2. Framework agreements negotiated between Reprobel and a representative operator organisation without a centralised payment by said organisation on behalf of all of its members, these members being under an obligation to pay individually on the basis of the agreement.
3. Framework agreements negotiated between Reprobel and a representative operator organisation on behalf of its members setting negotiated terms and conditions, but with the members being at liberty to adhere to the agreement or not.
4. Individual agreements, such as with copy shops. The copy shops report the actual volume of copies made on their premises. Data from statistical surveys is then used to estimate the number of copyright protected works in broad categories (such as fiction, scientific journals and scientific books).

The final agreement differs from the approach in Germany where, as aforementioned, a flat fee per copying device is applied.

1.8.4 Use of statistical surveys

As noted in the last chapter, CJEU judgements and practical experience have confirmed that the only way to set fair tariffs for both the equipment levy and the operator levy is on the basis of statistical surveys. These measure what is known as 'objective possibility of use'. Copying behaviour is observed over a limited period in various locations such as copy shops, libraries, schools and higher education institutions, enterprises and state bodies. Reproductions on paper from copyright-protected sources are identified and recorded according to either categories of work (e.g. non-fiction books, fiction books, scientific journals and newspapers) or on a title specific basis (e.g. sample surveys) which afterwards can 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.

1.9 Liability and Other Issues Concerning Text and Image Levies

A number of issues have appeared in debates about levies in the last few years. Most affect both private copying and TI levies, but sometimes in different ways.

1.9.1 The issue of double payment

It seems self-evident that, where copying is subject to an existing licence, a levy fee should not apply. It is therefore argued that the results of statistical surveys underpinning tariffs should be discounted to 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 fact this issue was decided by the CJEU in the VG WORT case in June 2013 (C-457 to C-460/11 27/6/2013). The judgement provides that where a member state, in introducing an exception under Article 5(2) or (3) of the Copyright Directive, *'has decided to exclude from the material scope of that provision, any right for the rightholders to authorise reproduction of their protected works ... any authorising act the rightholders may adopt is devoid of legal effects under the law of that state. Consequentially, such an act has no effect on the harm caused to the rightholders due to the introduction of the relevant measure depriving them of that right, and cannot therefore have any bearing on the fair compensation owed, whether it is provided for on a compulsory or an optional basis, under the relevant provision of that directive'*. This reasoning applies not only to the situation where the rightholders have purported to license a use covered by an exception (against payment of a licence fee, or not, as the case may be), but also the situation where the rightholders have permitted their works to be available on the internet without any copy protection (TPM) and/or rights management (DRM). Even if, as has been argued, they can thereby be said to have (implicitly) consented to such works being copied, the levy is still payable for that copying.

In view of the VG WORT ruling, it is necessary to ask with regard to 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 analysed 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 licence may prevail over the exception or limitation.

1.9.2 Who is liable to pay the equipment levy?

In all 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, liability to pay extends beyond the manufacturer and importer in case 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 the 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 page 24. Chapter 2, Table 3 summarises the position in the countries with TI levies.

1.9.3 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 either a digital or paper copy. For example, a scanner may be used to make a digital copy of a document, a PC to store it and later a printer to make a printout. Some legislation, for example the 2008 German Copyright Act, took the view that levies should be applied to all devices, whether digital or analogue, which either alone or in conjunction with another device or devices can be used to make a copy. However, this view was subject to legal dispute in a number of countries, including Germany, with respect to the pre-2008 law. The matter was settled by the CJEU decision in the VG WORT case in 2013, when the CJEU answered 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'.

1.9.4 Tariff setting process

A good procedural framework for tariff setting is in the interest of all affected parties, although in some levy countries the procedure may be slow. For example in Germany, tariffs are required to be negotiated if possible, but in default of agreement a dispute about tariffs must be referred to the German Patent Office in the first instance. However, the decision of the Patent Office is not binding unless accepted by both parties. If it is disputed, the dispute must be referred to the normal courts, a process which can take years. 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. Again, these proceedings will take years to conclude, both at European and national level.

The Copyright Directive requires all the circumstances of a case to be considered in relation to assessing fair compensation, and harm is cited in the Copyright Directive as only one possible (although an important) criterion. In addition, what is at issue is possible or potential harm and not actual harm, as was confirmed 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).

1.9.5 Professional use

Although the CJEU Padawan ruling directly concerned Spanish audio and audio-visual private copying levies, it has repercussions for all levies, as was later confirmed in the Court's VG Wort ruling, specifically for TI levies. Briefly, the Court decided that if the levy covers only audio/audio-visual private copying, then devices used by companies, organisations 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. The decision of the CJEU reads as follows on this point:

3. *Article 5(2)(b) of Directive 2001/29 must be interpreted as meaning that a link is necessary between the application of the levy intended to finance fair compensation with respect to digital reproduction equipment, devices and media and the deemed use of them for the purposes of private copying. Consequently, the indiscriminate application of the private copying levy, in particular with respect to digital reproduction equipment, devices and media not made available to private users and clearly reserved for uses other than private copying, is incompatible with Directive 2001/29.*

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

- many TI levies (both equipment and operator), as already noted (see Table 2), expressly include internal or own use copying within companies, state bodies, institutions and organisations, and copying by natural persons for other than private use (such as professional use);
- 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).

1.9.6 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 or importer sends it as part of a consignment to a foreign distributor, or when a retailer fulfils an order placed by a customer resident 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, they are 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 prevailing in the country where the end user resides.
- In a cross-border transaction the levy of the country of import should be paid by the foreign seller, not (or not in the first place) 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:

Article 5(2)(b) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society must be interpreted as meaning that it does not preclude legislation of a Member State which indiscriminately applies a private copying levy on the first placing on the market in its territory, for commercial purposes and for consideration, of recording media suitable for reproduction, while at the same time providing for a right to reimbursement of the levies paid in the event that the final use of those media does not meet the criteria set out in that provision, where, having regard to the particular circumstances of each national system and the limits imposed by that directive, which it is for the national court to verify, practical difficulties justify such a system of financing fair compensation and the right to reimbursement is effective and does not make repayment of the levies paid excessively difficult.

Where products subject to the equipment levy are imported, but not placed on the national market, 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. For example in Germany, such goods are excluded from the import statistics supplied by Bitkom to VG WORT, so that the levy is not charged on them. However, such schemes exist only in some countries (see Table 4), whereas there are refund schemes in the great majority of countries with TI levies. It should be noted that in smaller and less developed countries, the re-export of leviable products is in any case very infrequent. There is also no possibility of an *ex ante* exemption scheme in the case of products which enter the national market and are then subsequently sold by a retailer, often online, to a customer abroad. In such cases the need is for an effective refund scheme.

The idea of a pan-European agency or organisation which 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 favour on all sides. It would appear 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.

1.9.7 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 in the first instance to an RRO should be able to get information about 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 regulation. The publication of tariffs on the 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 in question from the placing thereof on the national market, culminating in the invoice to the consumer. Table 12 shows that there is a legal liability to do so only in a minority of cases.

1.9.8 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 organisations have concluded that there is no discernible trend. Prices vary from country to country irrespective of whether there is or is not a levy system, or what the levy amounts are.

1.9.9 Relationship between the operator levy 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 levy represents roughly 45% of total TI levy collections. In Hungary the figure is 50%, but in Germany it is only about 7.5% and in Poland about 2.1%. Overall, the operator levy accounted for 12.6% of 2012 levy collections. The relatively high percentage in Belgium is partly because the range of institutions and bodies covered by the operator levy is more extensive. Moreover, a recent and comprehensive survey on copying and printing-out in Belgium, carried out on the basis of the 1997 royal decree, showed that more than one third of reproductions of copyright works are made in the home environment (Profacts, 2013).³ Since the use of reproduction devices in that environment can only be

³ <http://www.reprobel.be/en/news/34.html>

subjected to and remunerated through the equipment levy, it is difficult to see how an operator levy could be a catch-all solution. The survey has also shown that the use of these devices at home is extensive and can hardly be described as causing 'minimal harm' to rightholders.

1.10 A few Aspects of Distribution

1.10.1 *General principles*

TI levies result in global lump sums being paid to RROs or to other CMOs on behalf of authors and publishers. The task of RROs is to ensure that this remuneration, after 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 is used for general purposes for the benefit of those authors and publishers. RROs must carry out this task according to published rules which are fair to all concerned. Since, by definition, an RRO has no data about 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 levies, it must rely on surveys to distribute the remuneration. Surveys can be of two types.

1. Statistical surveys. Copying behaviour is observed in specific locations (e.g. copy shops) with specific devices or media (e.g. multifunction machines) over a sufficient period for the results to be statistically significant. Normally such statistical surveys are carried out by reputable market research organisations. The surveys reveal the extent of copying of copyright protected works in each sphere, and the type of work covered. This enables the lump sum collections to be allocated with considerable accuracy to broad categories of works such as fiction books, non-fiction books and press material. The actual categories used vary between RROs, but the principle is to allocate remuneration to categories of work.
2. Sample surveys. These are carried out in the same way as statistical surveys, but aim to identify not the category of copyright protected work copied, but rather the specific work. The results of the sample are then extrapolated to the whole of the national territory, and the authors and publishers identified by the survey as having been copied receive a share of the distribution.

With operator levy remuneration, more information may be available about what copying the remuneration relates to than in the case of equipment levy remuneration. For example, in some countries some operators are obliged to report copy volume within specified periods to the RRO (e.g. copy shops in Belgium). However, statistical data still plays a vital role in allocating the remuneration to different types of copyright protected work. Also, sample surveys are more frequently used for distributing operator levy remuneration than equipment levy remuneration. For example in Germany, periodical surveys are carried out using a representative sample of state schools.

The levy remuneration may be distributed in three ways:

1. On a title-specific basis. This involves the allocation of remuneration to specific works, and 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, whereby rightholders report their recently published works to the RRO, or by databases, or a combination of the two.
2. On a non-title specific basis. Remuneration within each category of work is allocated other than by reference to specific titles; for example, by reference to publisher turnover.
3. The remuneration may be used for general purposes. This is often mandatory by law (see the discussion of social and cultural deductions below).

1.10.2 *Responsibility for distribution between CMOs*

Levies on devices or media which can only copy text or image works are normally collected by RROs. The RRO which collects the levy may not, though, 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 rightholder organisation which represents the authors/and or publishers in that sector. However, levies on devices or media which can copy audio/audio-visual and TI works are usually collected by another CMO, and the TI share of the levy is,

or should be, passed on to an RRO. For example in Germany, the levy on PCs is collected by the *Zentralstelle private Überspielungsrechte* (ZPÜ) for a large number of CMOs, of which VG WORT represents the text sector and VG Bild-Kunst the still image sector. Tables 6 and 7 give the percentage allocated to the TI sector for each device/media, where this has been determined. In most cases, however, there is either no TI share or this has not yet been determined.

Some RROs in the TI sector are therefore distributing remuneration which they have collected (e.g. Reprabel in Belgium, albeit via its member CMO's); some are distributing remuneration passed on by other RROs or other CMOs (e.g. VG Bild-Kunst in Germany); and 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 cases, however, they represent only authors or only publishers. Thus, in Croatia for example DHK represents authors, and ZANA publishers. In most cases, the RRO passes on the share of levy remuneration attributable to image works to a CMO or other organisation representing authors and/or publishers of image works. This share may be established by the law (as it is in Hungary); determined by agreement between the RRO and the image CMO or RRO (e.g. in Germany the TI levies are collected by VG WORT but an agreed share is passed to VG Bild-Kunst for distribution to visual image authors and publishers according to the distribution plan of VG Bild-Kunst); or it may be agreed within the collecting RRO (as is the case in Belgium, where the visual works' share is decided in the Authors College, which comprises member CMOs representing authors).

1.10.3 Determination of distribution schemes

In most countries the distribution scheme is determined by the membership of the RRO, usually subject to the 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 Chapter 2.

1.10.4 The author-publisher split

In most cases, an RRO distributes to authors and publishers, either directly or via representative organisations (trade organisations 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 which the distribution plan must address. The plan may provide for a uniform split, or for different splits for different types of work (e.g. in VG WORT, a 50:50 split applies to scientific works, and a 70:30 split in favour of authors applies to other cases). A typical distribution scheme also allocates funds to foreign rightholders on a non-discriminatory and objective basis (see below).

Secondly, the plan must address the issue of what administrative costs will be applied, and whether any deductions will be made for social or cultural purposes. See Table 15, Chapter 2.

1.10.5 Deduction of administrative fees

Administrative fees vary among RROs and from year to year. They may be set by the RRO annually, according to administrative costs in the year in question, as done, for example, by VG WORT in Germany; or the costs may be a set fee according to the law, as for example in Romania. The maximum percentage administrative fee may also be prescribed by law; for example, in Poland the limit is 20%. The administrative fees of RROs administering TI levies in 2012 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.

1.10.6 Social and cultural deductions

In some countries with TI levies, remuneration is allocated to social and/or cultural purposes. Thus the money may be used for social funds, which for example provide pensions or other financial assistance to

rightholders in case of need, or for cultural purposes such as helping to fund cultural events or the publication of meritorious works. The RROs concerned are usually obliged or authorised 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 Chapter 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 (C-521/11, 11/7/2013), which involved the private copying levy, the CJEU approved a social and cultural deduction of 50% provided the rightholders benefit from the social and cultural funds on a fair and non-discriminatory basis.

1.10.7 Outsiders and foreign rightholders

The distribution rules of each RRO must allow for the fact that the levy collections relate to all works copied within the country concerned, not only to works written or published by members of the RRO. The rules must therefore address the issue of national non-members (sometimes referred to as outsiders) and foreign rightholders. The share of the levy remuneration attributable to foreign works can be determined by statistical surveys, market availability or other objective data, and distributed through bilateral agreements with foreign RROs. IFRRO has developed sample agreements. As to national non-members, it is important that an RRO's distribution of levy remuneration is publicly known within the country concerned, and that all national authors and publishers should have an equal opportunity of benefiting from 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 not determined by national law, the rules should be democratically determined by the members of the RRO.

1.11 Trends

The following **general trends** have been identified in this report over the period of nearly 30 years during which TI levies have existed:

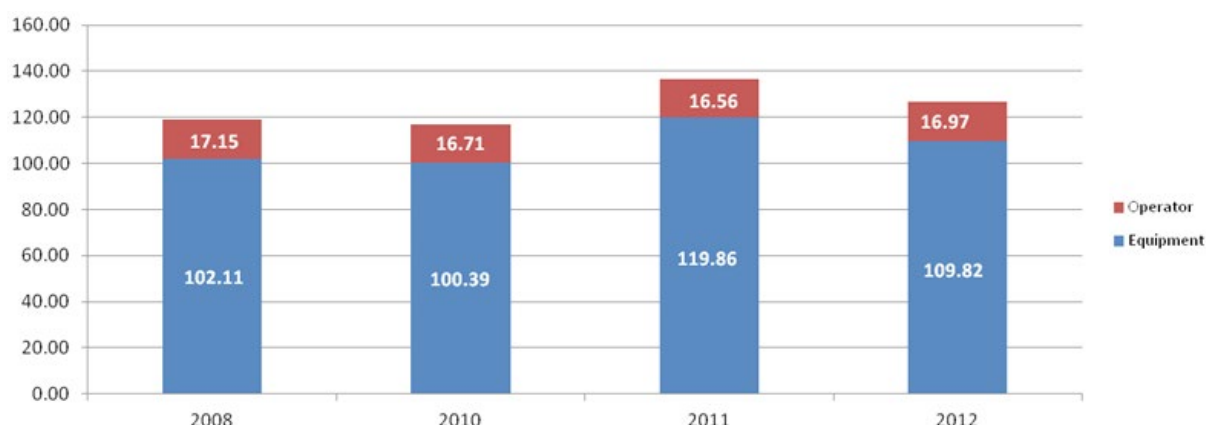
1. A steady increase in the number of countries worldwide which have adopted TI levy schemes. As previously noted there are now 29 countries with TI levies.
2. Levy systems have adapted to technological change, from a situation where only photocopiers could copy text and image works, to a situation where copying can be effected using a wide range of digital devices and media.
3. A trend in the more recent past is the way in which the legitimacy of levy systems as a means of securing remuneration for rightholders for the use of their works under exceptions in the copyright law has been strengthened by the 2001 Copyright Directive, and its interpretation by European Court decisions. These CJEU decisions, moreover, have clarified many issues about the detailed operation of levy systems.

4. A less positive trend over the past twenty years or so is the long delays in some countries between the provision of TI levies in legislation and the schemes becoming operational. Currently, 12 TI levy schemes are not yet operational, for reasons already discussed. In some cases, such as Serbia and Montenegro, the levy legislation has only been in force a relatively short time, and there is every reason to expect that it will be fully implemented before too long; but in other cases, such as Luxembourg, Algeria and Ecuador, the legislation has been in place for more than ten years without implementation. To some degree, a time-lag between primary legislation and implementation is inevitable, since a regulation or decree may have to be passed to enable the latter, and an RRO to administer the levy must be authorised (and may need to be established by the rightholders). In the case of most, but not all, of the RROs now administering the levies, there was an appreciable delay before the scheme was up and running. Nevertheless, it should be borne in mind that the uses permitted by the exceptions covered by the levy scheme can be made as soon as the legislation enters into force; and until the related levy scheme is operational, the rightholders are receiving no compensation or remuneration for the use of their works without authorisation within the exceptions.

As regards **revenue trends**, worldwide collections can be expected to increase as the number of operational schemes increases. However, the initial collections in small or developing countries are likely to be low. 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 collection of approximately €142 million.

Tables 17 and 18 analyse the countries with the highest equipment and operator levy collections between 2007 and 2012. Our conclusion is that in both cases overall collections have shown no clear trend either up or down, fluctuating no more than 15% in the case of the equipment levy and 12% in the case of the operator levy. This is after making due allowance for the distorted figures for Germany in 2009 and 2007. In 2009, the total of approximately €473 million is accounted for by a back payment for multifunction machines for 2002 to 2007, following the resolution of a legal dispute. In 2007 by contrast, German collections were relatively low because ongoing tariff negotiations were not completed within the year. However, a relatively flat level of total revenue can be seen as a positive outcome in view of the world financial downturn since 2008. See also Figure 7.

Figure 7: 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 20 years.

Firstly, the number of different types of device or medium on which copies can be made has increased year on year. Inevitably, there is a delay between a new type of device or medium coming on the market and levies being collected for that device or medium. This is because the application of levies to the type of device/medium, and/or the appropriate tariff, may be uncertain or disputed for some time, perhaps years, and during that time either nothing or a low tariff is usually paid. Multifunction machines in Germany in the aforementioned case are a good example. In Belgium, the reprography levy scheme should have been broadened to include printers (and printouts), but a new tariff royal decree has been awaited since 2005.

Secondly, more and more storage media are capable of being used to copy TI works; consequently, existing TI levy schemes are increasingly being expanded from the coverage of devices only to the coverage of media. See Table 7.

Thirdly, in a lot of cases the new types of copying device/medium are capable of copying audio and audio-visual works, as well as text and still images. This is part of what is known as the phenomenon of convergence. However, normally only one levy is applied to the device or medium in question. Often, such devices and media are initially covered by an audio and audio-visual private copying scheme, which is then extended to TI works. This is the case, for instance, in Belgium, where the scheme has been broadened with effect from 1 December 2013. This means that agreement must be reached between the collecting body, be it a CMO representing audio-visual rightholders, an RRO representing text and image rightholders, or an ad hoc CMO representing other CMOs in both spheres, and the CMOs responsible for distribution to the rightholders in each sector before the revenue collected can be distributed. The tendency has been for the levies on such devices or media to be collected by an audio-visual CMO, or an ad hoc CMO, rather than an RRO which administers TI levies.

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 to: a) the fact that private copying of TI works encompasses the production of a paper copy as well as a digital copy; and b) the fact that the relevant exceptions may include own use/internal use as well as private copying. However, a TI share is currently passed on in only a few countries, and this trend has not yet had a major effect on collections for TI levies, although the figure of €12.5 million under the French private copying scheme (see 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, Chapter 2.

1.12 Final Words

In 2012, €142 million was collected worldwide for authors and publishers from TI levies. Such levies can generate substantial remuneration at low cost in terms of administration fees, and without imposing an undue financial or administrative burden on users or industry. Considered per head of population, the payments are minute, even allowing for the fact that, for obvious reasons, the whole population in any given country does not take advantage of the copyright law exceptions, and those that do, do so to a varying degree. Even the highest per capita levy, in Belgium, amounts to just over €2 per year. See Figures 8 and 9 below.

Figure 8: Per capita collections

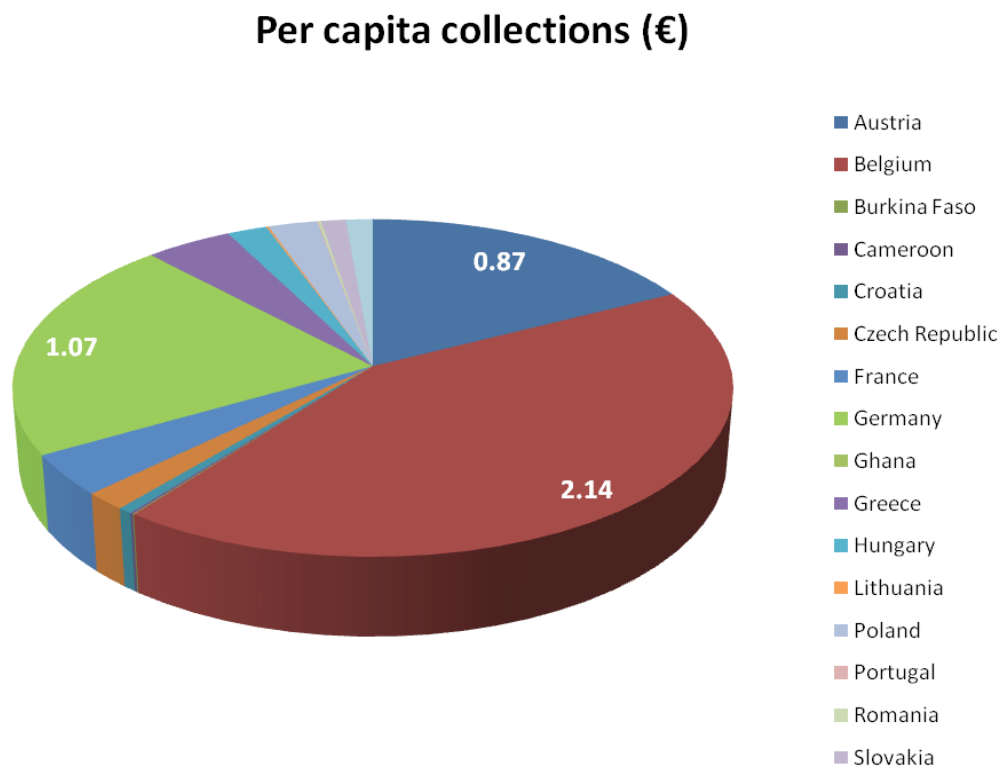
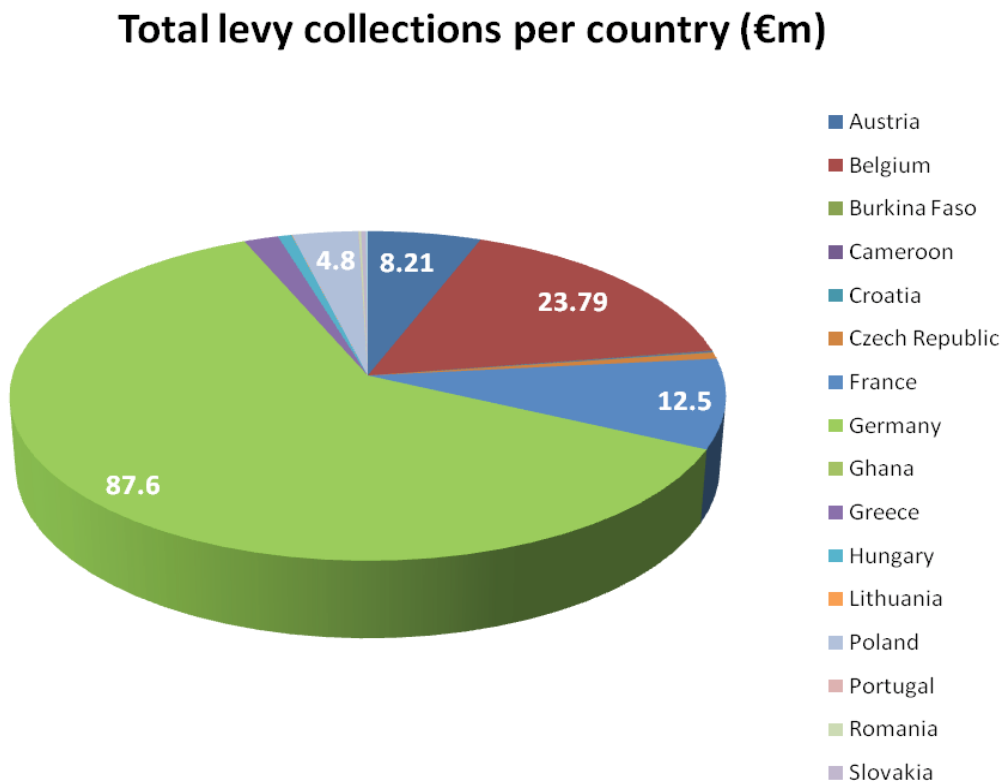


Figure 9: Total collections



This report has explained and discussed how and why TI levy schemes vary, depending inter alia on the exceptions covered by the levy; whether the exceptions are based on Article 5.2.a of the Copyright Directive

(copying on paper or a similar medium) or, in the case of copying by natural persons for private purposes, on Article 5.2.b (copying on any medium); which devices or media are levied; and whether the equipment levy is accompanied by an operator levy.

The flexibility and adaptability of TI levies means that they can be tailor-made to national traditions and realities, and the freedom of choice which they afford to national legislators is undoubtedly one reason for their increasing popularity.

Of course, as with any system there is always room for improvement, and the levy system must adapt and change with social, technological, market and legal developments. Areas where there is a need for improvement can be identified from the comparative analysis in this report. One of the most important needs is to reduce the long delays which can occur before a levy system provided for in legislation becomes operational. It is hoped that this report will help negotiations and discussions concerning levy reform at international and national levels.

2. COMPARATIVE TABLES

Table number	Topic
1.	Countries with TI levies; whether operational; type of levy
2.	Scope of exceptions covered by the levy
3.	Liability to pay equipment levy
4.	Equipment levy: exemption and refund schemes
5.	Devices and media subject to TI levies which can only copy TI works
6.	Devices subject to TI levies which can also copy a/av works
7.	Media subject to TI levies which can also copy a/ av works
8.	Locations covered by operator levy
9.	How equipment levy tariffs are set
10.	Devices and media subject to TI levies only: tariffs
11.	Operator levy tariffs
12.	Visibility of equipment levy
13.	How distribution schemes are determined
14.	Types of distribution scheme
15.	Administrative deductions, social and cultural deductions
16.	TI levy collections 2012
17.	Equipment levy: six year trends
18.	Operator levy: six year trends

Note on abbreviations

nyi= levy in law but not yet implemented

nci= levy in law but not currently implemented

ns = not specified in law

d = disputed

TI = text and image

a/av = audio/audio-visual

Approximate 2012 population figures are based on the figures in the UN Population and Vital Statistics Report Vol. LXV (1 January 2014).

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 levy
Algeria (nyi)	x				
Austria	x				x
Belgium	x	nyi		nyi	x
Bosnia Herzegovina (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
Nigeria (nyi)	x	x	x	x	
Paraguay (nyi)	x	x		x	
Poland	x		x		x
Portugal	x (analogue only) (nci)	x (analogue only)			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 (nyi)		x	
Austria	x	x	x
Belgium	x	x	x
Bosnia Herzegovina (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
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)	N/A x		
Czech Republic	Dilia	x	x	x
France	CFC (press) Sofia (text) Sorimage (image) SEAM (songbooks)		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) POLSKA KSIAZKA (publishers)		x x	

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

Portugal	AGECOP	N/A	N/A	
Romania	CopyRo	x	x	x
	PERGAM	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 (multifunction) 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(nci)					
Romania	x		x	x	x	x
Slovakia	x	x	x	d	x	
Slovenia	x	x	x	x	x	

Table 6: Devices subject to both TI and a/av private copying levies

(% of total levy for TI copying as at 2012 in brackets where determined)

TI levy country (with functional levy system)	PC	CD Burner	DVD Burner	Blu-ray device	Mobile phone	Smartphone/iPhone	Tablet	E-readers	MP3/4 player
Austria	All N/A								
Belgium	nyi	x	x	x		x	x		x
Burkina Faso	All N/A								
Cameroon	All N/A								
Croatia	All N/A								
Czech Republic	x (10)	x (3)	x (10)	x (10)	x (0)	x (0)	x (10)		x (0)
France					x (4.3)	x (4.3)	x (9.6)		x
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 N/A								
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 N/A								
Portugal	All N/A								
Romania	All N/A								
Slovakia	x (100)	x (2.652)	x (2.652)	x (2.652)	nyi	nyi	nyi	nyi	nyi
Slovenia	N/A	x (nci)	x (nci)	x (nci)	x (nci)	x (nci)	N/A	N/A	x (nci)

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

(% of total levy for TI levy as at 2012 in brackets where determined)

TI levy country (with operational levy system)	Hard disk	USB	CD/CD Rom	DVD	Blu-ray disk	Memory card
Austria	All N/A					
Belgium	x	x	x	x	x	x
Burkina Faso	All N/A					
Cameroon	All N/A					
Croatia	All N/A					
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 N/A					
Hungary	All N/A					
Lithuania	x (2.66)	x (2.66)			x (2.66)	x (2.66)
Poland	All N/A					
Portugal			x (0)	x (0)		
Romania	All N/A					
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 levy

TI levy country (with operational operator levy)	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	N/A					
Cameroon	N/A					
Croatia	x					
Czech Republic	x	x	x	x	x	x
France	N/A					
Germany	x	x	x			x
Ghana	N/A					
Greece	N/A					
Hungary	x	x	x			x
Lithuania	x	x	x		x	x
Poland	x					
Portugal	x	x (sold copies)	x (sold copies)			x
Romania	N/A					
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 a-v private copying levies)

all figures in euros unless otherwise stated

TI levy country (with operational levy system)	Copiers	Fax	Hand scanner	Auto/flatbed scanner	Printer – inkjet	Printer – laser	MF machine	Paper
Austria	12.78- 1274.43 dep. on speed, cooperation and if bw or colour	6.58- 46.35 dep. on speed, cooperation and if bw or colour	4.67-602.45 dep. on speed and cooperation	12.50-602.45 dep. on speed and coop.	5.81% sales price (coop.) 6.87 to 180 dep. on speed (no coop.)	5.23% sales price Min. 2.50 max. 105 (coop.) No coop. as inkjet.	Higher of function copy/ scan/fax	N/A
Belgium	5.01-1838.98 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	As copiers
Czech Republic	4.19-472.32 dep. on import price	N/A	N/A	N/A	1.55-31.49	4.19-236.18	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% import price
Hungary	2% import price	N/A	N/A	N/A	2% import price	2% import price	2% import price	N/A
Lithuania	1.8-2.0% sales price, depending on speed (colour 2.7-3%)	N/A	N/A	N/A	N/A	N/A	0.6-0.7% SP, dep. On speed (colour 0.9-1%)	N/A

Table 10: Tariff summary for devices and media subject only to TI levies (not audio and a-v private copying levies) (continued)

Poland	1-2% sales price	2% sales price	3% sales price	3% sales price	1.5% sales price	1.5% sales price	2.8-3% sales price	1.25% sales price
Portugal	3% sales price	As copiers	As copiers	As copiers	As copiers	As copiers	As copiers	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	Disputed	Disputed	As copiers	N/A
Slovenia	2.09-29.21 dep. on speed	As copiers	2.09	2.09	As copiers	As copiers	As copiers	N/A

Table 11: Operator levy tariffs

TI levy country (with operational levy system)	RRO(s) administering TI levy	Summary of operator levy tariff (figures in euros unless otherwise stated)
Austria	Literar-Mechana	Contract tariff: 19.72-188.64 per copier per year Further education: 385.46 Libraries: 172.19
Belgium	Reprobel	Standard cooperation tariff: 0.0151 (educational sector, libraries) 0.0201 in other cases (colour double) Higher non-cooperation tariff
Burkina Faso	BBDA	a. 20 copies per minute 30,000 F/year b. 20 to 40 copies per minute 45,000 F/year c. More than 40 copies per minute 60,000 F/year
Cameroon	SOCILADRA	N/A
Croatia	DHK (authors) ZANA (publishers)	nyi 3.5 per copier per month
Czech Republic	Dilia	.0048 (libraries, museums, educational insts) .0014 (others) (colour double)
France	CFC and others	NA
Germany	VG WORT (text) VG Bild-Kunst (images)	Copy shops: 88 to 160 according to proximity to higher education institution Retail shops, etc.: 41.50 Public libraries: 183 per machine Higher education: 405 p.m. Schools: negotiated with state governments Further education: lump sum contracts
Ghana	CopyGhana	N/A
Greece	OSDEL	N/A
Hungary	HARR	Monthly per device Copy shops: 6.80-42.10 Retail shops: 3.10-31.10 Higher education: 28.10 Others: 4.10-12.70
Lithuania	LATGA-A	8 to 115 per copier dep. on capacity

Table 11: Operator levy 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% of turnover + 75%: 3% of turnover
Portugal	AGECOP	3% of sales price of copies
Romania	CopyRo PERGAM	N/A
Slovakia	LITA	3% of income from copying services
Slovenia	SAZOR	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 is to end user
Poland	no	no
Portugal	N/A	N/A
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	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 rightholders direct	Distribution to rightholders via other CMO or rightholder organisation
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	

Table 14: Types of distribution schemes (continued)

Poland	KOIPOL	x	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 TI levy income

TI levy country (with operational levy system)	RRO(s) administering TI levy	Administrative charge 2012 (%)	Social and cultural deductions 2012 (%)	Total deductions (%)
Austria	Literar-Mechana	5.9	5	10.9
Belgium	Reprobel	13.75	0	13.75
Burkina Faso	BBDA	25	10	35
Cameroon	SOCILADRA	No info	33.3 (required by law)	
Croatia	DHK (authors)	N/A	N/A	N/A
	ZANA (publishers)	30	0	30
Czech Republic	Dilia	12.4	0	12.4
France	CFC	11	25 (required by French law)	36
	SOFIA	12	25 (required by French law)	37
Germany	VG WORT (text)	9.3	0.26 (scientific works)	9.56
	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	KOIPOL (authors)	17.5	0	17.5
	POLSKA KSIAZKA (publishers)	11.37	0	11.37
Portugal	AGECOP	16.89	20 (required by law)	36.89
Romania	CopyRo	15	0	15
	PERGAM	10-15	10	20-25
Slovakia	LITA	25	0	25
Slovenia	SAZOR	No info	0	

Table 16: TI levy collections 2012

TI levy country (with operational levy system)	RRO(s) administering TI levy	Device/medium levy collections per CMO (€ million)	Operator levy collections per CMO (€ million)	Total levy collections per country (€ million)	Population (approx. millions) (2012)	Per capita collections (€)
Austria	Literar-Mechana	7.56	0.65	8.21	9.46	0.868
Belgium	REPROBEL	13.41	10.38	23.79	11.14	2.136
Burkina Faso	BBDA	0.0447		0.0447	14.2	0.003
Cameroon	SOCILADRA	0.125 (2013)	N/A	0.125	20.38	0.006
Croatia	DHK (authors)	nyi	nyi		4.27	0.029
	ZANA (publishers)	0.963	0.28	0.124		
Czech Republic	Dilia	0.75	0.15	0.90	10.51	0.085
France	CFC (press works only)	0.68	N/A	12.5	63.56	0.197
	SOFIA (literary works)	5.7				
	Sorimage (images and others)	6.12				
Germany	VG WORT (text)	60.28	4.91	87.60	81.93	1.069
	VG Bild-Kunst (images)	21.37	1.036			
Ghana	CopyGhana	0.027		0.027	24.66	0.001
Greece	OSDEL	2.50		2.50	11.29	0.221
Hungary	HARR	0.50	0.51	1.01	9.92	0.102
Lithuania	LATGA-A	0.013	0.005	0.018	3.18	0.006
Poland	KOPIPOL (authors)	2.35	0.026	4.687	38.54	0.121
	POLSKA KSIAZKA (publishers)	2.295	0.016			
Portugal	AGECOP	0	0.027	0.027	10.54	0.002
Romania	CopyRo/ PERGAM (combined total)	0.167		0.167	21.36	0.008
Slovakia	LITA	0.31	0.03	0.34	5.41	0.063
Slovenia	SAZOR	0.108	0.024	0.14	2.06	0.068
TOTAL		125.32	18.04	142.32		

Table 17: Equipment levy collections, historical analysis: six year trends, RROs with collections over €1 million in 2012

(figures in € million)

Country	RRO	2012	2011	2010	2009	2008	2007
Austria	Literar-Mechana	7.56	8.16	9.18	7.56	7.56	7.30
Belgium	Reprobel	13.41	12.32	12.49	13.42	14.14	12.52
Germany	VG WORT	60.28	69.48	61.12	377.15	60.42	29.96
Germany	VG Bild-Kunst	21.37	25.24	14.17	95.73	16.89	11.18
Greece	OSDEL	2.50	2.88	1.99	2.57	2.01	1.04
Poland	KOPIPOL	2.35	0.951	0.944	0.364	0.481	0.458
Poland	Polska Ksiaska	2.295	0.847	0.45	0.401	0.520	0.482
TOTAL		109.76	119.87	100.33	497.19	102.02	62.94

Table 18: Operator levy, historical analysis: six year trends, RROs with collections over €0.6 million in 2012

Country	RRO	2012	2011	2010	2009	2008	2007
Austria	Literar-Mechana	0.65	0.43	0.42	0.27	0.27	0.29
Belgium	Reprobel	10.38	10.33	10.23	10.31	10.89	9.11
Germany	VG WORT	4.91	4.81	5.10	5.28	5.12	8.46
Germany	VG Bild-Kunst	1.03	0.99	0.96	0.94	0.87	0.94
TOTAL		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

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 para. (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 para. (1) 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 para. (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 levy).*
- (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 the case of the operator levy.*
- (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 rightholders; prima facie evidence shall suffice.*

RRO(s) administering levy

Text:

Literar-Mechana

Linke Wienzeile 18

Vienna 1060

www.literar.at

Represents: 14,921 authors and 301 publishers of text works.

Scope of levy

- What copying is covered?
Private and own/internal use.
- Levy on devices
 - (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.
- Levy on media
 - (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 levy?
Yes: copy shops, schools, universities, higher education institutions and public libraries.
- Who is liable to pay the levy?
Manufacturers and importers.

Tariffs

- How are they set?
Tariffs are set by negotiation apart from the requirement to take into account capacity in the case of the equipment levy, and the type of establishment, location and normal use in the case of the operator levy (see 42b.4 above).

- Tariffs per device

Copiers:

Type	Speed (pages per minute)	Tariff (€)	
		Cooperative debtor	Non-cooperative debtor
Black and White	1-9	12.78	23.17
	10-19	38.62	57.93
	20-39	110.42	173.79
	40-69	187.76	289.65
	>69	430.71	637.21
Colour	1-39	110.42	347.58
	40-69	187.76	579.29
	>69	430.71	1274.43

Fax machines:

€6.58 € (cooperative debtor) – simple fax machines

€13.25 € (cooperative debtor) – fax machines with scanner port

€29.57 € (cooperative debtor) – fax machines where printing is based on toner

€11.60 € (non-cooperative debtor) – simple fax machines without capability of multiple copies

€23.17 € (non-cooperative debtor) – fax machines with capability of multiple copies

€46.35 € (non-cooperative debtor) – fax machines where printing is based on toner.

Handheld scanners:

Debtor type	Speed (scan per minute)	Resolution (dpi)	Tariff (€)
Cooperative debtor			4.67
Non-cooperative debtor	>70		602.45
	36-70	>1199	301.23
		600-1199	254.9
		200-599	208.55
	13-35	>1199	173.79
		600-1199	139.03
		200-599	104.27
	1-12	>1199	46.35
		600-1199	34.76
200-599		25.49	

Automatic scanners:

Debtor type	Speed (scan per minute)	Resolution (dpi)	Tariff (€)
Cooperative debtor	>70		391.63
	36-70		135.59
	13-35		70.28
	1-12		12.5
Non-cooperative debtor	>70		602.45
	36-70	>1199	301.23
		600-1199	254.9
		200-599	208.55
	13-35	>1199	173.79
		600-1199	139.03
		200-599	104.27
	1-12	>1199	46.35
		600-1199	34.76
		200-599	25.49

Flatbed scanners:

Same tariffs as those of automatic scanners.

Printers:

Cooperative debtors. Inkjet printers and inkjet MFDs: 5.81% of selling price. Laser printers: 5.23% of selling price; minimum amount of €2.50, maximum amount of €105.00.

Non-cooperative debtors. Tariffs apply for inkjet printers and laser printers.

Type	Speed (pages per minute)	Tariff (€)	Minimum	Maximum (€)
Black and White	0-12	6.87	8.58% of selling price	180.22
	13-35	12.01		
	36-70	20.6		
	>70	60.07		
Colour	0-12	13.74		
	13-35	24.02		
	36-70	41.2		
	>70	120.14		

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

MF devices:

Higher amount according to copy/scan/fax function, with an exception for cooperative debtors but only for inkjet devices (see above).

- Tariffs per medium

N/A

- Operator levy tariff(s)

Contract tariffs (per copier): From €19.72 up to €188.64 per copier according to ppm (1 to more than 70), colour or b/w, location (copy shops, small business, others) and proximity to high school. Others: high schools, €385.46; public libraries, €172.19.

- Visibility of the levy

No legal obligation to show levy on invoices.

Collections

- Total levy collections for 2007-2012 (€ million)

2012:	8.21
2011:	8.59
2010:	9.60
2009:	7.83
2008:	7.83
2007:	7.59

- Total device/media collections for 2007-2012 (€ million)

2012:	7.56
2011:	8.16
2010:	9.18
2009:	7.56
2008:	7.56
2007:	7.30

- Total operator levy collections for 2007-2012 (€ million)

2012:	0.65
2011:	0.43
2010:	0.42
2009:	0.27
2008:	0.27
2007:	0.29

- How does the RRO obtain data to charge levies?

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

- Summary of exemption/refund scheme

If a device or medium on which the levy has been paid is re-exported to another state, the levy is refunded by Literar-Mechana to the last entity in the supply chain which effectively paid the levy. In 2012, approx. €1.3 million was refunded, which represented approx. 13% of collections. See §42b.6.1.

Distribution

- Summary of distribution scheme re 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 2012. The remaining text share is distributed by Literar Mechana to individual authors and publishers according to categories of work, reflecting actual use as revealed by statistical surveys. Entitlement to remuneration within each category is based on reports from members about recently published works.

- How is the distribution scheme determined?
By the rules of Literar-Mechana.
- Administrative deduction
2012: 5.9%.
- Social and cultural deduction
2012: 5%.

Belgium

Legal basis for levy

Copyright Act 1994 as implemented by the Royal Decree (RD) of 30 October 1997 on reprography, and by the RD of 18 October 2013 extending the private copying scheme to text and image works.

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: eight (*).

Total creators' (authors and visual artists) associations: 8.

(*). Remarks about the members: Reprobel members are Belgian CMOs representing rightholders of reprographic and 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 a member of both the Publishers' and the Authors' College (thus the total number of member associations is 15).

From 1 December 2013, the remuneration for TI works under the extended private copying scheme will be administered by AUVIBEL (www.auvibel.be).

Scope of levy

Reprography exception covers both private and internal/professional use within companies (including independents and free professions), public bodies, libraries and educational/scientific research institutions (article 22, §1, 4 and 4bis Copyright Act, 30 June 1994); but it currently only covers photocopies not printouts, because under the existing legislation only copies 'from a paper source' are covered, whereas under currently proposed legislation all copies 'on a paper support' are covered. The exception will therefore be extended to printouts if and when the 2001/29 Directive implementation legislation of 31 December 2012 comes into force and a new reprography tariff Royal Decree is put in place. The exception will also no longer cover sheet music, at least not under article 22, §1, 4^o Copyright Law. The compensation scheme (article 59-61 Copyright Law) will then also cover printouts (operator levy) and printers (equipment levy). Scanners will normally leave the scheme, however. The current 1997 reprography Royal Decree is under review, and a new RD is expected by mid-2014.

- What copying is covered?

See above.

- Levy on devices
 - (a) Devices which can only copy TI works
Currently, mainly copiers, MF machines, fax machines and scanners. Under the new legislation summarised above, scanners will normally no longer be subject to the levy, whilst 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, and smartphones) was extended to TI works from 1 December 2013. These devices include tablets and personal computers, although at present the latter are subject to a zero tariff. However, the TI share of the levy has not yet been allocated.
- Levy on media
 - (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 1 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. However, the TI share of these levies has not yet been allocated.
- Operator levy?
Yes: covers copy shops, schools, higher education institutions, public administration, businesses and libraries.
- Who is liable to pay the levy?
Manufacturers, 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 will (have to) be taken.
- How RRO obtains information to charge the levies
 - Obligation in law on manufacturers/importers/intra-communal acquirers requires them to make monthly declarations and to report upon formal information requests from Repobel.
 - Obligation in law for other distributors/retailers to report (following a formal information request from Repobel),
 - Data obtained from market research organisations (mainly IDC).
 - Information can be obtained from tax and customs authorities, but this approach is not very efficient in practice.
 - An upcoming Royal Decree provides for periodic market monitoring by a special committee comprised of Repobel and manufacturers/importers.
- Summary of reimbursement/refund scheme

Repobel will refund the levy on production of appropriate documents such as invoices which prove both re-export and initial payment of levies. Reimbursement scheme generally considered efficient. However, scheme can be improved in order to provide for better matching of initial levy payments and reclaimed amounts upon re-export.

Tariffs

- How are they set?

The general principles are set out in the copyright law. The modalities and tariffs are set out in royal decrees.

- Tariffs per device which can only copy TI works

Copiers, faxes and MF devices:

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

<6 cpm b&w + colour €5.016-9 cpm b&w + colour €18.39

10–19 cpm b&w + colour €60.19

20–39 cpm b&w + colour €195.60

40–59 cpm b&w + colour €324.33

60–89 cpm b&w + colour €810.83

>89 cpm b&w + colour €1838.98

(Tariff applicable to copiers, faxes and MFD's which are technology neutral and CPM speed-based – indexed amounts for 2014.)

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 €25.07

300-399 DPI €43.47

400-499 DPI €61.86

500-599 DPI €80.23

600-1199 DPI €100.31

Printers:

No levies on printers as yet. The equipment levy scheme will probably be extended to printers in 2014.

- Tariffs for devices and media which can copy both TI works and a/av works

Not yet allocated. See above.

- Operator levy tariff(s)

B&W cooperation: €0.0201 (standard tariff)

B&W cooperation: €0.0151 (for education and public lending institutions)

B&W non-cooperation: €0.0334 (standard tariff)

B&W non-cooperation: €0.0251 (for education and public lending institutions)

Colour cooperation: €0.0402 (standard tariff)

Colour cooperation: €0.0302 (for education and public lending institutions)

Colour non-cooperation: €0.0668 (standard tariff)

Colour non-cooperation: €0.0502 (for education and public lending institutions)

Indexed tariffs 2014 – photocopies only.

- Visibility of the levy

In accordance with article 21 of the 1997 RD, the levy must be shown on all invoices, from the first one which brings the device or medium on to the market up to and including the sale to the retailer. However, it is not mandatory to show the levy on the invoice to the end user, although some retailers do display it.

Collections

(Reprobel homeland reprography levy collections only)

- Total levy collections for 2007-2012 (€ million)

2012: 23.79

2011: 22.65

2010: 22.72

2009: 23.73

2008: 25.03

2007: 21.63

- Total device/media collections for 2007-2012

2012: 13.41

2011: 12.32

2010: 12.49

2009: 13.42

2008: 14.14

2007: 12.52

- Total operator levy collections for 2007-2012

2012: 10.38

2011: 10.33

2010: 10.23

2009: 10.31

2008: 10.89

2007: 9.11

- Total collections per capita
(Reprobel homeland reprography collections only)

2012 €2.1

- 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. Approx. €1.68 million was refunded in 2012, representing 13.41% of overall equipment invoicing in that year.

Distribution

- Summary of distribution scheme re 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. The main reprography levy distribution split, however, is set by the Copyright Law (50:50 authors/publishers), a split which has recently been contested before the courts and will now be ruled on by the CJEU (Reprobel v. HP). 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 Economic Affairs and a special Control Unit for CMOs within that Ministry. Reprobel distributes the share for foreign rightholders through bilateral agreements with other RROs.

- Administrative deduction

2012: 13.75%.

- Social and cultural deductions

None.

Burkina Faso

Bureau Burkinabé du Droit d'Auteur

Legal basis for levy

Copyright Law 032/99/AN 22 December 1999 as amended.

RRO(s) administering levy

Text and image:

BBDA

Seact. 4 22 rue 4.55

Villa de la Victoire

01 BP3926 Ouagadougou

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
 - (a) Devices which can only copy TI works.
Copiers, fax machines, scanners, printers, MF machines.
 - (b) Devices which can copy both audio/audio-visual and TI works.
There is also a levy for audio and audio-visual private copying, administered by BBDA, but to date this has not included a TI share.
- Levy on media
 - (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 levy?
Yes.
- Who is liable to pay the levy?
Manufacturers and importers.

Tariffs

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

- Tariffs per device.

Copiers: 0.25% of import price

Fax machines: ditto

Scanners: ditto

Printers: ditto

MF machines: ditto

- Alternative tariff, all devices

Speed less than 20 copies per minute approx. €46

Speed 20-40 cpm approx. €69

Speed 40+ cpm approx. €91

- Tariffs per medium

N/A

- Operator levy tariff(s)

N/A

- Visibility of the levy

Collection of the levy from the importers is undertaken by Customs, not the 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 aforementioned, collection of the levy is undertaken by Customs, not the BBDA.

- Summary of exemption/refund scheme

None.

Distribution

- Summary of distribution scheme re levies

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

- Administrative deduction

25%.

- Social and cultural deduction

10%.

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
 - (a) Devices which can only copy TI works
Copiers, scanners, fax machines.
 - (b) Devices which can copy both audio/audio-visual and TI works
No.
- Levy on media.
 - (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 levy?
No.
- Who is liable to pay the levy?
Manufacturers or importers.

Tariffs

- How are they 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, 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 obtain data to charge levies?
Charging the levy is an issue 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 re levies.
According to §74 (3) of the Copyright Act (see above), the levy remuneration must be allocated as follows: one-third to a state cultural fund, one-third to authors, and one-third to publishers.
- Administrative deductions
No information received.
- Social and cultural deduction
One-third, by law (see above).

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 publisher 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 by 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 authorisation pursuant to article 82 of this Act, the author whose works are, due to their nature, expected to be reproduced without authorisation, 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 media.*
- (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 media, and jointly and severally with them importers of appliances for sound and visual recording, photocopying, blank audio, video or text fixation media, unless such imports concern 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 an 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
 - (a) Devices which can only copy TI works
Copiers, fax machines, scanners, MF machines.
 - (b) Devices which can copy both audio/audio-visual and TI works
No.
- Levy on media.
 - (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 levy?
Yes. Copy shops.

Current disputes/issues

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

Tariffs

- How are they set?
By negotiation.
- Tariffs per device
All devices: 0.84% of import price.

- Tariffs per medium
N/A
- Operator levy tariff(s)
€3.50 per month per copier.
- Visibility of the levy
No legal obligation to mention the levy on invoices.

Collections

- Total levy collection
2012: €124,305 (ZANA).
- Total equipment levy collection
2012: €96,305.
- Total operator levy collection
2012: €8,000.

Total collections per capita

€0.028.

- How does the RRO obtain data to charge levies?
There is an obligation in the law for manufacturers and importers to report data. 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 re levies
ZANA distributes to publishers only.
- Administrative deduction
30%.
- Social and cultural deductions.
None.

Czech Republic

Legal basis for levy

Copyright Act 2000: consolidated 2006.

RRO(s) administering levy

Text:

Dilia

Theatrical, Literary and Audiovisual Agency, Association of Authors

Krátkého 1

19003 Prague 9

www.dilia.cz

Members:

5,454 authors and other rightholders.

Scope of levy

- What copying is covered?

Article 25

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

(1) *For works that were made public and may be reproduced:*

- for personal use by a natural person or for 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*
- 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:*

- 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');*
- the producer, importer or consignee of technical devices for making printed reproductions;*
- the producer, importer or consignee of blank record carriers;*
- the carrier or forwarder in lieu of the liable person pursuant to Paragraphs (a) to (c), unless that person informed the relevant collective rights manager without undue delay upon written request about the details necessary for the identification of the importer, consignee or producer;*
- the provider of paid reproduction services, in the case of printed reproductions; provider of paid reproduction services shall also mean the person who makes available, for a consideration, the device for making printed reproductions.*

- (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 device to make print reproductions and the types of blank record carrier on which a remuneration is to be paid in accordance with Paragraph (1) above and also to define the amount of the lump-sum remuneration depending on the type of device for making the printed reproductions and types of blank record carrier. This Decree shall also define types of device for making reproductions of fixations on which a remuneration is to be paid in accordance with Paragraph (1) above; the 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 licence 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 his 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 a 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 – dramatic 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
 - (a) Devices which can only copy TI works
Copiers, printers, MF machines.
 - (b) Devices which can copy both audio/audio-visual and TI works
PCs, tablets, e-readers, CD burners, DVD burners, Blu-ray burners, external hard disks.
- Levy on media
 - (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 levy?
Yes: covering copy shops, schools, higher education institutions, public administration. For businesses and libraries, copying services are made available against a fee.
- Who is liable to pay levy?
Manufacturers, importers or intra-communal acquirers, upon first bringing the device onto the national market.

Tariffs

- How are they set?
By legislation and regulations.
- Tariffs per device (€)
 - (a) Devices capable of copying TI works only
Copiers: €4.19-472.35 according to import price.
Fax machines: N/A.
Scanners: N/A.
Printers: inkjet, €1.55-31.49;
others, €4.19-236.18.
MF machines: as copiers.
 - (b) Devices capable of copying both a/av and TI works
TI share 10% except e-readers (100%) and CD burners (3%).
- Tariffs per medium
TI share 10% except CDs (3%), memory cards (5%) and USB sticks (5%).
- Operator levy tariff(s)
Based on €0.0048 per page (colour double): libraries, museums, educational institutions.
€0.0014 per page (colour double): other operators.
- Visibility of the levy
There is no legal obligation to mention the equipment levy on invoices, but many retailers do so on the invoice to the end user.

Collections

- Total levy collections for 2012 (€ million)
0.904.
- Total device/media collections for 2012 € million)
0.753.
- Total operator levy collections for 2012 (€ million)
0.151.
- Total collections per capita
€0.085.
- How does the RRO obtain data to charge levies?

With regard to the equipment levy, the Copyright Law imposes an obligation on manufacturers and importers to report the arrival 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. Dilia also refunds 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 rightholder, otherwise the rules of Dilia apply. A 15% share is sent to OOAS, which represents 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 and duly announced.'

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 deduction
12.4%.
- Social and cultural deductions
None.

France

Legal basis for levy

Intellectual Property Code as last amended 2012. Article L311-1 provides for remuneration to be paid to authors and publishers of works for private copying on any medium from a legal source 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. In accordance with article L 311 the devices and media subject to the levy and the tariffs are to be determined by a commission chaired by a government representative, and made up of representatives of the rightholders, the manufacturers and importers, and the consumers.

CMO(s) administering levy

The levy is collected by CopiFrance, www.copiefrance.fr. The remuneration is distributed between three colleges, representing audio, audio-visual, and text/image rightholders. The text/image college consists of, for rightholders of text works, Sofia, CFC and SCAM, and for rightholders of visual image works, Sorimage. SEAM represents rightholders of songbooks and music. Sofia receives the share for the rightholders of books and text in general, and CFC receives the share for press material.

CFC, Sofia and SEAM are IFRRO members.

CFC

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

Sofia

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

SEAM

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

Scope of levy

- What copying is covered?
 - Private use.
- Levy on devices
 - (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 disk, video recorder, TV decoder/ADSL box, MP3/MP4 walkman, mobile phone, GPS device, tablet.
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.

- Levy on media
 - (a) Media which can only be used to copy TI works
No.
 - (b) Media which can be used to copy both audio/audio-visual and TI works
CD R and RW data.
DVD Ram, DVD R and DVD RW.
Micro floppy disc 3.5.
Non-dedicated USB key.
Memory cards.
Memory cards sold bundled together.
- Who is liable to pay levy?
The manufacturers and importers of devices and media subject to the levy.

Tariffs

- How are they set?
By a special commission (see above).
- Tariffs per device
 - (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 (or share of TI works)
In 2013, the text share was approximately 3.9% of the total private copy levy, and the image share approx. 3.3%.
 - (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 20 December 2011, as implemented by decree no. 2013-1141 of 10 December 2013, in force from 1 April 2014.

Collections

- Total TI levy collections
2012: total private copy levy approx. €173 m; text approx. €6.8 m; visual image approx. €5.7 m.
CFC share: approx. €0.68 m.
Sofia share: approx. €5.7 m.
Share of Sorimage and other CMOs: approx. €6.12 m.

Distribution

- Summary of distribution scheme re levies
Article 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 of surveys conducted by Sofia and Sorimage on the private copying of consumers.

- Administrative deductions
CFC currently 11%; Sofia 12%.

- Social and cultural deduction

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.

Germany

Legal basis for levy

Based on German Copyright Act 1965 as amended (UrhG).

Unofficial translation from 2007 German Copyright Law.

S53 Reproduction for private and other personal/own use:

- (1) *It shall be permissible for a natural person to make single copies of a work for private use on any medium, provided he or she does not serve for-profit purposes either directly or indirectly and a copy obviously illegally made and made available to the public was not used as the basis for reproduction. A person authorised to make such copies may also cause such copies to be made by another person provided no payment is received therefrom 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 paragraph (1) item 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 paragraph (1) items 3 and 4 only if in addition one of the conditions of paragraph (2) items 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 rightholder;*

2. *for state examinations and examinations in schools, universities, non-commercial institutions of education and further education, and for 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 which has been out of print for at least two years.*
- (5) *Paragraph (1), as well as paragraph (2) items 2 to 4 and paragraph (3) item 2, shall not apply to database works the elements of which are individually accessible by electronic means. Paragraph (2) item 1 and paragraph (3) item 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 media, of a type which either alone or in combination with other appliances, storage media or accessories are used to produce such reproductions.*
- (2) *The entitlement under paragraph (1) does not apply insofar as it can be expected from the circumstances that the appliances or storage media subject to this law will not be used to make reproductions.*

54b Liability of dealer or importer to pay remuneration

- (1) *In addition to the manufacturer, any person who commercially imports or reimports the appliances or storage media into the territory to which this Law applies or who deals therein shall be jointly liable.*
- (2) *The importer shall be the person who introduces the appliances or the video or audio recording media, or causes them to be introduced, into the territory to which this Law applies. Where the importing is based on a contract with a person foreign to that territory, the importer shall be that contractual party alone who is domiciled in the territory to which this Law applies. Any person who acts simply as a 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 12 October 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 media, 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 media received and of his source of supply by 10 January and 10 July 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 media referred to in article 54(1), in which turnover tax in accordance with article 14(2) paragraph (1) item 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 cases under article 54b(3) item 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 give 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 rightholders

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) UrhG).
- Levy on devices
 - (a) Devices which can only copy TI works
 - Photocopiers.
 - Multifunction devices.
 - Fax machines.
 - Scanners.
 - Printers.
 - (b) Devices which can copy both audio/audio-visual and TI works
 - PCs, CD burners, CVD burners, Blu-ray devices, smartphones, tablets, MP3/MP4 devices.
- Levy on media.
 - (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 disk, USB, CD/CD Rom, DVD, Blu-ray disk, memory card.
- Operator levy?

Yes: see §54c UrhG.
- Who is liable to pay the levy?

See §§54, 54b UrhG.

Tariffs

- How are they 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 media contained in the appliance or for other appliances or storage media which function in conjunction with them.*
- (3) *In determining the amount of remuneration, the characteristics of the appliances or storage media relevant to their operation, especially the performance capability of appliances and the storage capacity and reusability of storage media shall be taken into account.*
- (4) *The remuneration shall not unreasonably harm the manufacturers of appliances and storage media; it must have 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, and where they may be collected in an economically justifiable manner. When establishing tariffs, the proportion of the utilisation 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 media shall be determined according to S54a of the Copyright Law. Before setting tariffs for devices and storage media, 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 S13 can only set tariffs for the remuneration under S54a after undertaking empirical surveys in accordance with S14 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 (€) plus VAT

Copiers	Speed to 14 ppm	25.00
	5-39 ppm	50.00
	40 + ppm	87.50
Fax machines:	Thermo or inkjet	5.00
	Laser	10.00
Scanners:	Manual	4.09
	Flatbed	12.50
Printers:	Inkjet	5.00
	Laser	12.50
MF machines	Inkjet	15.00
	Laser	as copiers

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

Tariffs are currently subject to legal dispute except for PCs, 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 of 1 January 2011 to 31 December 2016 are as follows.

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

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

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

Position as above.

- Operator levy tariff(s)

Copy shops.

Depending on proximity to higher education institute (HI):

Within 500m	€160.
+ 500m	€119.
No HI in town	V88.
Other outlets for copying against payment	€41.50 per device.
Public Libraries	€163 per device.
HI institutions (including libraries)	€405 per device.
Schools:	lump sum contracts negotiated with state governments.

Further education institutions (Hochschulen): lump sum contracts (valid until December 2013). From January 2014, the HI tariff of €405 per device applies (also applicable for government-owned devices operated in an HI).

- Visibility of the levy

See §54d UrhG above.

Collections

- Collections for 2007-2012 (€ million)

	EL VGW	EL VGBK	Total EL	OL VGW	OL VGBK	Total OL	Total levy
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

2012: €1.07.

- How does the RRO obtain data to charge levies?

With regard to the equipment levy, the Copyright Law provides:

1. A right to information on imports, with a penalty of double remuneration. §54e UrhG refers.
2. A right to request information from the manufacturer, importer or dealer. §54f UrhG refers.

In practice, information is obtained under general contracts with organisations representing the manufacturers or importers, such as BITKOM.

With regard to the operator levy, the Copyright Law provides:

1. A right to request information from operators, with a penalty of double remuneration. §54f(2) UrhG refers.
2. A right to inspect copy shops. §54g UrhG refers.

- Summary of exemption/refund scheme

In Germany, the system of (text and image) levy administration works very well because: 1) there is an organisation, BITKOM, which represents about 80% of the importers and manufacturers of leviable products, and 2) 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 organisation as a service provider to deal with the supply of data to VG WORT on behalf of BITKOM member companies (BITKOM Service Gesellschaft mbH). This data includes information about 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 that 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 which are members of BITKOM, the levy must be paid; but a refund can be claimed from VG WORT on production of documentary evidence. Also, when a 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) which 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 as follows (unofficial translation):

§9

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

1. So far as determinable by reasonable means, every rightholder 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 rightholderare 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 work:

- Fiction
- Press material
- Non-fiction books
- Non-fiction journals
- Digital offline publications
- Online publications

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

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

Distribution to foreign rightholders is effected on the basis of bilateral agreements with other RROs. The extent of copying in Germany of categories of work from specific countries is ascertained through statistical surveys, and the corresponding share of the distributable remuneration for each category 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
2012: VG WORT, 9.3%; VG Bild-Kunst, 5.2%.
- Social and cultural deductions
2012: VG WORT (science department), 0.26%; VG Bild-Kunst, maximum 4%.

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. In accordance with §27(3), the levy is to be collected by the customs service, and in accordance with §27(7), distributed to the rightholders by an authorised CMO. Implementing regulations were passed in 2010.

RRO(s) administering levy

Text and image:

CopyGhana

P.O. Box LT 172,
Larterbiokoshie,
Accra

Members:

One authors' association, one publishers' associations, one journalists' association, one photographers' association, one visual artists' association. Total rightholders represented is approx. 2000.

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. In accordance with §27(3), the levy is to be collected by the customs service, and in accordance with §27(7), distributed to the rightholders by an authorised 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
 - (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, MP3/4 players, mobile phones, smartphones.
- Levy on media
 - (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 disks (external), memory cards, USB sticks.
- Operator levy?
No.
- Who is liable to pay levy?
Manufacturers or importers.

Tariffs

- How are they set?
By regulation

- Tariffs per device
20% of the cost, insurance and freight value.
- Tariffs per medium
As for devices.
- Operator levy tariff(s)
N/A
- Visibility of the levy
There is no legal obligation to show the levy on any invoices.

Collections

- Total levy collections
2012: €26,812.
- Total collection per capita
€ .001.
- How does the CMO obtain data to charge levies?
N/A as the levy is collected by the customs.
- 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 re 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 per cent for cultural activities to be collectively administered by the collective administration societies;*
 - (b) *ten per cent for the administrative purposes of collective societies;*
 - (c) *four per cent to the Customs Excise and Preventive Service; and*
 - (d) *six per cent to the Copyright Office.*

(2) *The Minister shall distribute the remaining 70 per cent equally among the various rights groups to be shared as follows:*

- (a) *for holders of audio works rights,*
 - (i) *28 per cent to composers or publishers;*
 - (ii) *21 per cent to producers; and*
 - (iii) *21 per cent to performers;*
- (b) *for holders of audio-visual works rights,*
 - (i) *35 per cent to producers;*
 - (ii) *21 per cent to performers; and*
 - (iii) *14 per cent to authors of audio-visual works;*
- (c) *for holders of literary works rights,*
 - (i) *42 per cent to authors including visual authors; and*
 - (ii) *28 per cent 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 rightholder in accordance with these regulations.

- Administrative deduction
30%.
- Social and cultural deductions
None.

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 organisation.*
- (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 Mbytes), storage media/disquettes of less than 100 million digits (less than 100 Mbytes) – 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/disquettes of less than 100 million digits (less than 100 Mbytes) – and at 4% of the value of the photocopy machines, scanners, photocopy paper and storage media (disquettes) with a capacity of less than 100 million digits (less than 100 Mbytes). 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 (disquettes) 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 (disquettes) 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 multifunction machine capable of reproduction by photocopy.

RRO(s) administering levy

Text and image:

OSDEL

Greek Collecting Society for Literary Works
6, Dervenion Street,
10680 Athens
www.osdel.gr

Members:

2,977 authors, 489 publishers.

Scope of levy

- What copying is covered?

Private use.

- Levy on devices

(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 currently litigation concerning mobile phones and smartphones.

- Levy on media

(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 levy?

No

- Who is liable to pay the levy?

Manufacturers, importers or intra-communal acquirers.

Tariffs

- How are they set?

In primary legislation/copyright law.

- Tariffs per device
 - (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 2007-2012 (€ million)
 - 2012: 2.50
 - 2011: 2.88
 - 2010: 1.99
 - 2009: 2.57
 - 2008: 2.01
 - 2007: 0.451
- Total collections per capita
 - 2012: €0.022.
- How does the RRO obtain 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 Organisation:*

 - (a) *the total value of the sound or visual or audio-visual recording equipment, the sound or visual or audio-visual recordings, photocopier machines, photocopier paper, computers or other technical means used for the reproduction of sound which he imported or made available, and*
 - (b) *that this is the real total value, without any omissions.*

Within one month from the notification, the debtor is obliged to submit the said statutory statement to the Copyright Organisation 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 a case of non-compliance, a pecuniary fine of one to ten million drachmas will be imposed in favour of the applicant collecting society.*
- (7) *If within 20 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 Organisation. 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 Organisation and each collecting society is entitled to receive a copy. A new investigation for the same statement cannot be carried out at the request of other collecting societies.*

OSDEL also obtains data from market research organisations 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 re 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 deduction

17%.

- Social and cultural deductions

None.

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 organisation 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 organisation 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 the 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 which remains after the deduction of the expenses, 40% shall be due to the publishers of books and periodicals. Of the remaining 60%, 25% shall be due to the authors of non-fiction and scientific works, 25% to the authors of other literary works and 10% to the authors of works of fine arts and artistic photographs. These shares of the remuneration shall be transferred to the organisations performing the collective administration of rights of the interested rightholders.*
- (7) *The distribution proportions determined in paragraph (5) shall be applied unless otherwise agreed between the affected organisations performing the collective administration of rights and the trade organisations of the rightholders concerned before 31 March of every year.*
- (8) *The authors and publishers may only enforce their claims to remuneration through the organisations 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
 - (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 collected by ARTIJUS, but this applies to audio/audio-visual private copying only:
Tablets, mobile phones, smartphones.
- Levy on media
 - (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 collected by ARTIJUS, but this applies to audio/audio-visual private copying only:
CDs, DVDs, BR disks, hard disks, memory cards, USB sticks.
- Operator levy?
Yes: only payable by institutions which make copy machines available to the public against payment.
- Who is liable to pay the levy?
Manufacturers, importers or intra-communal acquirers.

Tariffs

- How are they 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
 - (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 collected by ARTIJUS, but this applies to audio/audio-visual private copying only:
 - CDs, DVDs, BR disks, hard disks, memory cards, USB sticks.
- Operator levy tariff(s)
 - (Per machine per month, depending on location and speed.)
 - Copy shops: €6.80 to 42.10.
 - Retail shops: €3.10 to 31.50.
 - Higher education: €25.10.
 - Others: €2.70 to 10.30.
- Visibility of the levy
 - No legal obligation to include the levy on invoices.

Collections

- Total levy collections
 - 2012: €1.015 m.
- Total device/media collections
 - 2012: €0.505 m.
- Total operator levy collections
 - €0.510 m.
- Total collections per capita
 - €0.01.
- How does the RRO obtain data to charge levies?
 - With regard to the equipment levy, manufacturers, importers and other distributors are obliged to report to HARR. The Copyright Law provides as follows:

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 customs 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 article 20(2), to inform the organisation performing collective administration of rights on the quantity imported or put into circulation, as well as about the types of such carrier and device. The organisation 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) *In the event of 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 organisation 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 the case of re-export. However, as the main distribution centres 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 according to their own rules.

- Administrative deduction

20%.

- Social and cultural deductions

None.

Lithuania

Legal basis for levy

Copyright Law 2003 as amended; regulations on reprography remuneration, 6 February 2002.

RRO(s) administering levy

Text and image:

LATGA-A (IFRRO member)

Agency of Lithuanian Copyright Protection Association

J. Basanaviciaus str. 4B

Vilnius 0118

www.latga.lt

Members:

4,042 rightholders: 1,869 music works authors, publishers and lyricists; 1,234 authors of dramatic, literary and audio-visual works, 932 visual arts authors.

The levy on devices/media which can copy both a/av and TI works is collected by AGATA, www.agata.lt. A one-third share is passed to LATGA-A, which represents authors, as required by law.

Scope of levy

- What copying is covered?
Private use.
- Levy on devices
 - (a) Devices which can only copy TI works
Copiers, MF machines (collected by LATGA-A).
 - (b) Devices which can copy both audio/audio-visual and TI works
PCs, tablets, e-readers, CD burners, DVD burners, BR burners, MP3/4 players, mobile phones, smartphones (collected by AGATA).
- Levy on media
 - (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 disks, memory cards, USB sticks (collected by AGATA).
- Operator levy?
Yes (collected by LATGA-A): copy shops, schools, universities, further education institutions, libraries which provide copying services against payment.
- Who is liable to pay the levy?
Manufacturers, importers or intra-communal acquirers.

Wholesale distributors.

Tariffs

- How are they set?
In primary legislation.

- Tariffs per device (translation reproduced by kind permission of LATGA-A)

Equipment	Capacity	Levy in percentage
1. Non-colour 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. Colour 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. Multifunction 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. Multifunction devices making colour 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 of countervailing wage 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 levy tariff(s)
€8-115 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
2012: €18,379.
- Total device/media collections
2012: €13,135.
- Total operator levy collections
2012: €5,244.
- Total collections per capita
€0.0055.
- How does the RRO obtain 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 LATGA-A on re-export. However, this only accounted for 0.82% of collections in 2012.

Distribution

- Summary of distribution scheme re levies

By legislation and the rules of LATGA-A. The levy on devices which can only be used to copy TI works, and the operator levy, are distributed by LATGA-A according to 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 a/av and TI works, received from AGATA, is distributed by LATGA-A 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 is 8% of author share, and 2.66% share of total levy.)

- Administrative deduction

35%.

- Social and cultural deduction

The law requires 25% of the levy collections to be passed to the Ministry of Culture, which uses the money to support rightholders.

Poland

Legal basis for levy

Act of 4 February 1994 on copyright and related rights, as amended, article 20 and article 20. Decisions of the Minister of Culture and Arts. 16 August 1995 and 20 November 2003 (authorising KOPIPOL), and 10 March 2003 (authorising POLSKA KSIĄZKA).

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 authorise the building of constructions according to other authors' architectural works as well as architectural and urban planning works and to use electronic databases 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 are able 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 organisations 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 organisations, associations of authors, artistic performers, organisations of producers of phonograms, producers of videograms and publishers as well as organisations 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 organisations authorised 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 organisation, fees of up to 3% of proceeds generated from such activities, to authors and publishers, unless the reproduction is done on the basis of a contract signed with a rightholder. Such fees shall be paid to authors and publishers in equal parts.*
2. *The minister competent for culture and protection of the national heritage, having consulted collective management organisations, associations of authors and publishers as well as respective chambers of commerce, shall define, by way of a regulation, the fees referred to in paragraph 1, taking into account the share of works reproduced for personal use in all of the reproduced materials, the manner of collection and distribution of the fees as well as designate the organisation or collective management organisations authorised 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:

POLSKA KSIAZKA

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

Members:

28 author associations, 15 publisher associations.

Press material:

SW Repopol (not IFRRO member).

Note: the equipment levy is collected jointly, 50% each, by KOPIPOL and POLSKA KSIAZKA, as determined by the Ministry of Culture and Arts. By agreement between POLSKA KSIAZKA and SW Repopol, the former passes approx. 30% of its share of the levy to the latter (the exact figure depends on the annual split scheme approved by the Board of Directors of POLSKA KSIAZKA, taking into account copying structure researches undertaken jointly with the press association).

Scope of levy

- What copying is covered?

Private use.

- Levy on devices
 - (a) Devices which can only copy TI works
 - (b) Copiers, fax machines, scanners, printers, MF machines, large format devices.
 - (c) Article 20 section 1(2) of the Copyright Act provides for a levy on 'photocopying machines, scanners, and other similar reprographic equipment allowing the production of copies of the entire published work or part thereof'.
 - (d) b) Devices which can copy both audio/audio-visual and TI works
 - (e) The audio/audio-visual private copying levy applies to CD burners, DVD burners and MP3 players.
- Levy on media
 - (a) Media which can only be used to copy TI works
Printing paper in A3 and A4 format.
 - (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, BR disks, hard disks, memory cards, and USB sticks, but there is no TI share. The TI RROs are lobbying for this to be introduced.
- Operator levy?
The law provides for any person who makes a copying device available to third parties for copying for private use to pay the operator levy. In practice this is only collected from copy shops.
- Who is liable to pay the levy?
Manufacturers and importers of devices and blank carriers which can be used to make copies for private use.

Tariffs

- How are they set?
By the Minister of Culture and National Heritage.
- Tariffs per device
Copiers: 3% of selling price.
Fax machines: 1-2% of selling price.
Scanners: 2-3% of selling price.
Printers: 1.5% of selling price.
MF machines: 2.8-3% of selling price.
Large format devices: up to 1% of selling price.
- Tariffs per medium
Printing paper: 1.25% of selling price.
- Operator levy tariff(s)
Depends on percentage of copyright protected material of total copied in copy shop:
Up to 25%: 1% of copying turnover.
26-75%: 1.5%.
Over 75%: 3%.
- Visibility of the levy
There is no legal obligation to show the levy on invoices.

Collections

- Total levy collections (€ million)
2012: 4.687.
- Total device/media collections for 2007-2012 (€ million)
2012: 4.64
2011: 1.80
2010: 1.39
2009: 0.76
2008: 1.01
2007: 0.94
- Total operator levy collections (€ million)
2012: 0.04
- Total collections per capita
2012: €0.122
- How does the RRO obtain data to charge levies?
Under article 105 section 2 of the Copyright Act, CMOs may demand the submission of information, and access to documents, to determine remuneration payable.
- 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 re levies
The distribution scheme is determined by the CMOs administering the levy, which are subject to authorisation 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 Polska Ksiazka and SW Repopol, the publisher share is allocated approx. as follows: 70% to books (PK), and 30% to press material (SWR).
- Administrative deductions
KOPIPOL, 17.5%.
Polska Ksiazka, maximum 20%; in 2012-2013, 11.37%.
- Social and cultural deductions
None made by KOPOPOL or Polska Ksiazka.

Portugal

Legal basis for levy

1985 Copyright Law as last amended 2008.

Article 75 permits reproduction by public libraries, non-commercial documentation centres or scientific institutions subject to equitable remuneration (operator levy). Article 81 provides a private use exception subject according to article 82 to a levy on devices and media, with tariffs to be established by executive decree. This levy has been implemented by Law 62/98, amended by Law 50/2004.

RRO(s) administering levy

Text and image:

AGECOP (IFRRO member)

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

Members:

Two author and visual artist CMOs, one publisher CMO, total number of board members is three; total number of member associations is seven.

Scope of levy

- What copying is covered?

Private use (equipment levy); internal use by public libraries, non-commercial documentation centres, scientific institutions (operator levy).

- Levy on devices

- (a) Devices which can only copy TI works

The current legislation provides for a levy on analogue devices only, and excludes digital devices. As purely analogue devices hardly exist anymore, this means that the equipment levy is not being implemented. The relevant provision in law 50/2004, article 6, reads as follows:

2. *The provisions in this law shall not apply to computers, to their programs nor to their databases constituted by computer means, nor to fixation digital reproduction equipments.*

Article 2

[...]

In order to benefit authors, performers, editors and phonographic and videographic producers, an amount shall be included in the retail selling price:

- (a) *of any mechanical, chemical, electronic or other appliances which enable the fixation and reproduction of works as their sole or main purpose, with the exception of digital equipment;*
 - (b) *of digital or analogue virgin material media, except for paper, provided for in paragraph 4 of article 3, as well as of fixations and reproductions which may be obtained from such media.*
- (b) Devices which can copy both audio/audio-visual and TI works
See above.

- Levy on media
 - (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
CDs and DVDs are subject to the private copy levy but there is no TI share.
- Operator levy?

Yes: internal use by public libraries, non-commercial documentation centres, scientific institutions, and copy shops and other establishments where copies for private use are sold on a commercial basis.
- Who is liable to pay the equipment levy?

Manufacturers and importers.

Tariffs

- How are they set?

By decree.
- Tariffs per device

3% of sales price.
- Tariffs per medium

3% of sales price.
- Operator levy tariff(s)

3% of sales price of photocopies.
- Visibility of the levy

N/A

Collections

- Total operator levy collections for 2012

€27,149.

Distribution

- Summary of distribution scheme re levies

The Copyright Law provides for an author-publisher split of 50:50. The operator levy remuneration is passed on to the CMOs representing authors and publishers in this proportion.
- Administrative deduction

2012: 16.89%.
- Social and cultural deduction

2012: The law establishes an obligation to retain 20% for collective cultural purposes such as workshops, scholarships and the promotion of public awareness of copyright.

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, Ap 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

Note: until March 2012, the levy on devices/media capable of copying TI works only (copiers, scanners, multifunctionals and printers) was collected by CopyRo. From this date, these levies were collected by PERGAM.

Scope of levy

The following English translation of the copyright law has been provided by ORDA: <http://www.orda.gov.ro/default.aspx?pagina=650>

Article. 34.⁴ (1) It shall not be a violation of copyright, for the purposes of this law, for 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 the normal use of the work or prejudice the author or the owner of the utilisation 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.

Article 107. (1) The authors of works susceptible to being reproduced through sound or audio-visual recordings, on any kind of physical medium, as well as the authors of works susceptible to being reproduced on paper, directly or indirectly, under the conditions provided for under article 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 article 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 article 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

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

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 organisation, which manage 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 registered with the Romanian Copyright Office on their 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 organisations 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, an application which 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 customs for importers, respectively to the invoiced value without VAT, on the occasion of putting into circulation products by the producers, and they 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 article 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 article 131.⁵

Article 107.⁶ (1) Compensatory remuneration for private copy is collected by a management organisation sole collector for the works reproduced after sound and audio-visual recording and by another sole collector management organisation for the works reproduced from paper, in accordance with the conditions provided for under article 133 paragraphs (6)-(8). The two collective management organisations, having duties of sole collector, are designated through the majority vote of the beneficiary collective management organisations, at the first summoning, or majority vote of those present, at the second summoning. The collective management organisations 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 working 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.

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

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

Article 107.⁷ (1) Compensatory remuneration for private copy collected by the sole collector management organisations is distributed to the beneficiaries as follows:

- (a) in the case of physical media and devices for sound-recorded copies, by analogical proceeding, 40% from the remuneration shall be payable, in negotiable shares, to the authors and publishers of the recorded works, 30% shall be payable to performers and the remaining 30% shall be payable to the producers of sound recordings;
 - (b) in the case of physical media and devices for audio-visual recorded copies, by analogical proceeding, the remuneration shall be divided in equal shares between the following categories: authors, performers and producers;
 - (c) repealed;
 - (d) in the case of copies recorded by analogical proceeding, on any type of physical medium, the remuneration shall be divided in equal shares between the beneficiaries corresponding to each of the three categories provided for in letters a), b) and c) and, within each category, according to those established at the aforementioned letters;
- 1.⁸ 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 includes the criteria for distribution as well the shares owed to each association. At distribution protocol, negotiations shall take part only with publishers' associations 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 article 34 (1) above).

- Levy on devices

- (a) Devices which can only copy TI works
Copiers, scanners, printers, multifunctionals.
- (b) Devices which can copy both audio/audio-visual and TI works
N/A (no TI share).

- Levy on media

- (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 levy?

No.

- Who is liable to pay the levy?

Manufacturers, importers and intra-communal acquirers.

Tariffs

- How are they set?

In accordance with article 107, as interpreted in Romania, the devices or media subject to levies are negotiated between the interested parties, but the tariffs are set by law (see article 107(4) to (9) above).

⁷ <http://www.orda.gov.ro/default.aspx?pagina=650&lang=en>

⁸ <http://www.orda.gov.ro/default.aspx?pagina=650&lang=en>

- Tariffs per device
 - (a) Devices which can only be used to copy TI works
Copiers: 0.5% of import price.
Scanners: ditto.
Printers: ditto.
Multifunctionals: ditto.
 - (b) Devices which can be used to copy a/av and TI works: share allocated to TI works
N/A

- Tariffs per medium
 - (a) Media which can only be used to copy TI works
Copy paper: 0.1% of import price.
 - (b) Media which can be used to copy a/av and TI works: share allocated to TI works
N/A

- Operator levy 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 (€ million)
2012: 0.167.
- Total collections per capita
2012: €0.007.
- How does the CMO obtain data to charge equipment levies?

Through the Romanian Copyright Office which, as a government agency, has access to data from the National Customs Authority, the Frontier Police and the National Authority for Fiscal Administration. In accordance with 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 follows: 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 follows: 70% to PERGAM and 30% to CopyRo, according to a decision of the Appeal Court.

- Administrative deductions

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

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

- Social and cultural deductions

COPYRO: none.

PERGAM: 10%.

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 paper or a similar medium by means of a reprographic or other technological device.*
- (3) *The author of a work, which can be reproduced according to paragraph (1), shall have the right to compensation of remuneration.*
- (4) *The author of a work, which can be reproduced and publicly distributed according to paragraph (2), shall have the right to compensation of remuneration.*

CMO(s) administering levy

Text and image:

LITA (IFRRO member)

Mozartova 9
Bratislava 11
www.lita.sk

Members:

2,310 authors and publishers.

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

The Copyright Law provides as follows (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 disk, which is built into a personal computer*

§24

(2) *The compensatory remuneration according to paragraphs (4) and (5) shall be paid through a collective administration organisation (§79) for:*

- (a) *a blank carrier of a type usually used for reproduction according to paragraph (1) by its manufacturer, recipient from a member state (hereinafter 'recipient'), an importer from a 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 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 disk, which is built into the personal computer; for this equipment the compensation according to item. c) is not paid;*
- (e) *copying services against payment by its provider, in the amount of 3% from total income for these services;*

(a) Devices which can only copy TI works
Copiers, fax machines, scanners, MF machines.
Printers: disputed.

(b) Devices which can copy both audio/audio-visual and TI works
Current levy for private copying on any medium on CD burners, DVD burners, Blu-ray burners.
The application of this levy to PCs is currently disputed. However, LITA collects a levy on PCs for 'reprography' (§24(2)d above).
Not yet implemented: tablets, e-readers, MP3/4 players, mobile phones, smartphones.

- Levy on media

- (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
Current levies for private copying for: CDs, DVDs, BR disks, memory cards, USB sticks.

- Operator levy?

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

- Who is liable to pay levy?

Primary responsibility: manufacturers, importers and intra-communal acquirers.

Secondary responsibility: wholesale and retail distributors.

Tariffs

- How are they set?
By the copyright law.
- Tariffs per device
Devices which can only be used to copy TI works
Copiers: 3% of import or selling price.
Fax machines: ditto.
Scanners: ditto.
Printers: disputed.
MF machines: as copiers.
- 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 disk (100% allocation to TI works).
CD burners, DVD burners, Blu-ray burners: 2.652%.
 - (b) Media which can be used to copy a/av and TI works: share allocated to TI works
CDs, DVDS, BR disks, memory cards, USB sticks; share not disclosed: 2.652%.
- Operator levy 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 (€ million)
2012: 0.34.
- Total device/media collections (€ million)
2012: 0.31.
- Total operator levy collections (€ million)
2012: 0.03
- Total collections per capita
2012: €0.062.
- How does the RRO obtain data to charge equipment levies?
There is an obligation in the copyright law, §24(9) and (10) for manufacturers or importers to report to the CMO the type, quantity and 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 re levies

Distribution is according to the rules of LITA. These provide for an author-publisher split of 73:27. The authors' share is divided as follows: 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 deduction
25%.
- Social and cultural deductions
None.

Slovenia

Legal basis for levy

Copyright Law 1995 as last amended 15 December 2006.

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, and the term appliances includes other sound or visual fixation appliances which achieve the same effect, and are therefore assimilated.*
- (6) *The right to remuneration under paragraph (1) of this article may not be waived or 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.*
- (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 unauthorised 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 media 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 colour 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:

81 members and 470 rightholders with the right to remuneration (but 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 a musical work by means of handwritten transcription.*

- Levy on devices
 - (a) Devices which can only copy TI works
The current government decree provides as follows:

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) *for three copies/pages per minute €2.09*
 - (b) *for 12 copies/pages per minute €8.34*
 - (c) *for 13-36 copies/pages per minute €12.52*
 - (d) *for 36-72 copies/pages per minute €20.86*
 - (e) *for more than 72 copies/pages per minute €29.21*
 - (f) *for 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 because no CMO has yet been authorised to collect the above levies after that period.

- Levy on media
 - (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 levy?
Yes: on copies made for sale to natural persons (copy shops, libraries, etc.).
- Who is liable to pay the levy?
Manufacturers and importers.

Tariffs

- How are they set?
By government decree: see above.
- Tariffs per device
 - (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
Not implemented at the moment (see above).

- Tariffs per medium
Media which can only copy TI works
N/A
- Operator levy tariff(s)
By article 5 of the government decree, €0.004 per copy sold 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 (€ million)
2012: 0.143
(includes 0.011 received in 2012 for TI share of blank tape levy prior to 2010).
- Total equipment levy collections (€ million)
2012: 0.108.
- Total operator levy collections (€ million)
2012: 0.024.
- Total collections per capita
2012: €0.068.
- How does the RRO obtain data to charge levies?
Entities liable to pay the levy are obliged to provide information to the RRO on request (see article 38(3) above).
- Summary of exemption/refund scheme
In practice not needed.

Distribution

- Summary of distribution scheme re levies
The levy remuneration is distributed to rightholders. The copyright law provides for a 50:50 split between authors and publishers; remuneration is then distributed between the rightholders pursuant to the internal rules of SAZOR.
- Administrative deductions
No information.
- Social and cultural deductions
None.

3.2 Countries Where the Levy System Has Not Yet Been Implemented

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 18 August 2011. The levy scheme is, however, not yet operational.

Scope of levy

Copying for private purposes.

Is there an IFRRO member in the country?

No.

BOSNIA-HERZEGOVINA

Legal basis for levy

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

Scope of levy

Private and other internal use.

Is there an IFRRO member in the country?

No.

DOMINICAN REPUBLIC

Legal basis for levy

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

Article 37. – It shall be lawful to reproduce once and in a single copy a literary or scientific work for personal use and not for profit-making purposes, without prejudice to the right of the rightholder to obtain equitable remuneration for the reprographic reproduction or for the private copying of a sound or audio-visual recording, in the manner established under the Regulations. Computer programs shall be governed by the guidelines expressly established in the special provisions of this Law relating to such works.

Article 53 of 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 rightholder. The author-publisher split in the case of TI works shall be 50:50 (article 3).

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

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

Scope of levy

Personal use.

Is there an IFRRO member in the country?

No.

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.

Is there an IFRRO member in the country?

No.

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.

KOSOVO

Legal basis for levy

Copyright Law 2011: article 39(3) provides for an equipment levy and operator levy with reference to sold copies. In accordance with 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.

Is there an IFRRO member in the country?

No.

LUXEMBOURG

Legal basis for levy

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

Scope of levy

Copying for private use.

Is there an IFRRO member in the country?

Yes:

LUXORR (RRO member)

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

MOLDOVA

Legal basis for levy

Article 27 of the 2008 Copyright Law provides for an equipment and operator levy.

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, or in teaching establishments for study or research.

Is there an IFRRO Member in the country?

No.

The levies are to be administered by ReproMold, Uniunea Scriitorilor (Fondul Literar), Str. 31 August 1989, 98 min. Chisineau, MD 2004, but for the time being the equipment levy is being collected by ASDAC, 24 N. Zelinski str., mun. Chisinau, MD 2038, which already administers audio/audio-visual private copying levies. Collections in 2012 amounted to €954. As yet, no remuneration has been passed on to ReproMold because of administrative problems. Collections of the operator levy have not yet started.

MONTENEGRO

Legal basis for levy

2011 Copyright Law.

Scope of levy

Articles 35-37 apply to devices which can only be used to copy TI works. There is also an operator levy where copies are sold. Levies cover private copying, own/internal use, and teaching.

Is there an IFRRO member in the country?

No.

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 Ministry of Justice 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.

In accordance with article 4 of the Order, the NCC shall distribute the remuneration as follows:

- (a) 10% for the promotion of creativity;
- (b) 20% for the NCC anti-piracy programme;
- (c) 10% for administration;
- (d) The remaining 60% between approved collecting societies.

It is expected that the scheme will be implemented during 2014 and that REPRONIG (see below) will be appointed to administer the TI share.

Is there a IFRRO member in the country?

REPRONIG (RRO member)

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

PARAGUAY

Legal basis for levy

The Copyright Act 1998 as amended. §34 provides for a levy which appears to cover devices/media which can only be used to copy TI works, and also devices/ media which can be used for a/av works. §37 provides for the details of the scheme to be determined by regulation in accordance with proposals of the National Directorate of Copyright, but no regulations have yet been made, so far as is known.

Scope of levy

Private use.

Is there an IFRRO Member in the country?

No.

SERBIA

Legal basis for levy

2011 Copyright Law: equipment levy on devices and media, article 39(1) and (2); operator levy with regard to copy shops, article 39(5).

Scope of levy

Private use.

Is there an IFRRO member in the country?

No. 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.

TURKEY

Legal basis for levy

The 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. The Ministry is directed to distribute the remuneration as follows: 75% to rightholder organisations and 25% for cultural and social purposes and the enforcement of copyright. To date, this scheme has not been implemented.

44. (Amended: 7.6.1995 – 4110/article 18)

Owners of the financial rights and the manufacturers and publishers of the devices used for the replay of intellectual and artistic works through signs, sound and image are collectively responsible for putting signs and serial numbers on all copies of a work to be marketed, distributed or otherwise marketed in accordance with this Law.

The real and corporal persons manufacturing or commercially importing all kinds of empty video cassettes, sound cassettes, compact disks and computer disks are liable to deduct an amount over the manufacturing or import value to be determined by the decision of the Board of Ministers so as not to exceed five per cent of the same and to deposit the sum they collect within one month in a special account to be established in a national bank in the name of the Ministry of Culture until the middle of the following month at the latest.

The Ministry divides three-quarters of the amount collected in this account among the professional unions to be distributed to the owners of the rights represented by the professional unions. The professional unions distribute this sum to the owners of the rights according to the distribution plans to be approved by the Ministry. When approving these plans, the Ministry considers the duplication numbers of the works represented by the professional unions. The Ministry uses the remaining quarter of this amount for cultural and social purposes and for the prevention of the violation of intellectual rights.

The rules and regulations regarding the signs and serial numbers to be placed on the copies of the intellectual and artistic works according to their usage for the purposes of their performance at personal or public places, the collection of the copies not bearing these, the authority to whom the number of duplicated and distributed copies will be informed and the other matters are determined by the regulations to be introduced by the Ministry of Culture.

Scope of levy

Private use.

Is there an IFRRO member in the country?

YAYBIR (RRO member)

Publishers' Copyright and Licensing Society
Opera Palas Apartmenti
Gumussuyu
Beyoglu 34437
Istanbul

BESAM (RRO member)

Copyright Holders' Association of Literary and Scientific Works
Sahne Sohak
Ali Hen 307
Galatasary
Istanbul

BASYABIR (Creators' and Publishers' Association Member)

The Turkish Professional Association of Printing and Publishing
Binbirdirek Mh. Dostiuk Yurda Sk. 1/3
Sultanahment/Fatih
Istanbul 34122

ACRONYMS AND ABBREVIATIONS

Acronyms

<i>Acronym</i>	<i>Meaning</i>
CJEU	Court of Justice of the European Union
CMO	Collective management organisation
DRM	Digital rights management
EC	European Commission
EU	European Union
GDP	Gross domestic product
IFRRO	International Organisation of Reproduction Rights Organisations
IT	Information technology
MFD	Multifunctional device
PC	Personal computer
PDMA	Deutsches Patent- und Markenamt
RRO	Reproduction Rights Organisation
TI	Text and image
TPM	Technological protection measures
VG	Verwertungsgesellschaft
WIPO	World Intellectual Property Organisation
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

Fax:
+4122 733 54 28