

# PRIVATE COPYING GLOBAL STUDY

FIRST  
EDITION  
2017

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









# **Private Copying Global Study**

first edition 2017

by CISAC Legal & Policy Department.



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# FOREWORD

Private copying levies offer creators remuneration for acts of copying that cannot be effectively licensed or monitored. They are justified when domestic laws include an exception to the right of reproduction for acts of copying that are done by individual persons and for private use. When a private copying levy system operates effectively, it can provide a substantial source of revenues for creators. Furthermore, the importance of levies is growing in the face of widespread copying over digital media and the growing popularity of mobile devices with large storage capacities.

In 2015, global collections of private copying levies represented almost € 310M<sup>1</sup>. In some markets, such as in Burkina Faso, it accounts for over 50% of the local society's income. It is a particularly important revenue source in Europe (over 6% of total European royalties' collections) and Africa (14% of total African royalties).

In light of the latest developments on private copying laws and practices in key territories, it was proposed by CISAC Secretariat during the November 2014 Board of Directors meeting in Tokyo to undertake a comprehensive analysis of private copying legislation around the world to identify countries where societies should be in a position to collect levies under existing laws as well as priority countries for lobbying to amend laws so that levies can be collected.

This study is the first global analysis of private copying systems that exist all around the world. It has been prepared by CISAC Secretariat with the collaboration of the Regional Directors and inputs from numerous CISAC societies.

Thanks to various data sources, it examines the copyright laws of 191 countries on 5 continents<sup>2</sup> and classifies, for each continent, the countries under four categories from the lowest level of development to the most developed:

- Countries without a private copying exception;
- Countries with a private copying exception but without a compensation levy;
- Countries with a private copying levy but without collection and distribution mechanisms;
- Countries with a private copying levy and collection and distribution mechanisms;

This classification provides comprehensive data on private copying systems existing around the world and thus, afford insights to CISAC and CISAC societies for defining the framework and the strategic plan for future lobbying activities towards national governments, worldwide institutions and/or organisations, CMOs, etc

1-Figures from 2016 CISAC Global Collection Report.

2-Continent" is understood in this study in a geographical way.

# FOCUS ON THE METHODOLOGY

The first step of the research consisted in collecting the copyright national laws of the different countries and identifying the international or regional treaties ratified or not by each one of them. Due to the worldwide basis of the study, the easiest research method to find the relevant copyright national laws has been to consult the WIPO Lex database or the portal of the national entities in charge of the copyright field. Then, data collected was combined with other sources, studies or survey (see. Annex 1). In several cases where legislation or information is not publicly or easily available, the Secretariat asked for support from CISAC societies.

CISAC collected and analyzed the most updated national legislation and jurisprudence, but it is possible that developments have appeared since the publication of the study. The data was collected between June 2015 and August 2017. CISAC will update this study and provide additional information as often as possible.

Finally, data related to private copying revenues were extracted from the Income and Expenditures declarations that CISAC societies are committed to complete each year. To avoid any doubt, it is important to note that this amount represents the amounts collected by each society for authors' rights only.

See Annex 2 (Bibliography) for more information.

Apart from countries that have not implemented a private copying exception and thus have been listed with only a few comments, each country has an individual profile split in three parts:

- The first table gives an overview of the national private copying system according to several pieces of information (liable, beneficiaries, exemption, rate setting, collection and distribution system, social and cultural deductions, revenues collected);
- The second table gives the legal basis in the national legislation. It has to be noted that the English translation is not always available, so it was decided to keep the original language;
- The last table gives information or comments, if any, on potential updates and legal developments in legislation or jurisprudence.



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

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

This exception emerged in Germany in the early 1960s after two important decisions by the German Federal Supreme Court against several manufacturers of recording equipment<sup>3</sup>, and have afterwards been recognised by International treaties, in particular the Berne Convention and the TRIPS Agreement of 1994.

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

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

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

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

*(...)*

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

*(..)"*

In Africa, a regional treaty has also been implemented in 1977; the Bangui Agreement. This agreement, in a revision that took place in 1999, required signatory countries<sup>4</sup> to provide a private copying exception and to accompany it with an effective system for remunerating authors, performers and phonogram producers.

For rightholders, the private copying levy system is currently the only efficient mechanism that allows creators to be compensated for the limitation of their exclusive right of authorising the reproduction of their works. The funds collected are generally redistributed to creators and thus contribute to the creative process. This remuneration is intended to provide adequate incentives to creators.

Recently, the digitalisation of content and the large availability of data carriers with huge capacities of storage (in particular due to mobile and offline uses with smartphones, laptop, multimedia devices, etc.) have substantially increased the ability of users to reproduce protected content and thus increased the potential for private copying. It is practically impossible for authors to grant permission or to monitor the reproduction of works. As a result, the private copying levy system has been adopted as the best solution for compensating authors for the use of their works while protecting the freedom of users.

3-In particular, in the case opposing the German author's society GEMA and the producers of recording equipments Grundig Reporter and in the Personalausweise case. 4-The Bangui agreement has been ratified by the 17 countries of the AIPO (African Intellectual Property Organisation). It is a self-executing agreement

This exception allows the public to make copies of creative contents for their private use without first obtaining creators' consent. It is a very modern and very convenient way to serve the protection of creator's rights but also the fundamental right to freedom, such as user's right of privacy.

In many countries and especially in Europe, a percentage of collected funds is deducted for social and cultural purposes. These cultural actions aim at supporting the creation, the promotion and dissemination of works as well as enabling the training of artists and writers, all in the interest of the public. Thus the public contributes to the funding of numerous cultural events spanning a great diversity of genres and repertoires, such as festivals, plays, concerts, street shows, art exhibitions, lyrical music, short films, documentaries, reportages or circus performances.

In certain countries, private copying remuneration is funded by the national state budget. The most common private copying levy system is a system where importers and manufacturers are required to pay a levy on the recording equipment and/or media used by individuals for their private use to a collective management organisation in charge of the collection and distribution of this remuneration. In this system, the levy is generally included in the selling price of the products.

Even if it is the most common system, there are huge differences and a large variety of private copying levy systems around the world. Depending on the jurisdiction, the scope could differ substantially regarding the determination of the levied products, the methods of rate setting, the liable, the beneficiaries of the levy as well as the collection and distribution system.

Nowadays, new type of access and storage supports where you can share and consume creative works anytime and anywhere (such as connected living or the cloud) require reviewing the scope, level and applicability of the private copying levy. It is an important current challenge for many countries around the world.



# 1 - AFRICA

1/2

The situation in Africa regarding adequate remuneration and compensation to authors is poor overall.

47 out of 54 countries have a private copying exception in their domestic legislation. Only 4 (Algeria, Botswana, Burkina Faso and Kenya) have a remuneration system for private copying with a distribution mechanism under national law. However, for different reasons, two of these countries do not appear to provide adequate remuneration that matches the scope of their private copying exception. In Botswana, the collected levy is deposited in a fund established by the Minister of Finance and Development Planning for the professional development of authors and publishers. This does not necessarily imply that rightholders whose works have been copied will benefit from this fund. In Kenya, levies are collected for sound recordings but not for literary, musical, artistic or audio-visual works. This indicates different treatments between authors (of literary, musical, artistic or audio-visual works) who do not receive any compensation and producers/performers (of sound recordings). As a result, the only two countries where authors are effectively receiving remuneration are Algeria and Burkina Faso.

19 countries (Benin, Burundi, Cameroon, Cape Verde, Chad, Democratic Republic of Congo, Djibouti, Gabon, Ghana, Ivory Coast, Madagascar, Mali, Mauritius, Morocco, Mozambique, Niger, Nigeria, Senegal and Tunisia) provide for a levy but there is no evidence of the establishment of an operating collection and distribution mechanism under their domestic legislation. It may be assumed that in most of those countries no levy is collected and distributed. In most of these cases, the law reserves the details of such mechanism (i.e. the definition of the types of media to be levied, the criteria for fixing rates, the procedures for payment) to regulation. For instance, in Ivory Coast, a decree implementing the provisions of a new law that introduces a private copying scheme is currently under way. However, for different reasons such as inadequate regulation of where it exists, it is not implemented yet.

24 countries (Angola, Central African Republic, Comoros, Congo, Egypt, Eritrea, Ethiopia, Gambia, Guinea, Lesotho, Libya, Malawi, Mauritania, Namibia, Rwanda, Seychelles, Sierra Leone, South Africa, South Sudan, Sudan, Tanzania, Togo, Uganda and Zimbabwe) have a private copying exception in their legislation but do not foresee a remuneration system in favour of rightholders. This situation undermines the interests of rightholders, whose rights are eroded without receiving any compensation for the harm they suffer nor having the possibility of monitoring the use of their works. It also appears hardly consistent with the principle of the three-step test established in Article 9.2 of the Bern Convention, of which the majority of African countries are signatory countries, which provides that *"It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author."*

Finally, seven countries (Equatorial Guinea, Guinea Bissau, Liberia, Sao Tome and Principe, Somalia, Swaziland and Zambia) do not provide for an explicit private copying exception.

The poor development of the remuneration for private copying in the region is taking place despite the implementation of a regional treaty (The Bangui Agreement), which required signatory countries to provide a private copying exception and to accompany it with an effective system for remunerating authors, performers and phonogram producers. The Bangui Agreement, promoted by OAPI (*Organisation Africaine de la Propriété Intellectuelle*) entered into force in 1977 to develop regional standards for IP law in French-speaking African countries. The Agreement aimed at getting OAPI countries to harmonise their national copyright legal frameworks. Since 1999, it has force of law in OAPI countries (Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, Ivory Coast, Gabon, Guinea, Equatorial Guinea, Mali, Mauritania, Niger, Guinea Bissau, Senegal and Togo).

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





# 1 - AFRICA

2/2

At present, Algeria and Burkina Faso are the only countries where rightholders are remunerated for the private reproduction of their works.

Many countries have a detailed remuneration system for private copying with distribution mechanism under national law, but require state intervention to put in place such a mechanism.

In the countries where an exception for private copying applies without any remuneration for rightholders, law reform is needed in order to align such countries with the vast majority of the signatory countries of the Berne Convention, to which the three-step test principle applies. In many of these countries, the private copying exception has been implemented under the condition that a fair compensation was paid to creators for loss of revenues or harm caused by the copies.

Finally, the report shows that national law usually appoints the local authors' societies as the qualified entities in charge of collecting and distributing fair remuneration. For this reason, their presence in the region and their technical capacities needs to be improved in order to ensure their ability of collecting fair remuneration from liable parties and distributing it to the rightholders in the most efficient way possible.



# AFRICA: COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION



## EQUATORIAL GUINEEA

Equatorial Guinea has signed the Bangui Agreement of 1999 under which signatory countries are required to provide a private copying exception and an effective levy system of remuneration for right holders for such private use in their national law.



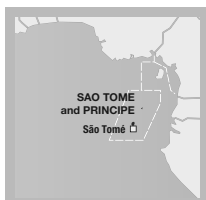
## GUINEA BISSAU

Guinea Bissau has signed the Bangui Agreement of 1999 under which signatory countries are required to provide a private copying exception and an effective levy system of remuneration for right holders for such private use in their national law.



## LIBERIA

The Copyright Law of the Republic of Liberia of 1997 doesn't provide an explicit private copying exception, but the general exception of fair use (s.27) may be interpreted as covering private copying.



## SAO TOMÉ AND PRINCIPE

No information available.



## SOMALIA

There is no Intellectual property legislation available at all.



## SWAZILAND

No information available.



## ZAMBIA

The Copyright and Performance Rights Act. Law 44 of 1994 doesn't provide an explicit exception for private copy, but there is a fair dealing exception for private uses if they are research related and for recording of broadcast and cable programs.



# ANGOLA



25.115 million

GDP: 1,687.673 billion €



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 9 of Law No. 4/90 of March 10, 1990 on Authors' Rights

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



# CENTRAL AFRICAN REPUBLIC



4.794 million

GDP: 599.281 million €



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Art. 11-18 of Ordonnance N. 85.002 sur le droit d'auteur (du 5 janvier 1985)**

Chapitre II Limitation permanente

Article 11: When the work has been lawfully made available to the public, the author may not prohibit:

- 1) Communications such as representation, radio, television broadcasts: If they are private or exclusively within the family circle and do not give rise to any form of income;
  - 2) Reproductions, translations and adaptations for a strictly private use, provided that the title of the work and the author's name should be clearly specified.
- However, the organizers of the communications provided above are required to inform in advance either the author or his heirs or the Central Bureau of copyright.

Article 18: The use of works under the conditions laid down in this Chapter shall not give rise to any remuneration for the authors or their heirs.



## COMMENTS/LEGAL DEVELOPMENTS

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



# COMOROS



0.799 million

GDP: 148.093 million €



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Art. 41 of the Law on literary and artistic property, 11 march 1957**

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

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



## COMMENTS/LEGAL DEVELOPMENTS

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



# CONGO



4.368 million

GDP: 1,678.827 million €



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

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

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

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

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



## COMMENTS/LEGAL DEVELOPMENTS

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

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



# EGYPT



88.434 million

GDP: 1,801.200 million €



## OVERVIEW

### EXCEPTION

Exception covered a single copy of published works for personal use, as long as not conflicting with the three-step-test. Not applicable to: works of architecture; fine, applied or plastic arts (unless in public space); musical notations; databases.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

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

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

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

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

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





# ERITREA



6.716 million

GDP: 21.409 million €



## OVERVIEW

### EXCEPTION

Exception limited to a single copy for private use of speeches and articles.

### LEVY

Equipment No

Media No

It is to be noted that art. 1673 of the Provisional Commercial Code of Eritrea and Provisional Civil Code of Eritrea of 1993 establishes that public authorities may in the general interest and subject to special legislation issue a compulsory license for reproduction with fair compensation to the author.



## LEGAL BASIS

### EXCEPTION

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

Art. 1660. Limitation of speeches or articles. (1) The author cannot forbid analyses and press reviews of his work. (2) Copies or reproductions of the work made in a single copy shall be permitted where they are intended for private use only.

Art. 1673.-Rights of public authorities.

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



# ETHIOPIA



89.760 million

GDP: 691.025 million €



## OVERVIEW

### EXCEPTION

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

### LEVY

Equipment	No
Media	No

Nevertheless, it is to be noted that art. 17 of the Copyright and Neighboring Rights Protection Proclamation N.410/2004-s.9, establishes that public authorities (the Ethiopian Intellectual Property Office) may in the general interest and subject to special legislation issue a compulsory license for reproduction with fair compensation to the author.



## LEGAL BASIS

### EXCEPTION

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

##### 9. Reproduction for Personal Purposes

- 1 - Notwithstanding the provisions of Article 7 (IXa) of this Proclamation, the owner of copyright cannot forbid private reproduction, of a published work in a single copy by a physical person exclusively for his own personal purposes.
- 2 - The provisions of Sub-Article (I) of this Article shall not extend to reproduction;
  - a) of a work of architecture in the form of a building or other construction;
  - b) of musical work in the form of notation; or of the original or a copy made and signed by the author of a work of fine art.
  - c) of the whole or a substantial part of a database in digital form;
  - d) of a computer program except as provided in Article 14 of this Proclamation; or
  - e) which would conflict with or unreasonable harm the normal exploitation of the work or the legitimate interest of the author.

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

- 1 - The Office may grant, notwithstanding the copyright, heirs or legatees owners' opposition, a license to authorize the reproduction or translation or broadcasting of a published work.
- 2 - The conditions, forms of such authorization and in particular the fair compensation to be made to the owner of copyright shall be determined by the regulations.
- 3 - In no circumstances may the Office authorize the alteration of a work.



# GAMBIA



1.980 million

GDP: 23.861 million €



## OVERVIEW

### EXCEPTION

Exception for private reproduction of a published work in a single copy for personal purposes. Not applicable to works of architecture, reprography of books and musical notations, digital databases, other cases conflicting with three-step-test. Expression of folklore: reproduction by way of fair dealing for private and domestic use.

### LEVY

Equipment No  
Media No

Nevertheless, the Secretary of State may make regulations for establishing a levy on technical devices.



## LEGAL BASIS

### EXCEPTION

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

##### PART IV - PERMITTED USE OF COPYRIGHT, AND EPHEMERAL RECORDINGS

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

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

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

### LEVY

#### Art. 89 of the Copyright Act, 2004

##### CHAPTER VII – MISCELLANEOUS PROVISIONS

The Secretary of State may make regulations (...)

- (a) For the levy payable on technical devices used for copyright materials ...



# GUINEA



12.345 million

GDP: 8,959.274 million €



## OVERVIEW

### EXCEPTION

Exception for reproductions, translations and adaptations for personal and private use.

### LEVY

Equipment No

Media No



## LEGAL BASIS

### EXCEPTION

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

Chapter II  
Limitations on Copyright  
Permanent limitations  
Art. 10

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

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



## COMMENTS/LEGAL DEVELOPMENTS

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



# LESOTHO



1.932 million

GDP: 12.872 million €



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Art. 9 of Copyright Order 1989 (Order No.13 of 1989)

Free use

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

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



# LYBIA



6.322 million

GDP: 22.697 million €



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment	No
Media	No

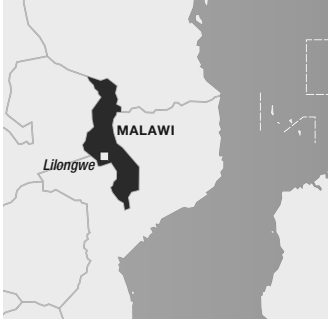


## LEGAL BASIS

### EXCEPTION

#### Law No. 9 for 1968 Issuing the Copyright Protection Law

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



# MALAWI



18.111 million

GDP: 1,280.860 million €



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Copyright Act, 1989

Permitted free uses of a work

Article 10 – The following uses of a work under this Part, either in its original language or in its translation, shall be permissible without the author's consent and without the obligation to pay remuneration for the use of such work.

- a. In the case of any work that has been lawfully published
- i. The reproduction, translation, adaptation, arrangement or other transformation of such work exclusively for the user's own personal or private use.



# MAURITANIA



3.706 million

GDP: 868.286 million €



## OVERVIEW

### EXCEPTION

Yes (according to UNESCO's 2009 report, there is no specific copyright law in Mauritania, and the French Law of 1957 applies.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Loi No. 57-298 March 11, 1957 portant sur la propriété littéraire et artistique Article 41 (abrogé au 3 juillet 1992)**

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

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



## COMMENTS/LEGAL DEVELOPMENTS

According to UNESCO's 2009 report, there is no specific copyright law in Mauritania, and the French Law of 1997 applies. It has to be noted that this law has been abrogated in 1992.

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





# NAMIBIA



2.221 million

GDP: 52.208 million €



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

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

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

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



# RWANDA



11.301 million

GDP: 5,011.418 million €



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

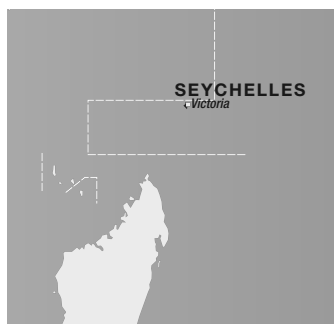
### EXCEPTION

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

##### Article 203

Private reproduction for personal purposes Notwithstanding the provisions of article 200 of this Law, and subject to the provisions of paragraph 2 of this article, the private reproduction of a published work in a single copy shall be permitted without the authorization of the author or owner of copyright and without payment of any remuneration, where the reproduction is made by a natural person exclusively for his own personal purposes. The provisions under paragraph one of this article shall not extend to reproduction:

- 1° of a work of architecture in the form of building or other similar constructions;
- 2° in the form of reprography of the whole or of a substantial part of a book or of a musical work in the form of notation;
- 3° of the whole or of a substantial part of a database in digital form;
- 4° of a computer program, except as provided in article 178;
- 5° of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or other owner of the copyright.



# SEYCHELLES



0.092 million

GDP: 8.080 million €



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

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

Private reproduction for personal purposes

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

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

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



# SIERRA LEONE



6.319 million

GDP: 8,367.561 million €



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment

No (but the Minister may, by statutory instrument, make regulations for the levy payable on technical devices used for copyright materials.)

Media

No (but the Minister may, by statutory instrument, make regulations for the levy payable on technical devices used for copyright materials.)



## LEGAL BASIS

### EXCEPTION

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

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

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

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

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

### LEVY

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

Part X -Miscellaneous

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

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



# SOUTH AFRICA



54.957 million

GDP: 3,047.901 million €

1/2



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 12 and 13 of the Copyright Act No 98 of 1978 (as amended)

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

- (1) Copyright shall not be infringed by any fair dealing with a literary or musical work
  - (a) For the purposes of research or private study by, or the personal or private use of, the person using the work,
- (9) The provisions of subsections (1) to (7) inclusive shall apply also with reference to the making or use of an adaptation of a work.
- (11) The provisions of subsections (1) to (4) inclusive and (6), (7) and (10) shall be construed as embracing the right to use the work in question either in its original language or in a different language, and the right of translation of the author shall, in the latter event, be deemed not to have been infringed.

13 - General exceptions in respect of reproduction of works.

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



## COMMENTS/LEGAL DEVELOPMENTS

The South African government published at the end of July 2015 its Copyright Amendment Bill, opening a 30-day public consultation process. This amendment proposes to allow a general exception of fair use of copyright work after section 12 of the principle Act:

- "(1) Notwithstanding any provision of this Act, fair use of work eligible for copyright includes the use by reproduction in copies, translation or by any other means which does not require the granting of licence as specified in the Schedule hereto. (...)



# SOUTH AFRICA

2/2



- (4) Fair use of copyright work shall allow for some limited and reasonable use of copyrighted work for purposes of cartoon, parody or pastiche work in songs, films, photographs, video clips, literature, electronic research reports or visual art for non-commercial use, without having to request a permission specified in the Schedule hereto. The use includes -
- (a) quoting the works of the copyright owner in a manner that is reasonable and fair;
  - (b) making copies of eBooks or compact discs purchased by the user; or
  - (c) transferring of purchased compact discs onto the user's MP3 format player.
- (5) In determining whether the use of copyright work in any particular case is a fair use, the following factors shall be considered:
- (a) the purpose and character of the use including, whether such use is of a commercial nature or is for non-profit educational purposes;
  - (b) the nature of the copyrighted work;
  - (c) the amount and substantiality of the portion used in relation to the copyrighted work as a whole;
  - (d) whether the use of the copyrighted work is fair and proportionate, by considering further that:
    - (i) the use of copyrighted work is of few lines of a song, literature or few parts of a film or art work for cartoon, parody or pastiche;
    - (ii) the use of the whole copyrighted work for cartoon, parody or pastiche for commercial use shall require the issuance of licence; and
    - (iii) the use of copyrighted work is compatible with fair practice in that the source and the name of the author are mentioned in the publication, broadcast, recording or the platform where the copyrighted work is displayed.
  - (e) the effect of the fair use upon the potential market for of the value of the copyrighted work.



# SOUTH SUDAN



11.893 million

GDP: 20.544 million €



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment

No

Media

No



## LEGAL BASIS

### EXCEPTION

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

Restrictions on copyright

Art. 14(4)

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



## COMMENTS/LEGAL DEVELOPMENTS

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



# SUDAN



38.435 million

GDP: 108.918 million €



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

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

Restrictions on copyright

Art. 14(4)

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



## COMMENTS/LEGAL DEVELOPMENTS

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





# TANZANIA



47.679 million

GDP: 44,104.312 million €



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Copyright and Neighbouring Rights Act, 1999

##### Free use

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

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

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

#### The Zanzibar Copyright Act, 2003

##### Private reproduction for personal purposes

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

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

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



## COMMENTS/LEGAL DEVELOPMENTS

Zanzibar is the semi-autonomous part of Tanzania.



# TOGO



7.314 million

GDP: 1,482.348 million €



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

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

General limitations to copyright

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

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



## COMMENTS/LEGAL DEVELOPMENTS

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



# UGANDA



39.890 million

GDP: 54,162.831 million €



## OVERVIEW

### EXCEPTION

Fair use for the production, translation, adaptation, arrangement or other transformation of the work for private personal use only. This study interprets the word *production* as synonym of *reproduction*.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

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

15. Fair use of works protected by copyright

(1) The fair use of a protected work in its original language or in a translation shall not be an infringement of the right of the author and shall not require the consent of the owner of the copyright where—

(a) the production, translation, adaptation, arrangement or other transformation of the work is for private personal use only;



# ZIMBABWE



13.407 million

GDP: 12.379 million €

1/2



## OVERVIEW

### EXCEPTION

- Private recording of musical works and sound broadcasts for the private use of himself and members of his family
- Recording of programs and broadcasts for purposes of subsequent viewing or listening are allowed

### LEVY

Equipment	No
Media	No

### BENEFICIARIES

The proceeds of any such levy are paid to or for the benefit of authors and performers whose works or performances are being or are likely to be reproduced



## LEGAL BASIS

### EXCEPTION

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

##### PART III Permitted acts in relation to copyright works

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

##### (1) The copyright in—

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

##### (2) Any recording made in terms of subsection (1) shall be used only for the purpose for which it was made and, in particular, shall not—

- (a) be distributed, whether by way of business or otherwise, to any person outside the family of the person who made it; or (b) be performed in public.

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

##### (1) Subject to this section, the copyright in—

- (a) a sound recording or a musical work embodied in a sound recording; or
- (b) a sound broadcast or any work embodied in such a broadcast; shall not be infringed by the sound recording, musical work or broadcast being recorded by a person for the private use of himself and members of his family.

##### (2) Any recording made in terms of subsection (1) shall be used only for the purpose for which it was made and, in particular, shall not

- (a) be distributed, whether by way of business or otherwise, to any person outside the family of the person who made it; or
- (b) be performed in public.



# ZIMBABWE

2/2



...

## LEVY

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

135 Regulations

- (1) Subject to this section, the Minister may by regulation provide for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Regulations made in terms of subsection (1) may (...)-
  - C - provide for the establishment of one or more schemes whereby-
    - (i) the levy is imposed on-
      - A. the sale of blank record which can be used for the recording of works in accordance with section forty-one or forty-two; or
      - B. the use of any apparatus or process for reprographic copying by educational institutions and libraries which reproduce or are likely to reproduce works, whether in accordance with section twenty-five or otherwise, or in accordance with a compulsory licence referred to in paragraph (a); and
    - (ii) the proceeds of any levy referred to in subparagraph (i) are paid to or for the benefit of authors and performers whose works or performances are being or are likely to be reproduced in terms section forty-one or forty-two or by an educational institution or library referred to in subparagraph B or subparagraph (i) or under a compulsory licence referred to in paragraph (a).



# BENIN



10.859 million GDP: 4,047.229 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment No Media Yes
<b>BENEFICIARIES</b>	Authors (literary and artistic works), performers, phonogram producers.
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	Export, non-private use.
<b>RATE SETTING</b>	Governmental regulations (general)
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	There is no effective mechanism at the moment. Remuneration shall be collected and distributed by CMOs.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Article 14 of Law N.2005-30 of 2006.</b></p> <p>Where a work has been lawfully published, the author may not prohibit reproductions, translations or adaptations thereof intended for strictly personal and private use. The preceding paragraph shall not apply to:</p> <ul style="list-style-type: none"> <li>- the reproduction of works of architecture in the form of buildings or other similar constructions;</li> <li>- the reprographic reproduction of an entire book or of a musical work in graphical form (scores);</li> <li>- the reproduction of the whole or of significant parts of databases in digital form;</li> <li>- the reproduction of computer programs, except in the cases provided for in Article 20 of the present Law;</li> <li>- any other reproduction of a work that would prejudice the normal exploitation of the work or would cause any prejudice to the legitimate interests of the author".</li> </ul>
<b>LEVY</b>	<p><b>Article 74-78 of Law N.2005-30 of 2006.</b></p> <p>Article 74. "The authors of literary and artistic works, performers in respect of their performances fixed in phonograms, and phonogram producers shall be entitled to remuneration for the reproduction of such works, performances and phonograms intended for strictly personal and private use and made in accordance with the provisions of Articles 14 and 69 of the present Law".</p>



## BENIN

2/2



...

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

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

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

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

### COLLECTION AND DISTRIBUTION SYSTEMS

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

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

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

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



### COMMENTS/LEGAL DEVELOPMENTS

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



# BURUNDI



9.422 million

GDP: 1,719.075 million €

1/3



## OVERVIEW

<b>EXCEPTION</b>	Yes				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes</td></tr> <tr> <td>Media</td><td>Yes</td></tr> </table>	Equipment	Yes	Media	Yes
Equipment	Yes				
Media	Yes				
<b>BENEFICIARIES</b>	Authors (music, audiovisual), performers and phonogram producers (music).				
<b>LIABLE</b>	Producers, importers				
<b>EXEMPTION</b>	For exported media and devices. For the media and devices that “may not” be normally used for private uses.				
<b>RATE SETTING</b>	Agreement between the CMOs and representatives of the producers and importers. In the absence of such agreement, the amount and the conditions of its payment shall be established by the Ministry in charge of Culture.				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no information has been gathered regarding any agreement or the implementing regulations referring to above.				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No				



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Art. 26 of Law No. 1/021 of December 30, 2005, on the Protection of Copyright and Related Rights in Burundi</b></p> <p>TITLE III - LIMITATIONS Chapter I - LIMITATIONS TO ECONOMIC RIGHTS Section I - FREE USES</p> <p>Article 26 Notwithstanding the provisions of Article 24, the following uses of a protected work, in its original language or in translation, shall be permissible without the author's consent:</p> <p>1. In the case of any work that has been lawfully published:</p> <p>(a) the reproduction, translation, adaptation, arrangement or other transformation of such a work exclusively for the user's own personal or private use; However, private reproduction shall not apply to the reproduction of works of architecture taking the form of buildings or other similar constructions, reprographic reproduction</p>
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# BURUNDI

2/3



...

of an entire book or musical work in graphic format (musical scores), reproduction of all or of major parts of databases in digital format, reproduction of computer programs, except in the cases provided for in Article 27, and reproduction of a work that would conflict with the normal uses of the work or would unreasonably prejudice the legitimate interests of the author.

## LEVY

### Art. 34-84 of Law No. 1/021 of December 30, 2005, on the Protection of Copyright and Related Rights in Burundi

#### CHAPTER II - EQUITABLE REMUNERATION FOR REPRODUCTION FOR PRIVATE USE

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

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

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

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

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

#### CHAPTER VI - EQUITABLE REMUNERATION FOR PRIVATE REPRODUCTION

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

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

## COLLECTION AND DISTRIBUTION SYSTEMS

### Art. 34 of Law No. 1/021 of December 30, 2005, on the Protection of Copyright and Related Rights in Burundi

#### CHAPTER II - EQUITABLE REMUNERATION FOR REPRODUCTION FOR PRIVATE USE

Article 34. Notwithstanding the provisions of Article 24, the reproduction of a legally



# BURUNDI

3/3



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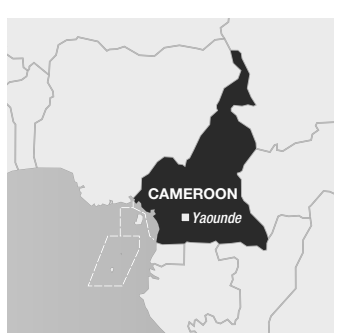
published audiovisual work or a sound recording of a work exclusively for the private use of the user shall be permitted without the authorization of the author, but with equitable remuneration.

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

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

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

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



# CAMEROON



23.108 million

GDP: 11,806.934 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment No Media Yes
<b>BENEFICIARIES</b>	Authors (music, audiovisual), performers, phonogram and audiovisual producers.
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	No
<b>RATE SETTING</b>	Order of the Minister of Culture
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	No

### SOCIAL AND CULTURAL DEDUCTIONS

Remuneration for private copying of phonograms or videograms shall be shared equally by the authors, the performers, the producers and the cultural policy support fund. Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no information has been uncovered regarding the specificities of the mechanism in effect in Cameroon.



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Art. 29 of Law No. 2000/011 of December 19, 2000 on Copyright and Neighbouring Rights</b></p> <p>Where the work was published with the authorization of the author, he may not forbid: (...)</p> <p>(c) reproductions and transformations in one copy for strictly personal and private use of the person who makes them, excluding any collective use or any exploitation for profit, except in the cases provided for in subsections (2) and (3) below;</p>
<b>LEVY</b>	<p><b>Art. 69 to 74 of Law No. 2000/011 of December 19, 2000 on Copyright and Neighbouring Rights</b></p> <p>Part IV Remuneration for Private Copying Chapter I Remuneration for Private Copying of Commercial Phonograms and Videograms.</p> <p>69. The authors and performers of works and recordings fixed on phonograms or videograms as well as producers of these phonograms or videograms shall be entitled to remuneration in respect of reproductions for strictly personal and private use.</p>



# CAMEROON

2/2



...

70.—(1) The remuneration provided for in Section 69 shall be paid by the manufacturer or importer of recording media employed for the reproduction for private use of works or recordings fixed on phonograms or videograms upon the circulation of such recording in Cameroon.

(2) The amount of the remuneration shall be fixed according to the type of medium and the length of recording possible.

71.—(1) The types of medium as well as the amount of the remuneration and the conditions of payment shall be determined by regulation.

(2) The remuneration provided for in this chapter shall be collected on behalf of the legal representatives by the competent collective management body.

(3) Remuneration for private copying of phonograms or videograms shall be shared equally by the authors, the performers, the producers and the cultural policy support fund provided for in Section 5(4) above.

## Chapter II Remuneration for Private Copying of Printed Works.

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

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

74.—(1) The types of machines subject to a fee and the amount of such fee, as well as the conditions of payment shall be determined by regulation.

(2) The fee provided for in this chapter shall be collected on behalf of the legal representatives by the competent collective management body.

(3) Proceeds from private copying of printed works shall be shared equally among the authors, the publishers and the cultural policy support fund provided for in Section 5 (4) above.

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

### Chapter VI Remuneration for private copying

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

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

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

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

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



## COMMENTS/LEGAL DEVELOPMENTS

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

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

CABO VERDE

Praia

## CAPE VERDE



0.525 million

GDP: 143.406 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment Yes Media Yes
<b>BENEFICIARIES</b>	Authors (music, audiovisual), performers, phonogram and audiovisual producers.
<b>LIABLE</b>	Importers, sellers.
<b>EXEMPTION</b>	Export, Non-professional use.
<b>RATE SETTING</b>	Agreement between debtors and beneficiaries. Otherwise, regulation.
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	No, no agreement nor regulation
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Art. 62 of Decree Law No. 1/2009 of April 27</b></p> <p>The following embodiments of works already lawfully published or disclosed shall be lawful, irrespective of authorization of the respective author and without any need for compensation, as long as the authenticity and integrity of the title and the name of the author are mentioned and respected:</p> <p>(l) reproduction, translation, adaptation, arrangement, or any other alteration exclusively for individual and private use.</p>
<b>LEVY</b>	<p><b>Art. 73 of Decree Law No. 1/2009 of April 27</b></p> <ol style="list-style-type: none"> <li>1. The reproduction of an audiovisual work, lawfully published, or a sound recording of a work, without authorization from the author, but in return for fair remuneration, shall be permitted exclusively for private use by the user.</li> <li>2. Fair remuneration for reproduction for private use, in the cases set out in the preceding paragraph, shall be paid by the importers and sellers of apparatus and material carriers used for this reproduction or recording obtained by any of these methods, and shall be received and distributed by the organization for collective management of copyright.</li> <li>3. In the absence of agreement between the representatives of the importers and the sellers on the one hand, and the organization for the collective management of copyright on the other, the amount of the fair remuneration and the conditions for payment thereof shall be set in regulatory terms.</li> </ol>

CABO VERDE  
Praia

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

## CAPE VERDE

2/2



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4. The distribution of the fair remuneration to be paid to authors, performers, and producers of phonograms and videograms, must be carried out between these three groups of rights holders, under regulatory terms.
5. The apparatus and material carriers referred in paragraph 2 shall be exempt from payment of fair remuneration if:
  - (a) they are intended for reexport;
  - (b) they cannot normally be used for the reproduction of works for private use.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### **Art. 73.3-4 of Decree Law No. 1/2009 of April 27**

3. In the absence of agreement between the representatives of the importers and the sellers on the one hand, and the organization for the collective management of copyright on the other, the amount of the fair remuneration and the conditions for payment thereof shall be set in regulatory terms.
4. The distribution of the fair remuneration to be paid to authors, performers, and producers of phonograms and videograms, must be carried out between these three groups of rights holders, under regulatory terms.



### COMMENTS/LEGAL DEVELOPMENTS

Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no information has been uncovered regarding any agreement or implementing regulation referred to in art. 73.



# CHAD



11.566 million

GDP: 5,568.132 million €

1/3



## OVERVIEW

<b>EXCEPTION</b>	Yes				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>No</td></tr> <tr> <td>Media</td><td>Yes the levy is only applicable to private reproductions of videograms and phonograms, while the exception is wider and covers more categories of works.</td></tr> </table>	Equipment	No	Media	Yes the levy is only applicable to private reproductions of videograms and phonograms, while the exception is wider and covers more categories of works.
Equipment	No				
Media	Yes the levy is only applicable to private reproductions of videograms and phonograms, while the exception is wider and covers more categories of works.				
<b>BENEFICIARIES</b>	Authors (music, audiovisual), performers, phonogram and audiovisual producers.vis				
<b>LIABLE</b>	Manufacturers, importers				
<b>EXEMPTION</b>	Professional uses (rules laid down in Council of Ministers Decree). A reimbursement system is in place for audiovisual communication companies, phonograms and videograms producers, and assistance for visual or auditory handicaps.				
<b>RATE SETTING</b>	Laid down in regulations. The levy shall be at least ten per cent of the price of the material.				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	The laws contains basic principles in respect to the collection and distribution of private copying remuneration, and leaves the details (types of media, rates and procedures for payment) to regulation. No information has been gathered concerning the effective implementation of the system.				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No				



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Art. 34 of Law No 005/PR/2003 of May 2, 2003 on Protection of Copyright, Neighbouring Rights and Expressions of Folklore</b></p> <p>Where a work has been lawfully disclosed, the author may not prohibit: Chapter II. Limitation of the rights of authors: (...)</p> <p>2. copies or reproductions reserved strictly for the private use of the copier and not intended for collective use, with the exception of copies of works of art intended to be used for purposes identical to those for which the original work was created;</p>
<b>LEVY</b>	<p><b>Art. 113-118 of Law No 005/PR/2003 of May 2, 2003 on Protection of Copyright, Neighbouring Rights and Expressions of Folklore</b></p> <p>Part 3 - Common provisions Chapter 1 - Remuneration for private copying Single section</p>



## CHAD

2/3



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

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

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

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

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

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

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





# CHAD

3/3



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## COLLECTION AND DISTRIBUTION SYSTEMS

### **Art. 115-116 of Law No 005/PR/2003 of May 2, 2003 on Protection of Copyright, Neighbouring Rights and Expressions of Folklore**

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

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



# CONGO (DEMOCRATIC REPUBLIC)

 81.680 million    GDP: 10,844.727 million €



## OVERVIEW

### EXCEPTION

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

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Not specified in the Law

### LIABLE

Producers, importers

### EXEMPTION

No

### RATE SETTING

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

### COLLECTION AND DISTRIBUTION SYSTEM

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

### SOCIAL AND CULTURAL DEDUCTIONS

No



## LEGAL BASIS

### EXCEPTION

### LEVY

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

Chapter 4 Exploitation of economic rights

Section 1 – Transfer of economic rights

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

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

The amount shall be calculated in proportion to the retail revenues.



# DJIBOUTI



0.966 million

GDP: 127.807 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment No Media Yes
<b>BENEFICIARIES</b>	Authors, performers and phonograms producers.
<b>LIABLE</b>	Producers, importers
<b>EXEMPTION</b>	A reimbursement system is in place for audiovisual communication companies, phonograms producers, and assistance for visual or auditory disabilities.
<b>RATE SETTING</b>	To be laid down by Decree of the Council of Ministers.
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	No
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	Levies from the sale of blank cassettes or magnetic tape intended for recording for private purposes made in Djibouti or imported are one of the funds that would finance the Welfare and Cultural Fund. No information has been gathered regarding any agreement or the implementing regulations referring to above.



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Article 54 of Law No. 154/AN/06</b></p> <p>Chapter 7 – Limitations to copyright</p> <p>Notwithstanding the provisions of Article 10, the following uses of a protected work shall be permissible without the author's consent in the case of a protected work that has been lawfully published:</p> <p>(a) the reproduction, translation, adaptation, arrangement or other transformation of such a work exclusively for the producer's own personal or private use;</p>
<b>LEVY</b>	<p><b>Articles 66-67-68 of Law No. 154/AN/06</b></p> <p>Title 3 – Payment for private copies</p> <p>Art.66. Reproduction using sound, visual or audiovisual recording on physical media of works, performances by performers or phonograms protected under this Law, intended for strictly personal and private use as provided for in Articles 54(A) and 65(D) above shall result in remuneration for Djiboutian authors, performers and phonogram producers, of a sum to be based on the nature and recording length of these physical media.</p> <p>The remuneration shall be paid to the Djiboutian Office of Copyright and Neighboring Rights provided for in Article 75 of this Law by the natural or legal persons who produce</p>



# DJIBOUTI

2/2



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or import these physical media, on presentation of documents suitable for defining the remuneration and checking the amount.

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

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

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



# GABON



1.855 million

GDP: 5,353.929 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes</td></tr> <tr> <td>Media</td><td>Yes</td></tr> </table>	Equipment	Yes	Media	Yes
Equipment	Yes				
Media	Yes				
<b>BENEFICIARIES</b>	Authors, performers, phonogram or videogram producers and radio or television producers				
<b>LIABLE</b>	Producers, importers				
<b>EXEMPTION</b>	No				
<b>RATE SETTING</b>	5% of the price per device at the time of importation (according to the Décret n° 000453/PR/MCAEP du 23 mai 2006, fixant la tarification des redevances relatives aux droits d'auteur et aux droits voisins).				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	The remuneration shall be collected by ANPAC (National Artistic and Cultural Promotion Agency) and shall be assigned to a special fund established for cultural and welfare purposes for the benefit of Gabonese authors. No information has been gathered concerning the effective implementation of this system.				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	The remuneration shall be assigned to a special fund established for cultural and welfare purposes for the benefit of Gabonese authors.				



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Art. 33 of Law No. 1/87 of July 29, 1987, instituting Protection for Copyright and Neighboring Rights</b></p> <p>When the work has been lawfully made available to the public, the author may not prohibit: (...)</p> <p>-reproductions, translations and adaptations intended for strictly personal and private use.</p>
<b>LEVY</b>	<p><b>Art. 89 of Law No. 1/87 of July 29, 1987, instituting Protection for Copyright and Neighboring Rights</b></p> <p>TITLE III-RIGHTS IN BLANK MEDIUMS</p> <p>Any copy or reproduction reserved for the private use of the copier of works fixed on a phonogram or videogram shall entitle the authors, performers, phonogram or videogram producers and radio or television producers to remuneration. The remuneration shall be collected prior to any marketing of the product from the person who manufactures, causes to be manufactured or imports the blank mediums referred to in the first paragraph of this Article. The amount of the remuneration shall be fixed at 10% of the retail selling price, including all taxes, of the blank medium. The remuneration shall be collected by ANPAC (National Artistic and Cultural Promotion Agency) and shall be paid into the special fund referred to in Article 77 above.</p>



# GABON

2/2



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## Décret n° 000453/PR/MCAEP du 23 mai 2006, fixant la tarification des redevances relatives aux droits d'auteur et aux droits voisins

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



## COMMENTS/LEGAL DEVELOPMENTS

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



# GHANA



26.886 million

GDP: 34.691 million €

1/3



## OVERVIEW

### EXCEPTION

Yes, but not applicable to works of architecture, reprography of books and musical notations, digital databases.

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Holders of audio works rights, composers, publishers, producers, performers.

### LIABLE

Manufacturers, importers

### EXEMPTION

a) devices manufactured for purpose of export;  
 b) institutions that represent persons with disabilities;  
 c) devices used to duplicate locally produced works or foreign works licensed for duplication in the country;  
 d) other materials that the Minister may exempt by legislative instrument.

### RATE SETTING

By way of Regulations made by the Minister in consultation with the Minister responsible for Finance (20% of the cost, insurance and freight value of the devices).

### COLLECTION AND DISTRIBUTION SYSTEM

The levy is collected by the Customs, Excise and Preventive Service and deposited in a fund established for rightholders by the Minister. The Minister in consultation with CMOs distributes the levy to right holders. The modalities of distribution of the levy shall be provided in Regulations.

### SOCIAL AND CULTURAL DEDUCTIONS

10% for cultural activities to be collectively administered by CMOs.



## LEGAL BASIS

### EXCEPTION

#### Art. 19 of Copyright Act, 2005

Permitted uses of Copyright

- (1) Permitted use of work protected by copyright 19. (1) The use of a literary or artistic work either in the original language or in translation shall not be an infringement of the right of the author in that work and shall not require the consent of the owner of the copyright where the use involves:
- (a) the reproduction, translation, adaptation, arrangement or other transformation of the work for exclusive personal use of a person, if the user is an individual and the work has been made public.
- (2) The permission under subsection (1)(a) shall not extend to reproduction
- (a) of a work of architecture in the form of building or other construction;
  - (b) in the form of reprography of a whole or of a substantial part of a musical work in the form of notation;
  - (c) of the whole or of a substantial part of a data base in digital form; and
  - (d) of a computer program, except as provided in section 16.



# GHANA

2/3



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## LEVY

### Art. 27 of Copyright Act, 2005

Levy on devices used for reproducing copyright materials

- (1) There shall be imposed on any device capable of being used to copy a copyright work a levy of a sum that shall be prescribed in Regulations made by the Minister in consultation with the Minister responsible for Finance.
- (2) The levy shall be collected by the Customs, Excise and Preventive Service at the time of importation or production.
- (3) The provisions of the Customs, Excise and Preventive Service (Management) Law, 1993 as variously amended shall apply for the purpose of the collection of the levy.
- (4) The levy shall upon collection by the Customs, Excise and Preventive Service be deposited in a fund established for the rightholders by the Minister.
- (5) The fund shall be subject to an annual audit by the Auditor-General or an auditor appointed by the Auditor-General.
- (6) The Auditor-General or an auditor appointed by the Auditor-General shall submit the audit report to the Minister and the appointed collective administration society established under section 49 of this Act.
- (7) The Minister in consultation with the executive officers of the appropriate collective administration society shall cause the distribution of the levy to the, right holders.
- (8) Any exception, quantum and modalities for the distribution of the levy shall be provided for in Regulations made under this Act.
- (9) A person shall not import any device capable of copying protected materials without payment of the levy.
- (10) A person who imports a device without payment of the levy commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units or imprisonment for a term not exceeding twelve months.

### Art. 14-16-17 of Copyright regulations 2010

Imposition of the levy

14. There is imposed on the devices specified in regulation 15, capable of being used to copy copyright works, a levy of twenty percent of the cost, insurance and freight value of the devices.

Liability to pay levy

16. (1) A person who
- a) manufactures; or
  - b) Imports

any of the devices shall pay the levies imposed in these Regulations.

Exemption from payment of levy

17. The levies imposed in Regulations 15 and 16 do not apply to:
- a) devices manufactured for purpose of export;
  - b) institutions that represent persons with disabilities;
  - c) devices used to duplicate locally produced works or foreign works licensed for duplication in the country;
  - d) other materials that the Minister may exempt by legislative instrument.





# GHANA

3/3



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## COLLECTION AND DISTRIBUTION SYSTEMS

### Art. 27(2) of Copyright Act, 2005

Levy on devices used for reproducing copyright materials

(...) (2) The levy shall be collected by the Customs, Excise and Preventive Service at the time of importation or production.

### Art. 19 of Copyright regulations 2010

Distribution of levies paid

(1) The Minister shall distribute the levies collected in furtherance of regulation 14 as follows:

- a) ten percent for cultural activities to be collectively administered by the collective administration societies;
- b) ten percent for the administrative purposes of collective societies;
- c) four percent to the Customs Excise and Preventive Service, and
- d) six percent to the Copyright Office.

(2) The Minister shall distribute the remaining seventy percent equally among the various rights groups to be shared as follows:

for holders of audio works rights,

(i) twenty-eight percent to composers or publishers;

(ii) twenty-one percent to producers; and

(iii) twenty-one percent to performers;

a) for holders of audiovisual works rights;

(i) thirty-five percent to producers;

(ii) twenty-one percent to performers, and

(iii) fourteen percent to authors of audio visual works,

b) for holders of literary works rights,

(i) forty-two percent to authors including visual authors, and

(ii) twenty-eight percent to publishers.



# IVORY COAST



23.711 million

GDP: 15,765.937 million €

1/3



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	<p>Equipment Yes The levy is only applicable to commercial videograms and phonograms, while the exception is wider and covers more categories of works.</p> <p>Media Yes. The levy is only applicable to commercial videograms and phonograms, while the exception is wider and covers more categories of works.</p>
<b>BENEFICIARIES</b>	Authors (music, audiovisual), performers, phonogram and audiovisual producers.
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	<p>Certain digital audio recording apparatus for Professional uses (rules laid down in Council of Ministers Decree).</p> <p>A reimbursement system is in place for audiovisual communication companies, phonograms and videograms producers, and assistance for visual or auditory handicaps.</p>
<b>RATE SETTING</b>	The media or devices subject to the levy, the rates and the terms of payment thereof are determined by decree of the Council of Ministers.
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	<p>Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no distribution is currently operative.</p> <p>The decree implementing the provisions of Law No. 2016-555 of 26 July 2016 relating to copyright and neighbouring rights for private copying is currently under way.</p>
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	Part of the remuneration will finance a fund managed by collecting CMOs to promote cultural and social activities in favour of authors, performers and producers.



## LEGAL BASIS

<b>EXCEPTION</b>	<b>Art. 24, of Law No. 2016-555 of July 26, 2016, on Copyright and Related Rights</b>
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### Section 3: limitations et exceptions au droit d'auteur

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

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



# IVORY COAST

2/3



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## LEVY

### Art. 101 - 102 of Law No. 2016-555 of July 26, 2016, on Copyright and Related Rights

#### Section 1 : Rémunération pour copie privée.

##### Article 101 :

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

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

##### Article 102 :

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

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

## COLLECTION AND DISTRIBUTION SYSTEMS

### Art. 103 – 104 of Law No. 2016-555 of July 26, 2016, on Copyright and Related Rights

##### Article 103 :

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

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

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

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



# IVORY COAST

3/3



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## Article 104 :

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

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

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



## COMMENTS/LEGAL DEVELOPMENTS

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



# MADAGASCAR



24.235 million

GDP: 7,708.505 million €

1/3



## OVERVIEW

<b>EXCEPTION</b>	Yes				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes</td></tr> <tr> <td>Media</td><td>Yes</td></tr> </table>	Equipment	Yes	Media	Yes
Equipment	Yes				
Media	Yes				
<b>BENEFICIARIES</b>	Authors, performers and producers of phonograms and videograms.				
<b>LIABLE</b>	Manufacturers, importers.				
<b>EXEMPTION</b>	Reimbursement where the recording medium is acquired for own use or production by: <ul style="list-style-type: none"> <li>• audiovisual communication companies,</li> <li>• producers of phonograms or videograms</li> <li>• legal entities or bodies assisting persons with visual or auditory disabilities</li> </ul>				
<b>RATE SETTING</b>	Commission presided by the Minister of Culture and Communication				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	No information has been gathered concerning the effective implementation of the system.				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No				



## LEGAL BASIS

<b>EXCEPTION</b>	<b>Law No. 94-036 of 18 SEPTEMBER 1995 on Literary and Artistic Property</b>  BOOK I Copyright TITLE II THE RIGHTS OF AUTHORS CHAPTER III Limitation of proprietary rights  Article 42 – Notwithstanding the provisions of Title II, Chapter II, on proprietary rights, and subject to the provisions of paragraph 2 of this article and the provisions of Book III, Title I, it shall be permitted, without authorization from the author, to reproduce a work lawfully published exclusively for the private use of the user.  Paragraph 1 shall not apply: <ol style="list-style-type: none"> <li>1) to the reproduction of works of architecture in the form of buildings or other similar reconstructions;</li> <li>2) to the reprographic reproduction of limited-edition works of fine art, to the graphic presentation of musical works (scores) or to exercise manuals that are used only once;</li> <li>3) to the reproduction of the whole or large parts of databases;</li> <li>4) to the reproduction of computer programs, save in the cases referred to in Article 51.</li> </ol>
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# MADAGASCAR

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## LEVY

## Law No. 94-036 of 18 SEPTEMBER 1995 on Literary and Artistic Property

### TITLE III EXPLOITATION OF RIGHTS

#### CHAPTER ONE - General Provisions

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

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

### BOOK III - GENERAL PROVISIONS

#### TITLE ONE - REMUNERATION FOR PRIVATE COPYING AND REPROGRAPHY

##### SINGLE CHAPTER

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

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

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

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

Article 120 – The types of medium, the remuneration rates and the procedures for paying the remuneration shall be determined by a commission presided over by the Minister for Culture and Communication and composed in addition as follows: – half shall consist of persons appointed by organizations representing the beneficiaries of the remuneration right, – one-sixth shall consist of persons representing the body administering copyright and related rights, – one-sixth shall consist of persons appointed by the organizations representing the manufacturers or importers of the machines and media referred to in the first paragraph of the preceding article, – one-sixth shall consist of persons appointed by organizations representing consumers.



# MADAGASCAR

3/3



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Article 121 – The remuneration provided for in Article 116 shall be paid for and on behalf of the author's successors in title by the body referred to in Title II of this book. It shall be shared out among the successors in title by the body referred to the preceding paragraph, on the basis of the private reproductions made of each work.

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

Remuneration for reprography shall be shared out as follows: – three-quarters to the authors, and – one quarter for the subsidy fund for the publication of literary works. The aforementioned remuneration and the administration of the reimbursement fund shall be allocated to the body referred to in Article 124 which shall establish the operating rules.

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

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

## COLLECTION AND DISTRIBUTION SYSTEMS

### Law No. 94-036 of 18 SEPTEMBER 1995 on Literary and Artistic Property

#### TITLE II COLLECTING SOCIETIES

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



# MALI



16.295 million

GDP: 4,448.116 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment Not specified Media Not specified
<b>BENEFICIARIES</b>	Authors and performers of works foxed on phonograms or videograms and producers of such phonograms or videograms.
<b>LIABLE</b>	Not defined.
<b>EXEMPTION</b>	No
<b>RATE SETTING</b>	No
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	Remuneration is collected by CMOs on behalf of the rightholders. Despite the law provides a detailed distribution mechanism, no information has been uncovered regarding the effective collection and distribution of the remuneration.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	50 % (National Fund for Cultural Promotion)



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Loi n° 08 - 024 / du 23 juillet 2008 fixant le régime de la propriété littéraire et artistique en République du Mali</b></p> <p>TITRE I : DU DROIT D'AUTEUR CHAPITRE IV : LIMITATIONS DES DROITS PATRIMONIAUX Section I: Limitations permanents</p> <p>Article 24 : Lorsque l'œuvre a été licitement rendue accessible au public, l'auteur ne peut en interdire, sous réserve du respect de son droit moral : (...)</p> <p>b) les reproductions, traductions, et adaptations destinées à un usage strictement personnel et privé de la personne qui les réalise ;</p> <p>Article 25 : Le droit de reproduction pour usage privé mentionné dans le point b de l'article 24 de la présente loi ne s'applique pas à :</p> <ol style="list-style-type: none"> <li>1) la reproduction d'œuvres d'architecture revêtant la forme de bâtiments ou d'autres constructions similaires ;</li> <li>2) la reproduction reprographique d'œuvre des beaux-arts à tirage limité de la présentation d'œuvres musicales et des manuels d'exercice et autres publications dont on ne se sert qu'une fois ;</li> </ol>
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## MALI

2/2



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- 3) la reproduction de la totalité ou de parties importantes de bases de données ;
- 4) la reproduction de programmes d'ordinateur sauf dans les cas prévus à l'article 28 de la présente loi ;
- 5) toute reproduction d'une œuvre qui porterait atteinte à l'exploitation normale de l'œuvre ou causerait un préjudice injustifié aux intérêts légitimes de l'auteur.

## LEVY

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

TITRE III : DES DROITS VOISINS

CHAPITRE II : DROITS PROTEGES

Section VI : La rémunération pour copie privée

Article 131 :

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

## COLLECTION AND DISTRIBUTION SYSTEMS

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

TITRE III : DES DROITS VOISINS

CHAPITRE II : DROITS PROTEGES

Section VI : La rémunération pour copie privée

Article 132 :

La rémunération pour copie privée est perçue pour le compte des ayants droit par l'organisme professionnel de gestion collective qui doit, déduction faite des frais de gestion, affecter 50% des sommes perçues à un fonds de promotion culturelle. Le reste est redistribué de la façon suivante :

- a) Pour ce qui concerne les copies privées des phonogrammes, la rémunération bénéficie pour 50% aux auteurs, pour 25% aux artistes interprètes ou exécutants, pour 25% aux producteurs ;
- b) Pour ce qui concerne les copies privées des vidéogrammes, la rémunération bénéficie à parts égales aux auteurs, aux artistes interprètes et aux producteurs.

**COMMENTS/LEGAL DEVELOPMENTS**

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

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



Port Louis  
MAURITIUS

# MAURITIUS



1.259 million

GDP: 303.220 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment Not specified in the new Law Media Not specified in the new Law
<b>BENEFICIARIES</b>	Authors, copyright owner or the society, as applicable.
<b>LIABLE</b>	N/A
<b>EXEMPTION</b>	Not specified in the Law.
<b>RATE SETTING</b>	No
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	No
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No



## LEGAL BASIS

### EXCEPTION

#### The Copyright Act 2014

##### Part IV- Limitation on economic rights

Art. 16. Private reproduction for personal purposes

- (1) Subject to subsection (2), the private reproduction of a legally obtained published work in a single copy shall be permitted, without the authorisation of the author or owner of copyright, where the reproduction is made by a natural person for his own personal use.
- (2) The permission under subsection (1) shall not extend to reproduction —
  - (a) of a work of architecture in the form of building or other construction;
  - (b) in the form of reprography of the whole or of a substantial part of a book or of a musical work in the form of notation;
  - (c) of the whole or of a substantial part of a database in digital form; and
  - (d) of a computer programme, except as provided in section 22.
- (3) Equitable remuneration shall be paid to the author or copyright owner or to the Society, as applicable.

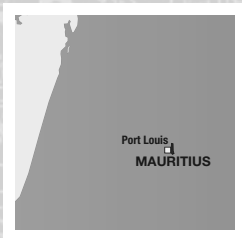
### LEVY

#### The Copyright Act 2014

##### Part IV- Limitation on economic rights

Art. 16. Private reproduction for personal purposes

- (3) Equitable remuneration shall be paid to the author or copyright owner or to the Society, as applicable.



# MAURITIUS

2/2



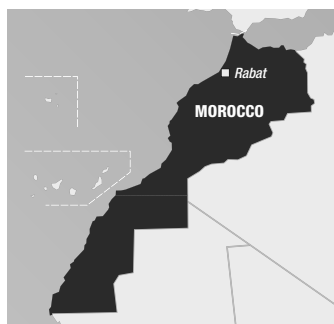
...

## COLLECTION AND DISTRIBUTION SYSTEMS

The previous 1997 Act established in s. 13 (private reproductions for personal purposes) that:

- (1) Subject to this section, the private reproduction of a published work in a single copy, where the reproduction is made by a physical person exclusively for his own personal purposes, shall be permitted, without the authorisation of the author of, or other owner of the copyright in, the work.
- (2) The permission referred to in subsection (1) shall not extend to the reproduction
  - (i) of a work of architecture in the form of a building or other construction
  - (ii) where the reproduction is a reprographic reproduction, of an entire book, of a musical work in graphic form, or of the original, or a copy made and signed by the author, of a work of fine art;
  - (iii) of a data base; or
  - (iv) of a computer program, except as provided In section 18,
- (3)
  - (a) Where a reproduction made under subsection (1) concerns an audiovisual work or a work, embodied in a sound recording, the author or other owner of copyright shall be entitled to equitable remuneration 10 be paid to, and distributed by, the Society.
  - (b) The equitable remuneration shall be paid-
    - (i) by the manufacturer of the equipment or material supports normally used for private reproduction for personal purposes of the work, except where such equipment is, or such material supports are, exported; or
    - (ii) by those who import such equipment or material supports, except where the importation is by a private person for his personal purposes.

No similar provision included in the 2014 Copyright Act.



# MOROCCO



33.503 million

GDP: 901.672 million €

1/3



## OVERVIEW

<b>EXCEPTION</b>	Yes				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes</td></tr> <tr> <td>Media</td><td>Yes</td></tr> </table>	Equipment	Yes	Media	Yes
Equipment	Yes				
Media	Yes				
<b>BENEFICIARIES</b>	Authors, performers, producers.				
<b>LIABLE</b>	Manufacturers, importers				
<b>EXEMPTION</b>	<p>For:</p> <ul style="list-style-type: none"> <li>a) Broadcasting organisations;</li> <li>b) Phonograms and videograms producers;</li> <li>c) Public administrations;</li> <li>d) Public institutions that represent persons with disabilities;</li> </ul> <p>Associations that represent persons with disabilities.</p>				
<b>RATE SETTING</b>	By way of Regulations on a proposal from a Private Copying Commission within the Bureau Marocain du Droit d'Auteur.				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	By the Bureau Marocain du Droit d'Auteur (BMDA).				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	20% for administrative fees, programs devoted to the collection of copyright and related rights, fight against piracy, social assistance to right holders and preservation of national artistic history.				



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Law No. 2-00 on Copyright and Related Rights (promulgated by Dahir No. 1-00-20 of 9 Kaada 1420 (15 February 2000) (2006)</b></p> <p>CHAPTER IV Limitation of Economic Rights Free Reproduction for Private Purposes</p> <p>Article 12</p> <p>Notwithstanding the provisions of Article 10 above, and subject to those in the second paragraph of this Article, it shall be permitted, without the authorization of the author or payment of a fee, to reproduce a lawfully published work solely for the private use of the user.</p> <p>The provisions of the previous paragraph shall not apply to:</p> <ul style="list-style-type: none"> <li>(a) the reproduction of architectural works in the form of buildings or other similar constructions;</li> <li>(b) the reprographic reproduction of a whole book or a musical work in graphical form (scores);</li> </ul>
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# MOROCCO

2/3



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- (c) the reproduction of the whole or parts of databases in digital form;
- (d) the reproduction of computer programs apart from in the cases specified in Article 21 below;
- (e) any other reproduction of a work which appears to hamper the normal use of the work or would unjustifiably prejudice the author's legitimate interests.
- (b) Pour ce qui concerne les copies privées des vidéogrammes, la rémunération bénéficie à parts égales aux auteurs, aux artistes interprètes et aux producteurs.

## **Law No. 17-94 on the Activities of Production, Editing, Import, Distribution, Reproduction and Exploitation of Videograms Destined to Private Use of the Public (promulgated by Dahir No. 1-95-115 of 27 Muharram 1416 (June 26, 1995))**

### Article 1

The establishment or expansion of any firm for the production, edition, importing, distribution, reproduction, sale or rental of videograms intended for private use by the public shall be subject to the prior authorization of the Moroccan Cinematographic Center and to the control of that body on the conditions fixed below.

For the application of this Law, "videogram" means any audiovisual program, with or without sound, fixed on a magnetic tape, disk or any other medium and reproducing recordings, in particular cinematographic films, telefilms, documentaries, programs of variety shows or sports, videoclips or television series.

The provisions of this Law shall not apply to productions and reproductions of videograms which are strictly reserved for the private use of the natural person or legal entity who/which produces them or has them produced on his/its behalf and which are not intended for either collective use or commercial purposes.

### LEVY

### **Dahir n° 1-14-97 du 20 rejev 1435 (20 mai 2014) portant promulgation de la loi n° 79-12 complétant la loi n° 2-00 relative au droits d'auteur et droits voisins.**

deuxième partie bis

### REMUNERATION POUR COPIE PRIVEE

Article 59.1.- Conformément aux articles 1 et 12 de la loi n° 2-00, les auteurs, les artistes-interprètes des œuvres fixées sur phonogrammes ou vidéogrammes, ainsi que les producteurs des ces phonogrammes ou vidéogrammes, ont droit à une rémunération au titre de la reproduction privée et légale desdites œuvres pour usage personnel.

Article 59.2.- La rémunération prévue à l'article 59.1 ci-dessus, ci-après dénommée "redevance pour copie privé", est payée par le fabricant local ou l'importateur en fonction des quantités d'appareils d'enregistrement et des supports d'enregistrement utilisables, lors de leur mise en circulation sur le territoire national, et qu'il met à la disposition du public pour la reproduction à usage privé d'œuvres fixées sur des phonogrammes ou vidéogrammes.

Article 59.3.- La redevance pour copie privée est calculée forfaitairement par le Bureau marocain du droit d'auteur pour les appareils d'enregistrement et les supports d'enregistrement selon leur nature et leurs caractéristiques techniques.

Article 59.4.- L'assujetti à la redevance pour copie privée est tenu de la verser au Bureau marocain du droit de l'auteur et doit lui communiquer régulièrement les quantités réelles d'appareils et de supports d'enregistrement, produits localement ou importés, destinés à l'usage privé, avec indication de leur prix de vente au public.



# MOROCCO

3/3



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Article 59.5.- Sous réserve des dispositions de l'article 59.1 ci-dessus, sont exonérés du paiement de la redevance pour copie privée, lorsque les appareils et les supports d'enregistrement sont destinés à leur propre usage:

- les opérateurs de communication audiovisuelle;
- les producteurs de phonogrammes ou de vidéogrammes;
- les administrations publiques;
- les organismes publics concernés par les personnes à besoins spécifiques;
- les associations marocaines concernées par les personnes à besoins spécifiques.

L'exonération susvisée peut avoir lieu dans des conditions et des normes fixées par voie réglementaire. Elle est opérée suite à une convention avec le Bureau marocain du droit d'auteur.

Tarifs forfaitaires applicables à la copie privée

Article 59.7.- Sont fixés par voie réglementaire la liste et les supports d'enregistrement utilisables et les appareils d'enregistrement, soumis à la rémunération pour copie privée, ainsi que les tarifs forfaitaires applicables à la copie privée en ce qui concerne les supports d'enregistrement et ce, sur proposition d'une "commission dénommée commission de la copie privée", créée au sein du Bureau marocain du droit d'auteur et dont la composition et les attributions sont fixées par voie réglementaire un an au plus de la date de publication de la présente loi au Bulletin officiel.

## COLLECTION AND DISTRIBUTION SYSTEMS

**Dahir n° 1-14-97 du 20 rejeb 1435 (20 mai 2014) portant promulgation de la loi n° 79-12 complétant la loi n° 2-00 relative au droits d'auteur et droits voisins.**

deuxième partie bis

REMUNERATION POUR COPIE PRIVEE

Article 59.6.- La redevance pour copie privée est répartie par le Bureau marocain du droit d'auteur, au prorata des reproductions privées dont chaque œuvre a fait l'objet et en tenant compte des proportions suivantes:

- 35% aux auteurs;
- 35% aux artistes-interprètes;
- 10% aux producteurs de phonogrammes ou de vidéogrammes;
- 20% destinés à couvrir les dépenses de la gestion du Bureau marocain du droit d'auteur et ses programmes relatifs à la perception des droits d'auteur et droits voisins, à la lutte contre le piratage, à l'assistance sociale des ayants droits et à la condition à la préservation de la mémoire artistique nationale.



## COMMENTS/LEGAL DEVELOPMENTS

The Private Copying Commission was created on June 2015 within the Bureau Marocain des droits d'auteur. At present, no information has been uncovered regarding calculation of the levy to be collected.



# MOZAMBIQUE



27.978 million

GDP: 450.099 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Free use: reproduction of lawfully published work for private purposes.
<b>LEVY</b>	Equipment      Yes Media            Yes The levy system only applies to audiovisual works and soundtrack of a work.
<b>BENEFICIARIES</b>	Not specified
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	Private purposes, export.
<b>RATE SETTING</b>	Agreement between CMOs and representatives of equipment/material manufacturers and importers. In the absence of agreement, implementing regulations.
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	No information has been uncovered regarding any agreement or the implementing regulations referred to below.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No



## LEGAL BASIS

<b>EXCEPTION</b>	<b>Law No. 4/2001 of February 27, 2001</b> <b>(Copyright Law, approved by Decree-Law No. 46.980 of April 27, 1966)</b>
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Chapter III  
 Limitation of Economic Rights  
 SECTION I FREE USE  
 Reproduction for Private Purposes

Art. 9.—

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



# MOZAMBIQUE

2/2



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## LEVY

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

### SECTION II

#### EQUITABLE REMUNERATION

Remuneration for Reproduction for Private Purposes

##### Article 21.

- (1) It is permitted, without authorization by the author but subject to payment of equitable remuneration, to reproduce a legitimately published audiovisual work or the soundtrack of a work exclusively for the private purposes of the user.
- (2) Equitable remuneration for reproduction for private purposes, in the cases provided for in the preceding paragraph, means payment made by producers and importers of equipment and physical material used for the reproduction, and received and distributed by the collective copyright management organization.
- (3) In the absence of agreement between the representatives of the producers and importers on the one hand and the collective copyright management organization on the other, the amount of equitable remuneration and the conditions of its payment shall be fixed as provided in the implementing regulations under this Law.
- (4) Fair remuneration to be paid to performers and to producers of phonograms must be distributed between these groups of rightholders as provided in the implementing regulations under this Law.
- (5) The equipment and the physical material mentioned in paragraph (2) shall be exempt from payment of equitable remuneration:
  - (a) if they are for export;
  - (b) if they cannot be normally used for reproduction of works intended for private purposes.

## COLLECTION AND DISTRIBUTION SYSTEMS

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

### SECTION II

#### EQUITABLE REMUNERATION

Remuneration for Reproduction for Private Purposes

##### Article 21.

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





# NIGER



17.647 million

GDP: 2,681.157 million €

1/3



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	<p>Equipment Yes (Only for reproductions of published audiovisual works or soundtrack of a work (art. 21.1).</p> <p>Media Yes (Only for reproductions of published audiovisual works or soundtrack of a work (art. 21.1)).</p>
<b>BENEFICIARIES</b>	Authors, performers, phonogram producers.
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	Non-private uses. Export
<b>RATE SETTING</b>	Agreement between representatives of producers and importers and the Copyright Office of Niger. In the absence of agreement, the rate shall be fixed by the ordinary courts (art. 21.2).
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no information has been uncovered regarding any agreement/court decision referred to in article 21.2.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Art. 9 of Decree No. 93-027 of March 30, 1993, on Copyright, Neighbouring Rights and Folklore</b></p> <p>Chapter IV: Restriction of Economic Rights (A) Free uses Article 9 - Free Reproduction for Private Purposes</p> <p>(1) Notwithstanding the provisions of Article 8, and subject to those of paragraph (2) and those of Article 21, it shall be permitted, without the consent of the author and without payment of remuneration, to reproduce a lawfully published work exclusively for the private use of the user.</p> <p>(2) Paragraph (1) shall not apply to: 6 (i) the reproduction of works of architecture in the form of buildings or other similar constructions; (ii) the reproduction of works of fine art in a limited quantity, the graphical presentation of musical works (scores) and exercise manuals and other publications used once only; (iii) the reproduction of the whole or of significant parts of databases; (iv) the reproduction of computer programs, except in the cases provided for in Article 16, and; (v) any other reproduction of a work that would prejudice the normal exploitation of the work or would cause unwarranted prejudice to the legitimate interests of the author.</p>
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# NIGER

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## LEVY

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

#### B) EQUITABLE REMUNERATION

##### Art. 21. Equitable Remuneration for Reproduction for Private Purposes

- (1) Notwithstanding the provisions of Article 8, it is permitted, without authorization by the author but subject to payment of equitable remuneration, to reproduce a legitimately published audiovisual work or the soundtrack of a work exclusively for the private purposes of the user.
- (2) Equitable remuneration for reproduction for private purposes, in the cases provided for in paragraph (1), means payment made by the producers and importers of the equipment and physical material used for the reproduction, and received and distributed by the Copyright Office of Niger. In the absence of agreement between the representatives of the producers and importers on the one hand and the Copyright Office of Niger on the other, the amount of equitable remuneration and the conditions of the payment thereof shall be fixed by the ordinary courts.
- (3) The equitable remuneration to be paid to authors under this article, as well as to performers and producers of phonograms, must, in accordance with Article 46, be distributed between these three groups of right holders in accordance with the regulations in force.
- (4) The equipment and the physical material mentioned in paragraph (2) shall be exempt from payment of equitable remuneration:
  - (a) if they are for export;
  - (b) if they cannot be normally used for reproduction of works intended for private purposes (such as professional equipment and material supports, or dictaphones and cassettes for use therewith).

## COLLECTION AND DISTRIBUTION SYSTEMS

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

- (2) Equitable remuneration for reproduction for private purposes, in the cases provided for in paragraph (1), means payment made by the producers and importers of the equipment and physical material used for the reproduction, and received and distributed by the Copyright Office of Niger. In the absence of agreement between the representatives of the producers and importers on the one hand and the Copyright Office of Niger on the other, the amount of equitable remuneration and the conditions of the payment thereof shall be fixed by the ordinary courts.
- (3) The equitable remuneration to be paid to authors under this article, as well as to performers and producers of phonograms, must, in accordance with Article 46, be distributed between these three groups of right holders in accordance with the regulations in force.



# NIGER

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(4) The equipment and the physical material mentioned in paragraph (2) shall be exempt from payment of equitable remuneration:

- (a) if they are for export;
- (b) if they cannot be normally used for reproduction of works intended for private purposes (such as professional equipment and material supports, or dictaphones and cassettes for use therewith).



## COMMENTS/LEGAL DEVELOPMENTS

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



# NIGERIA

178.721 million    GDP: 69,780.693 million €

1/3



## OVERVIEW

<b>EXCEPTION</b>	Yes, fair dealing for the purposes of private use.				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes</td></tr> <tr> <td>Media</td><td>Yes</td></tr> </table>	Equipment	Yes	Media	Yes
Equipment	Yes				
Media	Yes				
<b>BENEFICIARIES</b>	Not specified (members of CMOs)				
<b>LIABLE</b>	Manufacturers, importers				
<b>EXEMPTION</b>	Exportation, institutions representing persons with disabilities.				
<b>RATE SETTING</b>	Ministerial Order				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	<p>No information has been uncovered regarding the effective collection and distribution to rightholders.</p> <p>A Copyright Bill is under discussion by the Nigerian Copyright Commission. Under the bill, The Nigerian Copyright Commission will distribute part of the levies to CMOs, which will then redistribute to its members. The Bill does not clarify which categories of rightholders shall be the beneficiaries of the levy nor who shall be liable for payment.</p>				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	10% for promotion of creativity.				



## LEGAL BASIS

<b>EXCEPTION</b>	<b>Copyright Act (Chapter C. 28, as codified 2004)</b>
	<b>Second schedule – Exceptions from copyright control</b>

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

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

<b>LEVY</b>	<b>Copyright Act (Chapter C. 28, as codified 2004)</b>
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40. Levy on copyright material

- (1) There shall be paid a levy on any material used or capable of being used to infringe copyright in a work.
- (2) The levy payable under subsection (1) of this section shall be as may be determined by the Minister from time to time by order published in the Gazette and different levies may be imposed on different categories of material.



# NIGERIA

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- (3) The levy shall be paid into the Fund of the Commission and the Commission shall have power to disburse the funds amongst approved societies in accordance with the regulations made by the Commission.
- (4) The Minister shall have power to exempt any class of materials from the payment of any levy.
- (5) In this section, "material" includes any object, equipment, machine, contrivances or any other device used or capable of being used to infringe copyright in a work.

## Copyright (levy on materials) Order, 2012

### 1. Prescription of Levies

- (1) The Levy payable under section 40(1) of the Copyright Act on materials used or capable of being used for the infringement of copyright shall be as provided for in the schedule to this Order.
- (2) The levy payable under this Order, shall be paid; (a) in the case of materials imported into the country, at the point of entry, by the importer; or (b) in the case of materials manufactured or produced or assembled in Nigeria, at the point of manufacture, production or assembly, by the manufacturer, producer or person responsible for the assembling.
- (3) The levies payable under this Order shall be paid into the Account of the Nigerian Copyright Commission set up specifically for the purpose of the levy pursuant to section 40 (3) of the Copyright Act.
- (4) Notwithstanding the provisions in the schedule to this Order, the Commission, with the prior approval of the Minister may, from time to time, vary the list of materials or the levy payable on any materials.

### 2. Exemption from payment of levy

- (1) The levy payable under this Order shall not apply to; (a) Materials manufactured in Nigeria for purposes of export; (b) Institutions that represent persons with disability as may be approved by the Minister; or (c) Other materials which the Minister may exempt by a notice published in the Official gazette of the Federal Government from time to time.
- (2) A person shall be exempted from the payment of any levy stipulated in the Schedule hereto where he produces a certificate of exemption given under the hand of the Minister.
- (3) The Minister may, from time to time, stipulate the conditions and fees to be paid for the issuance of an exemption certificate under this section.

### 3. Record keeping by Manufacturers and Importers

- (1) All persons engaged in the manufacture, assembling or importation of any material for which a levy has been prescribed in the Schedule to this order shall, (for the purpose of complying with the requirements of this Order), keep such books and make periodic returns as may be required by the Nigerian Copyright Commission.
- (2) Such records referred to in sub-paragraph (1) above shall be made available for inspection by Copyright Inspectors of the Nigerian Copyright Commission or any other person authorized by the Commission, at any time.



# NIGERIA

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

## COLLECTION AND DISTRIBUTION SYSTEMS

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

#### 4. Distribution of proceeds of levies paid

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

#### 5. Confiscation and Sealing of Premises

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



## COMMENTS/LEGAL DEVELOPMENTS

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



# SENEGAL



14.966 million

GDP: 6,102.047 million €

1/3



## OVERVIEW

<b>EXCEPTION</b>	Yes				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes</td></tr> <tr> <td>Media</td><td>Yes</td></tr> </table>	Equipment	Yes	Media	Yes
Equipment	Yes				
Media	Yes				
<b>BENEFICIARIES</b>	Authors performers, producers of sound recordings.				
<b>LIABLE</b>	Manufacturers, importers				
<b>EXEMPTION</b>	<p>Certain digital audio recording apparatus for Professional uses (rules laid down in Council of Ministers Decree). A reimbursement system is in place where the recording medium or equipment is acquired for their own use or production by:</p> <ul style="list-style-type: none"> <li>- Broadcasting organisations,</li> <li>- Phonograms or videograms producers</li> <li>- Legal persons or organisations for purposes of assisting persons with visual or auditory disabilities.</li> </ul>				
<b>RATE SETTING</b>	Determined by the Private Copying Commission				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	CMOs should operate the collection and distribution. Remuneration should be distributed equally among each of the three categories of authors, performers and producers. No information has been gathered.				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	15% for actions to assist creation and promote live entertainment and for training schemes for rightholders.				



## LEGAL BASIS

<b>EXCEPTION</b>	<b>Law No. 2008-09 of January 25, 2008 on Copyright and Related Rights</b>  B – Exceptions to the right of reproduction <ol style="list-style-type: none"> <li>1. The author may not prohibit reproduction intended for strictly personal and private use.</li> <li>2. The exception set out in paragraph 1 shall not apply to:               <ol style="list-style-type: none"> <li>(a) the reproduction of architectural works in the form of buildings or other similar structures;</li> <li>(b) the reprographic reproduction of works of visual art in limited editions, musical scores and textbooks;</li> <li>(c) the reproduction of an electronic database;</li> <li>(d) the reproduction of a computer program.</li> </ol> </li> </ol>
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# SENEGAL

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## LEVY

### Law No. 2008-09 of January 25, 2008 on Copyright and Related Rights

Article 103. Works, performances, phonograms and videograms for which remuneration is owed. – Remuneration shall be owed for the private copying, carried out under the conditions referred to in Article 40.1, of works and performances fixed on phonograms and videograms.

Article 104. Recipients. – Such remuneration shall be owed to authors, performers and producers of phonograms and videograms.

Article 105. Private Copying Commission.

1. A commission called the Private Copying Commission is hereby established with responsibility for determining the basis of remuneration for private copying and the amount of and payment procedure for such remuneration.
2. The membership of the Commission shall be determined by means of regulations.

Article 105

- (a).Basis. – Remuneration shall be based on the use of blank analog or digital recording media, whether removable or not, and on recording equipment. The list of such media and equipment shall be determined by the Commission referred to in Article 105.

Article 106. Payment amount and procedure.

1. The amount of remuneration and the procedure for the payment thereof shall be determined by the Commission referred to in Article 105.
2. The amount of remuneration shall take account of the degree of use of the technological protection measures referred to in Article 125 and of their impact on practices under the exception for private copying.

Article 107. Debtors.

1. Remuneration for private copying shall be paid by the manufacturer or the importer of blank recording media and recording equipment.
2. Such remuneration shall be refunded where the recording medium or equipment is acquired for their own use or production by:
  - (a) broadcasting organizations;
  - (b) phonogram or videogram producers;
  - (c) legal persons or organizations, the list of which shall be determined by the Minister of Culture, that use recording media or equipment for the purpose of assisting persons with sight or hearing disabilities.

Article 108. Collection.

Remuneration for private copying shall be collected on behalf of the entitled persons by one or more approved collective management societies.

Title II. – Collective management





# SENEGAL

3/3



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Article 122. Allocation for cultural purposes of a percentage of remuneration for private copying.

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

## COLLECTION AND DISTRIBUTION SYSTEMS

### Law No. 2008-09 of January 25, 2008 on Copyright and Related Rights

Part three – Provisions common to copyright and neighbouring rights

Title I. – Remuneration for private copying

Article 109. Distribution.

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



# TUNISIA



11.110 million

GDP: 53.918 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment Yes Media Yes Tax on incentive to creation, on the non-recorded audio and audio-visual supports, as well as on the apparatuses and equipment of recording and reproduction.
<b>BENEFICIARIES</b>	N/A
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	No
<b>RATE SETTING</b>	1% of the sales turnover of the manufacturers of products, taking into account the value (added tax or customs value on the importation).
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	No
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No



## LEGAL BASIS

<b>EXCEPTION</b>	<b>Law No. 2009-33 of 23 June 2009 amending and supplementing Law No. 94 36 of 24 February 1994 on literary and artistic property</b>  Article 10 (new)  Are licit, without authorization of the author or counterpart, the hereafter indicated uses of the protected works which were made available to the public, subject to the provisions of article 37 of the law herein: a) the reproduction of the work intended for the private use, provided that this reproduction does not violate the normal exploitation of work, nor causes an unjustified prejudice to the legitimate material interests of the author.
<b>LEVY (Tax on incentive to creation)</b>	<b>Law No. 2009-33 of 23 June 2009 amending and supplementing Law No. 94 36 of 24 February 1994 on literary and artistic property</b>  Article 37 (new)  A tax of incentive to the creation is instituted, which is due on the importation and locally, on the not recorded audio and audio-visual supports, as well as on the apparatuses and equipment of recording and reproduction. The list of products submitted to this tax is fixed by decree. The tax is fixed locally at 1% of the sales turnover of the manufacturers



# TUNISIA

2/2



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of products submitted to this tax, taking into account the value - added tax or the customs value on the importation. This tax is perceived locally on the basis of a monthly declaration, according to a model established by the administration and deposited at the relevant tax office, within the given deadlines in the field of the value - added tax and customs taxes on the importation. Are applied to this tax, for the perception, control, report of the infringements, the sanctions, litigations, prescription and reimbursement, the same rules provided for in the field of customs taxes on the importation or those provided for in the tax rights and procedures code in the internal regime.



# ALGERIA

 39.896 millions    GDP: 7,041.22 billion €



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment    Yes Media    Yes
<b>BENEFICIARIES</b>	Authors (music, audiovisual), performers, phonogram and audiovisual producers.
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	Professional use, Public institutions for use of handicapped people and their associations.
<b>RATE SETTING</b>	Decision of the Minister of Culture.
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	ONDA was appointed by the Minister of Culture.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	30 % for the activity of promoting intellectual works creation and protecting traditional cultural heritage.
<b>REVENUE DECLARED TO CISAC IN 2015</b>	7 812 919€



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Article 41 of Ordinance No. 03-05 (Copyrights and Neighboring Rights Act), approved by Law No. 03-17 of 2003.</b></p> <p>“One copy of the work can be reproduced, translated, quoted or converted for personal or family purposes without prejudicing the provisions of Article 25 of this law. An exception of the provisions of the first clause herein is the reproduction of architectural works embodied in buildings or similar forms, the written reproduction of a whole book, the reproduction of a musical work in a written form, the reproduction of a database in a digital form and the reproduction of computer software other than the cases stipulated for in Article 52 herein”.</p>
<b>LEVY</b>	<p><b>Articles 124 to 129 of Ordinance No. 03-05</b></p> <p>“Article 124. The reproduction of a special copy of a work for personal use on a magnetic medium not been used before shall entail a right in a reward received by the author, performer or musician, producer, and producer of audio or audio-video recordings of the work reproduced as such as per terms specified in Articles 126-129 herein.</p>



# ALGERIA

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## Article 125.

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

## Article 126.

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

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

## Article 127.

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

## Article 128.

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

## Article 129.

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

## COLLECTION AND DISTRIBUTION SYSTEMS

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



## COMMENTS/LEGAL DEVELOPMENTS

In Algeria, the levy has been collected since 2001 and its distribution began in 2004. At present, Algeria is with Burkina Faso the only African country where rightholders are remunerated for the private reproduction of their works. The distribution of this royalty has significantly contributed to improve the overall income of local creators over the last years..



# BOTSWANA



2.129 million

GDP: 85.330 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes</td></tr> <tr> <td>Media</td><td>Yes</td></tr> </table>	Equipment	Yes	Media	Yes
Equipment	Yes				
Media	Yes				
<b>BENEFICIARIES</b>	Authors and publishers (through a fund to be established by the Minister of Finance). The National Copyright Office is responsible for managing this fund.				
<b>LIABLE</b>	Manufacturers, importers				
<b>EXEMPTION</b>	N/A				
<b>RATE SETTING</b>	Set out in Governmental regulations				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	The National Copyright Office manages a fund for the development of authors and publishers where the sums collected as private copying remuneration are placed.				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No				



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Copyright &amp; Neighboring Rights Act, 2000 (Act No. 6 of 2006), Part III, ss. 12(i)-13</b></p> <p>"12. Exceptions to exclusive right to copyright Notwithstanding the provisions of section 7, the following dealings with a work shall be permitted without the authorisation of the author or other owner of the copyright-</p> <p>(i) private reproduction for personal purposes, subject to section 13;</p> <p>13. Private reproduction for personal purposes</p> <p>(1) Subject to subsection (2), the private reproduction of a published work in a single copy shall be permitted without the authorization of the author or owner of copyright, where the reproduction is made by any person exclusively for his own personal purposes.</p> <p>(2) The permission granted under subsection (1) shall not extend to reproduction-</p> <p>(a) of a work of architecture in the form of building or other construction;</p> <p>(b) in the form of reprography of the whole or a substantial part of a book or of a musical work in the form of notation;</p> <p>(c) of the whole or a substantial part of a data base;</p> <p>(d) of a computer, except as provided in section 17; and</p> <p>(e) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or other owner of the copyright".</p>
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# BOTSWANA

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## LEVY

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

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

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

8. Levy on technical devices.

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

## COLLECTION AND DISTRIBUTION SYSTEMS

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

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

The Copyright Office shall-

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

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



## COMMENTS/LEGAL DEVELOPMENTS

The Government began collection of levies in 2008, but in by 2011 there was still no auditing of the fund to which the levies were supposed to be paid.



# BURKINA FASO



17.915 million

GDP: 4,399.512 million €

1/3



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment Yes Media Yes
<b>BENEFICIARIES</b>	Authors (music, audiovisual), performers, phonogram and audiovisual producers.
<b>LIABLE</b>	Manufacturers, importers
<b>EXEMPTION</b>	Professional use, persons or institutions assisting persons with visual or auditory disabilities.
<b>RATE SETTING</b>	Law
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	Local society BBDA is in charge of collecting levies and distributing to rightholders. When products are imported, the private copying remuneration is collected by Custom service and reversed to BBDA which is appointed to distribute the royalties to the beneficiaries.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	50 % (National Fund for Cultural Promotion)
<b>REVENUE DECLARED TO CISAC IN 2014</b>	531 277 €



## LEGAL BASIS

### EXCEPTION

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

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

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





# BURKINA FASO

2/3



...

## LEVY

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

#### Article 82:

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

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

The remainder shall be redistributed as follows:

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

#### Article 83:

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

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

#### Article 84:

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

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



# BURKINA FASO

3/3



...

## COLLECTION AND DISTRIBUTION SYSTEMS

### Decree No. 2000-575 on Collecting Remuneration for Private Copying

#### Article 1

Pursuant to Article 82 of Law No. 032/99/AN of December 22, 1999 on the Protection of Literary and Artistic Property, the Customs Service shall be authorized to collect remuneration for private copying on behalf of the National Copyright Office of Burkina Faso, when importing blank recording media into Burkina Faso. In other cases, such collection is carried out by agents of the National Copyright Office of Burkina Faso, who are lawfully authorized to do so.

#### Article 2

Under the terms of Article 84 of the abovementioned Law, the collection rate as regards remuneration for private copying shall be set at ten per cent (10%) of the CAF value of the blank recording media, regardless of type.

#### Article 3

The Customs Service shall be authorized to levy ten per cent (10%) of the collected amount as operating costs for its services.

This amount shall be deducted from the authorized levy under Article 82 of Law No. 032/99/AN of December 22, 1999, as National Copyright Office of Burkina Faso management costs.

#### Article 4

Remuneration collected by the Customs Service, less the authorized levy, shall be refunded no later than the fifth (05) of every month to the National Copyright Office of Burkina Faso.



## COMMENTS/LEGAL DEVELOPMENTS

Burkina Faso government intends to review the law in order to levy more products, in particular digital media and equipment.



# KENYA



44.226 million

GDP: 4,048.282 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes</td></tr> <tr> <td>Media</td><td>Yes</td></tr> </table>	Equipment	Yes	Media	Yes
Equipment	Yes				
Media	Yes				
<b>BENEFICIARIES</b>	Owners of a copyright in sound recordings.				
<b>LIABLE</b>	Manufacturers, importers for commercial purposes.				
<b>EXEMPTION</b>	No				
<b>RATE SETTING</b>	Agreement between representative of manufacturers-importers and producers of sound recordings. Failing such agreement, decision by the competent authority appointed by the Minister.				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	Sound recording levies are collected by the Kenya Association of Music Producers (KAMP) and the Performers Rights Society of Kenya (PRISK), Authors do not benefit from the distribution of levies.				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No				



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Chapter 130. The Copyright Act</b></p> <p>Article 26</p> <p>(1) Copyright in a literary, musical or artistic work or audiovisual work shall be the exclusive right to control the doing in Kenya of any of the following acts, namely the reproduction in any material form of the original work or its translation or adaptation, the distribution to the public of the work by way of sale, rental, lease, hire, loan, importation or similar arrangement, and the communication to the public and the broadcasting of the whole work or a substantial part thereof, either in its original form or in any form recognisably derived from the original; but copyright in any such work shall not include the right to control - (a) the doing of any of those acts by way of fair dealing for the purposes of scientific research, private use, criticism or review, or the reporting of current events subject to acknowledgement of the source;</p>
<b>LEVY</b>	<p><b>Chapter 130. The Copyright Act</b></p> <p>Article 28</p> <p>(2) The provisions of paragraphs (a), (f), (i) and (h) of section 26 (1) shall apply mutatis mutandis to the copyright in a sound recording.</p>



# KENYA

2/2



...

- (3) Subject to subsections (4) and (5), the rights of an owner of a copyright in a sound recording are not infringed by the making of a single copy of the recording for the personal and private use of the person making the copy; and in respect of such use the owner of copyright in the sound recording shall have the right to receive fair compensation consisting of a royalty levied on audio recording equipment or audio blank tape suitable for recording and other media intended for recording, payable at the point of first sale in Kenya by the manufacturer or importer for commercial purposes of such equipment or media.
- (4) The level of the royalty payable under subsection (3) shall be agreed between organizations representative of producers of sound recordings and of manufacturers and importers of audio recording equipment, audio blank tape and media intended for recording or failing such agreement by the competent authority appointed under section 48.
- (5) All claims for compensation under this section shall be made through an organization representative of producers of sound recordings.
- (6) Any person who, for commercial purposes, makes available any audio recording equipment for the purposes of enabling any other person to make single copies of any sound recording for his personal or private use, without payment of the royalty levied under subsection (3) shall be guilty of an offence and shall be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding four years or to both.



## COMMENTS/LEGAL DEVELOPMENTS

The levies are for sound recordings but not for literary, musical, artistic or audio-visual works, indicating a different treatment between authors (of literary, musical, artistic or audiovisual works) and producers/performers (of sound recordings).

The Kenya Copyright Board (KECOBO) has proposed in 2015 a number of amendments to be submitted to Parliament to correct the legal framework for collection and distribution of the private copying/ blank tape levy to the rightful beneficiaries. According to our sources, the new proposed amendments to sections 28 and 30 empower KECOBO to designate a central collecting society which will collect the levy and distribute it to all collecting societies in the country, allowing thus the authors of musical works to receive remuneration for private copying.



## 2 - NORTH & SOUTH AMERICA

As in the situation in Africa, North and South America have very low levels of development of the private copying exception, especially in Latin American countries.

Of the 35 countries studied, the laws of 12 countries do not provide any private copying exception (Argentina, Belize, Bolivia, Chile, Cuba, Guatemala, Guyana, Jamaica, Sainte Lucia, Salvador, Suriname and Uruguay).

Of the 23 countries with a private copying exception, only six countries have implemented a compensation system (United States of America, Canada, Paraguay, Ecuador, Dominican Republic and Peru) and four seem to have developed an effective collection and distribution mechanism (United States of America, Canada, Paraguay and Peru).

This means that 17 countries (Antigua and Barbuda, The Bahamas, Barbados, Brazil, Colombia, Costa Rica, Dominica, Grenada, Haiti, Honduras, Mexico, Nicaragua, Panama, Saint Christophe and Nevis, Saint Vincent and the Grenadines, Trinidad and Tobago and Venezuela) have a private copying exception in their legislation but do not foresee a remuneration system in favour of rightholders. In most of these countries, the private copying exception is limited to a “time-shifting” exception. This exception is intended to provide protection for individuals who make a copy or recording of a broadcast for viewing or watching at a more convenient time, for private and domestic use only. This copying implies a reproduction and should be compensated by a remuneration for rightholders whose works are copying or recorded.

In North America, even if compensation systems exist, they are very limited and do not yield much income for rights owners. In Canada, the scope of the levy is narrowed to blank audio recording media. Devices and media currently used for private copying are not levied and, thus, collection has decreased for many years. In the United States, private copying is regulated by the Audio Home Recording Act of 1992, which has a very limited scope in terms of works and devices covered as well as beneficiaries of the exception. Considering new digital uses, the collection of private copying revenues will logically continue to decrease in the next years in those two countries if legislators do not extend the scope of remuneration.

In Latin American countries, Paraguay and Peru could be viewed as examples. For example, in Paraguay, even if a claim is still pending before the Court on the unconstitutionality of the regulation on private copying, income growth shows that it is an effective system. However, in Ecuador and Dominican Republic, the regulation has not been implemented. There are still debates on the private copying system to adopt.

The low development of private copying remuneration system in North and South America is mainly due to the traditional doctrine of “fair use” or “fair dealing” largely implemented across the continents and strongly supported by consumers and importers. These open exceptions are very detrimental for rightholders because they are not remunerated for the copying of their works. Also, the “open” basis of these exceptions, which are not precisely limited in terms of use covered, leads to huge legal risk for rightholders as well as for consumers because they can be easily prosecuted by a rightholder for an “unfair” use of a protected work.

However, considering the growing national awareness in Latin American countries about the economic importance of cultural and creative industries, it is enabling and encouraging for the strengthening of copyright protections in the region.



# NORTH & SOUTH AMERICA: COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION

1/2



## ARGENTINA

The Argentine Law of 1993 on Legal Intellectual Property Regime (as amended up to 2009) doesn't provide a general exception for private copying, nor establishes copyright levies for private use. In 2011, the Argentina Congress looked at a draft bill which intends to implement a levy system to be paid on blank media and devices but due to criticisms, the bill was not implemented.



## BELIZE

The Copyright Act of 2000 doesn't provide a private copying exception.



## BOLIVIA

The Bolivian Copyright Law of 1992 is very old and doesn't provide any private copying exception.



## CHILE

The Chilean Law on Intellectual Property of 2010 doesn't provide any private copying exception.



## CUBA

The Copyright Law of Cuba is dated of 1977 and doesn't provide any private copying exception.



## EL SALVADOR

The Law on the Promotion and Protection of Intellectual Property of 2005 doesn't provide any private copying exception.



## GUATEMALA

The Law on Copyright and Related Rights of 1998 (as amended up to 2008) doesn't provide any private copying exception.



# NORTH & SOUTH AMERICA: COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION

2/2



## JAMAICA

The Copyright Act 1993 (updated in 1999) doesn't provide any private copying exception.



## URUGUAY

The Uruguayan Law on Copyright of 2003 (updated in 2006) doesn't provide any private copying exception.



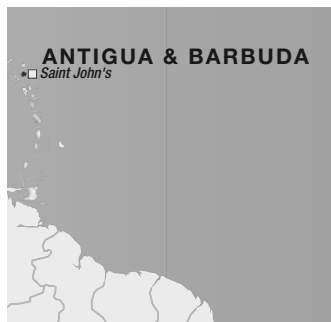
## SAINT LUCIA

The Copyright Act of 1995 (as updated in 2000) doesn't provide any private copying exception.



## SURINAME

The Law of 22 March 1913 (as updated until 1981) laying down new rules on Copyright doesn't provide any private copying exception.



# ANTIGUA & BARBUDA



0.089 million

GDP: 2.584 million €



## OVERVIEW

### EXCEPTION

Yes, there is a "time-shifting" exception which allows a person to record a television or radio broadcast on a storage device and watch or listen to it later.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 84 of the Copyright Act of 2003

The making for private and domestic use of a recording of a broadcast or cable programme solely for the purpose of enabling it to be viewed or listened to at a more convenient time does not infringe any copyright in the broadcast or cable programme or in any work included in it.



## COMMENTS/LEGAL DEVELOPMENTS

The time shifting exception is intended to provide protection for individuals who make a copy or recording of a broadcast for viewing at a more convenient time, if for private and domestic use. This exception is considered as a private copying exception and should be compensated by a remuneration for rightholders whose works are copying or recorded.





# BAHAMAS



0.364 million

GDP: 8.019 million €



## OVERVIEW

### EXCEPTION

Yes, there is a “time-shifting” exception which allows a person to record a television or radio broadcast and watch or listen to it later.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Article 84 of the Copyright Act of 1998 (as amended in 2004)**

The fixing of a transmission in a copy or phono recorder for private and domestic use solely for the purpose of enabling it to be viewed or listened to at a more convenient time is not an infringement of copyright.



## COMMENTS/LEGAL DEVELOPMENTS

The time shifting exception is intended to provide protection for individuals who make a copy or recording of a broadcast for viewing at a more convenient time, if for private and domestic use. This exception is considered as a private copying exception and should be compensated by a remuneration for rightholders whose works are copying or recorded.



# BARBADOS



0.280 million

GDP: 1.116 million €



## OVERVIEW

### EXCEPTION

Yes, there is a “time-shifting” exception which allows a person to record a television or radio broadcast and watch or listen to it later.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 83 of the Copyright Act of 1998 (as amended in 2006)

The making for private and domestic use of a recording of a broadcast or cable programme solely for the purpose of enabling it to be viewed or listened to at a more convenient time does not infringe any copyright in the broadcast or cable programme or in any work included in it.



## COMMENTS/LEGAL DEVELOPMENTS

The time shifting exception is intended to provide protection for individuals who make a copy or recording of a broadcast for viewing at a more convenient time, if for private and domestic use. This exception is considered as a private copying exception and should be compensated by a remuneration for rightholders whose works are copying or recorded.



**NORTH AND SOUTH AMERICA:** COUNTRIES WITH A PRIVATE COPYING EXCEPTION  
BUT WITHOUT A COMPENSATION LEVY

# BRAZIL



204.451 million GDP: 1,208.605 million €



## OVERVIEW

### EXCEPTION

Yes, the reproduction of one copy of an extract from a work for the private use of the copier, without gainful intent, does not constitute an infringement to copyright.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 46 of the Law on Copyright and Neighboring Rights of 1998

The following shall not constitute violation of copyright:  
(...)

II. the reproduction in one copy of short extracts from a work for the private use of the copier, provided that it is done by him and without gainful intent;  
(...)



## COMMENTS/LEGAL DEVELOPMENTS

The Brazilian law should be enhanced in order to introduce a levy in compensation of such an exception.



# COLOMBIA



48.203 million

GDP: 531,376.000 million €



## OVERVIEW

### EXCEPTION

Yes, a reproduction of one copy of a literary or scientific work for private use and without gainful intent is authorized.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 37 of the Law on Copyright of 1982 (as amended until 2011)

It shall be lawful to reproduce, by any means, a literary or scientific work, such reproduction having been arranged or effected by the party concerned in one copy for his private use and without gainful intent.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to literary and scientific works. Literally, it means that copies of musical, graphic or audiovisual works by a person are not allowed.

Three years ago a bill supported by CERLALC (Regional Center for Book Development in Latin America and the Caribbean), but didn't progress because of the pressure of users. CERLALC, through ODAI (Ibero-american Observatory of Copyright), requested a study to examine the feasibility of implementing compensatory remuneration for private copy. This study was sponsored by various collective management, whom finally decided it was not the right moment to disclosure the report.



# COSTA RICA



4.837 million

GDP: 25,386.833 million €



## OVERVIEW

### EXCEPTION

Yes, a reproduction of one copy of a literary or scientific work for private use and without gainful intent is authorized.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Article 73 of the Law No. 8686 amending, adding or repealing various Rules governing Matters pertaining to Intellectual Property of 2008**

The following exceptions to the protection established in this Law shall be permitted for the exclusive rights of performers, producers of phonograms and broadcasting bodies, provided that this does not conflict with a normal exploitation of the performance or unreasonably prejudice the legitimate interests of the right holder:

- (a) in the case of utilization for private use;
- (b) where brief fragments have been used to provide information on current affairs;
- (c) where an ephemeral fixation is produced by a broadcasting body by its own means and for its own broadcasts;
- (d) in the case of use exclusively for teaching or scientific research purposes.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to literary and scientific works. Literally, it means that copies of musical, graphic or audiovisual works by a person are not allowed.



# DOMINICA



0.071 million

GDP: 1.178 million €



## OVERVIEW

### EXCEPTION

Yes, a private reproduction of one copy of a published work for personal use is authorized.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 63 of the Copyright Act of 2003

Notwithstanding the provisions of section 10(1)(a), and subject to the provisions of subsection (2), the private reproduction of a published work in a single copy shall be permitted without the authorization of the author or owner of copyright where the reproduction is made by any person exclusively for his own personal purposes.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not precised that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# GRENADA



0.107 million

GDP: 2.116 million €



## OVERVIEW

### EXCEPTION

Yes, a private reproduction of one copy of a published work for personal use is authorized.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 9 of the Copyright Act of 2011

- (1) Notwithstanding section 8 (1)(a) and subject to subsection (2) the private reproduction of a published work in a single copy shall be permitted without the authorization of the owner of copyright, where the reproduction is made by a natural person exclusively for his own personal purposes.
- (2) The permission under subsection (1) shall not extend to reproduction
- (a) of a work of architecture in the form of a building or other construction;
  - (b) in the form of reprography of the whole or a substantial part of a book, or of a musical work in the form of notation;
  - (c) of the whole or a substantial part of a data base;
  - (d) of a computer program, except as provided in section 17; and
  - (e) of any work in cases where reproduction would conflict with a normal exploitation of the work, or would otherwise unreasonably prejudice the legitimate interests of the owner of copyright.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not precised that the copy should be made for non-commercial purpose.  
This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# HAITI



10.711 million

GDP: 15.586 million €



## OVERVIEW

### EXCEPTION

Yes, a private reproduction of one copy of a published work for personal use is authorized.

### LEVY

Equipment No

Media No



## LEGAL BASIS

### EXCEPTION

**Article 8 of the Decree of 2005 on the Creation of the Office of Haitian Copyright (BHDA)**

- (1) Notwithstanding section 7 and subject to subsection (2) the private reproduction of a published work in a single copy shall be permitted without the authorization of the owner of copyright, where the reproduction is made by a natural person exclusively for his own personal purposes.
- (2) The permission under subsection (1) shall not extend to reproduction
  - (a) of a work of architecture in the form of a building or other construction;
  - (b) in the form of reprography of the whole or a substantial part of a book, or of a musical work in the form of notation;
  - (c) of the whole or a substantial part of a data base;
  - (d) of a computer program, except as provided in section 16; and
  - (e) of any work in cases where reproduction would conflict with a normal exploitation of the work, or would otherwise unreasonably prejudice the legitimate interests of the owner of copyright.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not precised that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.





# HONDURAS



8.433 million

GDP: 189.771 million €



## OVERVIEW

### EXCEPTION

Yes, a private reproduction of one copy of a published work for personal use is authorized.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Article 47 of the Copyright and Neighboring Rights Law of 1999 (updated 2006)/**

Regarding copies of a work legally acquired by a person, it is allowed without authorization of the author and without remuneration, to reproduce a copy of the work for personal and exclusive use of that person, made by himself, with his own means, provided that such reproduction is limited to special cases, does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not precised that the copy should be made for non-commercial purpose.  
This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# MEXICO

127.017 million    GDP: 14,120.021 million €



## OVERVIEW

### EXCEPTION

Yes, a private reproduction of one copy of a published work for personal use is authorized.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 148 of the Federal Law on Copyright (as amended up to 2014)

Literary and artistic works that have already been disclosed may only be used in the following cases without the consent of the owner of the economic rights and without remuneration, provided that the normal exploitation of the work is not adversely affected thereby and provided also that the source is invariably mentioned and that no alteration is made to the work:

(...)

IV. Reproduction of a literary or artistic work once, and in a single copy, for the personal and private use of the person doing it, and without gainful intent.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not precised that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# NICARAGUA



6.270 million

GDP: 165.466 million €



## OVERVIEW

### EXCEPTION

Yes, a private reproduction of one copy of a published work for personal use is authorized.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Article 31 of the Law on Copyright and Neighboring Rights of 1999  
(updated until 2006)**

31. It is permitted without permission of the author and exclusively for the personal use the reproduction on one copy of a disclosed work.

The above provision does not apply to:

- 1) The reproduction of works of architecture that take the form of buildings or other similar constructions.
- 2) The reprographic reproduction of a whole book or of a musical work in a graphic form (sheet music).
- 3) The reproduction of a whole database or of a main part of it in numerical form.
- 4) The reproduction of computer programs, except in cases provided for in Article 39 of this Law.
- 5) Any other reproduction of a work that could affect the normal exploitation of the work or could unreasonably prejudice the legitimate interests of the author.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not precised that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# PANAMA



4.006 million

GDP: 35.732 million €



## OVERVIEW

### EXCEPTION

Yes, a private reproduction for a domestic use and without profit-making purpose is authorized.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 68 of the Law No. 64 of October 2012 on Copyright and Neighboring Rights

Regarding the works, services or products which have been already lawfully disclosed, it is permitted without authorization:

1. The reproduction of the original or a copy of the work in the form of audio or video recording for personal and exclusive use of the user.
2. The reprographic reproduction of a legitimate copy for personal and exclusive use, provided that such a copy is limited to small parts of a protected work or to works in the public domain.

The expression "unlawful" refers to any use of works reproduced by any means or process for purposes other than personal, which affects the exclusive right of reproduction.

**SAINT CHRISTOPHER  
AND NEVIS**

Basseterre

# SAINT CHRISTOPHER & NEVIS



0.056 million

GDP: 1.720 million €



## OVERVIEW

### EXCEPTION

Yes, there is a “time-shifting” exception which allows a person to record a television or radio broadcast and watch or listen to it later.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

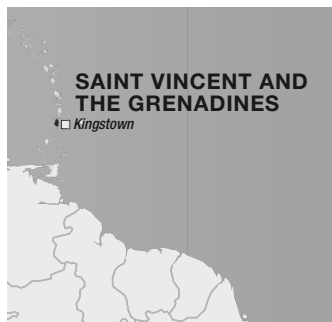
#### Article 84 of the Copyright Act of 2008

Where a recording of a broadcast or cable programme is made for private and domestic use solely for the purpose of enabling it to be viewed or listened to at a more convenient time, the recording shall not infringe any copyright in the broadcast or cable programme or in any work included in it.



## COMMENTS/LEGAL DEVELOPMENTS

The time shifting exception is intended to provide protection for individuals who make a copy or recording of a broadcast for viewing at a more convenient time, if for private and domestic use. This exception is considered as a private copying exception and should be compensated by a remuneration for rightholders whose works are copying or recorded.



# SAINT VINCENT & THE GRENADINES



0.110 million

GDP: 1.460 million €



## OVERVIEW

### EXCEPTION

Yes, there is a "time-shifting" exception which allows a person to record a television or radio broadcast and watch or listen to it later.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Article 79 of the Copyright Act of 2008**

The making for private and domestic use of a recording of a broadcast or cable programme solely for the purpose of enabling it to be viewed or listened to at a more convenient time does not infringe any copyright in the broadcast or cable programme or in any work included in it.



## COMMENTS/LEGAL DEVELOPMENTS

The time shifting exception is intended to provide protection for individuals who make a copy or recording of a broadcast for viewing at a more convenient time, if for private and domestic use. This exception is considered as a private copying exception and should be compensated by a remuneration for rightholders whose works are copying or recorded.



# TRINIDAD & TOBAGO



1.358 million

GDP: 92.191 million €



## OVERVIEW

### EXCEPTION

Yes, a private reproduction of one copy of a published work for personal use is authorized.

### LEVY

Equipment No

Media No



## LEGAL BASIS

### EXCEPTION

**Article 9 of the Copyright Act, 1997 (as amended by Act No. 18 of 2000)**

- (1) Notwithstanding the provisions of section 8(1)(a) and subject to the provisions of subsection (2) the private reproduction of a published work in a single copy shall be permitted without the authorization of the owner of copyright, where the reproduction is made by a natural person exclusively for his own personal purposes.
- (2) The permission under subsection (1) shall not extend to reproduction
  - (a) of a work of architecture in the form of a building or other construction;
  - (b) in the form of reprography of the whole or a substantial part of a book or of a musical work in the form of notation;
  - (c) of the whole or a substantial part of a data base;
  - (d) of a computer program, except as provided in section 14; and
  - (e) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the owner of copyright.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not precised that the copy should be made for non-commercial purpose.  
This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# VENEZUELA



30.933 million

GDP: 56.401 million €



## OVERVIEW

### EXCEPTION

Yes, a private reproduction of one copy of a published work for personal use is authorized.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 44 of the Law on Copyright, 1993

The following shall be considered lawful reproductions:

1. the reproduction in one copy of a printed, sound or audiovisual work, except in the case of a computer program, which shall be governed by subparagraph 5 of this Article, provided that the copy is made for the exclusive personal use of the user, and is made by the person concerned with his own facilities;  
(...)



## COMMENTS/LEGAL DEVELOPMENTS

Two years ago, there were three bills that intend to develop a remuneration for private copying but none of them have succeeded.





# DOMINICAN REPUBLIC



9.990 million

GDP: 2,083.700 million €

1/2



## OVERVIEW

### EXCEPTION

Yes, a reproduction of one copy of a literary or scientific work for private use and without gainful intent is authorized, as well as the reprographic reproduction or the private copying of a sound or audiovisual recording.

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Authors, performers, phonogram producers, producers of audiovisual works expressed in videograms and publishers

### LIABLE

Manufacturers and importers

### EXEMPTION

No

### RATE SETTING

Negotiation between rightholders (and/or their CMOs) and liable, and validation, or decision if there is no agreement, by the Dominican Republic National Office (ONDA)

### COLLECTION AND DISTRIBUTION SYSTEM

Yes, but no society appointed

### SOCIAL AND CULTURAL DEDUCTIONS

No



## LEGAL BASIS

### EXCEPTION

#### Article 37 of the Law No. 65-00 on Copyright of 2000

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

### LEVY

#### Article 1 of the Regulation on the private copying levy of 2004 (translation of the original version)

Reproduction carried out exclusively for personal use, and non-profit, as authorized by Article 37 of Law No. 65-00 of August 21, 2000 on Copyright, by devices or technical instruments or typographical, of works disclosed in the form of books or other publications, as well as phonograms, videograms or other sound, visual or audiovisual media, will generate a single equitable remuneration for each of these modes of reproduction, intended to compensate the rights not received on behalf of the said reproduction.



# DOMINICAN REPUBLIC

2/2



...

This amount will benefit to authors, performers, phonogram producers, producers of audiovisual works expressed in videograms and publishers, as appropriate.

## **Article 2 of the Regulation on the private copying levy of 2004**

(translation of the original version)

The remuneration in the preceding article shall be determined by the physical media, equipment, and materials suitable for such reproduction and manufactured in Dominican Republic or imported into Dominican territory:

1. The tapes, CDs or other material capable of embodying a sound, visual or audiovisual fixation.
2. material or digital media capable of embodying literary or graphic works.
3. The players or storage, no typographical equipment, works disclosed in the form of books or other publications, as well as phonograms, videograms or other sound, visual or audiovisual media indicated in the previous article.
4. units for the copying of sound and audiovisual media included in a personal computer or manufactured or imported for use in a peripheral manner, excluding the hard drives that are part of the equipment.

## **COLLECTION AND DISTRIBUTION SYSTEMS**

### **Article 3 of the Regulation on the private copying levy of 2004**

(translation of the original version)

The remuneration is distributed as follows: 50% to authors and composers; 25% to performers and 25% to the respective producers, in the case of phonograms and audiovisual works included in videograms; and also equal to the authors and publishers in the case of the reproduction of works expressed graphically parties.

The collection and distribution of the remuneration will be effective by manufacturers and importers in the first sale, or in its absence, by the distributors, whose liability for payment will be in solidarity with those, only through collecting societies constituted depending on the category of works, performances and productions concerned, in accordance with the provisions of Title XII of Law No. 65-00 of August 21, 2000, Copyright.



## **COMMENTS/LEGAL DEVELOPMENTS**

Although the law contains provisions regarding the private copying levy, they aren't applied. An effective mechanism of collection and distribution system should be implemented.



# ECUADOR



16.279 million

GDP: 69.780 million €

1/2



## OVERVIEW

### EXCEPTION

Yes, a reproduction of one copy of a literary or scientific work for private use and without gainful intent is authorized, as well as the reprographic reproduction or the private copying of a sound or audiovisual recording.

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Authors, performers, phonogram and videogram producers; and publishers (for literary works)

### LIABLE

Manufacturers and importers

### EXEMPTION

### RATE SETTING

Determined and laid down by the IEPI (Ecuadorian Copyright Institute) Board of Directors

### COLLECTION AND DISTRIBUTION SYSTEM

No effective mechanism because no society has been appointed

### SOCIAL AND CULTURAL DEDUCTIONS

No



## LEGAL BASIS

### EXCEPTION

#### Article 108 of the Intellectual Property Law of 2006

"Private copying" means the domestic copying of phonograms or videograms, or reprographic reproduction in a single copy, carried out by the original acquirer, of a lawfully circulating phonogram or videogram or literary work, to be used exclusively for nonprofitmaking purposes by the natural person who carries it out. Such copies may not be used in a manner contrary to fair use.

Private copying carried out using media or reproduction equipment for which compensatory remuneration has not been paid shall constitute an infringement of copyright and of the relevant related rights.

### LEVY

#### Article 105 of the Intellectual Property Law of 2006

The private copying of works fixed in phonograms or videograms, and also the reprographic reproduction of printed literary works, shall be subject to compensatory remuneration in accordance with the provisions of this Part.

This remuneration shall be payable in connection with the distribution of physical media capable of embodying an aural or audiovisual fixation, or of equipment for the reproduction of phonograms or videograms, or of equipment for reprographic reproduction.



# ECUADOR

2/2



...

Remuneration shall accrue in equal parts to the authors, performers and phonogram producers in the case of phonograms and videograms, and shall likewise accrue in equal parts to the authors and publishers in the case of literary works.

(..)

## **Article 106 of the Intellectual Property Law of 2006**

The compensatory remuneration provided for in the foregoing Article shall be paid by the manufacturer or importer at the time of placing on the national market:

- (a) tapes or other material carriers capable of embodying an aural or audiovisual fixation; and
- (b) reproduction equipment.

The percentage rate of compensatory remuneration for private copying shall be calculated on the basis of the price of the reproduction media or equipment, and shall be determined and laid down by the IEPI Board of Directors.

## **COLLECTION AND DISTRIBUTION SYSTEMS**

### **Article 105 of the Intellectual Property Law of 2006**

(..)

Compensatory remuneration for the private copying of phonograms and videograms shall be collected by a single collecting agency common to authors, performers and phonogram and videogram producers, the sole corporate purpose of which shall be the collection on their behalf of compensatory remuneration for private copying.

The collection of compensatory fees for reprographic reproduction shall also be carried out by a single collecting agency common to authors and publishers. These management bodies shall be authorized by IEPI and shall abide by the provisions of this Law.



## **COMMENTS/LEGAL DEVELOPMENTS**

The IEPI is currently elaborating a bill, which is intending to derogate the Intellectual Property Law of 2006. There was a Chapter about private copying but after debate, the chapter was deleted. According to the IEPI, the decision to reincorporate or not the chapter depends of political parameters. It will be subject to discussion again by the National Assembly in the coming months.



# CANADA



35.825 million

GDP: 1,768.242 million €

1/3



## OVERVIEW

### EXCEPTION

Yes, a copy made on a recorder medium for private use doesn't constitute an infringement to copyright of the musical work.

### LEVY

Equipment	No
Media	Yes (audio blank media)

### BENEFICIARIES

Authors, performers and phonogram producers

### LIABLE

Manufacturers and importers

### EXEMPTION

Association of perceptual disability, business uses, export

### RATE SETTING

The collective society (CPCC) proposed tariffs to the Copyright Board of Canada, which is responsible for their considering and publications.  
Rates: Fixed tariff (per unit)

### COLLECTION AND DISTRIBUTION SYSTEM

YES The Canadian Private Copying Collective (CPCC) distributes to its members (CMOs representing rightholders) on the base of the distribution scheme published by the Copyright Board.

### SOCIAL AND CULTURAL DEDUCTIONS

No

### REVENUE DECLARED TO CISAC IN 2014

1,6M€



## LEGAL BASIS

### EXCEPTION

#### Article 80 of the Copyright Act of 1997 (as amended until 2015) - Copying for private use

(1) Subject to subsection (2), the act of reproducing all or any substantial part of :

- (a) a musical work embodied in a sound recording,
- (b) a performer's performance of a musical work embodied in a sound recording, or
- (c) a sound recording in which a musical work, or a performer's performance of a musical work, is embodied

onto an audio recording medium for the private use of the person who makes the copy does not constitute an infringement of the copyright in the musical work, the performer's performance or the sound recording.



# CANADA

2/3



...

(2) Subsection (1) does not apply if the act described in that subsection is done for the purpose of doing any of the following in relation to any of the things referred to in paragraphs (1) (a) to (c):

- (a) selling or renting out, or by way of trade exposing or offering for sale or rental;
- (b) distributing, whether or not for the purpose of trade;
- (c) communicating to the public by telecommunication; or
- (d) performing, or causing to be performed, in public.

## LEVY

### **Article 81 of the Copyright Act of 1997 (as amended until 2015) – Right of remuneration**

(1) Subject to and in accordance with this Part, eligible authors, eligible performers and eligible makers have a right to receive remuneration from manufacturers and importers of blank audio recording media in respect of the reproduction for private use of

- (a) a musical work embodied in a sound recording;
- (b) a performer's performance of a musical work embodied in a sound recording; or
- (c) a sound recording in which a musical work, or a performer's performance of a musical work, is embodied.

(2) Subsections 13(4) to (7) apply, with such modifications as the circumstances require, in respect of the rights conferred by subsection (1) on eligible authors, performers and makers.

### **Article 82 of the Copyright Act of 1997 (as amended until 2015) – Levy on blank audio recording media**

(1) Every person who, for the purpose of trade, manufactures a blank audio recording medium in Canada or imports a blank audio recording medium into Canada

- (a) is liable, subject to subsection (2) and section 86, to pay a levy to the collecting body on selling or otherwise disposing of those blank audio recording media in Canada; and
- (b) shall, in accordance with subsection 83(8), keep statements of account of the activities referred to in paragraph (a), as well as of exports of those blank audio recording media, and shall furnish those statements to the collecting body.

(2) No levy is payable where it is a term of the sale or other disposition of the blank audio recording medium that the medium is to be exported from Canada, and it is exported from Canada.

## COLLECTION AND DISTRIBUTION SYSTEMS

### **Article 81 of the Copyright Act of 1997 (as amended until 2015) – Right of remuneration**

As soon as practicable after receiving the levies paid to it, the collecting body shall distribute the levies to the collective societies representing eligible authors, eligible performers and eligible makers, in the proportions fixed by the Board.



# CANADA

3/3



## COMMENTS/LEGAL DEVELOPMENTS

On December 2016, the Canadian Copyright Board published the 2017 tariffs for private copying, keeping the amount of compensation at the same level (29 cents per unit). Revenues are declining since the equipment covered by private copying is limited to CR-R and CR-RW audio recording media since 2011.

The Copyright Act should be enhanced in order to cover more categories of works, to introduce levies on much more devices and equipment. A particular emphasis could be made on the need to adapt the private copying exception to the digital environment (even if in 2008, the Canadian Federal Court of Appeal have ruled that the Copyright Board could not hear evidence in support of a private copying levy on digital audio recorders).

There is now a new government favorable to copyright and rightholders. Hopefully, this may lead in 2017 to an amendment of the Copyright Act to extend the private copying regime to new devices and equipment.



# UNITED STATES OF AMERICA

 **321.601 million** **GDP: 16,348.875 million €**

1/5



## OVERVIEW

<b>EXCEPTION</b>	Yes, a copying by consumers of legally obtained sound recordings for personal use does not constitute a copyright infringement.				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes</td></tr> <tr> <td>Media</td><td>Yes</td></tr> </table>	Equipment	Yes	Media	Yes
Equipment	Yes				
Media	Yes				
<b>BENEFICIARIES</b>	Sound recording copyright holders, featured and non-featured artists, music publishers and songwriters (authors)				
<b>LIABLE</b>	The first manufacturer, importer and/or distributor of equipment and media.				
<b>EXEMPTION</b>	Non-commercial uses, professional equipment.				
<b>RATE SETTING</b>	<p>Rates are stated by the law</p> <p>Rate model: % of the sale distribution price (with minimum &amp; maximum)</p>				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	<p>YES    Levies are received in the DART fund and then divided into two funds as followed:</p> <ul style="list-style-type: none"> <li>• Sound Recordings Fund (66 2/3%): <ul style="list-style-type: none"> <li>- Sound Recording Copyright Owners Sub Fund by Alliance of Artists and Recording Companies (AARC)</li> <li>- Featured Artist Sub Fund (managed by AARC)</li> <li>- Non-Featured Artists Sub Fund by American Federation of Musicians (AFM) and Screen Actors Guild / American Federation of Television and Radio Artists (SAG/AFTRA)</li> </ul> </li> <li>• Musical Works Fund (33 1/3%): <ul style="list-style-type: none"> <li>- Publishers Sub Fund by The Harry Fox Agency (HFA)</li> <li>- Songwriters (authors) Sub Fund by the U.S. performing rights organizations (PROs) – SESAC, Broadcast Music, Inc. (BMI), and American Society of Composers, Authors and Publishers (ASCAP)</li> </ul> </li> </ul> <p>Each year, every interested copyright party has to submit a claim for royalties' payments to the Copyright Royalty judges, on behalf of those parties which it represents.</p>				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No				



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Section 1008 of the Audio Home Recording Act of 1992</b></p> <p>No action may be brought under this title alleging infringement of copyright based on the manufacture, importation, or distribution of a digital audio recording device, a digital audio recording medium, an analog recording device, or an analog recording medium, or based on the noncommercial use by a consumer of such a device or medium for making digital musical recordings or analog musical recordings.</p>
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# UNITED STATES OF AMERICA

2/5



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## LEVY

### Section 1003 of the Audio Home Recording Act of 1992

#### **Obligation to make royalty payment**

- (a) Prohibition on Importation and Manufacture. — No person shall import into and distribute, or manufacture and distribute, any digital audio recording device or digital audio recording medium unless such person records the notice specified by this section and subsequently deposits the statements of account and applicable royalty payments for such device or medium specified in section 1004.
- (b) Filing of Notice. — The importer or manufacturer of any digital audio recording device or digital audio recording medium, within a product category or utilizing a technology with respect to which such manufacturer or importer has not previously filed a notice under this subsection, shall file with the Register of Copyrights a notice with respect to such device or medium, in such form and content as the Register shall prescribe by regulation.

(...)

## COLLECTION AND DISTRIBUTION SYSTEMS

### Section 1004 of the Audio Home Recording Act of 1992

#### **Royalty payments**

##### **(a) Digital Audio Recording Devices.**

- (1) Amount of payment. — The royalty payment due under section 1003 for each digital audio recording device imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 2 percent of the transfer price. Only the first person to manufacture and distribute or import and distribute such device shall be required to pay the royalty with respect to such device.
- (2) Calculation for devices distributed with other devices. — With respect to a digital audio recording device first distributed in combination with one or more devices, either as a physically integrated unit or as separate components, the royalty payment shall be calculated as follows:
- (A) If the digital audio recording device and such other devices are part of a physically integrated unit, the royalty payment shall be based on the transfer price of the unit, but shall be reduced by any royalty payment made on any digital audio recording device included within the unit that was not first distributed in combination with the unit.
  - (B) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have been distributed separately at any time during the preceding 4 calendar quarters, the royalty payment shall be based on the average transfer price of such devices during those 4 quarters.



# UNITED STATES OF AMERICA

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(C) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have not been distributed separately at any time during the preceding 4 calendar quarters, the royalty payment shall be based on a constructed price reflecting the proportional value of such device to the combination as a whole.

(3) Limits on royalties. —Notwithstanding paragraph (1) or (2), the amount of the royalty payment for each digital audio recording device shall not be less than \$1 nor more than the royalty maximum. The royalty maximum shall be \$8 per device, except that in the case of a physically integrated unit containing more than 1 digital audio recording device, the royalty maximum for such unit shall be \$12. During the 6th year after the effective date of this chapter, and not more than once each year thereafter, any interested copyright party may petition the Copyright Royalty Judges to increase the royalty maximum and, if more than 20 percent of the royalty payments are at the relevant royalty maximum, the Copyright Royalty Judges shall prospectively increase such royalty maximum with the goal of having no more than 10 percent of such payments at the new royalty maximum; however the amount of any such increase as a percentage of the royalty maximum shall in no event exceed the percentage increase in the Consumer Price Index during the period under review.

## **(b) Digital Audio Recording Media.**

The royalty payment due under section 1003 for each digital audio recording medium imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 3 percent of the transfer price. Only the first person to manufacture and distribute or import and distribute such medium shall be required to pay the royalty with respect to such medium.

## **Section 1006 of the Audio Home Recording Act of 1992 - Entitlement to royalty payments**

### **(a) Interested Copyright Parties.**

The royalty payments deposited pursuant to section 1005 shall, in accordance with the procedures specified in section 1007, be distributed to any interested copyright party:

(1) whose musical work or sound recording has been:

(A) embodied in a digital musical recording or an analog musical recording lawfully made under this title that has been distributed, and

(2) who has filed a claim under section 1007.

(B) Allocation of Royalty Payments to Groups.

The royalty payments shall be divided into 2 funds as follows:

(1) The sound recordings fund. —  $66\frac{2}{3}$  percent of the royalty payments shall be allocated to the Sound Recordings Fund.  $2\frac{5}{8}$  percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation



# UNITED STATES OF AMERICA

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of Musicians (or any successor entity) to be distributed to non-featured musicians (whether or not members of the American Federation of Musicians or any successor entity) who have performed on sound recordings distributed in the United States.  $1\frac{3}{8}$  percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to non-featured vocalists (whether or not members of the American Federation of Television and Radio Artists or any successor entity) who have performed on sound recordings distributed in the United States. 40 percent of the remaining royalty payments in the Sound Recordings Fund shall be distributed to the interested copyright parties described in section 1001(7)(C), and 60 percent of such remaining royalty payments shall be distributed to the interested copyright parties described in section 1001(7)(A).

## (2) The Musical Works Fund:

(A)  $33\frac{1}{3}$  percent of the royalty payments shall be allocated to the Musical Works Fund for distribution to interested copyright parties described in section 1001(7)(B).

(B) (i) Music publishers shall be entitled to 50 percent of the royalty payments allocated to the Musical Works Fund.

(ii) Writers shall be entitled to the other 50 percent of the royalty payments allocated to the Musical Works Fund.

(C) Allocation of Royalty Payments Within Groups. — If all interested copyright parties within a group specified in subsection (b) do not agree on a voluntary proposal for the distribution of the royalty payments within each group, the Copyright Royalty Judges shall, pursuant to the procedures specified under section 1007(c), allocate royalty payments under this section based on the extent to which, during the relevant period :

- (1) for the Sound Recordings Fund, each sound recording was distributed in the form of digital musical recordings or analog musical recordings; and
- (2) for the Musical Works Fund, each musical work was distributed in the form of digital musical recordings or analog musical recordings or disseminated to the public in transmissions.



# UNITED STATES OF AMERICA

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## **Section 1007 of the Audio Home Recording Act of 1992 - Procedures for distributing royalty payments**

### **(a) Filing of Claims and Negotiations.**

- (1) Filing of claims. — During the first 2 months of each calendar year, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Copyright Royalty Judges a claim for payments collected during the preceding year in such form and manner as the Copyright Royalty Judges shall prescribe by regulation.
- (2) Negotiations. — Notwithstanding any provision of the antitrust laws, for purposes of this section interested copyright parties within each group specified in section 1006(b) may agree among themselves to the proportionate division of royalty payments, may lump their claims together and file them jointly or as a single claim, or may designate a common agent, including any organization described in section 1001(7)(D), to negotiate or receive payment on their behalf; except that no agreement under this subsection may modify the allocation of royalties specified in section 1006(b).

(...)



## **COMMENTS/LEGAL DEVELOPMENTS**

Royalty collections under the Home Audio Recording Act for the manufacture and distribution of digital audio recording devices and media (DART) have declined to the extent that the amounts deposited are insufficient to cover the costs of managing the DART funds and distributing royalties to claimants.

The private copying scheme should be enhanced in order to extend the benefit to :

- those beneficiaries of audiovisual works and literary works;
- all devices which permit recording copyrighted content, in particular the digital devices & medias (smartphones and tablet PCs should be liable for example). Litigation concerning the interpretation of the Home Audio Recording Act is ongoing and could modify the definition of digital audio recording devices and media.



# PARAGUAY



7.003 million

GDP: 29,078.943 million €

1/3



## OVERVIEW

<b>EXCEPTION</b>	Yes, a private reproduction for a domestic use and without profit-making purpose is authorized.				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes</td></tr> <tr> <td>Media</td><td>Yes</td></tr> </table>	Equipment	Yes	Media	Yes
Equipment	Yes				
Media	Yes				
<b>BENEFICIARIES</b>	Authors, performers, phonogram producers				
<b>LIABLE</b>	Manufacturer, Importers				
<b>EXEMPTION</b>	Professional use				
<b>RATE SETTING</b>	Rates should be stated by the State (Regulation Decree of 2011)				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	YES AIE- Paraguay (agreement between the 3 CMOs that AIE is in charge of the collection of the levy, approved by DINAPI -the National Copyright office)				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	10% of the collection is sent to the Government for promotion related to the defense of Intellectual Property rights. For the moment, this rate is only taken on Authors and Performers rights, and not on Producers rights.				
<b>REVENUE IN 2015</b>	US\$ 935.280				



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Article 34 of the Law No. 1.328/98 on Copyright and Neighboring Rights of 1998</b></p> <p>Chapter IV Rights to Compensatory Remuneration</p> <p>34. The owners of the rights in works published in graphic form or in the form of videograms or phonograms or any kind of sound or audiovisual recording shall have the right to a share in the compensatory remuneration for reproductions of those works or products that are made exclusively for personal use by means of non-typographical technical apparatus.</p>
<b>LEVY</b>	<p><b>Articles 34-35-36-37 of the Law No. 1.328/98 on Copyright and Neighboring Rights of 1998</b></p> <p>Chapter IV Rights to Compensatory Remuneration</p> <p>34. The owners of the rights in works published in graphic form or in the form of videograms or phonograms or any kind of sound or audiovisual recording shall have the right to a share in the compensatory remuneration for reproductions of those works or products that are made exclusively for personal use by means of non-typographical technical apparatus. The remuneration shall be determined according to the equipment, apparatus and materials used for making the</p>



# PARAGUAY

2/3



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reproduction. Payment shall be proved by an identifying mark on the recording or reproduction apparatus and on the physical materials used for the duplication, as appropriate. Copyright owners may incorporate anti-copying technology and oversee the reproduction of their work.

35. The foregoing remuneration shall not be payable for equipment and materials that are used by the producers of audiovisual works and phonograms and publishers or their licensees, neither shall it be payable by studios concerned with sound recordings or the post synchronization of sound and images, or companies that work under contract to any of them, with respect to the legitimate production or reproduction of their works and products, provided that the equipment or media in question are intended solely for such activities.
36. The collection and distribution of the remuneration referred to in this Chapter shall take place through the appropriate collective management bodies, which shall centralize collection either by delegating it to one of their number or by setting up a collecting agency with its own legal personality.
37. Within the six months following the entry into force of this Law the Executive, on a proposal by the National Directorate of Copyright, shall specify the owners entitled to remuneration and shall regulate the procedure for determining the equipment and material for which it is payable, its amount and the methods of collection and distribution. The National Directorate of Copyright shall decide what exemptions are appropriate and may also broaden the liability for payment of remuneration referred to in Article 34 to include those who distribute the material mentioned therein to the public.

## **Article 44 of the Law No. 1.328/98 on Copyright and Neighboring Rights of 1998**

The exclusively personal copying of works published in graphic form or in the form of sound or audiovisual recordings shall be lawful where the compensatory remuneration referred to in Chapter IV of Title IV of this Law has been paid. The reproductions allowed under this Article shall not however extend to the following:

1. reproduction of a work of architecture in the form of a building or other construction;
2. reproduction of the whole of a book or musical work in graphic form, or of the original or a copy of a work of fine art executed and signed by the author;
3. a database or compilation of data.

## **Decree No. 6.780/11 regulating Chapter IV Rights to Compensatory Remuneration' of Law No. 1.328/98 'on Copyright and Neighboring Rights'**

The Decree No. 6780/11 determines the equipment and media subject to the levy as well as the rates.

Exemptions from payment of the compensations apply to:

- Professional uses;
- Equipments and materials to be used by producers of audio-visual works, phonograms and publishers, or by their respective licensees and companies working on behalf of any of them, for legitimate production or reproduction of those works, provided that such equipment is used exclusively for these activities.



# PARAGUAY

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## COLLECTION AND DISTRIBUTION SYSTEMS

### **Decree No. 6.780/11 regulating Chapter IV 'Rights to Compensatory Remuneration' of Law No. 1.328/98 'on Copyright and Neighboring Rights'**

AIE – Paraguay (the society representing artists) is in charge of collecting and distributing, on a monthly basis, the collected remuneration to the 3 national CMOs authorized by the Copyright National Office –DINAPI- (one-third for each). Each of the three entities determine the distribution scheme.



## COMMENTS/LEGAL DEVELOPMENTS

Even if the regulation should be updated in order for example to cover digital devices and equipments, Paraguay is a precursor in the region and it is a good example of what could be done in other Latin American countries.

In 2011, an action has been brought by importers before the Supreme Court and they claim the unconstitutionality of the regulatory decree. There is no final judgment at the moment and that is not acceptable because in the meantime rightholders are not remunerated (the Supreme Court has taken provisional measure and the decree is not applicable anymore to those importers until a final judgment).



# PERU



31.911 million

GDP: 482.627 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes, a private reproduction for a domestic use and without profit-making purpose is authorized.
<b>LEVY</b>	<p>Equipment No (Mp3 player, smartphone, hard drive, USB, etc. but challenged as unlawful by users)</p> <p>Media Yes (blank media: CD, DVD, tapes, etc.)</p>
<b>BENEFICIARIES</b>	Performer, the author and the producer of the videogram and/or phonogram
<b>LIABLE</b>	Manufacturer, distributors and importers
<b>EXEMPTION</b>	Professional reproduction of duly authorized producers of videograms or phonograms as well as broadcasting companies.
<b>RATE SETTING</b>	A regulation shall state the rates, compensation is based on the retail price.
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	YES UNIMPRO (Peruvian Union of Phonographic Producers) is in charge of collection and distribution of private copy income, on mandate of the following CMOs: SONIEM, APDAYC, APSAV and EGEDA
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No
<b>REVENUE IN 2015</b>	5 486,23€ (42 000€ in 2012, 18 792€ in 2014)



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Article 48 of the Copyright Law (Legislative Decree No. 822 of April 23, 1996)</b></p> <p>It shall be lawful to make copies for exclusively personal use of works, performances or productions published as sound or audiovisual recordings. The reproductions permitted by this Article shall not however include the following:</p> <ul style="list-style-type: none"> <li>(a) the reproduction of a work of architecture in the form of a building or any other structure;</li> <li>(b) the reproduction of the whole of a book, a musical work in written form or the original or a copy of a three-dimensional work made and signed by the author;</li> <li>(c) a data base or compilation of data.</li> </ul>
<b>LEVY</b>	<p><b>Article 20 of the Law on Performers (Law No. 28131 of 2003) – Compensation for private copying</b></p> <p>20.1 Reproduction that is carried out exclusively for private use of works or artistic performances in the form of videograms or phonograms, on media or materials capable of embodying them, shall lead to the payment of compensation for private copying, which is to be shared between the performer, the author and the producer of the videogram and/or phonogram, in the form and percentages established by the Regulations.</p>





## PERU

2/2



...

- 20.2 Compensation for private copying shall not constitute a tax. The income derived for that purpose shall be governed by the applicable tax regulations.
- 20.3 This compensation shall be paid by the domestic manufacturer and the importer of suitable media or materials that permit the reproduction referred to in the preceding paragraph.
- 20.4 Duly authorized producers of videograms or phonograms as well as broad casting companies shall be exempt from payment in respect of media or materials for the reproduction of phonograms and videograms for purposes of their activities.
- 20.5 Compensation shall be determined according to the appropriate media, whether existing or yet to be created, for making that reproduction in accordance with the provisions of the Regulations.

### COLLECTION AND DISTRIBUTION SYSTEMS

#### **Article 20 of the Law on Performers (Law No. 28131 of 2003) – Compensation for private copying**

- 20.6 The form of collection and other aspects not provided for in this Law shall be established in the Regulations.



### COMMENTS/LEGAL DEVELOPMENTS

Rightholders attempt to fix levies on devices in particular on digital devices, but they are challenged as unlawful before the Peruvian Copyright Authority and a decision of Supreme Court in 2011 (N°4534-2011):

*"The payment of a compensation for private copying has been regulated as an obligation to redress an act that truly affects rights (through the reproduction with private purposes), not as a tax or pecuniary payment that objectively affects an activity (e.g. manufacture or sale items to carry out reproduction acts) with the purpose of compensate the economic rights prejudice suffered – in abstract- by authors, artists or producers, for individualized acts. In such way, under this regulatory model producers or sellers of these item couldn't be obligated to the payment of a compensation for private copying by this mere fact (because it's evident that nowadays this kind of hardware are not destined only for the reproduction of works, but also as a storage device of any other kind of information), but for the fact of being the cause in a production and sale that finally took to reproduce the work".*



## 3 - ASIA

Although this region is very broad since it covers countries from Israel to China to Georgia, the overall status is that they are not used to a private copying system. Thus, these countries generally do not have protection of author's rights in their traditions. Of the 46 countries studied, only three countries effectively distribute private copying remuneration to their creators.

Currently, nine countries have introduced a private copying levy scheme in domestic legislation (Azerbaijan, Kazakhstan, Kyrgyz Republic, Uzbekistan, Turkmenistan, Turkey, Georgia, Israel and Japan). However, only three have an effective collection and distribution system for such levy (Georgia, Israel and Japan).

It may therefore be assumed that, even if the other six countries all provide for a levy in their domestic legislation, no evidence was uncovered regarding the existence of an operative collection and distribution mechanism to facilitate such a levy. It may be assumed that no levy is currently collected and distributed, notwithstanding the domestic provisions under which such a levy is provided for. In most of these countries, it is assumed that such mechanisms are not in place because of a lack of regulation (specific decree or decision by courts to be issued for appointing an organisation in charge of the private copying levy, or fixing tariffs, etc.).

It is also noteworthy that 22 countries have introduced a private copying exception, but without a corresponding private copying levy system (Afghanistan, Armenia, Bahrain, Bangladesh, Bhutan, Cambodia, China, Democratic People's Republic of Korea, Lebanon, South Korea, United Arab Emirates, India, Iran, Jordan, Kuwait, Maldives, Mongolia, Nepal, Qatar, Sri Lanka, Tajikistan and Thailand). All of these countries fail to remunerate authors whose works are subjected to private copying. It is of the utmost importance to change this situation.

For example, in South Korea, a recent symposium shined the spotlight on copyright. The government has been urged to consider the introduction of a private copying levy system. At the moment, the Korea Copyright Act includes a private copying exemption provision that allows reproduction of copyright works without permission from the copyright owner and without a corresponding private copying levy system, and thus puts rightholders at a disadvantage. These types of lobbying efforts should be renewed in other countries of the region.

Finally, a third of the 46 countries do not foresee a private copying exception in their national law (Brunei, Indonesia, Iraq, Lao People's Democratic Republic, Malaysia, Myanmar, Oman, Pakistan, Philippines, Saudi Arabia, Singapore, Syria, East Timor, Vietnam and Yemen).

Asia has great potential in markets such as China, India and Indonesia. It is of greatest importance that governments increase awareness and acceptance of copyright in general because they fail to respond to widespread infringement of creative works in their region. Thus, they encourage disrespect for and misunderstanding of copyright law. In addition to the huge piracy curse existing across Asia, rightholders are adversely affected by private copying because of lost sales and licensing opportunities. Moreover, the introduction of a levy scheme in most of the countries would entitle Asian creators to a share of income from private copying levies in countries that only distributes on a reciprocity basis.



# ASIA: COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION

1/2



## BRUNEI

The Copyright Act of 2000 (amended in 2013) doesn't provide a private copying exception.



## INDONESIA

The Copyright Act of 2002 (amended in 2014) doesn't provide any private copying exception.



## IRAQ

The Copyright Law of 1983 (amended in 2004) doesn't provide any private copying exception.



## LAO PEOPLE'S DEMOCRATIC REPUBLIC

The Intellectual property laws of 2008 doesn't provide any private copying exception.



## MALAYSIA

The copyright Act of 1987 (amended in 2006) doesn't provide an explicit private copying exception.



## MYANMAR

The Copyright Act is dated from 1911 and doesn't provide any private copying exception.



## OMAN

The Royal Decree No. 65/2008 promulgating the Law on Copyright and Related Rights doesn't provide any private copying exception.



# ASIA: COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION

2/2



## PAKISTAN

The Copyright ordinance of 1962 (amended in 1992) doesn't provide an explicit private copying exception.



## PHILIPPINES

The Intellectual Property Codes of 1997 as amended in 2013 doesn't provide a private copying exception.



## SAUDI ARABIA

The Copyright Law of 2003 doesn't provide an explicit private copying exception, it only states that the copying for personal use exclude computer software, audio and audiovisual works.



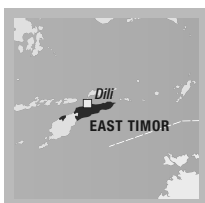
## SINGAPORE

The Copyright Act is dated of 1987 (revised in 1998) only provides that a fair dealing of a work doesn't not constitute an act infringing copyright.



## SYRIA

The Copyright law of 2001 doesn't provide any private copying exception.



## EAST TIMOR

There is no Intellectual Property legislation available.



## VIETNAM

The Law on Intellectual Property of 2009 doesn't provide a private copying exception.



## YEMEN

The Law on Intellectual Property of 1994 doesn't provide a private copying exception.



# AFGHANISTAN

 32.007 million    GDP: 470.313 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a published work for personal use is authorized

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 39 of the Copyright Law of 2008

(1) Reproduce of published Work is permitted by a natural person without the Author's authorization provided that it is exclusively for the personal use, the followings are exceptions:

- 1 - Reproduction of architecture Work in the form of a building or construction.
- 2 - Reproducing in copy form of copying documents (Reprography) or photography of all or an important part of book of musical Work.
- 3 - Reproducing all or part of database digitally. Reproduction [adaptation] of a computer program mentioned in the (2) paragraph of this Article is not included.



## COMMENTS/LEGAL DEVELOPMENTS

It should be precised that the copy should be made for non-commercial purpose.  
This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# ARMENIA



2.990 million

GDP: 3,348.610 million €



## OVERVIEW

### EXCEPTION

Yes, a reproduction of published work for private and non-commercial use is authorized

### LEVY

Equipment No

Media No



## LEGAL BASIS

### EXCEPTION

#### Article n°23 of Law on Copyright and Related Rights of 15 June 2006

The reproduction of a work lawfully made public shall be permitted without the consent of the author and without remuneration exclusively for private, non-commercial use, which does not prejudice the legitimate interests of the author.

This provision shall not apply to the reproduction of constructions and architectural works of similar structure, machine-readable databases or their substantial parts, computer programs, as well as to the reproduction of whole books and graphic editions of musical works, unless otherwise provided by this Law.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception deserves to be enhanced. It is not clearly indicate that the copy should be made by a natural person, thus does it means that societies are allowed to make copies for non-commercial use (professional use)? This exception should also be completed by a compensation levy for rightholders benefits.



# BAHRAIN



1.294 million

GDP: 11.617 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a legally published original work or a legal copy of work for personal use is authorized

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 19 of Act No. 22 of the Year 2006 relating to the Protection of Copyright and Neighboring Rights

It is lawful to make a single copy of a legally published original work, or of a legal copy thereof, for purely personal use without the consent of the author and without paying compensation. This does not apply to the following:

- (a) Reproducing works of architecture in the form of buildings or any other construction.
- (b) Making a photocopied reproduction of a (written) work, either in its entirety or a fundamental part thereof.
- (c) Making a photocopied reproduction of a work of sheet music, either in its entirety or a large part thereof.
- (d) Making a total or partial reproduction of databases in digital format.
- (e) Reproducing computer programs, unless pursuant to the provisions of article 26 of this Act.



# BANGLADESH

 159.857 million    GDP: 8,302.617 million €



## OVERVIEW

### EXCEPTION

Yes, fair use of a literary, dramatic, musical or artistic work for private study or private use

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article n°72 of the Copyright Act of 2000

(1) The following acts shall not constitute infringement of copyright, namely:

(1) Fair use of a literary, dramatic, musical or artistic work for the purpose of:

(i) private study or private use including research;

(...)



## COMMENTS/LEGAL DEVELOPMENTS

The Copyright Act does not provide an explicit private copying exception, but it recognizes the private use of a work as “fair use” which does not constitute an infringement to copyright. The notion of “fair use” is very broad and create a legal risk both for consumers and rightholders, while not remunerating the latter.





# BHUTAN



0.779 million

GDP: 60.589 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a published work for personal purposes is permitted.

### LEVY

Equipment No

Media No



## LEGAL BASIS

### EXCEPTION

#### Article 10 of Copyright Act of the Kingdom of Bhutan, 2001

(1). Notwithstanding the provisions of Section 8(1) (a), and subject to the provision of subsection (2), the private reproduction of a published work in a single copy, where the reproduction is made by a physical person exclusively for his own personal purposes, shall be permitted, without the authorization of the author of, or other owner of the copyright in, the work.

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

- a. of a work of architecture in the form of building or other construction;
- b. where the reproduction is reprographic reproduction, or an entire book, or a substantial part thereof, or of a musical work in graphic form;
- c. of a data base;
- d. of a computer program, except as provided in Section 15; and
- e. of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author of, or other owner of the copyright in, the work.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work.

Moreover, it is not precised that the copy should be made for non-commercial purpose.

Even if this provision recalled the 3 test steps, this provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# CAMBODIA

 15.543 million    GDP: 42,963.628 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a published work for personal purposes is permitted.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 24 of law on Copyright and Related Rights of 2003

The private reproduction of a published work in a single copy shall be permitted without the authorization of the author or the right-holder, where the reproduction is made by a natural person exclusively for his own personal purposes.

The permission under the preceding paragraph of this article shall not extend to the reproduction:

- (a) Of a work of architecture in the form of building or other construction;
- (b) In the form of reprography of the whole or a substantial part of a book, and of a musical work in the form of musical notation;
- (c) Of the whole or of a substantial part of a database in digital form;
- (d) Of a computer program, other than a backup-copy.
- (e) Of any work, in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or the right-holder.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work.

Moreover, it is not precised that the copy should be made for non-commercial purpose.

Even if this provision recalled the 3 test steps, this provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# CHINA



1,374.620 million

GDP: 59,210.623 million €



## OVERVIEW

### EXCEPTION

Yes, use of another person's published work for purposes of the user's own personal study, research or appreciation.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article n°22 of Copyright Law of the People's Republic of China of 26 February 2010

In the following cases, a work may be used without permission from, and without payment of remuneration to, the copyright owner, provided that the name of the author and the title of the work are mentioned and the other rights enjoyed by the copyright owner in accordance with this Law are not prejudiced:

(1) use of another person's published work for purposes of the user's own personal study, research or appreciation;

(...)



## COMMENTS/LEGAL DEVELOPMENTS

China is currently working on a reform of its copyright law but unfortunately, the draft bill doesn't provide at this stage any addition of private copying levy. CISAC has asked for it.



# DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA



## OVERVIEW

### EXCEPTION

Yes, reproduction of a work for personal or family purposes is permitted.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Article 32 of the Copyright Law of the Democratic People's Republic of Korea (as amended by Decree No. 1532 of February 1, 2006)**

A copyrighted work may be used without the permission of the copyright holder in the following cases:

1. when a copyrighted work is reproduced or translated for use by an individual or within the family;

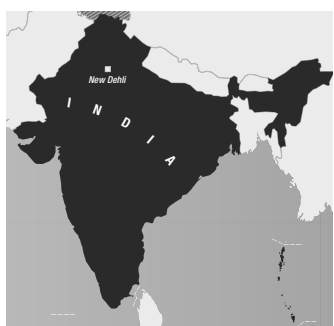
(..)



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not precised that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# INDIA



1,292.707 million

GDP: 113,262.444 million €



## OVERVIEW

### EXCEPTION

Yes, fair dealing for any work (musical, literary, dramatic, etc.; exception computer program) for personal and private use.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article n° 52 of the Copyright Act of 1957 (as amended in 2012)

The following acts shall not constitute an infringement of copyright, namely:

1. A fair dealing with any work, not being a computer program, for the purposes of:
  - a. Private or personal use, including research;
  - (...)



## COMMENTS/LEGAL DEVELOPMENTS

The Indian Copyright Act does not provide an exception per se, it just considers that a fair dealing of works for private or personal use does not constitute an infringement of copyright. This is a very broad exception, and it creates legal risks both for consumers and rightholders, while not remunerating the latter.



# IRAN (REPUBLIC OF)

 79.476 million    GDP: 2,076,363.690 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a work for private and non-commercial use is permitted.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article n°11 of the Copyright Law of 1970

Reproduction of works protected by this law, as mentioned in Article 2, Section 1, and the recording of radio and television programmes are permissible, but only for private and non-commercial use.



## COMMENTS/LEGAL DEVELOPMENTS

The Copyright Law is very old and hasn't been reviewed since 1970. The historical background explains why this hasn't been done so far.



# JORDAN



6.824 million

GDP: 11.426 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a published work for personal purposes is permitted.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Article n°17 of The Copyright Protection Law No. (22) of 1992  
(as amended up to 2005)**

Published works may be used without the author's permission subject to the following conditions and in the following cases:

(...)

- b) Employing the work for private personal use through making one copy thereof by reproduction, recording, photographing, translation or musical distribution provided that the foregoing does not conflict with normal exploitation of the work and does not cause unjustified injury to the legitimate interests of the author.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work.

Moreover, it is not precised that the copy should be made for non-commercial purpose.

Even if this provision recalled the 3 test steps, this provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# KUWEIT



4.110 million

GDP: 40.174 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a published work for personal purposes is permitted.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 8 of the decree-law N. 5 of 1999 on intellectual property rights

If a person has made a single copy of a classified work already published, or he has translated, adapted, modified or altered the same for his personal use in any other manner whatsoever, the author may not prevent him from doing so, provided that the publishing of such works may not be made, unless the permit of its owner and the author is obtained.



## COMMENTS/LEGAL DEVELOPMENTS

Kuwait has issued a new copyright law, Law no. 22 of 2016 (On Copyrights and Related Rights) but the English translation is not available yet. Even if the law tends to increase the level of protection for creators, it seems that nothing concerns the private copying exception.





# LEBANON



4.554 million

GDP: 62,760.199 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a published work for personal and private uses is permitted.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 23 of the Law N.75 of 1999 on the Protection of Literary and Artistic Property

Without prejudice to the provisions of Article 24 of this Law, any natural person may, for his personal and private use, copy, record or make a single copy of any work protected under this Law without the authorization or consent of the copyright holder and without having to pay him any compensation, provided that the work has been legally published.

The use of a copy copied or reproduced inside a company or at any other work place shall not be considered as personal and private use.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not precised that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# MALDIVES



0.348 million

GDP: 26.542 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a published work for personal purposes is permitted.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 12 of the Copyrights and Related Rights Act of 2010

- (a) Notwithstanding the provisions of Section 10 (a) (1), and subject to the provisions of Subsection (b), the private reproduction of a published work in a single copy shall be permitted without the authorization of the author or owner of copyright, where the reproduction is made by a person exclusively for his own personal purposes.
- (b) The permission under Subsection (a) shall not extend to the following:
- (1) to the reproduction of a work of architecture in the form of building or other construction;
  - (2) to reproduction in the form of the whole or a substantial part of a book or of a musical work in the form of notation;
  - (3) to reproduction of the whole or a substantial part of a database in digital form;
  - (4) to reproduction of a computer program, except as provided in Section 18 of this regulation; And
  - (5) to reproduction of any work in cases where reproduction would affect the normal proceedings the work may generate and could prejudice the legitimate interests of the author or other owner of the Copyright;
  - (6) to reproduction of feature films, documentary, films, dramas, video songs and other audiovisual presentations created for commercial use.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work.

Moreover, it is not precised that the copy should be made for non-commercial purpose.

Even if this provision recalled the 3 test steps, this provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# MONGOLIA



2.969 million

GDP: 15,837.660 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a published work for personal purposes is permitted as soon as it is on a non-for profit basis.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 24 of Mongolia on Copyrights and Related rights of 1993 (as amended until 2006)

24.1. The following circumstances where the works were used without contradicting the normal exploitation of published works and without affecting the legal interests of the right holders shall not be deemed as copyright infringement:

(...)

24.1.8. To reproduce works for private use;

(...)

24.2. The following conditions shall be considered in determining the circumstances provided in Section 24.1 of this law:

24.2.1. To have a non-profit purpose;

24.2.2. The extent of use and the importance of the used parts;

24.2.3. The value of the work and the effect of the used part on the market.

24.3. The name of the author and source must be mentioned when a work is used under Section 24.1 of this law."



# NEPAL



28.432 million

GDP: 760.243 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a published work for personal uses is permitted.

### LEVY

Equipment No

Media No



## LEGAL BASIS

### EXCEPTION

#### Article 16 of the Copyright Act of 2002

- (1) Notwithstanding anything contained in Clause (a) of Section 7, no authorization shall be required from the author or the copyright owner to reproduce some portions of any published work for personal use.
- (2) Notwithstanding anything contained in Sub-section (1), no reproduction of an architectural design erected as a building and other construction related design or a significant portion of any book or of a musical work as notation of all or significant portion of a database through digital transmission shall be allowed in a manner to be prejudicial to the economic right of the author or the copyright owner.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not precised that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# QATAR



2.421 million

GDP: 789.090 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a work for personal use is permitted.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 18 of the law No. 7 of 2002 on the Protection of Copyright and Related Rights

The following uses of a protected work are permitted without the Author's authorization:

(1) using the work exclusively for personal use, through reproduction, translation, quotation, musical arrangement, acting, broadcast listening, television viewing, photography or by any other means;

(...)

The uses provided for in the two preceding items shall not conflict with a normal exploitation of the work or unreasonably prejudice the legitimate interests of the author;

(...)



## COMMENTS/LEGAL DEVELOPMENTS

It is not precised that the copy should be made for non-commercial purpose.

Even if this provision recalled the 3 test steps, this provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# SRI LANKA



21.107 million

GDP: 3,555.926 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a published work in a single copy by a physical person for his own personal purposes.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 12 of the Intellectual Property Act No. 36 of 2003

- (1) Notwithstanding anything contained in paragraph (a) of subsection (1) of section 9 and subject to the provisions of subsection (2) of this section, the private reproduction of a published work in a single copy shall be permitted without the authorization of the owner of the copyright, where the reproduction is made by a physical person from a lawful copy of such work exclusively for his own personal purposes.
- (2) The permission under subsection (1) of this section shall not be extended to the reproduction :
  - (a) of a work of architecture in the form of a building or other constructions ;
  - (b) in the form of reprography of the whole or a substantial part of a book or of a musical work in the form of notations ;
  - (c) of the whole or a substantial part of a data base ;
  - (d) of a computer program, except as provided in subsection (7) ; and
  - (e) of any work, in case the reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the owner of the copyright.



## COMMENTS/LEGAL DEVELOPMENTS

It is not precised that the copy should be made for non-commercial purpose.

Even if this provision recalled the 3 test steps, this provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# SOUTH KOREA

 50.629 million    GDP: 1,463,506.200 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a published work for personal purposes and without any commercial purpose is permitted.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Article n°30 of the Copyright Act of 1957 (as amended up to 2013)**

A user may reproduce in private a work already made public without any commercial purposes, provided that the foregoing shall not be applied to reproduction by a photocopier set up for public use.



## COMMENTS/LEGAL DEVELOPMENTS

There are discussion for implementing private copying levy system, but the draft bill has been pending for more than 4 years. The scope of this exception is limiting to copying devices, media are excluded. KOMCA (the Korean music society) and KORRA (the Korean reprographic and visual art society) are actively lobbying the Korean government on this issue.



# TAJIKISTAN



8.477 million

GDP: 0.219 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a published work for exclusively personal purposes is permitted

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 19 of the Law on copyright and related rights of 1998 (as amended up to 2009)

The reproduction of a lawfully published work for exclusively personal purposes which shall apply insofar as the uses in question do not unjustifiably prejudice the normal exploitation of the work and do not without valid reason violate the legitimate interests of the author shall be authorized without need for the author's consent or payment of remuneration, except in the cases provided for in Article 39 of this Law.

The provisions of paragraph 1 of this Article shall not apply:

- 1) to the reproduction of works of architecture in the form of comparable buildings and structures;
- 2) to the reproduction of data bases or substantial parts of data bases;
- 3) to the reproduction of computer programs, except in the cases provided for in Article 24 of this Law;
- 4) to the reproduction of books (in their entirety) and musical scores.



## COMMENTS/LEGAL DEVELOPMENTS

It is not precised that the copy should be made for non-commercial purpose.

Even if this provision recalled the 3 test steps, this provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.





# THAILAND



68.838 million

GDP: 9,471.304 million €



## OVERVIEW

### EXCEPTION

Yes, general fair use exception, including for the use for personal benefit or for the benefit of the user and his family members or close relatives.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 32 of the Copyright Act B.E. 2537 of 1994 (as amended up to 2015)

An act against a copyright work under this Act of another person which does not conflict with normal exploitation of the copyright work by the owner of copyright and does not unreasonably prejudice the legitimate rights of the owner of copyright shall not be deemed an infringement of copyright.

Subject to the provision in the first paragraph, the following acts in relation to a copyright work shall not be deemed an infringement of copyright:

- (1) research or study of the work which is not for profit;
- (2) use for personal benefit or for the benefit of the user and his family members or close relatives;
- (...)



## COMMENTS/LEGAL DEVELOPMENTS

The Thailand Copyright Act does not provide an exception per se, it considers that a fair use of works for personal benefit does not constitute an infringement of copyright. This is a very broad exception, and it creates legal risks both for consumers and rightholders, while not remunerating the latter.



# UNITED ARAB EMIRATES



9.581 million

GDP: 1,200.236 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a published work for personal and non-commercial purposes is permitted.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Article 22 of the Federal Law No. 7 of the Year 2002 amended by law No. 32 for the year 2006 Regarding Copyright & Related Rights**

Without prejudice to the moral rights of the Author under this Law, the Author may not once his work has been published prevent another person from doing any of the following:

1. Making a single copy of the work for non-commercial personal use. Excluded are works of fine or applied art unless they are placed in the public domain, with the approval of the copyright holder or his successors. Architectural works are also excluded other than in accordance with para 7 of this Article. Other exclusions are computer software and applications and databases except in accordance with para 2 of this Article.



## COMMENTS/LEGAL DEVELOPMENTS

The Section 16 of the UAE Copyright Law enables the creation of collecting societies and provides for the undertaking of collective rights administration, and the Ministerial Decision No. 133 of 2004 concerning the Collective Management of Copyrights and Neighbouring Rights established the basis on which licenses permitting collective management activities would be granted by the Ministry of Economy.

In 2004, based on the Copyright Law and the Ministerial Decision, the recording industry took steps to establish Emirates Music Rights Society ("EMRS") in the UAE to serve as a collecting society. But the Ministry of Economy has not yet promulgated regulations that would permit the approval of such collecting society. Without such approval, there is no practical way for rightholders to protect and enforce their rights.



# AZERBAIJAN



9.417 million

GDP: 23.921 million €

1/2



## OVERVIEW

### EXCEPTION

Yes, reproduction of a published work for personal uses and on a non-profit basis is authorized.

### LEVY

Equipment Yes (audio and videotapes, other equipments)  
Media Yes (audio and video cassettes, laser discs and other material media)

### BENEFICIARIES

Authors, performers and audiovisual work producers with respect to audiovisual work; performers and phonogram producers with respect to phonogram.

### LIABLE

Manufacturer, importer

### EXEMPTION

Export, Professional use

### RATE SETTING

Special executive body

### COLLECTION AND DISTRIBUTION SYSTEM

No management body appointed  
No effective mechanism

### SOCIAL AND CULTURAL DEDUCTIONS

No



## LEGAL BASIS

### EXCEPTION

**Article n°17 of the Law of the Republic of Azerbaijan on Copyright and Related Rights (as amended up to Law of April 30, 2013)**

1. It shall be permissible to reproduce one copy of works previously published lawfully for personal purposes without the consent of author or other copyright owner and without payment of author's remuneration, on non-profit base.
2. The provisions of paragraph 1 of this Article shall not be applied to followings:
  - reproduction of works of architecture in the form of buildings and structures;
  - reproduction of databases or substantial parts thereof;
  - reproduction of computer programs, except for the cases provided for in Article 24 of this Law;
  - reprographic reproduction of books (on the whole), sheet music and originals works of fine art;
  - reproduction of work without the consent which communicated to the public interactively;
  - any reproduction of work prejudicing normal use or unreasonably limiting author's interests communicated to the public interactively.



# AZERBAIJAN

2/2



...

## LEVY

### Article n°17 of the Law of the Republic of Azerbaijan on Copyright and Related Rights (as amended up to Law of April 30, 2013)

3. While reproducing audiovisual work or phonogram for personal and without commercial purpose, authors, performers and audiovisual work producers with respect to audiovisual work, performers and phonogram producers with respect to phonogram shall be entitled to receive remuneration. Indicated remuneration shall be paid by manufacturer or importer of equipment used for reproduction (audio and videotapes, other equipments) and material media (audio (or) video cassettes, laser discs and other material media). Minimum amount, portion and procedure for paying the remuneration indicated in this Article shall be determined by relevant executive body.

(...)

5. In case the equipment and material media indicated in third paragraph of this Article are exported and are professional and not designed for use for recording in home conditions, no remuneration shall be paid for them. When indicated equipment and materials are imported by natural persons for personal purposes only, no remuneration shall be paid.

## COLLECTION AND DISTRIBUTION SYSTEMS

### Article n°17 of the Law of the Republic of Azerbaijan on Copyright and Related Rights (as amended up to Law of April 30, 2013)

4. The collection and portion of remuneration indicated in third paragraph of this Article shall be carried out by organization managing economic rights of authors, performers and phonogram producers collectively, in accordance with the contract concluded among them. Unless otherwise stipulated in indicated contract, the remuneration shall be divided in following portion: 40%-to authors, 30%-to performers, 30%-to phonogram producers.

The amount and procedure for paying the remuneration shall be determined by contract concluded between indicated manufacturer or importer on the one hand, and authors, performers and audiovisual work and phonogram producers or collective management organizations managing their economic rights on the other hand. In case parties cannot agree, indicated amount and procedure shall be determined by relevant executive body of the Republic of Azerbaijan acting in the field of copyright.

Portion of remuneration for personal purposes as indicated in first paragraph of this Article, shall be implemented among authors or other owners of rights, performers and phonogram producers in ordinary way.



## COMMENTS/LEGAL DEVELOPMENTS

The State Copyright Agency is not taking any actions regarding the application of the private copying levy system. There are no working mechanism for collecting royalties and no management body. In 2015, AAS (the Azerbaijan CMO) wrote a letter to the State Copyright Agency and required information on the implementation and adoption of a Regulation in this regards, but they didn't get any answer from Copyright Agency.

CISAC could be of help to lobby the government for the establishment of an effective mechanism of collection and distribution of the levy.



# KAZAKHSTAN



17.683 million

GDP: 18,195.174 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of an audiovisual work and sound recording for private use is permitted.
<b>LEVY</b>	Equipment Yes (sound recording equipment, videocassette recorders, etc.) Media Yes (tape and cassettes for sound or video recording, compact discs, etc.)
<b>BENEFICIARIES</b>	Authors, performers and producers of phonograms.
<b>LIABLE</b>	Manufacturer, importers
<b>EXEMPTION</b>	Export, Professional Uses
<b>RATE SETTING</b>	Negotiation between CMOs and manufactures/importers. If the parties fail to agree, by a statutory body of the Republic of Kazakhstan
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	Yes No organisation appointed
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No



## LEGAL BASIS

<b>EXCEPTION</b>	<b>Art. 26 of Law on Copyright and Neighboring Rights 1996</b> (1) The reproduction for personal purposes of an audiovisual work or of the sound recording of a work shall be permissible without the consent of the author of the work, the performer or the phonogram producer, but subject to payment of remuneration to them.
<b>LEVY</b>	<b>Art. 26 of Law on Copyright and Neighboring Rights 1996</b> (2) The remuneration for reproduction as referred to in paragraph (1) shall be paid by the manufacturers or importers of the equipment (sound recording equipment, videocassette recorders, etc.) and of the recording material (tape and cassettes for sound or video recording, compact discs, etc.) used for the reproduction. (...)           (5) The amount of the remuneration and the manner of payment shall be determined by agreement between the aforementioned manufacturers and importers, on the one hand, and the organizations for collective administration of the economic rights of authors, phonogram producers and performers, on the other, or, if the parties fail to agree, by a statutory body of the Republic of Kazakhstan.



# KAZAKHSTAN

2/2



...

- (6) No remuneration shall be paid for the recording equipment and material referred to in paragraph (2) that are exported or that constitute professional equipment and material not intended for use in home recording.

## COLLECTION AND DISTRIBUTION SYSTEMS

### Art. 26 of Law on Copyright and Neighboring Rights 1996

- (3) The collection and distribution of such remuneration shall be carried out by one of the organizations for collective administration of the economic rights of authors, of phonogram producers and performers under an agreement concluded with such organizations (Article 43 of this Law).
- (4) Unless otherwise agreed, remuneration shall be distributed as follows: 40 percent to the authors, 30 percent to the performers and 30 percent to the phonogram producers.



## COMMENTS/LEGAL DEVELOPMENTS

Improvements should be made in order to establish an effective and functioning mechanism of collection and distribution of the private copying levy.

Moreover, the beneficiaries of the private copying levy has to be extended to audiovisual rightholders.



# KYRGYZ REPUBLIC



5.976 million

GDP: 39.148 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a visual work or sound recording for personal purposes is permitted.	
<b>LEVY</b>	Equipment	Yes (audio and video recorders, other equipment)
	Media	Yes (audio and (or) videotapes and cassettes, laser discs, compact discs and other material carriers).
<b>BENEFICIARIES</b>	Authors, performers and producers of phonograms.	
<b>LIABLE</b>	Manufacturer, Importers.	
<b>EXEMPTION</b>	Export, professional equipment.	
<b>RATE SETTING</b>	Government of the Kyrgyz Republic	
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	Kyrgyz patent has been appointed, but there is no effective mechanism of collection and distribution.	
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No	



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Art. 26 of Law of the Kyrgyz Republic on Copyright and related rights (as amended up to 2011)</b></p> <p>(1) Notwithstanding the provisions of Articles 16, 37 and 38 of this Act shall be allowed without the author's consent, performers and phonogram producers, but with payment of their remuneration, visual work or sound recording works solely for personal purposes.</p>
<b>LEVY</b>	<p><b>Art. 26 of Law of the Kyrgyz Republic on Copyright and related rights (as amended up to 2011)</b></p> <ol style="list-style-type: none"> <li>1. Notwithstanding the provisions of Articles 16, 37 and 38 of this Act shall be allowed without the author's consent, performers and phonogram producers, but with payment of their remuneration visual work or sound recording works solely for personal purposes.</li> <li>2. Award for reproduction referred to in paragraph 1 of this Article shall be paid by the manufacturers or importers of equipment (audio and video recorders, other equipment) and media (audio and (or) videotapes and cassettes, laser discs, compact discs and other material carriers) used for such reproduction.</li> </ol> <p>List of equipment and media, as well as the size and procedure for collecting appropriate means approved by the Government of the Kyrgyz Republic. (...)</p>



# KYRGYZ REPUBLIC

2/2



...

3. Remuneration shall not be paid for the equipment and material referred to in the first subparagraph of paragraph 2 of this article, which are subject to export, as well as professional equipment, not intended for home use.

## COLLECTION AND DISTRIBUTION SYSTEMS

### **Art. 26 of Law of the Kyrgyz Republic on Copyright and related rights (as amended up to 2011)**

2. (...)

Collection and distribution of remuneration effected by one of the organizations managing the property rights of authors, performers and phonogram producers on a collective basis, in accordance with agreements between these organizations (Article 45 of this Law). If this agreement provides otherwise, the remuneration shall be distributed as follows: 40 percent - authors, 30 percent - performers, 30 percent - producers of phonograms.



## COMMENTS/LEGAL DEVELOPMENTS

Action needed for the establishment of an effective mechanism of collection and distribution of the levy, a regulation should be adopted to determine the process and the levies. A law improvement could be made on equipments and medias covered by the private copying levy, in particular to adapt the scheme to the digital environment.





# TURKEY



77.738 million

GDP: 130.971 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes, there is a private copying exception for all intellectual and artistic works for personal use.				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes but not explicitly regulated</td></tr> <tr> <td>Media</td><td>Yes but not explicitly regulated</td></tr> </table>	Equipment	Yes but not explicitly regulated	Media	Yes but not explicitly regulated
Equipment	Yes but not explicitly regulated				
Media	Yes but not explicitly regulated				
<b>BENEFICIARIES</b>	Ministry of Culture and Tourism (MOCT)				
<b>LIABLE</b>	Manufacturer and importer				
<b>EXEMPTION</b>	No				
<b>RATE SETTING</b>	Rates stated by the Council of Ministers and are based on the General Rate Statistic Position Number				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	There is an effective collection mechanism but there is no distribution to rightholders, all revenues are directly collected and used by the Ministry of Culture and Tourism.				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No, the MOCT collects private copying levy and is free to distribute the amount to cultural purposes of its choice (after a deduction of 1/4 which goes to state budget)				



## LEGAL BASIS

<b>EXCEPTION</b>	<b>Article 38 of the Law No. 5846 of 1951 on Intellectual and Artistic Works (as last amended by Law No. 5728 of 2008)</b>
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It is permitted to reproduce all intellectual and artistic works for personal use without pursuing profit. However, such reproduction may not prejudice the legitimate interests of rightholders without good reason or conflict with the normal exploitation of the work.

<b>LEVY</b>	<b>Article 44 of the Law No. 5846 of 1951 on Intellectual and Artistic Works (as last amended by Law No. 5728 of 2008)</b>
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For the purpose of protection and effective pursuit of intellectual property rights, places which manufacture materials serving the fixation or reproduction of intellectual and artistic works and/or carry out the recording, reproduction and sale of such materials or distribute and supply to the public in any way, excluding places that only print periodicals, shall be given a certificate by the Ministry against a fee. Places that are determined by the Ministry are obliged to maintain software approved by the Ministry and hardware complying with criteria to be set by the Ministry, to form the necessary infrastructure and to inform to the Ministry transactions they carry out in each calendar year. Such places and economic rights holders are also jointly obliged to maintain codes complying with international standards and marks and serial numbers that are deemed necessary by the Ministry, on the materials carrying works.



# TURKEY

2/2



...

Natural and legal persons who manufacture or import for commercial purposes any kind of materials carrying works such as blank video cassettes, audio cassettes, computer discs, CDs, DVDs and all kinds of technical equipment which serve the reproduction of intellectual and artistic works are obliged to collect every month and deposit, until the middle of the following month at the latest, in a special account to be opened with a national bank in the name of the Ministry of Culture and Tourism, an amount to be determined by the Council of Ministers not exceeding 3% of the manufacturing or importation costs.

(...)

## COLLECTION AND DISTRIBUTION SYSTEMS

### Article 44 of the Law No. 5846 of 1951 on Intellectual and Artistic Works (as last amended by Law No. 5728 of 2008)

(...)

A quarter of the amounts collected in the special account shall be transferred to the account of the Ministry of Culture Central Accounting Office and shall be recorded as revenue in the budget.

The amounts remaining in this account shall be used the purpose of strengthening the intellectual property system and the execution of cultural and artistic activities. The rules and procedures concerning the distribution and use of these monies shall be determined with a by-law to be issued by the Ministry of Culture and Tourism. The allowance which is necessary for activities concerning the protection of the cultural heritage within and outside the country shall be placed in the budget of the Ministry.

Rules and procedures regarding the application of this article and the fees to be collected shall be determined with a by-law to be issued by the Ministry of Culture.



## COMMENTS/LEGAL DEVELOPMENTS

Turkish Copyright Law has to be reviewed in order to comply with international treaties. The private copying levy is at the moment received by the Ministry of Culture and Tourism, and not redistributed to CMOs. A collection and distribution scheme which benefits to the rightholders has to be set up, Turkish societies has sent a proposal of amendment of the copyright law in order to set that 40% of the private copying levy collected has to be further distributed to rightholders.

A draft law has been prepared by Turkish government but never sent for consultation despite Turkish Societies and CISAC request, which is not a good sign for the future.



# TURKMENISTAN



5.388 million

GDP: 48.257 million €

1/2



## OVERVIEW

### EXCEPTION

Yes, reproduction of a single copy of a lawfully published work by a private person solely for private use.

### LEVY

Equipment Yes (audio- and (or) video recorders or other equipment)  
Media Yes (audio and (or) video tapes, compact discs and other material carriers)

### BENEFICIARIES

Authors, Performers, Producers of phonograms and audiovisual producers.

### LIABLE

Manufacturers and Importers

### EXEMPTION

Export, Professional use

### RATE SETTING

The rates are fixed by an agreement between the producers and importers on the one hand, and the CMOs representing the rights of the authors, producers of phonograms or videograms and performers on the other hand. In the case where the parties cannot reach such agreement, the rates are fixed by the authorized state administration body on intellectual property.

### COLLECTION AND DISTRIBUTION SYSTEM

Yes No entity appointed yet, no effective mechanism.

### SOCIAL AND CULTURAL DEDUCTIONS

No



## LEGAL BASIS

### EXCEPTION

**Article 18 of the Law of Turkmenistan No. 257-IV of January 10, 2012 on Copyright and Related Rights** (Translation from Russian version)

1. Reproduction of a single copy of a lawfully published work by a private person solely for private use and without commercial purpose is authorised without the author's or any other copyright holder's consent and without author's remuneration.
2. Paragraph one of the present article is not applied in relation to:
  - 1) Reproduction of architectural works in the form of buildings and similar objects;
  - 2) Reproduction of databases or their substantial parts;
  - 3) Reproduction of computer programs, except the cases listed in the Article 21 of this Law;
  - 4) Reprographic reproduction of books (entirely), sheet music and original works of fine art.



# TURKMENISTAN

2/2



...

## LEVY

### Article 18 of the Law of Turkmenistan No. 257-IV of January 10, 2012 on Copyright and Related Rights

3. Reproduction of an audiovisual work, phonogram or videogram by a private person for private use and without commercial purpose is authorised without the copyright holder's consent, but with a payment of remuneration: in relation to reproduction of an audiovisual work – to the authors, performers and producer of the audiovisual work; in relation to reproduction of a phonogram (videogram) – to the authors, performers and producer of the phonogram (videogram).

Remuneration is paid to the manufacturers and importers of the equipment (audio- and (or) video recorders or other equipment) and material information carriers (audio and (or) video tapes, compact discs and other material carriers) used for such reproduction.

The amount of remuneration and the conditions of its payment are determined by an agreement between the manufacturers and importers on the one hand, and the organisations managing the economic rights of the authors, producers of phonograms or videograms and performers on a collective basis on the other hand, and in the case if the parties cannot reach such agreement – by the authorised state administration body on intellectual property.

It is taken into account that if the rightholders apply technical means of protection, access to such works, phonograms and videograms with the purpose of reproduction for private use can also be limited by payment of remuneration.

## COLLECTION AND DISTRIBUTION SYSTEMS

### Article 18 of the Law of Turkmenistan No. 257-IV of January 10, 2012 on Copyright and Related Rights

3. (..)

The collection and distribution of this remuneration is carried out by collective management organisations that deal with economic rights. The remuneration is subject to distribution according to the following proportion: 40% - to the authors, 30% - to the performers, 30% - to the producers of phonograms (videograms) in relation to works and phonograms (videograms), when it can be assumed that that they were reproduced for private use.

4. Remuneration is not paid for the equipment and material carriers listed in the second part of this article that are:

- a) Export commodities;
- b) Professional equipment not intended for household use.

Remuneration is not paid when the indicated equipment is imported by private persons solely for private use.



## COMMENTS/LEGAL DEVELOPMENTS

Turkmenistan has not signed yet the Berne Convention, but it seems that it is going to. There is no information available on an existing and functioning collection and distribution system, CISAC could be of help to assist the Turkmenistan's government in developing a valuable one.



# UZBEKISTAN



30.971 million GDP: 1,361.225 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a published work for personal purposes is permitted	
<b>LEVY</b>	Equipment	Yes (audio or video tape recorders, and other equipment)
	Media	Yes (audio and (or) video tapes and cassettes, cd, and other tangible mediums)
<b>BENEFICIARIES</b>	Authors, Performers, Producers of phonograms and audiovisual manufacturers	
<b>LIABLE</b>	Manufacturer, Importer	
<b>EXEMPTION</b>	Export, Professional use	
<b>RATE SETTING</b>	Cabinet of ministers of the Republic of Uzbekistan	
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	Yes	No effective mechanism
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No	



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Article 25 of the Law on Copyright and Related rights of 2006</b></p> <p>Admitted without consent of author or another legal owner, and without payment of remuneration of reproduction of disclosures work in personal purposes, except for the cases, provided in article 33 of this law.</p> <p>Rules of first part of this article are not applied regarding the following cases:</p> <ul style="list-style-type: none"> <li>- reproduction of architectural works in form of buildings and constructions;</li> <li>- reproduction of databases or their essential parts, reproduction of computer software programs, except for the cases, specified by law;</li> <li>- reprographic reproduction of books (in whole) and musical texts.</li> </ul>
<b>LEVY</b>	<p><b>Article 33 of the Law on Copyright and Related rights of 2006</b></p> <p>It is admitted without the consent of author of work, executor, producer of phonorecord, and manufacturer of audiovisual work, but with the payment to him the remuneration, the reproduction of audiovisual work or phonorecord in personal purposes without extraction of revenue.</p> <p>The remuneration is paid by the producer and the equipment importers (audio or video tape recorders, and other equipment) and tangible mediums (audio and (or) video tapes and cassettes, cd, and other tangible mediums), used for such reproduction.</p>



# UZBEKISTAN

2/2



...

List of manufactured and imported equipment and tangible mediums, as well as the rates of collecting remuneration, terms and procedure of its collection are established by the cabinet of ministers of the Republic of Uzbekistan.

(...)

Control and supervision over the procedure of collection and distribution of remunerations, stated with this article are implemented by the designated authority collection is not made and remuneration is not paid with respect to equipment and tangible mediums that the subject matters of export, as well as professional equipment that is not destined for use in domestic conditions.

## COLLECTION AND DISTRIBUTION SYSTEMS

### Article 33 of the Law on Copyright and Related rights of 2006

(...)

Collection and distribution of remuneration stated in this article are implemented by the one of organizations, controlling the property rights of authors, producers of phono records, and executors on collective basis, in accordance with the agreement concluded between these organizations. Unless otherwise is stated by this agreement, the indicated remuneration is distributed in following proportion: Forty percent - to authors, thirty percent - to executors, thirty percent - producers of phonorecords and (or) manufacturers of audiovisual works.

Control and supervision over the procedure of collection and distribution of remunerations, stated with this article are implemented by the designated authority collection is not made and remuneration is not paid with respect to equipment and tangible mediums that the subject matters of export, as well as professional equipment that is not destined for use in domestic conditions.



## COMMENTS/LEGAL DEVELOPMENTS

The cabinet of ministers of the Republic of Uzbekistan has not appointed a “designated authority collection”, neither the list of manufactured and imported equipment and tangible mediums, as well as the rates of collecting remuneration. Therefore, there is no effective collection and distribution of the levy. A regulation should be adopted.



# GEORGIA



3.697 million

GDP: 14.026 million €

1/3



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a published work for personal purposes is permitted.
<b>LEVY</b>	Equipment Yes (audio- and video recorders and other equipment) Media Yes (audio and video tapes, cassettes, laser disks, compact disks, and other material carriers)
<b>BENEFICIARIES</b>	Authors, performers and producers of audiovisual work and phonograms
<b>LIABLE</b>	Manufacturer, importer
<b>EXEMPTION</b>	Export, Professional equipment
<b>RATE SETTING</b>	Negotiation between right holders and importers/manufacturers; if they don't agree rate are setting by a governmental agency (Sakpatenti)
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	Yes GCA (it is currently the only CMO in Georgia)
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	10% (GCA internal regulation)
<b>GLOBAL REVENUE IN 2012 OR 2013</b>	N/A



## LEGAL BASIS

<b>EXCEPTION</b>	<b>Article 21 of the law of Georgia on copyright and neighboring right of 1999 (as amended in 2010)</b>  1. A natural person may reproduce a work made available to the public by means of lawful publication or making available to the public only for personal use without consent of the author or other owner of copyright and without payment of remuneration thereto, except for the cases stipulated by paragraphs 2 and 3 of this Article.  2. Paragraph one of this Article shall not apply in case of: <ol style="list-style-type: none"> <li>reproduction of architectural works in the form of buildings;</li> <li>reproduction of electronic databases, except for the cases provided for by Articles 28 and 30 of this Law;</li> <li>reproduction of computer programs, except for the cases provided for by Articles 28 and 29 of this Law;</li> <li>reprographic copying of books (wholly), music notations (musical work in a graphic form) and works of fine arts;</li> <li>reproduction of an audiovisual work or a work fixed in a phonogram or videogram.</li> </ol>
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# GEORGIA

2/3



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3. In the case of reproduction of an audiovisual work or a work fixed in a phonogram by a natural person for personal use, the author or other copyright owner thereof, shall, in contrast to the rule provided for in paragraph one of this Article, be entitled to the receipt of respective remuneration.

## LEVY

### Article 21 of the law of Georgia on copyright and neighboring right of 1999 (as amended in 2010)

3. In the case of reproduction of an audiovisual work or a work fixed in a phonogram by a natural person for personal use, the author or other copyright owner thereof, shall, in contrast to the rule provided for in paragraph one of this Article, be entitled to the receipt of respective remuneration.
4. The remuneration for the reproduction for personal use, shall be paid by producers and importers of the equipment (audio- and video recorders and other equipment) and of material carriers (audio and video tapes, cassettes, laser disks, compact disks, and other material carriers).

## COLLECTION AND DISTRIBUTION SYSTEMS

### Article 21 of the law of Georgia on copyright and neighboring right of 1999 (as amended in 2010)

5. The remuneration shall be collected and distributed by one of the organizations that administer the economic rights of authors, performers and phonogram producers on a collective basis, under an agreement concluded between these organizations. Unless the agreement provides otherwise, the remuneration shall be distributed as follows: 40 percent - to the authors, 30 percent - to the performers, and 30 percent - to the phonogram producers. The said organizations may request information concerning production and importation of the equipment and material carriers referred to in paragraph 4 of this Article from natural and legal persons as well as from governmental organizations and institutions.
6. The amount and the payment procedure of the remuneration shall be determined by an agreement between the said producers and importers on the one hand and with one of the organizations that administer the economic rights of authors, performers and phonogram producers on a collective basis on the other hand. If the parties fail to agree, the amount of the remuneration, its calculation and payment procedure shall, subject to the request by any party or the parties, be determined by "Sakpatenti". The decision by "Sakpatenti" may be appealed against in court within 2 months of its making.
7. The remuneration shall be distributed among the authors of the works and other owners of copyright and related rights, referred to in paragraphs 3 and 5 of this Article.
8. The remuneration shall not be distributed in respect to the equipment and material carriers provided for by paragraph 4 of this Article, which represent:
  - a. the subject of export;
  - b. the professional equipment not intended for domestic use.
9. The remuneration shall not be also paid in the case of importation of the said equipment and material carriers by natural persons for personal purposes.
10. The right of reproduction of the copyrighted works provided for by this Law shall not apply to a temporary copy.





# GEORGIA

3/3



## COMMENTS/LEGAL DEVELOPMENTS

GCA has just started to collect the private copying levy.

A law improvement could be made on equipments and medias covered by the private copying levy, in particular concerning digital medias.



# ISRAEL



8.377 million

GDP: 1,028.344 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes
<b>LEVY</b>	Equipment No Media Yes (only analog tape)
<b>BENEFICIARIES</b>	Authors, performers, sound producers and audio-visual producers
<b>LIABLE</b>	Government (Ministry for culture)
<b>EXEMPTION</b>	N/A
<b>RATE SETTING</b>	Law states the sum (5% of the retail price multiplied by the total of devices sold during the preceding year). A Committee composed of representatives of different ministers determine the final data required for the final determination of the amount.
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	Yes, the Ministry for culture is the body within the Government that is in charge of transferring the levy sum to the different corporations of rightholders.
<b>SOCIAL AND CULTURAL FUNDS</b>	No
<b>REVENUE IN 2014</b>	Around 370 000€



## LEGAL BASIS

<b>EXCEPTION</b>	<b>Article 3 C of the Copyright ordinance of 1911 - Private and Domestic Use</b> Recording or copying a work on recordable media for private and domestic, but not commercial, uses shall not be a violation of copyright and performers' rights.
<b>LEVY</b>	<b>Article 3 D of the Copyright ordinance of 1911 - Private and Domestic Use</b> (a) The Government shall compensate the copyright owners and the owners of performers' rights for the loss of income and violation [damage] of rights caused to them by the recording and copying for private and domestic use under section 3C.

## COLLECTION AND DISTRIBUTION SYSTEMS

### Article 3 D of the Copyright ordinance of 1911 - Payment to Owners of Copyright and Performers' Rights

- (b) The Government shall transmit to the royalties companies every year an amount equal to 5% of the retail price without VAT of all cassettes sold in Israel for private and domestic use during the preceding year.
- (c) The amount said in subsection (b) shall be divided equally between the three royalties companies enumerated in paragraphs (1), (2) and (3) of section 3B.



# ISRAEL

2/2



...

- (d) A committee composed of a representative of the Minister of Finance, a representative of the Minister of Justice and a representative of the Minister of Education, Culture and Sport shall determine the data required for the determination of the said amount.

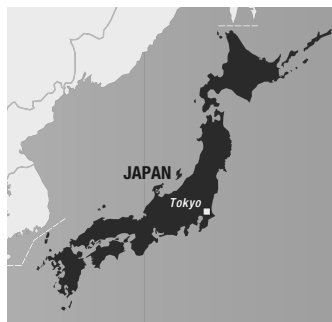
## Article 3 E of the Copyright ordinance of 1911 - Division of Compensation

In the case of disagreement on the division of compensation amount, the Court shall decide on the matter; to the Court hearings shall be summoned, in ways to be prescribed by regulations, representatives of the royalties companies, a representative of the Ministry of Education, Culture and Sport and the author or performer, in respect of whose compensation there is disagreement, as the case may be; the Court's decision shall bind all royalties companies and all holders of copyright and performers' rights, even if they were not parties to the proceeding before the Court.



## COMMENTS/LEGAL DEVELOPMENTS

The private copying levy system in Israel is archaic and is determined pursuant to the Copyright Ordinance of 1911. Since this statute is quite old, it does not apply to all the various current devices available for private use in the market and it is designed to compensate the right-holders only when private copying by analog tapes are concern. The private copying exception should be updated in order for instance to cover more devices, and in particular digital devices.



# JAPAN



126.926 million GDP: 528,583.000 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of a work for private use is permitted
<b>LEVY</b>	<p>Equipment Yes (MD, CD, DAT recorder and digital compact cassette recorders/ Digital video cassette, VHS, DVD, Blue-Ray recorders)</p> <p>Media Yes (MD, CD-R/RW, DAT, digital compact cassette/ Digital video cassette, VHS, DVD, Blue-Ray)</p>
<b>BENEFICIARIES</b>	Authors, performers, audiovisual producers and phonogram producer
<b>LIABLE</b>	<p>Users/Purchasers</p> <p>Manufacturer and importer are requested to cooperate in the collection at the point of sale</p>
<b>EXEMPTION</b>	Export, professional use
<b>RATE SETTING</b>	<p>CMOs and manufacturers negotiate the rates, they are submitted and validated by a Cabinet Order of the Agency for Cultural Affairs.</p> <p>Rate model: % on the sale price</p>
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	<p>Two societies have been appointed by the Agency for Cultural Affairs:</p> <ul style="list-style-type: none"> <li>- Society for the Administration of Remuneration for Audio Home Recording (SARAH)</li> <li>- Society for the Administration of Remuneration for Video Home Recording (SARVH), but this one was disbanded in 2015.</li> </ul>
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	20% of the compensation received
<b>REVENUE IN 2014</b>	701 000€



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Article 30 of the Copyright Law of 1970 (as amended up to 2002)</b></p> <p>1. It shall be permissible for a user to reproduce by himself a work forming the subject matter of copyright (hereinafter in this Subsection referred to as a "work") for the purpose of this personal use, family use or other similar uses within a limited circle (hereinafter referred to as "private use"), except in the following cases:</p> <ul style="list-style-type: none"> <li>(i) where such reproduction is made by means of automatic reproducing machines ("automatic reproducing machine" means a machine having reproducing functions and in which all or main parts of reproducing devices are automatic) placed for the use by the public;</li> <li>(ii) where such reproduction is made by a person who knows that such reproduction becomes possible by the circumvention of technological protection measures or it ceases to cause obstruction, by such circumvention, to the results of acts deterred by such measures ("circumvention" means to enable to do acts prevented by technological protection measures or to stop causing obstruction to the results of acts deterred by such measures, by removal or alteration of</li> </ul>
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# JAPAN

2/2



...

signals used for such measures; the same shall apply in Article 120bis, items (i) and (ii)) ("removal" or "alteration" does not include such removal or alteration as is conditional upon technology involved in the conversion of recording or transmission systems.

## LEVY

### Article 30 of the Copyright Law of 1970 (as amended up to 2002)

2. Any person who, for the purpose of private use, makes sound or visual recording on such a digital recording medium as specified by Cabinet Order by means of such a digital recording machine as specified by Cabinet Order (excluding (a) machines having special efficiency generally not for private use but for business use, such as that for broadcasting, and (b) machines having sound or visual recording functions incidental to the primary functions, such as telephones with sound recording function) shall pay a reasonable amount of compensation to the copyright owners concerned.

## COLLECTION AND DISTRIBUTION SYSTEMS

N/A



## COMMENTS/LEGAL DEVELOPMENTS

In Japan, the amount collected for private copying has drastically decreased since 2000 because the most popular devices, such as mp3 players, mobile phones and PCs are not included in the current plan. In November 2013, the coalition of 85 rightholders groups in Japan named "Culture First" held a press conference and proposed the creation of a new remuneration system based on two principles: the subject of the remuneration should be the copying functions that are provided for the purpose of private copying, and the supplier of the copying function should be obligated to pay remuneration. Since then, Japan Government have reengaged the debate on private copying in order to install a more efficient system, but there is no progress for the moment.

The collecting society SARVH was disbanded in 2015 following the loss of a court case with Toshiba on the video compensation collection. There is no further information on this issue and on a legislation reform, it is a matter that should be resolved as soon as possible by the legislator.



## 4 - EUROPE

The European continent is very broad, covering European Union (EU) countries where there is traditionally a high level of protection as well as countries from the east and south of Europe, which require support on legal matters and technical assistance to improve the level of author's protection. In these countries, despite the impressive achievements in the previous decade, there is still a big gap between the law and its implementation. The main reasons are a lack of solid private copyright traditions and awareness in addition to, at times, inefficient judicial systems.

On the 44 European countries studied, two countries (United Kingdom and Monaco) have not introduced a private copying exception in their domestic law. On the 42 countries who have such an exception, 37 countries have adopted a compensation remuneration. However, 10 have not implemented a collection and distribution system. 22 of the 39 countries are EU Member States.

Of the 27 EU Member States, two (United Kingdom and Ireland) have no private copying compensation in place and five (Malta, Cyprus, Bulgaria, Slovenia and Luxembourg) have not implemented an effective system to collect and distribute the levy and thus are not compliant with EU law.

Under Directive 2001/29/CE on the harmonisation of certain aspects of copyright and related rights in the information Society, Member States can provide for certain exceptions and limitations to the exclusive right of reproduction, in particular for acts of private copying (article 5 (2)(b)), under the condition that it is accompanied by fair compensation. The Directive is neutral on the form of the compensation, but the majority of Member States have implemented a private copying levy system on recording equipment and/or blank media. Other Member States (e.g. Spain, Norway) provide fair compensation by means of state-funded budget.

Thanks to the Directive, even if the private copying compensation systems differ widely in terms of structure, tariffs and levied products, EU countries are well-advanced and provide fair remuneration to rightholders. The challenge for EU countries is now to address the Cloud and N-PVR services.

However, private copying compensation is still a highly political and sensitive issue that is not unchallenged. Since 2011 and under pressure and lobbying from the IT industry, the European Commission (EC) and the European Parliament (EP) have taken several initiatives on private copying with public consultations and reports (Vitorino report, Castex report, etc.). For the moment, they have not resulted in fundamental reform. The European Court of Justice has also rendered several rulings and clarified important issues on private copying exception in the last couple of years (in particular on contractual authorisations for online services, cultural and social actions' schemes, cross-border sales, articulation with DRM and the legality of the source), and therefore has made EC intervention less justified. In view of the next EU copyright reform announced in the EC Communication of 9 December 2015 "Towards a modern, more European copyright framework", the creators' community remains cautious, particularly in regards to the publishers' right issue following the Reprobel decision.

In Europe, the focus should be made on eight countries where a proper collection and distribution system is not functioning and thereby penalizing domestic creators while undermining their ability to earn a living from their work. These countries are Malta, Cyprus, Bulgaria, Slovenia, Luxembourg, Belarus, Montenegro, Bosnia and Herzegovina, Macedonia and Moldova. It requires urgent action to encourage local governments redress the current situation by providing proper enforcement and necessary amendments in the domestic copyright law in order for private copying to become effective, applicable and duly harmonised with EU legislation for EU countries. Several actions have already begun, particularly in Slovenia and Bulgaria.

Furthermore, the presence of authors' societies in Eastern Europe and their technical capacities needs to be improved in order to ensure their ability of collecting fair remuneration from the liable parties and distributing it in the most efficient way to rightholders.



# EUROPE: COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION



## MONACO

The Law No. 491 of November 24, 1948 (as amended up to 2006) on the Protection of Literary and Artistic Property doesn't provide any private copying exception.,



## UNITED KINGDOM

The Government introduced a private copying exception in 2014 without compensation remuneration arguing that the harm caused by the exception would be minimal.

Fortunately, after a judicial review against the government initiated by music organisations, the legislation has been declared "unlawful" by the High Court and thus, has been overturned in June 2015.



# ALBANIA



2.889 million

GDP: 767.819 million €



## OVERVIEW

### EXCEPTION

Yes, reproduction of a work for private use is permitted on the condition that it does not prejudice the commercial exploitation of the work

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Article n°26 of Law No. 9380 of April 28, 2005, on Copyright and Related Rights Restrictions of the copyright Usage of the work without the permission of the author**

The usage of a work is permitted, without the prior approval of the author and without any remuneration, on the condition that these usage do not prejudice the copyright or the right holders' rights on the work. These cases include the following: Published works may be used without the author's permission subject to the following conditions and in the following cases:

(..)

- d) Reproduction of the entire work or parts of works for private use on the condition that it does not prejudice the commercial exploitation of the work.





# ANDORRA



## OVERVIEW

### EXCEPTION

Yes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Article 7 of Law on copyright and neighbouring rights**  
**Private Reproduction for Personal Purposes**

- (1) Notwithstanding the provisions of Article 5(1) (a), and subject to the provisions of paragraphs (2) to (6), the private reproduction in a single copy of a published work, where the reproduction is made by a physical person exclusively for his own private and personal use, including such use within the normal circle of his family and its social acquaintances, shall be permitted without the authorization of the author or of other owner of the copyright in the work.
- (2) The permission under paragraph (1) shall not extend to the reproduction
  - (a) of a work of architecture in the form of building or other construction;
  - (b) where the reproduction is reprographic reproduction, of an entire book, or a substantial part thereof, or of a musical work in graphic form;
  - (c) of a computer program, except as provided in Articles 12 and 13;
  - (d) of an electronic data base, except as provided in Article 14;
  - (e) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or, or other owner of the copyright in, the work.



## COMMENTS/LEGAL DEVELOPMENTS

The Andorran law on authors and neighbouring rights of 1999 recognizes a remuneration system for private copying. However, such remuneration system was abolished by Law 23/2011, of 29 desember, of SDADV's creation.

The Andorran Parliament took such decision due to the facts that (1) Andorran private copying exception is extremely limited, and (2) at that time the ECJ started to issue decisions against some private copying remuneration systems. The Parliament decided to abolish it in order to study in depth, which could be a correct system of that kind for Andorra.



# IRELAND



4.635 million

GDP: 203.524 million €



## OVERVIEW

### EXCEPTION

Yes, there is a "time-shifting" exception which allows a person to record a television or radio broadcast and watch or listen to it later.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 101 of the Copyright Act of 2000

- (1) The making for private and domestic use of a fixation of a broadcast or cable programme solely for the purpose of enabling it to be viewed or listened to at another time or place shall not infringe the copyright in the broadcast or cable programme or in any work included in such a broadcast or cable programme.
- (2) Subject to subsection (3), the making by an establishment for private and domestic use of a fixation of a broadcast or cable programme solely for the purpose of enabling it to be viewed or listened to at another time or place shall not infringe the copyright in the broadcast or cable programme or in any work included in such a broadcast or cable programme.
- (3) The Minister may specify by order establishments for the purposes of this section.
- (4) Where a fixation which would otherwise be an infringing copy is made under this section and is subsequently sold, rented or (otherwise than to a person's family member or friend for private and domestic purposes) lent, or offered or exposed for sale, rental or loan, or otherwise made available to the public, it shall be deemed to be an infringing copy for those purposes and for all subsequent purposes.



## COMMENTS/LEGAL DEVELOPMENTS

As soon as the time shifting exception authorized a person to make a copy of a protected work for its personal use, it should entered in the scope of the private copying exception and as such, according to the EU Directive 2001/29/CE, it should be accompanied by a levy system. The Irish Copyright and Related Rights Act of 2000 does not provide a private copying levy despite being a member of the EU and as such, is infringing the EU Directive 2001/29/CE.



# SAN MARINO



0.031 million

GDP: 1.247 million €



## OVERVIEW

### EXCEPTION

Yes, it is authorized to make copies of a published work for private and non-collective purposes, with the exception of copies of works intended for purposes which are the same to those for which the work was made.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Art. 98 della Legge n. 8 del 25 gennaio 1991 - Tutela del diritto d'autore**

E' libera, a condizione che l'opera sia stata precedentemente divulgata:

(...)

- b) le copie o riproduzioni strettamente riservate all'uso privato del copista e non destinate ad un'utilizzazione collettiva, ad eccezione delle copie di opere destinate ad essere usate per fini identici a quelli per cui è stata creata l'opera originale;



# BELARUS



9.499 million

GDP: 156,820.481 million €

1/2



## OVERVIEW

### EXCEPTION

Yes, reproduction of legally published works by individuals for personal purposes is permitted. This does not apply to works of architecture, databases, computer programs, notation texts and books.

### LEVY

Equipment Yes (sound recording equipment, videocassette recorders, etc.)  
Media Yes (tape and cassettes for sound or video recording, compact discs, etc.)

### BENEFICIARIES

Authors, performers and producers of phonograms

### LIABLE

Manufacturer, Importers

### EXEMPTION

Export

### RATE SETTING

Negotiation between CMOs and manufactures/importers. If the parties fail to agree, rates are set by a statutory body (Council of Ministers of the Republic of Belarus).

### COLLECTION AND DISTRIBUTION SYSTEM

Collection and distribution by local CMO (CNIP) on the basis of n Negotiation between CMOs and manufactures/importers. In the absence of an agreement, if the parties fail to agree, a statutory body (Council of Ministers of the Republic of Belarus) will decide. Currently, no effective mechanism is in place.

### SOCIAL AND CULTURAL DEDUCTIONS

No



## LEGAL BASIS

### EXCEPTION

**Art. 18 of Law of the Republic of Belarus No. 370-XIII of May 16, 1996, on Copyright and Related Rights (as amended by Law of the Republic of Belarus No. 396-3 of July 14, 1998)**

1. In exception from provisions of Article 16 of the present Law and under condition of observance of provisions of clauses 3, 4 and 5 of the present Article, it is allowed to reproduce, without the permit of the author (other right-owner) and without payment of any reward, legally published works in single copies by an individual exclusively in personal purposes.
2. Clause 1 of the present Article is not applied to reproduction of the following: works of architecture in the form of buildings or other structures; databases or essential parts of them; computer programs, except for cases envisaged by Article 21 of the present Law; notation texts and books (completely) through copying



# BELARUS

2/2



...

## LEVY

**Art. 18 of Law of the Republic of Belarus No. 370-XIII of May 16, 1996, on Copyright and Related Rights (as amended by Law of the Republic of Belarus No. 396-3 of July 14, 1998)**

3. For reproduction of audio-visual works and works embodied in sound tracks, the author (other right-owner), and also performers and producers of sound tracks (their assignees) have the right to receive the reward. The reward is paid by: manufacturers of the equipment (audio- and videotape recorders and other equipment) and material carriers (films, cassettes, laser disks, compact discs and other material carriers), usually used for reproduction of works in personal purposes, except for the equipment and material carriers exported abroad, and importers of the above equipment and material carriers, except for cases when the import is executed by a private person in his/her personal purposes.

## COLLECTION AND DISTRIBUTION SYSTEMS

**Art. 18 of Law of the Republic of Belarus No. 370-XIII of May 16, 1996, on Copyright and Related Rights (as amended by Law of the Republic of Belarus No. 396-3 of July 14, 1998)**

4. Collection of the above reward shall be executed by the organisation for collective control of ownership rights. At absence of the agreement between representatives of the manufacturers and importers indicated above in clause 3, on the one hand, and the organisation for collective control of ownership rights, on the other hand, the size of the above reward and the conditions of payment of it are determined by the Council of Ministers of the Republic of Belarus.
5. The organisation for collective control of ownership rights shall distribute the reward between the authors (other right-owners) of the works indicated above in clause 3 of the present Article and performers and producers of sound tracks indicated above in clause 2 of Article 36 of the present Law, in relation to which it is possible to suppose that they were reproduced for personal purposes pursuant to clause 1 of the present Article. At absence of the agreement between different groups of authors (other right-owners) and (or) performers and producers of sound tracks (their assignees) concerning proportion of distribution of the reward due to them, such proportion is determined by the Council of Ministers of the Republic of Belarus.



# BOSNIA-HERZEGOVINA



3.863 million

GDP: 26.960 million €

1/3



## OVERVIEW

### EXCEPTION

Yes, the reproduction in one copy of a disclosed work by a natural person is permitted:

- on paper or similar medium, by means of photocopying or other photography technique making;
- any other media, provided that copies are made for private use and that the reproduction is not aimed at gaining direct or indirect economic advantage.

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Authors, performers and producers of phonograms/films, publishers.

### LIABLE

Manufacturer and importer

### EXEMPTION

No

### RATE SETTING

Rates fixed by the Council of Ministers of Bosnia and Herzegovina, separately for different categories of devices and media.

### COLLECTION AND DISTRIBUTION SYSTEM

Collection by local CMOs. Distribution is made in the ratio of 40:30:30 among authors, performers, phonogram and film producers and publishers. Currently, no effective mechanism is in place.

### SOCIAL AND CULTURAL DEDUCTIONS

No



## LEGAL BASIS

### EXCEPTION

#### Article 46 of the Copyright and Related Rights Law

(1) Without prejudice to the rights referred to in paragraph (1) of Article 36 of this Law, the reproduction of a disclosed work shall be free if only one copy has been made and if the conditions referred to in paragraphs (2) and (3) of this Article have been met.

(2) A natural person may reproduce a work freely: (...)

b) on any other media, provided that he does it for private use, provided that the copies are not intended for or accessible by the public and provided that such reproduction is not aimed at gaining direct or indirect economic advantage.  
(...)

(4) Unless otherwise provided by this Law or a contract, and independently of the provisions of paragraphs (1), (2) and (3) of this Article, the reproduction of the following shall not be permitted: a) written works to the extent of the whole book – unless the copies of such book are out of print for a minimum of two years; b) graphic editions of musical works (sheet music) – except by means of handwritten transcription, c) electronic databases and computer programs, d) works of architecture, in the form of building an architectural structure, e) any work if such reproduction would be contrary to the ordinary exploitation of a work and detrimental to the legitimate interests of the author or copyright holder to an unreasonable extent.



# BOSNIA-HERZEGOVINA

2/3



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## LEVY

## Articles 36-37-38 of the Copyright and Related Rights Law

### Article 36 (Right to Remuneration for Private and Other Internal Use)

- (1) If, under the provisions of Article 46 of this Law, a work may be reproduced without author's consent, the author of the works which, due to their nature, may be expected to be reproduced by photocopying or recording them on sound, video or text recording media for private or other internal use shall have the right to remuneration for such use.
- (2) The remuneration, referred to in paragraph (1) of this Article, for sound and visual recording shall be payable: a) at the first sale or importation of new technical devices for sound and visual recording and b) at the first sale or importation of new blank sound, video or text recording media.
- (3) The remuneration for photocopying referred to in paragraph (1) of this Article shall be payable: a) at the first sale or importation of new photocopying devices, b) on made photocopies intended for sale.
- (4) For the purposes of this Law, the importation into Bosnia and Herzegovina shall mean any release into circulation and any bringing of goods into the territory of Bosnia and Herzegovina, with the exception of small quantities intended for private and non-commercial use, which are brought into as a part of personal luggage or sent in small consignments. (5) Equal to photocopying shall be considered all other reproduction techniques, and equal to sound and visual recording devices shall be considered all other devices allowing for the achievement of the same effect. (6) The right to remuneration under the provision of paragraph (1) of this Article may not be subject to waiver, disposal with during lifetime and execution.

### Article 37 (Persons Liable to Pay Remuneration)

- (1) The remuneration referred to in paragraph (2) and item a) of paragraph (3) of Article 36 of this Law shall be paid by the manufacturers of sound and visual recording devices, manufacturers of photocopying devices and manufacturers of blank audio and video recording media.
- (2) If the devices and blank media referred to in paragraph (1) of this Article are imported into Bosnia and Herzegovina, the remuneration referred to in Article 36 of this Law shall be paid by the importer.
- (3) The manufacturers referred to in paragraph (1) of this Article shall not pay remuneration for the devices and blank media which are exported from Bosnia and Herzegovina.
- (4) The remuneration referred to in item b) of paragraph (3) of Article 36 of this Law shall be paid by natural persons and legal entities rendering photocopying services against payment.



# BOSNIA-HERZEGOVINA

3/3



...

## Article 38 (Amount of Remuneration)

- (1) The amounts of individual remunerations for private and other internal reproduction, belonging collectively to all right holders under this Law, shall be fixed by the Council of Ministers of Bosnia and Herzegovina.
- (2) The amounts referred to in paragraph (1) of this Article shall be fixed separately for different categories of devices and media as follows:
  - a) for any sound recording device – dependent on the technology (analogue, digital) and the fact whether such devices are intended exclusively for the reproduction of sound recordings or not,
  - b) for any audiovisual recording device – dependent on the technology (analogue, digital) and the fact whether such devices are intended exclusively for the reproduction of audiovisual or video recordings or not,
  - c) for any blank audio or video recording media – dependent on the technology (analogue, digital) and maximum duration of sound or picture reproduction,
  - d) for any photocopying device or other device with similar reproduction technique (fax, printer, photo printer and the like) – dependent on the maximum number of copies per minute and the possibility of color reproduction,
  - e) for every single photocopy made for sale to natural persons.

## COLLECTION AND DISTRIBUTION SYSTEMS

### Article 22 of the Law on the Collective Management of Copyright and Related Rights in Bosnia

(Special Cases of the Distribution of Remunerations)

- (1) The remuneration received on the basis of the right to remuneration for private and other internal use which is paid, according to the law governing copyright and related rights, at the first sale or importation of new technical devices for sound and visual recording and new blank sound, picture or text fixation media, shall be divided among authors, performers and phonogram producers or film producers in the ratio of 40:30:30.





**EUROPE: COUNTRIES WITH A PRIVATE COPYING LEVY BUT WITHOUT COLLECTION AND DISTRIBUTION MECHANISMS**

# BULGARIA



7.166 million

GDP: 79.562 million €

1/4



## OVERVIEW

<b>EXCEPTION</b>	Yes, reproduction of works for personal use without commercial purpose is authorized.				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>No</td></tr> <tr> <td>Media</td><td>Yes (audio and video carrier)</td></tr> </table>	Equipment	No	Media	Yes (audio and video carrier)
Equipment	No				
Media	Yes (audio and video carrier)				
<b>BENEFICIARIES</b>	Authors of works, performers, producers of phonograms and producers of initial recordings of movies or other audio-visual works.				
<b>LIABLE</b>	Manufacturers and importers				
<b>EXEMPTION</b>	Many exemptions and possibility of refund.				
<b>RATE SETTING</b>	<p>Levies are negotiated between rightholders, industry and consumers. If the negotiations failed, the ministry of culture may appoint an expert commission and have to approve the proposed tariffs.</p> <p>Tariffs: fixed price related to the capacity of the carriers</p>				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	No body appointed and thus, no effective mechanism in place.				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	30%				



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Art. 25 of the Law on Copyright and Neighboring Rights of 1993 (as amended in 2011)</b></p> <p>Without consent of the owner of the copyright but upon payment of fair compensation shall be admissible:</p> <p>(...)</p> <p>2. reproduction of works, regardless of the carrier, by a natural person for personal use unless done with commercial purposes.</p> <p>The provision of para 1, item 2 shall not refer to computer software and architectural works.</p>
<b>LEVY</b>	<p><b>Art. 26 of the Law on Copyright and Neighboring Rights of 1993 (as amended in 2011)</b></p> <p>(1) Authors of works, performers, producers of phonograms and producers of initial recordings of movies or other audio-visual works shall be entitled to a compensatory remuneration, where the recordings are reproduced for personal use as set out in Art. 25, Para 1, Item 2. A right to compensatory remuneration shall also have the authors and publishers of any kind of print works, when such works are reproduced in reprographic manner for personal use under the conditions of Art. 25, Para 1, Item 1.</p>



# BULGARIA

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...

- (2) Any waiver of the right to compensatory remuneration by the rightholders referred to in Para 1 shall be invalid.
- (3) The remuneration referred to in Para 1 shall be due by the persons who:
  - 1. manufacture blank information carriers;
  - 2. import from third countries blank information carriers.
- (4) The remuneration referred to in Para 1 shall be due by the persons referred to in Para 3 for sales of information carriers on the territory of the Republic of Bulgaria, primarily intended for reproduction of works for personal use by natural persons under Art. 25, Para 1, Item 2.
- (5) The types of information carriers, which primary use is reproduction in the sense of Art. 25, Para 1, for which remuneration under Para 1 is due, and the amount of the remuneration shall be determined annually by the organisations referred to in Para 8, agreed upon with representative organisations of the persons under Para 3 and 4, as well as with other interested persons. In negotiating the types of carriers and the amount of remunerations shall be taken into account the recording capacity of the carriers and the extent of their use for reproduction in the sense of Art. 25, Para 1.

The amount of remuneration shall not be lower than 1.0 percent or exceed 1.5 percent of the supply value according to the accounting standard for processing the stock reserves of the respective blank information carriers.

For the persons referred to in Para 3 may be negotiated discounts, which amounts and conditions of use shall be determined in the negotiation procedure set for determining the amount of the basic remuneration.

- (6) Where the negotiations referred to in Para 5 result in agreement between the parties, the provisions referred to in Art. 40f, Para 6, 7 and 8 shall apply respectively.
- (7) Where no agreement between the parties have been achieved, the provisions of Art. 40f, P 9-14 shall apply respectively.
- (...)

- (10) Compensatory remunerations for blank information carriers shall not be due, or, if collected, restored, when:
  - 1. delivered from the territory of another Member State of the European Union;
  - 2. delivered from the territory of a third country and already levied, without possibility for restoration, with a compensatory remuneration for reproduction, equivalent to the remuneration referred to in Art. 25, Para 1 according to the legislation of the said Member State of the European Union or the third country;
  - 3. they are subject to transaction for export to third countries or delivery to another Member State of the European Union;
  - 4. purchased in the country by a person that has legally obtained the right to make such recordings and has arranged the authors rights and related rights questions related to the recording;
  - 5. purchased by a provider of audio-visual media services/radio services, legally carrying out his activity;
  - 6. purchased in the country by manufacturers of movies or other audio-visual works;
  - 7. purchased by medical establishments, specialized rehabilitation hospitals, social establishments and penitentiary establishments;



# BULGARIA

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...

8. purchased by legal persons, sole entrepreneurs or natural persons - freelancers, whose activity does not presuppose their use for reproduction in the sense of Art. 25, Para 1.

(11) When compensatory remunerations have been collected and are subject to restoration, the facts and circumstances justifying the right to restoration shall be proved by the persons claiming it. The requests, accompanied by the evidence, shall be submitted to the respective organisations referred to in Para 8 within the time limits referred to in Para 12. The organisations referred to in Para 8 shall pronounce on the requests within one month from their submission.

The amounts subject to restoration shall be paid by the organisations referred to in Para 8 within one month from the date of the protocol for granting the requests with the evidence.

(12) The persons, which under Para 4 are due compensatory remunerations, shall be obliged within one month from the end of every calendar six months to provide to the organisation under Para 8 a summary of the types and total supply value according to the accounting standard for processing the stock reserves of sold carriers of each type, for which compensation is due. No further detailed information may be requested than the information required for the purpose of allocating the remunerations referred to in Para 1 by the organisations referred to in Para 8. The received information shall not be made public or used for any other purpose except for collecting and allocating the remunerations. The remunerations shall be paid to the organisations collecting them within one month from the end of the accounting period.

## COLLECTION AND DISTRIBUTION SYSTEMS

### Art. 26 of the Law on Copyright and Neighboring Rights of 1993 (as amended in 2011)

(..)

(8) The remunerations referred to in para 1, first sentence, and para 1, second sentence, shall be paid to organisations which shall be different for the two separate categories of rights, established as set out in Chapter Seven, Section Ia, by associations, representing the different categories of rightholders regarding their right to compensatory remuneration and having a mechanism for individual allocation of those remunerations among their members. These organisations shall allocate the remunerations among their members.

Before allocation 30 percent of the collected amounts shall be deducted and deposited to the account of the National Fund "Culture".

The persons referred to in Para 3 shall be deemed to have fully performed their obligations under this article with the payment of the remunerations referred to in Para 1 to an organisation under the first sentence.



# BULGARIA

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...

(9) The allocation of the collected amounts among the individual categories of rightholders shall be carried out in the following way:

1. regarding remunerations under para 1, first sentence:

- a) a half - for the authors;
- b) a quarter - for the performers;
- c) a quarter - for the producers;

2. regarding remunerations under para 1, second sentence:

- a) 50 percent - for the authors;
- b) 50 percent - for the publishers.

(...)



## COMMENTS/LEGAL DEVELOPMENTS

Bulgaria is one of the few EU country, which has introduced private copying legislation but hasn't effectively implemented such legislation, and, as a result, thousands of Bulgarian and foreign authors have been deprived from their lawful compensation for more than two decades.

Indeed, even if a levy has been set up by law, there is no effective mechanism for collection and distribution, in particular due to a number of amendments taken in 2011 that renders the private copying remuneration meaningless.

The current law does not take into account relevant decisions of EU bodies (e.g. the Padawan case of the ECJ). The result not only harms Bulgaria but also stands in contradiction with EU rules. Moreover, private copying levies should be applied not only on blank carriers, but to any reproduction devices. Especially in today's digital environment, most of the private copying activities are done via such devices (e.g. MP3 – MP4 players), there are no justification for the current exclusion of reproduction devices.

Levies should also be increased to be more in correlation with the notion of "fair compensation" established under the EU Information Society Directive and the intra-community deliveries shall be included in the application of the private copying remuneration as well.

It requires the Ministry of Culture to urgently take action to redress the current situation by providing proper enforcement and the necessary amendments in the Law on Copyright and Related Rights in order to become effective, applicable and duly harmonized with the EU legislation.



# CYPRUS



0.856 million

GDP: 15.176 million €



## OVERVIEW

<b>EXCEPTION</b>	Yes, it is authorized to make a copy of a work for private use for non-commercial purposes
<b>LEVY</b>	Yes, a levy is planned in the law but has never been implemented
<b>BENEFICIARIES</b>	N/A
<b>LIABLE</b>	N/A
<b>EXEMPTION</b>	N/A
<b>RATE SETTING</b>	N/A
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	No effective mechanism as the levy has never been implemented.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	N/A



## LEGAL BASIS

<b>EXCEPTION</b>	<b>Article 7.2 of Copyright Act of 1993 (which is the renumbered article 7(1)(a) of the English version of the Law) as amended up to law 2004</b>
	Copyright shall not include the right to control: (...) (o) the reproduction in any medium carried out by a natural person for personal use not for direct or indirect commercial purposes, provided that the right holders receive fair compensation which takes into account the use or not of technological means in the particular work or other material.



## COMMENTS/LEGAL DEVELOPMENTS

The “provided that the right holders receive fair compensation” is referring indirectly to a levy system, however there are no provisions as to how such a system should be set up or administered or how the compensation should be calculated.

It requires the Government to urgently take a regulation in order to implement the compensation system as provided by law in order that creators are remunerated for private copying.



# LUXEMBOURG



0.563 million

GDP: 45.625 million €



## OVERVIEW

### EXCEPTION

Yes, it is authorized to make a single copy of a work for private use and for non-commercial purposes, and from a legally source.

### LEVY

A levy is planned in the law but has never been implemented

### BENEFICIARIES

Authors, performers and producers

### LIABLE

N/A

### EXEMPTION

N/A

### RATE SETTING

N/A

### COLLECTION AND DISTRIBUTION SYSTEM

No effective mechanism as the levy has never been implemented.

### SOCIAL AND CULTURAL DEDUCTIONS

N/A



## LEGAL BASIS

### EXCEPTION

**Article 10 of Law of 2001 on Copyright, Neighbouring Rights and Databases (as amended up to 2004)**

Lorsque l'œuvre, autre qu'une base de données, a été licitement rendue accessible au public, l'auteur ne peut interdire:

(..)

4° la reproduction sur tout support par une personne physique pour son usage privé et à des fins non directement ou indirectement commerciales, à condition que les titulaires de droits reçoivent une compensation équitable, qui prend en compte l'application des mesures techniques visées aux articles 71ter à 71quinquies de la présente loi aux œuvres concernées.

Les conditions de fixation et de perception, ainsi que le niveau de cette compensation sont fixées par règlement grand-ducal.



## COMMENTS/LEGAL DEVELOPMENTS

The Copyright Act refers to a compensation system but there are no provisions in the Act as to how such a system should be set up or administered or how the compensation should be calculated.

The Government should be lobby by stakeholders in order that they issue a regulation on the compensation as provided by law and thus, to have an effective mechanism of the private copying levy system.



# MACEDONIA



2.073 million

GDP: 422.112 million €

1/3



## OVERVIEW

<b>EXCEPTION</b>	Yes, it is defined as a reproduction on any medium, made by a natural person for private use, without direct or indirect commercial advantage.				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes</td></tr> <tr> <td>Media</td><td>Yes</td></tr> </table>	Equipment	Yes	Media	Yes
Equipment	Yes				
Media	Yes				
<b>BENEFICIARIES</b>	Authors, performers, producers (musical works, audiovisual works, visual art and literary works).				
<b>LIABLE</b>	Manufacturers, importers				
<b>EXEMPTION</b>	No				
<b>RATE SETTING</b>	<p>Levies are fixed by the National Government.</p> <p>Tariffs: determined separately for each type of equipment for audio and visual fixation, based on the recording capacity and according to the fluctuation of prices and the costs of living.</p>				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	Currently, no effective mechanism in place.				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No				



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Art. 54 of Law on Copyright and Related Rights</b></p> <p>The use of a copyright work with fair compensation shall apply to the following cases: (...)</p> <p>2. Reproduction on any medium, made by a natural person for private use, without direct or indirect commercial advantage;</p>
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<b>LEVY</b>	<b>Art. 46-47-48 of Law on Copyright and Related Rights</b>
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### Article 46 - Right of fair compensation

- (1) The reproduction for private purpose shall be subject to payment of fair compensation.
- (2) The compensation under paragraph 1 of this Article for reproduction of phonograms and video grams shall be paid at the time of the first sale or import of equipment for sound and visual fixation and new blank sound or sound and image carriers.



# MACEDONIA

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...

- (3) The compensation under paragraph 1 of this Article for photocopying shall be paid at the time of the first sale or import of photocopying equipment, and upon making photocopies intended for sale, on a monthly basis, according to the possible number of photocopies.
- (4) As equipment for sound and visual fixation shall be considered all other devices which enable to achieve the same effect, and as photocopying shall be considered other reproduction techniques, as well.
- (5) The author shall have the right to a share of the compensation under paragraph 1 of this Article for the reproduction of phonograms and video grams and for the photocopying of his work, which is carried out for private use.
- (6) The right of compensation under paragraph 1 of this Article may not be subject to waive, disposal or judicial execution.

## Article 47 – Entities obliged to make payment

- (1) Producers and importers of equipment for sound and visual fixation, photocopying equipment, blank sound or sound and image carriers, as well as persons carrying out photocopying services, shall be obliged to pay the compensation under Article 46 of this Law.
- (2) The entities under paragraph 1 of this Article shall be obliged, upon request by the relevant society for collective management of copyright and related rights, to submit data concerning the type and number of sold or imported equipment and sound or sound and image carriers, as well as data concerning the produced photocopies.

## Article 48 - Amount of the compensation

- (1) The amount of the compensation under Article 46 of this Law shall be determined by the Government of the Republic of Macedonia.
- (2) The compensation under paragraph 1 of this Article shall be determined separately for each type of equipment for audio and visual fixation, for each fixation equipment which, due to its construction, does not require any special material to function (in an amount twice as much as the usual), for each sound or sound and image carrier based on the recording time, for each photocopying equipment based on the possible number of copies per minute and based on the possibility to copy in color (in an amount twice as much as the amount for black and white photocopying), as well as for each photocopy intended for sale.
- (3) The Government of the Republic of Macedonia shall harmonize the amounts of the compensations under paragraph 1 of this Article according to the fluctuation of the prices and the costs of living in the Republic of Macedonia.





# MACEDONIA

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...

## COLLECTION AND DISTRIBUTION SYSTEMS

### Art. 131-145 of Law on Copyright and Related Rights

Article 131- Rights that can be managed collectively shall be, in particular: (...)

8. The author's, the performer's and phonogram producer's right of fair compensation for reproduction of the phonogram for private use;
9. The author's, the performer's and film producer's right for the reproduction of the video gram for private use;

Article 145 - Special cases of distribution of remuneration

The distribution of the single equitable remuneration/ fair compensation duly determined with Articles 46, 105, 111, 114 and 116 of this Law shall be carried out in the following proportion:

1. The compensation collected for reproduction for private use of phonograms or video grams according to this Law, shall be distributed to the authors in 40%, to the performers 30% and to the phonogram or film producers 30%.



# MOLDOVA



3.554 million

GDP: 11.340 million €

1/4



## OVERVIEW

### EXCEPTION

Reproduction of a lawfully published work by a natural person for his own exclusive use, for non-commercial purpose is covered by the private copying exception.

### LEVY

Equipment Yes (analogous or digital)  
Media Yes (analogous or digital)

### BENEFICIARIES

Authors, performers, publishers, phonogram and audiovisual producers

### LIABLE

Importer and Manufacturer

### EXEMPTION

Professional use, Export

### RATE SETTING

Levies are published by the Official gazette of the Republic of Moldova after negotiation between stakeholders (rightholders and liable).  
Tariffs: the remuneration established shall not be less than 3% of the resale price of the equipment and mediums.

### COLLECTION AND DISTRIBUTION SYSTEM

The remuneration should be collected, for all the categories of rightholders, by a CMO entrusted with this functions by AGEPI (State Agency on IP).  
Unless otherwise provided in the agreements between the representatives of the various categories of rightholders, the remuneration shall be distributed:  
For audiovisual works and videograms: 40% to authors, 30% to performers, 30% to producers.  
For phonograms: 50% to authors, 25% to performers, 25% to producers.

### SOCIAL AND CULTURAL DEDUCTIONS

No



## LEGAL BASIS

### EXCEPTION

**Article 26**  
**Law on Copyright and Related Rights No. 139 of 07.02.2010**

Reproduction of Works for Personal and Private Use

- (1) Reproduction of a lawfully published work shall be permitted without the consent of the author or other holder of copyright, but subject to payment of an equitable remuneration, as provided for in paragraphs (3) – (11) of this Article, if made by a natural person for his own exclusive use, and for purposes that are neither directly or indirectly commercial. The right to remuneration may only be exercised through a collective management organization.



# MOLDOVA

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...

- (2) The provisions of paragraph (1) of the present Article shall not apply to reproduction:
- a) of a work of architecture in the form of a building or similar construction;
  - b) of a database;
  - c) of a computer program, except in the cases referred to in Article 29; d) of a complete book, a musical score or the original of a work of plastic art; e) of an audiovisual work during its public performance;
  - f) of any work on the basis of a copy or from a source about which the person that makes a reproduction knows, or, under the given circumstances, he has reasonable reasons to know, that it is illegal.

## LEVY

### Article 26

#### Law on Copyright and Related Rights No. 139 of 07.02.2010

##### Reproduction of Works for Personal and Private Use

- (3) The equitable remuneration mentioned in paragraph (1) shall be paid by those natural or legal persons who produce or import any equipment (sound recording equipment, video recorders, drivers for recordable and re-recordable discs, etc.) and mediums (blank tapes and cassettes, laser discs, compact discs, etc.) that may be used for reproduction of audiovisual works and phonograms.
- (4) No equitable remuneration shall be paid in respect of recording equipment and mediums mentioned in paragraph (3)
- (i) where they are exported,
  - (ii) where they constitute professional equipment not intended for home recording; or (iii) where they are imported by a natural person for his own exclusive use.
- (5) The equitable remuneration mentioned in paragraph (1) of this article
- (a) shall be paid by the manufacturers or importers of the recording equipment or mediums mentioned in paragraph (3) of this article to the collective management organisation mentioned in paragraph (10)(a) of this article before putting into circulation (that is, before including into the chain of distribution immediately after manufacturing or importation) of such equipment or mediums;
  - (b) shall be sufficient not only for the compensation of authors and other rightholders of copyright whose works may be reproduced in the way mentioned in paragraph (1) of this article, but also for the compensation of performers and producers of audiovisual works and phonograms whose performances, audiovisual works and phonograms, respectively, may be reproduced thereby in the said way; and
  - (c) shall be determined by taking into account the application or non-application of technological measures by the rightholders of audiovisual works and phonograms.



# MOLDOVA

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...

- (6) For the establishment of the amount of remuneration and other conditions, and the settlement of possible disputes between the parties concerned, Article 50 of this Law shall apply, on the understanding, that
  - (a) the parties concerned which shall try to establish the amount of the remuneration are the collective management organisation mentioned in paragraph (10)(a) of this Article, on the one hand, and the representatives of those physical persons and legal entities who and which are obligated to pay the equitable remuneration, on the other hand;
  - (b) the remuneration established shall not be less than 3% of the resale price of the equipment and mediums mentioned in paragraph (3).
- (7) The manufacturers and importers, when they put into circulation the equipment or mediums mentioned in paragraph (3) of this Article,
  - (a) shall inform the collective management organisation mentioned in paragraph (10)(a) of this article about the payment of the equitable remuneration, and shall make available to it the necessary documents indicating the number of pieces of equipment and/or mediums manufactured or imported and the identity of the distributors through whom or which they have put the equipment or mediums into circulation;
  - (b) shall hand over to the distributors through whom or which they put the recording equipment and/or mediums into circulation all the necessary documents proving the fact that the equitable remuneration has been paid to the collective management organisation.
- (8) The distributors at any point of the distribution chain, including resale units (shops, commercial centres, etc.) who or which are in possession of equipment or mediums mentioned in paragraph (3) for commercial purposes, shall be able to prove, on the basis of valid documents, that the equitable remuneration mentioned in paragraph (1) has been paid for the equipment or mediums concerned. The distributors, at the request of the collective management organisation, shall be obligated to make any relevant documents available and to reveal the identity and the contact data of the manufacturer or importer or any physical person or legal entity in the distribution chain from whom or which they received the equipment or mediums.
- (9) The distributors who are unable to present to the collective management organisation mentioned in paragraph (10)(a) of this article the necessary documents and/or contact data mentioned in paragraph (8) that are necessary to verify whether or not the equitable remuneration has duly been paid, shall be liable to pay the equitable remuneration.

## Article 50

### Law on Copyright and Related Rights No. 139 of 07.02.2010

Establishment of the Amounts of Remuneration to be Collected and Other Conditions. Settlement of Disputes.

- (1) Collective management organisations shall determine the remuneration to be paid for – as well as any other conditions of authorisation to be applied in respect of – uses covered by the rights managed by them on the basis of negotiations with those who are obligated to pay the remuneration or with the organisations representing them.



# MOLDOVA

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...

- (2) Where the interested parties cannot agree on the remuneration and other conditions of authorisation mentioned in paragraph (1), either of them may call upon the assistance of the Mediation and Arbitration Body specialized in the field of the Intellectual Property, established by the State Agency.
- (3) The amount of remuneration established by negotiation or through mediation shall not be less than what the Government may determine as minimum remuneration.
- (4) The generally applicable amounts of remuneration (tariffs) and licensing conditions agreed upon by the parties concerned or decided upon in accordance with paragraph (2) of this article shall be published in the Official Gazette of the Republic of Moldova. This provision also applies to the tariffs established under Articles 11(7), 12(4), 20(1), 26(6), 27(5), 37(3) and 47(3) of this Law.

## COLLECTION AND DISTRIBUTION SYSTEM

### Article 26

#### Law on Copyright and Related Rights No. 139 of 07.02.2010

##### Reproduction of Works for Personal and Private Use

- (10) Unless otherwise provided in an agreement between the representatives of the various categories of rightholders mentioned in paragraph (5)(b) of this Article, the equitable remuneration
  - a) shall be collected, for all the categories of rightholders, by a collective management organization entrusted with this functions by the AGEPI;
  - b) shall be distributed, after the deduction of the actual expenses incurred in rights management, in the following manner:
    - with respect to reproduction of audiovisual works and videograms: 40% to authors of such works, 30% to performers of such works, and 30% to producers of such works;
    - with respect to reproduction of phonograms: 50% to authors whose works are fixed on phonograms, 25% to performers whose performances are fixed on phonograms, 25% to producers of phonograms.
- (11) The collective management organisation after the deduction of the actual cost of management, shall transfer the corresponding shares of remuneration mentioned in paragraph (10)(b) of this Article due to the categories of rightholders not represented by it to the collective management organizations or other representative bodies of the rightholders concerned which may take care of the distribution thereof among the corresponding rightholders concerned.
- (12) The equitable remuneration shall be distributed amongst the authors and other holders of copyright, performers and producers of audiovisual works and phonograms, respectively, in respect of whose works, performances and phonograms, respectively, may be assumed that have been reproduced by virtue of paragraph (1) of this Article.



## COMMENTS/LEGAL DEVELOPMENTS

Despite the laws containing provisions in respect to the collection and distribution of private copying remuneration, no information has been uncovered since the entry into force of the Law on Copyright and Related Rights.



# MALTA



0.429 million

GDP: 7.938 million €



## OVERVIEW

<b>EXCEPTION</b>	Yes, it is authorized to make a single copy of a work for private use and for non-commercial purposes.
<b>LEVY</b>	A levy is planned in the law but has never been implemented.
<b>BENEFICIARIES</b>	Authors, performers and producers of audiovisual, musical, literary or artistic work.
<b>LIABLE</b>	N/A
<b>EXEMPTION</b>	N/A
<b>RATE SETTING</b>	N/A
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	No effective mechanism as the levy has never been implemented.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	N/A



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Article 9 of Copyright Act of 2000 (Chapter 415) as amended up to 2011</b></p> <p>(1) Copyright in an audio-visual work, a database, a literary work other than in the case of a computer programme, a musical or artistic work shall not include the right to authorize or prohibit :</p> <p>(...)</p> <p>(c) reproductions on any medium made by a natural person for private use and for ends that are neither directly nor indirectly commercial, on condition that the right holders receive fair compensation which takes account of the application or non-application of technological measures to the work or subject-matter concerned;</p> <p>(...)</p> <p>(3) The exceptions and limitations provided for in this article shall only be applied in such particular cases which do not conflict with a normal exploitation of the work or other subject-matter and do not unreasonably prejudice the legitimate interests of the right holder.</p>
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## COMMENTS/LEGAL DEVELOPMENTS

The “on condition that the right holders receive fair compensation” is referring indirectly to a levy system, however Malta does not operate any levy systems and the Copyright Act does not contain any specific details on a levy – not to how a levy should be collected nor to how it should be administered (or who should do that). There is no guidance from the Courts on this point either.



# MONTENEGRO



0.622 million

GDP: 2.707 million €

1/3



## OVERVIEW

### EXCEPTION

Reproduction of a disclosed work by a natural person in not more than three copies for its private use is permitted if the copies are not available to the public and if the reproduction is not done for direct or indirect economic advantages.

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Authors, performers, publishers, phonogram and audiovisual producers

### LIABLE

Importer and Manufacturer

### EXEMPTION

Export; commercial reproduction of copyright works for which the acquirement of an authorization by the right holders is prescribed; persons with disability; import for personal and non-commercial use, as part of one's personal luggage.

### RATE SETTING

The levies are published In the Official Gazette of Montenegro after agreement between stakeholders (rightholders and liable)

### COLLECTION AND DISTRIBUTION SYSTEM

The Society for the collective administration of copyright and related rights should be in charge of the collection of the levy but actually, there is no effective mechanism.

### SOCIAL AND CULTURAL DEDUCTIONS

No



## LEGAL BASIS

### EXCEPTION

**Art. 52 of Law No. 07-1/11-1/15 of July 12, 2011, on Copyright and Related Rights (promulgated by Decree No. 01-933/2 of July 25, 2011)**

Subject to Article 36 of this Act, the reproduction of a disclosed work in not more than three copies shall be permitted without acquirement of the corresponding economic right and without payment of a remuneration, with regard to:

- 1) a natural person: (...)
- b) on other medium if the reproduction is done for private use, if the copies are not available to the public and if the reproduction is not done for direct or indirect economic advantage; (...)

Reproduction under Par. (1) of this Article shall not be permitted with respect to entire books, sheet music, electronic databases, computer programs, as well as to the execution of architectural objects according to the design; with the exception if: 1) the reproduction of entire books is done by an entity under the conditions set out in Par. (1), subparagraph 2 of this Article or if copies of such book have been out of print for a minimum of two years; 2) the reproduction of sheet music is done by an entity in accordance with Par. (1), subparagraph 2 of this Article or if transcripts are made in handwriting.



# MONTENEGRO

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...

## LEVY

**Art. 36-37-38 of Law No. 07-1/11-1/15 of July 12, 2011, on Copyright and Related Rights (promulgated by Decree No. 01-933/2 of July 25, 2011)**

### Article 36 - Right to remuneration

The author has a right to a portion of a remuneration for making a sound or visual fixation and for photocopying of his work done under Article 52 of this Act.

Remuneration with respect to sound or visual fixation shall be paid upon the first sale or importation of new: 1) appliances for sound or visual fixation, and 2) blank audio or video fixation mediums. Importation as used in Par. (2) and (3) of this Article shall be understood to mean the release of goods into free circulation in accordance with customs regulations. The author may not waive or assign the right to remuneration under Par. (1) of this Article, neither may it be subject to civil execution.

### Article 37 - Persons jointly liable

Liable to pay remuneration under Article 36, Par. (1) of this Act shall be the manufacturer and importer of appliances and audio or video fixation media respectively. The manufacturer and importer shall be jointly liable to pay the remuneration under Article 36 of this Act. The persons referred to in Par. (1) of this Article shall not be liable to pay remuneration for appliances and fixation mediums intended for:

- 1) export;
- 2) commercial reproduction of copyright works for which the acquirement of an authorization by the right holders is prescribed;
- 3) reproduction of copyright works for the needs of persons with a disability;
- 4) import for personal and non-commercial use, as part of one's personal luggage.

The person referred to in Par. (1) of this Article shall submit, quarterly in the course of a calendar year, reports to the Society for the collective administration of copyright and related rights on the type and number of manufactured or imported appliances and media. The Society for the collective administration of copyright and related rights may use the information obtained under Par. (4) of this Article only for the purpose of administration of the rights under this Act.

### Article 38 - Amount of remuneration

The remuneration under Article 36 of this Act, which belongs to all rightholders entitled under this Act, shall be set by an agreement entered into by the societies for the collective administration of rights and by producers and importers, in accordance with Article 172 of this Act. The amounts of remuneration referred to in Par. (1) of this Article shall be set for: 1) each sort of appliance per piece for sound fixation and each appliance for visual fixation; 2) each appliance which operates without audio and visual fixation media in a double amount of the amount set for appliances referred to in subparagraph 1 of this paragraph; 3) each audio and visual fixation medium per piece depending on the duration of the fixation; 4) each photocopying appliance depending on its capacity (number of copies per minute), and its capacity to make colour copies (for which the amount may be set as the double of the amount for black-and-white copying), etc. When setting the remuneration under Par. (2) of this Article the amounts may be increased or reduced depending on whether the technological measures referred to in Article 186 of this Act are applied.





# MONTENEGRO

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## COLLECTION AND DISTRIBUTION SYSTEM

**Art. 37 of Law No. 07-1/11-1/15 of July 12, 2011, on Copyright and Related Rights (promulgated by Decree No. 01-933/2 of July 25, 2011)**

(..)

The person referred to in Par. (1) of this Article shall submit, quarterly in the course of a calendar year, reports to the Society for the collective administration of copyright and related rights on the type and number of manufactured or imported appliances and media. The Society for the collective administration of copyright and related rights may use the information obtained under Par. (4) of this Article only for the purpose of administration of the rights under this Act.



## COMMENTS/LEGAL DEVELOPMENTS

The Copyright act is providing that "The author has a right to a portion of a remuneration", however no regulation has been implemented in order to detail how the levy should be collected nor to how it should be administered.



# SLOVENIA



2.063 million

GDP: 37.233 million €

1/2



## OVERVIEW

### EXCEPTION

Yes, it is defined as a reproduction of a copy of a published work by a person for his own personal use and for non-commercial purpose.

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Authors, performers and producers

### LIABLE

Importers and retailer (1<sup>st</sup> sale)

### EXEMPTION

No exemption

### RATE SETTING

Levies are set up by Law  
Tariffs: fixed price depending on the capacity

### COLLECTION AND DISTRIBUTION SYSTEM

No CMO appointed for the collection since 2009

### SOCIAL AND CULTURAL DEDUCTIONS

No



## LEGAL BASIS

### EXCEPTION

**Article 50 of Copyright and Related Rights Act of 30 March 1995 as last amended on December 15, 2006**

- (1) Subject to Article 37, the reproduction of a disclosed work shall be free, if made in no more than three copies and provided that the conditions of paragraphs 2 or 3 are fulfilled.
- 2) A natural person shall be free to reproduce works:
  1. on paper or any similar medium by the use of a photographic technique or by some other process having similar effects; and
  2. on any other medium if this is done for private use, if the copies are not available to the public, and if this is not done for direct or indirect economic advantage.
- (4) Reproduction according to the foregoing paragraphs shall not permitted with respect to written works to the extent of the whole book, graphic editions of musical works, electronic databases and computer programs, and in the form of building of architectural structures, unless otherwise provided by this Act or by contract.
- (5) Notwithstanding paragraph 4, it shall be permissible, under the conditions of paragraph 1:
  1. to reproduce a written work to the extent of the whole book, if such work is out of print for a minimum of two years;
  2. to reproduce a graphic edition of musical work by means of handwritten transcription.



# SLOVENIA

2/2



...

## LEVY

### Article 37 of Copyright and Related Rights Act of 30 March 1995 as last amended on December 15, 2006

- (1) The author has a right to equitable remuneration for making a sound or visual fixation, and for photocopying of his work, done within the scope of private or other internal use, under Article 50 of this Act.
- (2) Remuneration under the foregoing paragraph with respect to sound or visual fixation shall be paid:
  1. upon the first sale or importation of new appliances for sound or visual fixation, and
  2. upon the first sale or importation of new blank audio or video fixation mediums.
- (4) For the purposes of this Act import shall be considered as the release of goods into free circulation in accordance with customs regulations of the European Community, and as each admission to the territory of the Republic of Slovenia from other EU Member States.
- (5) For the purposes of this Article, the term photocopying includes other similar reproduction techniques, to the term appliances for sound or visual fixation other appliances, which enable getting the same effect, are assimilated.
- (6) The right to remuneration under paragraph (1) of this Article may not be waived, assigned during the life of the author, and is not subject to execution.



## COMMENTS/LEGAL DEVELOPMENTS

Since 2009, no licence for collective management has been issued by the Slovenian Intellectual Property Office for the private copying levies. There is ongoing dispute between CMOs and the Slovenian Intellectual Property Office.

Since the private copying levy has not been collected for the sixth consecutive year now, the Republic of Slovenia is not fulfilling its obligations in terms of proper implementation of the Directive 2001/29/CE, thereby penalizing Slovenian artists and undermining their ability to earn a living from their work. The Government of Slovenia should be urged to licence the collective administration of private copying compensation without further delay.



# AUSTRIA



8.556 million

GDP: 309.949 million €

1/5



## OVERVIEW

### EXCEPTION

Yes, it is authorized to make a single copies of a work for private use for non-commercial purposes, and from a legally source.

### LEVY

Equipment	No
Media	Yes, on storage media "of any kind"

### BENEFICIARIES

Authors, Performers, Publishers and Producers of musical works, audiovisual works, visual art works and literary works & broadcasting companies (as producers).

### LIABLE

Manufacturers, importers, or first direct sellers/distributors in Austria. Retailers are also liable (with exemption for "small retailers" and "small businesses").

### EXEMPTION

Export and Professional uses (possibility of refund)

### RATE SETTING

Levies are negotiated between rightholders and Chamber of Commerce. If the negotiations failed, they can request an arbitration.  
Tariffs: fixed price related to the capacity of the products/ cannot exceed 6% of the "typical" price level.  
Levy is capped at €20M per year (if it is exceeded, tariffs should be renegotiated in order to be lower).

### COLLECTION AND DISTRIBUTION SYSTEM

YES, the collecting society AUSTRO-MECHANA is appointed and controlled by the government (Ministry of Justice), it has a legal monopoly in this regards. AUSTRO-MECHANA collects and distributes the levy to the 7 collecting societies authorized under the distribution scheme determined by multilateral negotiation, and those societies finally redistribute to their respective rightholders at their discretion.

### SOCIAL AND CULTURAL DEDUCTIONS

50%

### REVENUE DECLARED IN 2014

2,3 M€



## LEGAL BASIS

### EXCEPTION

**Art n°42 of the Federal Law on Copyright in Works of Literature and Art and on Related Rights as amended up to 2015**

- (1) Everyone may produce single copies of a work on paper or a similar carrier for own uses.
- (2) Everyone may produce single copies of a work on carriers other than those mentioned in par. 1 for personal use of research, as far as justified for the pursuit of non-commercial aims.
- (3) Everyone may produce single copies of works, which are published as part of the reporting on current events, as far as the use is exclusively analogue.



# AUSTRIA

2/5



...

- (4) Every natural person may produce single copies of a work on carriers other than those mentioned in par. 1 for private use and neither for direct nor indirect commercial purposes.
- (5) It does not constitute a reproduction for personal or private uses, subject to para. 6 and 7, if it is undertaken to make the work available to the public, or if a visibly illegally produced or publicly accessible copy is used for it. Copies made for personal or private use must not be used to make the work available to the public.
- (6) Schools, universities and other educational institutions may produce and distribute copies for use in school or class in the amount necessary for a certain class or, respectively, course (reproduction for personal school use); this applies also to sheet music. On carriers other than those mentioned in par. 1, this is only admissible for non-commercial purposes. The permission for reproduction for personal school use does not encompass works which are, due to their nature or denomination, are destined for use in schools or class.
- (7) Institutions collecting work pieces which are accessible to the public may produce copies for their addition to its own archive (reproduction for the personal use of collections), if and as far the reproduction is necessary for this purpose. On carriers other than those mentioned in par. 1, this is only admissible if they do not pursue direct or indirect economic or commercial purposes. Under this restriction, they may additionally:
  1. produce, of each work piece, one copy, which may be exposed (Sec. 16 par. 2), lent (Sec. 16a) and used according to Sec. 56b in the same manner as the original;
  2. produce single copies of works which have been released but not been published or of works out of stock, which may be exposed (Sec. 16 par. 2), lent according to Sec. 16a and used according to Sec. 56b as long as the work is not published or, respectively, remains out of stock.
- (8) The following reproductions are – notwithstanding par. 6 – only admissible with the permission of the rightholder:
  1. the reproduction of entire books, entire periodicals or of sheet music; this also applies also in cases where, instead of the book, the periodical or the sheet music, another copy regardless of the reproduction method is used as a master copy; but also in this cases the reproduction by manual copying, the reproduction of works not published or of works out of stock or the reproductions under the conditions of par. 7 remain admissible;
  2. the execution of a work of architecture according to a plan or a draft or the replica of such a work.

**LEVY****Art n°42b of the Federal Law on Copyright in Works of Literature and Art and on Related Rights as amended up to 2015**

- (1) If it is to be expected that, owing to its nature, a work which has been broadcast, made available to the public or recorded on a storage medium for commercial purposes, will be reproduced for personal or private use according to Sec. 42 par. 2 to 7 by fixing it on a storage medium, the author shall be entitled to equitable remuneration (storage media levy), if storage media of any kind and suitable for such reproductions is commercially marketed in the inland.



# AUSTRIA

3/5



...

- (2) If it is probable that, owing to its nature, a work will be reproduced for personal use by reprography or a similar method, the author shall be entitled to equitable remuneration (reprography levy)
  1. if an appliance which, by its nature, is designed for such copying (reprographic appliance) is marketed on the domestic market for payment (appliance levy); and
  2. if the reprographic appliance is used in schools, higher educational establishments, establishments of further education, research institutes, public libraries or establishments which offer such reprographic appliances for payment (operator levy).
- (2a) The claims according to para. 1 and 2 shall be void, if, according to the circumstances, only minimal harm to the authors may be expected due to the reproduction for personal or private use.
- (3) The following persons shall be required to pay such levies:
  1. storage media or appliance levy: the first person to market the storage media or reprographic appliance in Austria; persons thereafter marketing or offering storage media or the reprographic appliance in Austria for sale shall be liable as guarantor and payer; however, persons who, within a six-month period, acquire storage media with not more than 10,000 hours playing time or who are small entrepreneurs according to the Law on VAT 1994 shall be exempt from liability for the storage media levy; in case the defendant has no domestic place of general jurisdiction, the courts with jurisdiction for the first district of Vienna shall be competent.
  2. operator levy: the operator of the reprographic appliance.
- (4) The following circumstances shall be taken into particular consideration in assessing the amount of the levies:
  1. the comparable tariffs for levies hitherto in force and the total volume of the levy, whereas inadequate changes shall be avoided;
  2. the comparable tariffs for levies and their volumes in Member States of the European Union or the Contracting Parties to the EEC;
  3. effects on the common exploitation of works and the justified interests of authors;
  4. the advantage of the reproducer, and the advantage of the person liable for payment, under consideration of the market development of the respective commercial sector, including the turnover with appliances and storage media;
  5. the scope in which storage media and appliance are used on average for reproductions for personal or private use and the total amount of such uses, under consideration of the effects of the application of technical protective measures on the use of the respective works for reproductions due to the levy;
  6. the attributes of storage media and appliances with respect to their use, in particular the productivity of appliances and the storage capacity as well as the ability for re-writing of storage media;



# AUSTRIA

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...

7. the commercial interests of manufacturers, merchants and importers of appliances and storage media, which must not be affected unacceptably;
  8. an economically adequate relation between the levy and the typical price level of appliances and of the storage media, whereas the storage media levy shall not exceed 6 percent of that price level for storage media and the appliance levy 11 percent of the price level of such appliances; as far as empirical proof shows a nearly total use of an appliance or of a storage medium for uses according to para. 1 or 2, this threshold may be exceeded.
  9. operator levy: the kind and the scope of use of the reprographic appliance which is probable, according to the kind of establishment, the location of the appliance and its regular use.
- (5) Claims for remuneration under paragraphs (1) and (2) may be asserted only by collecting societies.
- (6) The collecting society shall refund the equitable remuneration:
1. to persons who export recording material or reprographic appliances abroad prior to their sale to the end user;
  2. to the end consumer, who has purchased storage media for a price including the paid levy, but who does not use those for reproductions for personal or private use.
- The facts justifying the refund shall be furnished by prima facie evidence.
- (7) Claims according to par. 1 shall be void if the liable person for payment furnishes prima facie evidence that the storage media are not used by himself or by any other person for reproductions for personal or private use.
- (8) The collective management society shall publish on its website a simple, comprehensible and for the average user intelligible way to claim recompense and the exemption from the liability for payment, which allows for an effective claim not being excessively difficult.
- (9) In invoices on the sale or any other marketing of the storage media and appliances mentioned in para. 1 and 2, the levy allotted to the storage medium or the appliance must be indicated.

## COLLECTION AND DISTRIBUTION SYSTEM

### **Art n°42b of the Federal Law on Copyright in Works of Literature and Art and on Related Rights as amended up to 2015**

(...)

- (5) Claims for remuneration under paragraphs (1) and (2) may be asserted only by collecting societies.



# AUSTRIA

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## COMMENTS/LEGAL DEVELOPMENTS

The Austrian National Assembly passed an amended Copyright Act in July 2015. This new law, which has been effective since October 1, 2015 provides for levies on storage media “of any kind”, in order to compensate rightholders for the private copying exception. It means that now, computer hard disks, storages of mobile phones which allow the performance of music or films and multi-purpose memory cards are clearly encompassed by the obligation to pay a levy.

However, this provision has no impact on the past. Austro Mechana, after the Amazon case of 2013, is still litigating claims on levies for computer hard disks and mobile phones’ storages, based on the old provisions on blank media levies. These proceedings against various computer and cell phone distributors cover claims which partly reach back to 2006.

As a reminder: the decision in the ECJ Amazon vs. Austro Mechana held that the Austrian levies system (where levies are paid irrespective of the intended use of devices/supports), including its mandatory allocation of 50% of levy revenues to social and cultural goals, is in line with EU legislation.

In December 2013, another case (HP Computer-Festplatten) determined that computer hard disks are subject to the blank tape levy.

Moreover, private copying levies should be applied not only on blank carriers, but to any reproduction devices. Especially in today’s digital environment, most of the private copying activities are done via such devices (e.g. MP3 – MP4 players), there are no justification for the current exclusion of reproduction devices since.





# BELGIUM



11.337 million

GDP: 403.449 million €

1/5



## OVERVIEW

<b>EXCEPTION</b>	Yes, it is defined as a private use of a work in the family circle, and from a legally source.				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes</td></tr> <tr> <td>Media</td><td>Yes</td></tr> </table>	Equipment	Yes	Media	Yes
Equipment	Yes				
Media	Yes				
<b>BENEFICIARIES</b>	Authors, Performers, Publishers and Producers of musical works, audiovisual works, visual art works and literary works & broadcasting companies (as producers).				
<b>LIABLE</b>	Manufacturers, importers and intra-EU purchasers (wholesalers or retailers) as well as foreign online shops selling to Belgian web users.				
<b>EXEMPTION</b>	Export. There is also possibility of refund for certain professional users or professional uses.				
<b>RATE SETTING</b>	<p>Levies are published by the Ministry of Economy, after negotiation within the Private Copy Commission which gathered rightholders, industry and consumers. If the negotiations failed, they can request an arbitration.</p> <p>Tariffs: fixed price related to the capacity of the products.</p>				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	<p>YES, the collecting society AUVIBEL has been appointed via a Royal Decree in 1997, it has a legal monopoly in this regards.</p> <p>AUVIBEL collects and distributes to the 20 collecting societies which represent all categories of rightholders, which finally redistribute to their respective rightholders.</p>				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	30% (currently not applied)				
<b>REVENUES DECLARED TO CISAC IN 2014</b>	7,8 M€				



## LEGAL BASIS

<b>EXCEPTION</b>	<p><i>(translation not available)</i></p> <p><b>Loi du 19 avril 2014 portant insertion du Livre XI 'Propriété intellectuelle' dans le Code de droit économique, et portant insertion des dispositions propres au Livre XI dans les Livres I, XV et XVII du même Code</b></p> <p><b>Art. XI.190.</b> Lorsque l'œuvre a été licitement publiée, l'auteur ne peut interdire:</p> <p>(...)</p> <p>9° la reproduction sur tout support autre que sur papier ou support similaire, d'œuvres, effectuée dans le cercle de famille et réservée à celui-ci;</p> <p>(...)</p>
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# BELGIUM

2/5



...

## LEVY

### Loi du 19 avril 2014 portant insertion du Livre XI 'Propriété intellectuelle' dans le Code de droit économique, et portant insertion des dispositions propres au Livre XI dans les Livres I, XV et XVII du même Code

**Art. XI.229.** Les auteurs, les artistes-interprètes ou exécutants, les éditeurs d'œuvres littéraires et d'œuvres d'art graphique ou plastique et les producteurs de phonogrammes et d'œuvres audiovisuelles ont droit à une rémunération pour la reproduction privée de leurs œuvres et prestations, y compris dans les cas visés aux articles XI.190, 9° et 17° et XI.217, 7° et 16°.

La rémunération est versée par le fabricant, l'importateur ou l'acquéreur intracommunautaire de supports manifestement utilisés pour la reproduction privée d'œuvres et de prestations sur tout support autre que sur papier ou support similaire, ou d'appareils manifestement utilisés pour cette reproduction lors de la mise en circulation de ces supports et de ces appareils sur le territoire national.

Selon les modalités prévues à l'article XI.232, le Roi détermine quels appareils et supports sont manifestement utilisés pour la reproduction privée d'œuvres et de prestations sur tout support autre que sur papier ou support similaire.

(...)

**Art. XI.232.** Le Roi détermine, par catégories de supports et appareils techniquement similaires qu'il définit, si ceux-ci sont manifestement utilisés pour la reproduction privée d'œuvres et de prestations sur tout support autre que sur papier ou support similaire et fixe les modalités de perception, de répartition et de contrôle de la rémunération ainsi que le moment où celle-ci est due.

Le Roi peut déterminer, sur une liste spécifique, les catégories de supports et appareils techniquement similaires qui ne sont pas manifestement utilisés pour la reproduction privée d'œuvres et de prestations sur tout support autre que sur papier ou support similaire et qui ne sont pas soumis à la rémunération pour copie privée.

Les ordinateurs ou catégories d'ordinateurs tels que le Roi les a définis ne peuvent être soumis à la rémunération ou inscrits sur la liste spécifique visée à l'alinéa 2 que par un arrêté royal délibéré en Conseil des ministres.

En même temps qu'il détermine le statut des appareils et supports le Roi fixe par arrêté royal délibéré en Conseil des ministres la rémunération visée à l'article XI.229. Cette rémunération est établie par catégorie d'appareils et de supports techniquement similaires.

Un appareil qui est manifestement utilisé pour la reproduction privée d'œuvres et de prestations sur tout support autre que sur papier ou support similaire et qui incorpore de manière permanente un support, n'est soumis qu'à une seule rémunération. Il est notamment tenu compte lors de la fixation de cette rémunération de l'application ou non des mesures techniques visées aux articles I.13, 7°, XI.291 et XV.69 aux œuvres ou aux prestations concernées.

Le montant de cette rémunération peut être révisé tous les trois ans. Si les conditions qui ont justifié la fixation du montant ont été manifestement et durablement modifiées, ce montant peut être révisé avant l'expiration du délai de trois ans.

Le Roi, s'il révisé le montant endéans la période de trois ans, motive sa décision par la modification des conditions initiales.

L'absence d'utilisation de mesures techniques ne peut porter préjudice au droit à la rémunération tel que défini à l'article XI.229.



# BELGIUM

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...

**Art. XI.233.** La rémunération visée à l'article XI.229 est remboursée selon les modalités fixées par le Roi :

- 1° aux producteurs d'œuvres sonores et audiovisuelles;
- 2° aux organismes de radiodiffusion;
- 3° aux institutions reconnues officiellement et subventionnées par les pouvoirs publics aux fins de conserver les documents sonores ou audiovisuels. Le remboursement n'est accordé que pour les supports destinés à la conservation des documents sonores et audiovisuels et à leur consultation sur place;
- 4° aux aveugles, aux malvoyants, aux sourds et aux malentendants, ainsi qu'aux institutions reconnues, créées à l'intention de ces personnes;
- 5° aux établissements d'enseignement reconnus, qui utilisent des documents sonores et audiovisuels à des fins didactiques ou scientifiques;
- 6° aux établissements hospitaliers, pénitentiaires et d'aide à la jeunesse reconnus.

En outre, le Roi peut déterminer par arrêté royal délibéré en Conseil des ministres, les catégories de personnes, physiques ou morales :

- 1° soit qui bénéficient d'un remboursement total ou partiel de la rémunération perçue et répercutée sur les supports et appareils qu'elles ont acquis;
- 2° soit pour lesquelles les redevables de la rémunération visés à l'article XI.229 sont exonérés ou remboursés totalement ou partiellement de celle-ci pour les supports et appareils acquis par ces personnes.

Le remboursement ou l'exonération de la rémunération, visés à l'alinéa précédent doivent être dûment motivés:

- 1° soit par la nécessité de garantir, sans porter atteinte à la création, l'accès le plus égal pour chacun aux nouvelles technologies de l'information et de la communication, dès lors que la rémunération en question constituerait un obstacle à cet accès;
- 2° soit par la nécessité de garantir l'acquisition de supports et d'appareils par des personnes qui ne consacrent manifestement pas ce matériel aux reproductions visées à l'article XI.229.

Le Roi détermine les conditions du remboursement ou de l'exonération.

## COLLECTION AND DISTRIBUTION SYSTEMS

*(translation not available)*

**Loi du 19 avril 2014 portant insertion du Livre XI 'Propriété intellectuelle' dans le Code de droit économique, et portant insertion des dispositions propres au Livre XI dans les Livres I, XV et XVII du même Code**

**Art. XI.229.** (...)

Sans préjudice des conventions internationales, la rémunération est répartie conformément à l'article XI.234, par les sociétés de gestion des droits, entre les auteurs, les artistes-interprètes ou exécutants, les éditeurs d'œuvres littéraires et d'œuvres d'art graphique ou plastique, et les producteurs.

Selon les conditions et les modalités qu'il fixe, le Roi charge une société représentative de l'ensemble des sociétés de gestion des droits d'assurer la perception et la répartition de la rémunération.



# BELGIUM

4/5



...

Lorsqu'un auteur ou un artiste-interprète ou exécutant a cédé son droit à rémunération pour copie privée, il conserve le droit d'obtenir une rémunération équitable au titre de la copie privée.

**Art. XI.230.** La société de gestion des droits désignée par le Roi dans le cadre du présent chapitre pourra obtenir les renseignements nécessaires à l'accomplissement de sa mission dans le respect de l'article XI.281 et XV.113 auprès:

- de l'Administration des douanes et accises par application de l'article 320 de la loi générale du 18 juillet 1977 sur les douanes et accises, remplacé par la loi du 27 décembre 1993;
- de l'Administration de la T.V.A. par application de l'article 93 bis du Code de la T.V.A. du 3 juillet 1969;
- et de l'Office national de la sécurité sociale conformément à la loi du 15 janvier 1990 relative à l'institution et à l'organisation d'une Banque-carrefour de la sécurité sociale.

**Art. XI.231.** Sans préjudice de l'article XI.281 et XV.113, la société de gestion des droits désignée pourra sur leur requête communiquer des renseignements aux administrations des douanes et de la T.V.A.

Sans préjudice de l'article XI.281 et XV.113, la société de gestion des droits désignée pourra communiquer et recevoir des renseignements :

- du service Contrôle et Médiation du SPF Economie;
- des sociétés de gestion des droits exerçant une activité similaire à l'étranger, sous condition de réciprocité.

**Art. XI.234.**

§ 1<sup>er</sup>. En ce qui concerne la rémunération visée à l'article XI.229, le Roi peut déterminer la clé de répartition entre les catégories d'œuvres suivantes :

- 1) les œuvres littéraires;
- 2) les œuvres d'art graphique ou plastique;
- 3) les œuvres sonores;
- 4) les œuvres audiovisuelles.

La partie de la rémunération visée à l'article XI.229, afférente aux œuvres sonores et aux œuvres audiovisuelles, est répartie par tiers entre auteurs, artistes-interprètes ou exécutants et producteurs.

La partie de la rémunération visée à l'article XI.229, afférente aux œuvres littéraires et aux œuvres d'art plastique ou graphique, est répartie à parts égales entre auteurs et éditeurs.

Les alinéas 2 et 3 sont impératifs.

La partie de la rémunération visée à l'article XI.229, afférente aux œuvres sonores et aux œuvres audiovisuelles, à laquelle les auteurs et artistes-interprètes ou exécutants ont droit, est incessible.

La partie de la rémunération visée à l'article XI.229, afférente aux œuvres littéraires et aux œuvres d'art plastique ou graphique à laquelle les auteurs ont droit, est incessible.

§ 2. Les Communautés et l'Etat fédéral peuvent décider d'affecter trente pour cent du produit de la rémunération dont question au paragraphe précédent à la promotion de la création d'œuvres, par accord de coopération en application de l'article 92 bis, § 1<sup>er</sup>, de la loi spéciale du 8 août 1980 de réformes institutionnelles.



# BELGIUM

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...

## COLLECTION AND DISTRIBUTION SYSTEMS

A Royal Decree of October 18, 2013 on the private copying remuneration was published in order to introduce several tariff changes (tablets included, reduction rates for USB, memory cards and external hard drive) and extend the scope of the private copying remuneration to new works and new beneficiaries (authors and publishers of literary works, graphic and plastic works). Also, the Decree has introduced a new procedure for setting levies. Each year Auvibel will perform a joint analysis of the Belgian market. After discussion of the results of this analysis, the Commission on private copying shall issue an opinion on the measures to be taken. Based on this opinion, the minister responsible for copyright shall inform the Board of Ministers of the measures he intends to take.

The Belgian reprography and private copy system has fundamentally been undergoing changes since the 2015 ECJ judgment *HP vs. Reprobel* (C-572/13). The Court found this system to be unlawful under the InfoSoc Directive in many respects. First of all, the Court criticized the fact that under Belgian law the compensation for reprography and private copy is paid to both authors and publishers, resulting in a dilution of the authors' remuneration. In addition to this, the Court found it is also not compatible with the InfoSoc Directive because it did not provide for distinct compensation according to whether the copy was made for private purposes or for non-private purposes.

As a result, a new piece of legislation was enacted on 22 December 2016 to address the criticisms levelled by the Court. The new Belgian reprography/private copy system will rely on two different grounds for authors' remuneration:

- copy made on paper or similar medium, by a professional end-user (company, library, public authority) for non-private use, will lead to a proportional compensation corresponding to the actual number of copies made ;
- private copy, covering every reproduction, regardless of the medium (paper or other), made for private use, will solely lead to fixed lump-sum remuneration.

The new law also clearly deletes any reference to publishers, they are not anymore listed in article XI.290 of the Code as beneficiaries of private copying remuneration.

The Act also provides for distinct reprography remuneration for the benefit of editors when a copy is made from paper or similar medium to paper or similar medium.

On the 30 December 2016, the new royal of 11 December 2016 (modifying the royal decree of 18 October 2013) provides for reimbursement and exemption for professional use. On the one hand, the existing procedure concerning the reimbursement of remuneration is maintained. On the other hand, an exemption system for professional use is introduced under certain conditions.



# CROATIA



4.221 million

GDP: 320.605 million €

1/2



## OVERVIEW

### EXCEPTION

Yes, it is authorized to reproduce a copyright work (sound, visual or text) for personal use and on a non-commercial basis

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Authors (music, movie, literary works), performers, phonogram and movie producers, publishers of literary works.

### LIABLE

Manufacturers, importers for the first sale or import in Croatia

### EXEMPTION

Ephemeral recordings used in broadcasting and certain institutions if they do not have any commercial activities and export.  
Possibility of refund if it can be proved that a copyright work may not be reproduced for private or other personal use.

### RATE SETTING

Negotiation between rightholders and liable

### COLLECTION AND DISTRIBUTION SYSTEM

YES, HDS ZAMP has been appointed for the collection of the levy.  
HDS ZAMP collects for all rightholders and distributes to the other organisations of rightholders which distribute individually.

### SOCIAL AND CULTURAL DEDUCTIONS

30 %

### REVENUE DECLARED TO CISAC IN 2014

450 000€



## LEGAL BASIS

### EXCEPTION

#### Article 32 of Croatian Copyright Law of 2003 (as amended up to 2014)

(1) Where a copyright work may be reproduced without the author's authorization pursuant to Article 82 of this Act, the author whose works are, due to their nature, expected to be reproduced without authorization, by photocopying or by recording on sound, visual or text fixation mediums, for private or other personal use, shall have the right to an appropriate remuneration upon sale of technical appliances and blank audio, video or text fixation mediums.

#### Article 82 of Croatian Copyright Law of 2003 (as amended up to 2014)

A natural person may reproduce a copyright work in any medium if he does so for private use, or in the form of photocopying and other personal use if this copy is not intended for or accessible to the public and has no direct or indirect commercial purpose. It shall not be permitted to reproduce the whole book, unless the copies of such book have been sold out for at least two years, graphic editions of musical works (hereinafter: sheet music), electronic databases, cartographic works, nor the building of architectural structures, unless otherwise provided by this Act or a contract.



# CROATIA

2/2



...

## LEVY

### Article 32 of Croatian Copyright Law of 2003 (as amended up to 2014)

- (..)
- (2) Apart from the right referred to in paragraph (1) of this Article, the authors shall have a right to an appropriate remuneration to be obtained from a natural or legal person who provides services of photocopying against payment.
- (3) Any other reproduction techniques shall be assimilated to photocopying, and any other appliances providing the same effect shall be assimilated to appliances for sound or visual recording.
- (4) The remuneration referred to in paragraph (1) of this Article shall be paid by manufacturers of appliances for sound and visual recording, manufacturers of appliances for photocopying, manufacturers of blank audio, video or text fixation mediums, and jointly and severally with them importers of appliances for sound and visual recording, photocopying, blank audio, video or text fixation mediums, unless such imports concerns small quantities intended for private and non-commercial use, forming part of personal luggage. If the mentioned appliances and objects are not produced in the Republic of Croatia, the remuneration shall be paid by the importer.
- (5) The obligation to pay the appropriate remuneration referred to in paragraph (1) shall arise:
1. in respect of the first sale in the Republic of Croatia or import in the Republic of Croatia of new appliances for sound and visual recording;
  2. in respect of the first sale in the Republic of Croatia or import in the Republic of Croatia of new blank audio or video fixation media;
  3. in respect of the first sale in the Republic of Croatia or import in the Republic of Croatia of new photocopying appliances.
- (6) The remuneration referred to in paragraph (2) of this Article shall be paid in the amount depending on the information on the number of photocopies made.
- (7) Authors may not renounce the rights to remuneration referred to in paragraphs (1) and (2) of this Article.



# CZECH REPUBLIC



10.538 million

GDP: 4,223.446 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes, a reproduction of a work for personal use and without economic benefit is not infringing copyright				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes</td></tr> <tr> <td>Media</td><td>Yes</td></tr> </table>	Equipment	Yes	Media	Yes
Equipment	Yes				
Media	Yes				
<b>BENEFICIARIES</b>	Authors (music, audiovisual, literary works, fine arts and architecture), performers, phonogram and audiovisual producers, publishers.				
<b>LIABLE</b>	Manufacturers, importers and consignee				
<b>EXEMPTION</b>	Export and consignee for resale				
<b>RATE SETTING</b>	Law determined levies (by decree) Tariffs: per unit or by capacity depending on the products				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	YES, four organisations (OSA, INTERGRAM, DILIA, OOA-S) are collecting the levies for each categories of rightholders. Each organisations collects and distributes to its own rightholders.				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	No				
<b>REVENUE DECLARED TO CISAC IN 2014</b>	3,2M€				



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Article 30 of Copyright Act (Consolidated Version of Act No.121/2000 Coll.)</b></p> <p>(2) Copyright shall therefore not be infringed by whoever :</p> <p>a) for his own personal use makes a recording, reproduction or imitation of a work; a reproduction or imitation of a work of fine arts must be clearly labelled as such,</p> <p>(..)</p> <p>A reproduction made for personal use may not be used for any other purpose.</p>
<b>LEVY</b>	<p><b>Article 25 of the Copyright Act Consolidated Version of Act No. 121/2000 Coll. (+ decrees of The Ministry of Culture n° 488/2006 Coll. &amp; n°408/2008 Coll.)</b></p> <p>(1) In the case of works made public which can be reproduced for personal use on the basis of</p> <p>a) an audio or audiovisual fixation, b) a broadcast, or</p>





# CZECH REPUBLIC

2/2



...

- c) a print or other graphic expression by their transfer by means of a technical device to empty record carriers, or by means of a technical device for making printed reproductions on paper or other similar base, the author shall be entitled to a remuneration in connection with the reproduction of the work for personal use.
- (2) The person liable for the payment of the remuneration pursuant to paragraph (1) shall be :
  - a) the producer or importer of the technical device for the making of the reproductions of audio or audiovisual fixation,
  - b) the producer or importer of technical devices for making printed reproductions,
  - c) the producer or importer of empty carriers of audio and audiovisual fixations,
  - d) the transporter or forwarder instead of the liable person pursuant to clauses a) to c), unless that person has informed, without undue delay, the relevant collective administrator of the details necessary for the identification of the importer or producer,
  - e) the provider of paid reproduction services, in the case of printed reproductions; provider of paid reproduction services shall also mean the person who makes available, for a charge, the device for the making of printed reproductions.
- (3) Entitlement to the remuneration to be paid by the persons defined in paragraph (2) a) to d) in connection with the reproduction of the work for individual use shall arise at the time of the import or of the first sale of:
  - a) the technical device for the making of the reproductions of audio or audio visual fixations,
  - b) the technical device for the making of printed reproductions,
  - c) empty carriers of audio or audiovisual fixations.
- (4) Entitlement to the remuneration to be paid by the person defined in paragraph (2) e) shall arise in dependance on the number of printed reproductions made.
- (5) The persons referred to in paragraph (2) shall be obliged to submit to the relevant collective administrator of rights, always summarily for half of the calendar year not later than by the end of the following calendar month, in formation on the facts relevant for the stipulation of the amount of the remuneration, i.e. especially on the type and number of sold or imported technical devices for the making of the reproductions of audio or audiovisual fixations, of the technical devices for the making of printed reproductions, and of empty carriers of audio and audiovisual fixations, and also on the number of the printed reproductions made by the devices for providing paid reproduction services.
- (6) The amount of the remuneration shall be stipulated by the rate schedule attached in the annex.
- (7) Remuneration shall not be paid in the case of export of the technical devices referred to in paragraph (3) a) and b) or of export of empty carriers of audio or audiovisual fixations for the purpose of their further sale. Remuneration shall also not be paid in the case of devices and empty carriers if these are intended to be used within the country only for operational purposes by persons in their own undertaking.



## COMMENTS/LEGAL DEVELOPMENTS

There are still pending cases with regards to the payment of the levies on different products (e.g. with Nokia on smartphones, etc.). There is also discussion on the refund system following Copydan decision because the law doesn't recognize the refund system at the moment.



# DENMARK



5.660 million

GDP: 1,857.800 million €

1/4



## OVERVIEW

### EXCEPTION

Yes, it is authorized to reproduce a single copy of a work for personal use and for non-commercial purpose

### LEVY

Equipment	No
Media	Yes (sound tapes or videotapes or other devices on to which sound or images can be recorded)

### BENEFICIARIES

Authors, performers, publishers and producers of musical, audiovisual and visual works.

### LIABLE

Manufacturers, importers and retailers

### EXEMPTION

Professional uses can be exempted upon a specific agreement. There is also a possibility of refund.  
Exports are refund a posteriori.

### RATE SETTING

Levis are set up by law

### COLLECTION AND DISTRIBUTION SYSTEM

COPYDAN KULTURPLUS has been appointed by the Ministry for Culture for the collection of the levy. It has a legal monopoly.  
COPYDAN KULTURPLUS collects for all categories of rightholders and distributes to each organisations representing rightholders (20), which distribute individually to its members.

### SOCIAL AND CULTURAL DEDUCTIONS

One third of the annual amount

### REVENUE DECLARED TO CISAC IN 2014

698 000€



## LEGAL BASIS

### EXCEPTION

#### Article 12 of Consolidated Act on Copyright 2014

- (1) Anyone is entitled to make or have made, for private purposes, single copies of works which have been made public if this is not done for commercial purposes. Such copies must not be used for any other purpose.
- (2) The provision of subsection (1) does not provide the right to :
  - (i) construct a work of architecture;
  - (ii) make a copy of a work of art by casting, by printing from an original negative or base, or in any other manner implying that the copy can be considered as an original;
  - (iii) make copies of computer programs in digitized form;
  - (iv) make copies in digital form of databases if the copy is made on the basis of a reproduction of the database in digital form; or



# DENMARK

2/4



...

- (v) make single copies in digital form of other works than computer programs and databases unless this is done exclusively for the personal use of the copying person himself or his household.
- (3) Notwithstanding the provision in subsection (2) (v), it is not permitted without the consent of the author to produce copies in digital form on the basis of a copy that has been lent or hired.
- (4) The provision of subsection (1) does not confer a right to engage another person to make copies of :
  - (i) musical works;
  - (ii) cinematographic works;
  - (iii) literary works if the other person assists for commercial purposes;
  - (iv) works of applied art; or
  - (v) works of art if the copying is in the form of an artistic reproduction.
- (5) The provision of subsection (1) does not entitle the user to make copies of musical works and cinematographic works by using technical equipment made available to the public in libraries, on business premises, or in other places accessible to the public. The same applies for literary works if the technical equipment has been provided for commercial purposes.

## LEVY

### Article 39 of Consolidated Act on Copyright 2014

- (1) Anyone who for commercial purposes produces or imports sound tapes or videotapes or other devices on to which sound or images can be recorded shall pay remuneration to the authors of the works mentioned in subsection (2).
- (2) The remuneration shall be paid for tapes, etc., which are suitable for production of copies for private use, and only for works which have been broadcast on radio or television, or which have been published on phonogram, film, videogram, etc.
- (..)

### Article 40 of Consolidated Act on Copyright 2014

- (1) For 2006, the remuneration per minute playing time for analogue sound tapes is DKK 0.0603 and for analogue videotapes DKK 0.0839.
- (2) For 2006, the remuneration for digital sound media is DKK 1.88 per unit, for digital image media DKK 3 per unit and for digital memory cards DKK 4.28 per unit.
- (3) The remuneration specified in subsections (1) and (2) shall be adjusted annually from 2007 by the rate adjustment percentage, cf. Act on Rate Adjustment Percentage.

### Article 41 of Consolidated Act on Copyright 2014

- (1) Companies which for commercial purposes produce or import sound tapes or videotapes, etc., shall be registered with the joint organisation.
- (2) The organisation shall issue a certificate for the registration.
- (3) Registered companies shall without the remuneration having been settled be entitled to import or from another registered company to receive sound tapes or videotapes liable to remuneration in accordance with section 39.



# DENMARK

3/4



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## Article 42 of Consolidated Act on Copyright 2014

- (1) The remuneration period shall be the month.
- (2) Registered companies shall prepare a statement of the number of sound tapes and videotapes liable to remuneration which during the period have been distributed by the company, and their playing time.
- (3) Registered companies using sound tapes or videotapes within the company shall include the terms for distribution according to subsection (2).
- (4) The statement shall be specified in accordance with guidelines to be laid down by the Minister for Culture according to negotiation with the joint organisation. The Minister for Culture may, moreover, subject to negotiation with the joint organisation lay down guidelines for control measures in connection with the statement mentioned in the first sentence of this subsection.
- (5) The Minister for Culture can define rules, the purpose of which is to simplify the scheme with deductions or repayments of remuneration for sound tapes and videotapes, etc., used for professional purposes, cf. section 43 (1) (iii), and section 44 (1) (ii).
- (6) Anyone selling sound tapes and videotapes, etc. is obliged when ordered to do so by the organisation to explain within four weeks from whom the tapes, etc. were bought

## Article 43 of Consolidated Act on Copyright 2014

- (1) A deduction shall be made from the number liable to remuneration made up in accordance with section 42(2):
  - (i) the number of sound tapes and videotapes distributed to another registered company in accordance with section 41(3);
  - (ii) the number of exported sound tapes and videotapes;
  - (iii) the number of sound tapes and videotapes to be used for professional purposes, including educational purposes;
  - (iv) the number of sound tapes and videotapes to be used for production of recordings to be used for the visually handicapped and hearing-impaired persons;
  - (v) the number of sound tapes and videotapes to be used for special purposes which by the Minister for Culture have been exempted from the remuneration.
- (2) The Minister for Culture may according to negotiation with the joint organisation lay down guidelines for controlling deductions in accordance with subsection (1).

## Article 44 of Consolidated Act on Copyright 2014

- (1) The remuneration shall be repaid in case of:
  - (i) commercial export of sound tapes or videotapes on which remuneration has been paid;
  - (ii) utilization of sound tapes or videotapes for professional purposes, including educational purposes, on which remuneration has been paid;
  - (iii) utilization of sound tapes or videotapes for production of recordings to be used by visually handicapped or hearing-impaired persons, on which remuneration has been paid; or
  - (iv) utilization of sound tapes or video tapes for special purposes which by the Minister for Culture have been exempted from payment of remuneration, on which remuneration has been paid.



# DENMARK

4/4



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- (2) In accordance with negotiation with the joint organisation, the Minister for Culture lays down the guidelines to apply to refunding of remuneration according to subsection (1).

## Article 45 of Consolidated Act on Copyright 2014

- (1) Registered companies shall keep accounts of production, import and distribution etc., of sound tapes and videotapes liable to remuneration.
- (2) In accordance with negotiation with the joint organisation, the Minister for Culture lays down guidelines to apply to the accounting of the registered companies, including issue of invoices etc.
- (3) Registered companies shall keep accounting material for five years after the end of the financial year.

## Article 46 of Consolidated Act on Copyright 2014

After the end of each remuneration period and not later than at the end of the next month registered companies shall to the joint organisation deliver a statement specifying the number of distributed sound cassette tapes and video cassette tapes, and their playing time, cf. sections 42 and 43. The company shall at the latest together with delivery of the statement pay the remuneration to the organisation. The statement shall be signed by the management of the company.

## Article 46a of Consolidated Act on Copyright 2014

The Minister for Culture can compensate rightholders for the difference between the proceeds of the sale of blank DVD's in a specific year and the proceeds of the sale of blank DVD's in 2005, to the extent that the proceeds of a specific year is less than in 2005.

## COLLECTION AND DISTRIBUTION SYSTEMS

### Article 39 of Consolidated Act on Copyright 2014

- (..)
- (3) Administration and control, including collection, shall be carried out by a joint organisation representing a substantial number of authors, performers and other rightholders, including record producers, etc., and photographers, whose works, performances, etc., are used in Denmark. The organisation shall be approved by the Minister for Culture. The Minister may demand to be supplied with all information about collection, administration and distribution of the remuneration.
- (4) The organisation lays down guidelines for payment of the remuneration to the beneficiaries so that to the greatest possible extent distribution will take place in accordance with the copying actually made. One third of the annual amount for payment shall, however, be used to support purposes common to the authors and others within the groups represented by the organisation, cf. subsection (3).
- (5) The Minister for Culture stipulates detailed provisions on the procedure for approval of the joint organisation, mentioned in subsection (3).



## COMMENTS/LEGAL DEVELOPMENTS

Private copying levies should be applied not only on blank carriers, but to any reproduction devices. Especially in today's digital environment, most of the private copying activities are done via such devices (e.g. MP3 – MP4 players), there are no justification for the current exclusion of reproduction devices since.



# ESTONIA



1.313 million

GDP: 17.594 million €

1/4



## OVERVIEW

### EXCEPTION

Yes, an audiovisual works or a sound recordings may be reproduced for the private use of the user without the authorisation of the author.

### LEVY

Equipment Yes (only analog devices)  
Media Yes (audio and video carriers and blank CD & DVD)

### BENEFICIARIES

Authors, Performers and Producers of works.

### LIABLE

Manufacturers, importers and sellers (where the PC has not been paid by the first importer/manufacturer in Estonia)

### EXEMPTION

Export.  
There are also many exemptions provided by law (disables persons, educational purpose, etc.)

### RATE SETTING

Levies are fixed by law.  
Tariffs: percentage of the value of the product

### COLLECTION AND DISTRIBUTION SYSTEM

The collecting society EAÜ (Estonian Authors' Society) has been appointed by the Ministry of Justice.  
Effective mechanism, but collection has not been made in 2014 because the cost of collecting the PC exceeded the collected amounts (see more information below).

### SOCIAL AND CULTURAL DEDUCTIONS

Do not exceed 10% of the amounts subject to distribution.

### REVENUE DECLARED TO CISAC IN 2014

0€



## LEGAL BASIS

### EXCEPTION

**Article 26 of the Copyright Act of 1992 (as amended up to 2014) + Government Regulation No. 67 of 2002 on the establishment of Collection and Payment of Remuneration for Private Use of Audiovisual Works and Sound Recordings of Works**

- (1) Audiovisual works or sound recordings of such works may be reproduced for the private use (scientific research, studies, etc.) of the user without the authorisation of the author. The author as well as the performer of the work and the producer of phonograms have the right to obtain equitable remuneration for such use of the work or phonogram.
- (2) Subsection (1) of this section does not apply to legal persons.



# ESTONIA

2/4



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## LEVY

### **Article 27 of the Copyright Act of 1992 (as amended up to 2014) + Government Regulation No. 67 of 2002 on the establishment of Collection and Payment of Remuneration for Private Use of Audiovisual Works and Sound Recordings of Works**

- (1) The manufacturers, importers, sellers of storage media and recording devices, persons who bring storage media and recording devices from the Community customs territory into Estonia within the meaning of the Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 302, 19.10.1992, pp. 1–50) shall pay the remuneration specified in § 26 of this Act.
- (2) The seller shall pay the remuneration in the case when the manufacturer, importer, or the person who brings storage media and recording devices from the Community customs territory into Estonia has not paid the remuneration.
- (3) The seller has the right to reclaim the remuneration from the manufacturer, importer and the person who brings storage media and recording devices from the Community customs territory into Estonia.
- (4) Natural persons shall pay remuneration in the case when the importing of storage media and recording devices or bringing of the storage media and recording devices from the Community customs territory into Estonia is carried out for commercial purposes.
- (5) The remuneration shall be repaid on the storage media and recording devices:
  - 1) which, due to their technical characteristics, do not enable the reproduction of audiovisual works and sound recordings of works as single copies;
  - 2) exported or transported from Estonia into the Community customs territory;
  - 3) which are used in the course of the activities specified in the articles of association of the undertaking;
  - 4) which are used in an activity in the case of which the result of the main activity of the person who makes the recording requires the manufacture of an audio or video recording as an intermediate stage;
  - 5) which are intended for recording activities in educational and research institutions for the purpose of teaching or scientific research;
  - 6) used for making recordings for the benefit of disabled persons.
- (6) A collective management organisation shall repay the remuneration to the persons specified in subsection (5) of this section within one month after submission of a corresponding written application.
- (7) The amount of the remuneration is:
  - 1) 3 per cent of the value of the goods in the case of recording devices;
  - 2) 8 per cent of the value of the goods in the case of storage media.



# ESTONIA

3/4



...

## COLLECTION AND DISTRIBUTION SYSTEMS

### **Article 27 of the Copyright Act of 1992 (as amended up to 2014) + Government Regulation No. 67 of 2002 on the establishment of Collection and Payment of Remuneration for Private Use of Audiovisual Works and Sound Recordings of Works.**

- (8) The remuneration shall be distributed among authors, performers and producers of phonograms according to the use of works and phonograms.
- (9) The remuneration shall be distributed on the basis of a distribution plan for the preparation of which the Minister of Justice shall appoint a committee every year, which is proportionally comprised of collective management organisations representing the authors, performers and producers of phonograms and a representative of the Ministry of Justice.
- (10) Remuneration may also be paid to organisations for the development of music and film culture and in order to finance educational and research programs or for use thereof for other similar purposes, but only in an amount not exceeding 10 per cent of the remuneration subject to distribution.
- (11) The Minister of Justice shall approve the distribution plan not later than three months after the end of the budgetary year, having previously obtained the approval of the representatives of authors, performers and producers of phonograms.
- (12) The Minister of Justice shall appoint a collective management organisation as the collector of remuneration and the organisation has the right to deduct expenses related to the collection and payment of remuneration from the remuneration collected.
- (13) The collective management organisation which is appointed as the collector of remuneration has the right to obtain necessary information from customs authorities and statistical organisations and manufacturing and importing organisations and sellers. The information submitted is confidential and the collector of remuneration has the right to use and disclose the information only in connection with the collection of remuneration.
- (14) The Government of the Republic shall establish by a regulation:
  - 1) the procedure for payment of remuneration to compensate for private use of audio-visual works and sound recordings of works and the list of storage media and recording devices;
  - 2) the procedure for application for the remuneration specified in subsection (10) of this section.





# ESTONIA

4/4



## COMMENTS/LEGAL DEVELOPMENTS

The list of products subject to levy has been adopted in 1996 and never updated despite the recurrent request of representatives of rightholders, so the amount collected has decreased year by year. In 2014, the costs for the collection of the blank tape levies exceeded the collected amounts and as a result, the rightholders did not receive any remuneration under the private copying exception.

In 2013, EAU together with the Estonian Performers' Union (EEL) and Estonian Association of Phonogram Producers (EFÜ) filed a complaint in the Tallinn administrative court claiming monetary damages from the Government of the Republic of Estonia. The claimants were of the opinion that the Regulation of 2006 on the "blank tape levy" was not in compliance with Article 5(2) (b) of the Infosoc Directive and with the Estonian Constitution, as this Regulation fails to guarantee to rightholders an equitable remuneration under the private copying exception, because the list of equipments and devices subject to the "blank tape levy" is not in accordance with recent technological developments.

The Tallinn Circuit Court found in 2015 that the Government had failed to perform its obligations by issuing a regulation on the blank tape levy that clearly failed to guarantee rightholders an equitable remuneration under the private copying exemption, and that the claim for compensation by way of damages was therefore justified. However, the Supreme Court ruled in 2015 that before being able to decide upon the question of whether a claim for damages was justified, the court must first establish the facts and the amount of damages, as well as the causation between the breach of the obligations of the public authority and the monetary damages suffered by the claimants.

The action shall therefore come back to the Tallinn Circuit Court to determine whether all the prerequisites for compensation of damages under Section 14(1) of the Estonian State Liability Act exist.

The government is now discussing changes to the current system based on two options: updating the list of levied devices and equipment (to introduce digital products) or to set the storage capacity as the basis for calculation of the levy. A third option is also discussing but not promoted by rightholders: a state budget system.

Private copying levies should be applied not only on blank carriers, but to any reproduction devices. Especially in today's digital environment, most of the private copying activities are done via such devices (e.g. MP3 – MP4 players), there are no justification for the current exclusion of reproduction devices.



# FINLAND



5.472 million

GDP: 187.231 million €

1/2



## OVERVIEW

<b>EXCEPTION</b>	Yes, anyone may make single copies for his private use of a work that has been made public.
<b>LEVY</b>	<div>Equipment</div> <div>Media</div> <div>No (state-funded system)</div> <div>No (state-funded system)</div>
<b>BENEFICIARIES</b>	Authors (music, audiovisual, literary works, visual arts), performers, phonogram and audiovisual producers, publishers.
<b>LIABLE</b>	The Finland Government
<b>EXEMPTION</b>	No
<b>RATE SETTING</b>	There is no levy, the amount of the remuneration for private copying is determined by the Finland Ministry of Culture, which has to conduct survey on private copying. The amount is included in the state-budget.
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	The allocation of the remuneration to CMOs to be further distributed to rightholders should be assume by the Ministry of culture. Effective mechanism before the new law passed, the new system has been implemented in January 2015 and has to be further assessed.
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	Before the new law, there are 35% deductions for audio and 45% for video.
<b>REVENUE DECLARED TO CISAC IN 2014</b>	2,1M€ (i.e. the total amount fixed by the Ministry of Culture is 11M€ for 2015 and 11M€ for 2016)



## LEGAL BASIS

<b>EXCEPTION</b>	<b>Section 12 of the Copyright Act (404/1961), as amended up to 2015</b> <ol style="list-style-type: none"> <li>(1) Anyone may make single copies for his private use of a work that has been made public. The copies thus made may not be used for other purposes.</li> <li>(2) It is also permitted to have copies made by a third party for the private use of the party ordering the copies.</li> <li>(3) The provisions of subsection 2 shall not apply to the reproduction of musical works, cinematographic works, utility articles or sculptures, or the reproduction of any other work of art by artistic means.</li> <li>(4) The provisions of this section shall not apply to a computer- readable computer program, to the making of a computer- readable copy of a computer- readable database, or to the construction of a work of architecture.</li> </ol>
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# FINLAND

2/2



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## LEVY

### Section 26a of the Copyright Act (404/1961), as amended up to 2015

- (1) The State shall pay compensation for the reproduction of a work for private use to its authors. The compensation is paid from an allocation included in the State budget, and the amount of compensation shall be settled at a level which can be considered a fair compensation for the reproduction of a work for private use.
- (2) The reproduction of a work for private use and its frequency is surveyed in order to size the right amount for the compensation. The survey is conducted by an independent research institution approved by the Ministry of Education and Culture.
- (3) The Government shall appoint an advisory board by proposal of the Ministry of Education and Culture, the aim of which is to act as an advisory expert body on the survey on reproduction for private use. The term of office of the advisory board is four years.

## COLLECTION AND DISTRIBUTION SYSTEM

### Section 26b of the Copyright Act (404/1961), as amended up to 2015

- (1) The compensation shall be paid as direct compensation to the authors and as indirect compensation to the authors for their common purposes, in accordance with a plan for the use of the funds annually approved by the Ministry of Education and Culture.
- (2) The compensation shall be paid to the authors through an organisation representing numerous authors of works used in Finland. When paying the direct compensation, the organisation shall treat all authors equally, whether or not they are members of the organisation.
- (3) The Ministry of Education and Culture shall monitor that the application and redistribution of the compensation follows the plan for the use of funds. The Ministry shall have the right to obtain from the organisation any information necessary for the purposes of supervision.



## COMMENTS/LEGAL DEVELOPMENTS

The private copying system has been replaced in 2015 after the new copyright law entered into force. This new law cancelled the device-based levies applied since 1984 by a state-funded system. The amount for 2015 & 2016 is 11M€.

All private copying compensation related responsibilities (allocation of the private copying revenue to CMOs, conduct of survey to adapt the mount of the remuneration) are now taken over by the Ministry of Culture.



# FRANCE



64.275 million

GDP: 2,084.300 million €

1/4



## OVERVIEW

### EXCEPTION

Yes, it is authorized to make a single copies of a work for private use on any medium, for non-commercial purposes, and from a legally source.

### LEVY

Equipment Yes, all equipment  
Media Yes, all media (except computer)

### BENEFICIARIES

Authors, Performers and Producers of musical and audiovisual works, as well as of visual arts and written works.

### LIABLE

Manufacturers, importers

### EXEMPTION

Export  
There are possibilities of exemption agreement or refund for professional uses and end-user.

### RATE SETTING

Levies are negotiated between representatives of rightholders, consumers and manufacturer/importers within a specific administrative commission.  
Tariffs: fixed price related to the capacity of the products.

### COLLECTION AND DISTRIBUTION SYSTEM

YES, bodies in charge of the collection and distribution is COPIE FRANCE.  
COPIE FRANCE collects the PC levy and distributes to its member societies (representative of rightholders) which finally redistributes to their rightholders.

### SOCIAL AND CULTURAL DEDUCTIONS

25%

### REVENUE DECLARED TO CISAC IN 2014

76,5M€



## LEGAL BASIS

### EXCEPTION

#### Article L122-5 of the French Intellectual Property code (as amended up to 2014)

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

2° Les copies ou reproductions réalisées à partir d'une source licite et strictement réservées à l'usage privé du copiste et non destinées à une utilisation collective, à l'exception des copies des œuvres d'art destinées à être utilisées pour des fins identiques à celles pour lesquelles l'œuvre originale a été créée et des copies d'un logiciel autres que la copie de sauvegarde établie dans les conditions prévues au II de l'article L. 122-6-1 ainsi que des copies ou des reproductions d'une base de données électronique ;

(...)

Les exceptions énumérées par le présent article ne peuvent porter atteinte à l'exploitation normale de l'œuvre ni causer un préjudice injustifié aux intérêts légitimes de l'auteur.



## FRANCE

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Les modalités d'application du présent article, notamment les caractéristiques et les conditions de distribution des documents mentionnés au d du 3°, l'autorité administrative mentionnée au 7°, ainsi que les conditions de désignation des organismes dépositaires et d'accès aux fichiers numériques mentionnés au troisième alinéa du 7°, sont précisées par décret en Conseil d'Etat.

## LEVY

**Article L311-1 of the French Intellectual Property code (as amended up to 2014)**

Les auteurs et les artistes-interprètes des œuvres fixées sur phonogrammes ou vidéogrammes, ainsi que les producteurs de ces phonogrammes ou vidéogrammes, ont droit à une rémunération au titre de la reproduction desdites œuvres, réalisée à partir d'une source licite dans les conditions.

Cette rémunération est également due aux auteurs et aux éditeurs des œuvres fixées sur tout autre support, au titre de leur reproduction réalisée à partir d'une source licite, dans les conditions prévues au 2° de l'article L. 122-5, sur un support d'enregistrement numérique.

**Article L311-2 of the French Intellectual Property code (as amended up to 2014)**

Sous réserve des conventions internationales, le droit à rémunération mentionné à l'article L. 214-1 et au premier alinéa de l'article L. 311-1 est réparti entre les auteurs, les artistes-interprètes, producteurs de phonogrammes ou de vidéogrammes pour les phonogrammes et vidéogrammes fixés pour la première fois dans un Etat membre de la Communauté européenne.

**Article L311-3 of the French Intellectual Property code (as amended up to 2014)**

La rémunération pour copie privée est, dans les conditions ci-après définies, évaluée selon le mode forfaitaire prévu au deuxième alinéa de l'article L. 131-4.

**Article L311-4 of the French Intellectual Property code (as amended up to 2014)**

La rémunération prévue à l'article L. 311-3 est versée par le fabricant, l'importateur ou la personne qui réalise des acquisitions intracommunautaires, au sens du 3° du I de l'article 256 bis du code général des impôts, de supports d'enregistrement utilisables pour la reproduction à usage privé d'œuvres, lors de la mise en circulation en France de ces supports.

Le montant de la rémunération est fonction du type de support et de la durée ou de la capacité d'enregistrement qu'il permet.

Ce montant est également fonction de l'usage de chaque type de support. Cet usage est apprécié sur le fondement d'enquêtes. Toutefois, lorsque des éléments objectifs permettent d'établir qu'un support peut être utilisé pour la reproduction à usage privé d'œuvres et doit, en conséquence, donner lieu au versement de la rémunération, le montant de cette rémunération peut être déterminé par application des seuls critères mentionnés au deuxième alinéa, pour une durée qui ne peut excéder un an à compter de cet assujettissement.

Le montant de la rémunération tient compte du degré d'utilisation des mesures techniques définies à l'article L. 331-5 et de leur incidence sur les usages relevant de l'exception pour copie privée. Il ne peut porter rémunération des actes de copie privée ayant déjà donné lieu à compensation financière.



# FRANCE

3/4



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## **Article L311-4-1 of the French Intellectual Property code (as amended up to 2014)**

Le montant de la rémunération prévue à l'article L. 311-3 propre à chaque support est porté à la connaissance de l'acquéreur lors de la mise en vente des supports d'enregistrement mentionnés à :

Une notice explicative relative à cette rémunération et à ses finalités, qui peut être intégrée au support de façon dématérialisée, est également portée à sa connaissance. Cette notice mentionne la possibilité de conclure des conventions d'exonération ou d'obtenir le remboursement de la rémunération pour copie privée dans les conditions prévues à l'article L. 311-8.

Les manquements au présent article sont recherchés et constatés par les agents mentionnés au II de l'article L. 450-1 du code de commerce, dans les conditions fixées à l'article L. 141-1 du code de la consommation. Ces manquements sont sanctionnés par une amende administrative dont le montant ne peut être supérieur à 3 000 €.

Les conditions d'application du présent article sont définies par décret en Conseil d'Etat.

## **Article L311-5 of the French Intellectual Property code (as amended up to 2014)**

Les types de support, les taux de rémunération et les modalités de versement de celle-ci sont déterminés par une commission présidée par un représentant de l'Etat et composée, en outre, pour moitié, de personnes désignées par les organisations représentant les bénéficiaires du droit à rémunération, pour un quart, de personnes désignées par les organisations représentant les fabricants ou importateurs des supports mentionnés au premier alinéa de l'article L. 311-4 et, pour un quart, de personnes désignées par les organisations représentant les consommateurs.

Les comptes rendus des réunions de la commission sont rendus publics, selon des modalités fixées par décret. La commission publie un rapport annuel, transmis au Parlement.

Les délibérations de la commission sont exécutoires si, dans un délai d'un mois, son président n'a pas demandé une seconde délibération.

Les décisions de la commission sont publiées au Journal officiel de la République française.

## **COLLECTION AND DISTRIBUTION SYSTEMS**

### **Article L311-6 of the French Intellectual Property code (as amended up to 2014)**

La rémunération prévue à l'article L. 311-1 est perçue pour le compte des ayants droit par un ou plusieurs organismes mentionnés au titre II du présent livre. Elle est répartie entre les ayants droit par les organismes mentionnés à l'alinéa précédent, à raison des reproductions privées dont chaque œuvre fait l'objet.

### **Article L311-7 of the French Intellectual Property code (as amended up to 2014)**

La rémunération pour copie privée des phonogrammes bénéficie, pour moitié, aux auteurs au sens du présent code, pour un quart, aux artistes-interprètes et, pour un quart, aux producteurs.

La rémunération pour copie privée des vidéogrammes bénéficie à parts égales aux auteurs au sens du présent code, aux artistes-interprètes et aux producteurs.

La rémunération pour copie privée des œuvres visées au second alinéa de l'article L 311-1 bénéficie à parts égales aux auteurs et aux éditeurs.



# FRANCE

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## Article L311-8 of the French Intellectual Property code (as amended up to 2014)

I.- La rémunération pour copie privée n'est pas due lorsque le support d'enregistrement est acquis pour leur propre usage ou production par:

- 1° Les entreprises de communication audiovisuelle ;
- 2° Les producteurs de phonogrammes ou de vidéogrammes et les personnes qui assurent, pour le compte des producteurs de phonogrammes ou de vidéogrammes, la reproduction de ceux-ci ;
- 2° bis Les éditeurs d'œuvres publiées sur des supports numériques ;
- 3° Les personnes morales ou organismes, dont la liste est arrêtée par le ministre chargé de la culture, qui utilisent les supports d'enregistrement à des fins d'aide aux handicapés visuels ou auditifs.

II.- La rémunération pour copie privée n'est pas due non plus pour les supports d'enregistrement acquis notamment à des fins professionnelles dont les conditions d'utilisation ne permettent pas de présumer un usage à des fins de copie privée.

III. Une convention constatant l'exonération et en fixant les modalités peut être conclue entre les personnes bénéficiaires des I ou II et l'un des organismes mentionnés au premier alinéa de l'article L. 311-6. En cas de refus de l'un des organismes de conclure une convention, ce dernier doit préciser les motifs de ce refus.

A défaut de conclusion d'une convention, ces personnes ont droit au remboursement de la rémunération sur production de justificatifs déterminés par les ministres chargés de la culture et de l'économie.



## COMMENTS/LEGAL DEVELOPMENTS

There are still pending lawsuits against rate setting of specific products.

A recent law of July 2016 "Loi Création, Architecture et Patrimoine" includes in the scope of the private copying exception a part of Cloud services. Thus, N-PVRs are included under private copying remuneration in particular, services where it can order copies in advance (excludes copies of past programs) provided by broadcasters and TV programme distributors. Tariffs has now to be discussed.



# GERMANY



81.900 million

GDP: 2,773.910 million €

1/3



## OVERVIEW

### EXCEPTION

Yes, it is authorized to make a single copies of a work for private use on any medium, for non-commercial purposes, and from a legally source.

### LEVY

Equipment Yes, all equipment  
Media Yes, all media

### BENEFICIARIES

Authors, Performers and Producers of musical and audiovisual works, as well as authors for text and pictures.

### LIABLE

Manufacturers, importers, retailers and resellers.

### EXEMPTION

Export, professional and industrial uses

### RATE SETTING

Levies are negotiated between rightholders and associations of liable.  
Tariffs: fixed price related to the capacity of the products.

### COLLECTION AND DISTRIBUTION SYSTEM

YES, bodies in charge of the collection and distribution process are appointed by the German Patent and Trade Mark Office:

- ZPÜ for musical and audiovisual works (composed of CMOs which represents each categories of rightholders). ZPÜ collects the PC levy and distributes to its member societies which finally redistributes to their rightholders.
- VG Wort and VG Bild-Kunst for text and pictures.

### SOCIAL AND CULTURAL DEDUCTIONS

No

### REVENUE DECLARED TO CISAC IN 2014

32M€



## LEGAL BASIS

### EXCEPTION

#### Art n°53 of the Law on Copyright and Related Rights as amended up to 2013

(1) It shall be permissible for a natural person to make single copies of a work for private use on any medium, insofar as they neither directly nor indirectly serve commercial purposes, as long as no obviously unlawfully-produced model or a model which has been unlawfully made available to the public is used for copying. A person authorised to make copies may also cause such copies to be made by another person if no payment is received therefore, or if it involves copies on paper or a similar medium which have been effected by the use of any kind of photomechanical technique or by some other process having similar effects.





# GERMANY

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## LEVY

### Art n°54 of the Law on Copyright and Related Rights as amended up to 2013

- (1) Where the nature of a work makes it probable that it will be reproduced, pursuant to Article 53 (1) to (3), the author of the work shall be entitled to payment of equitable remuneration from the manufacturer of appliances and of storage mediums, where the type of appliance or storage medium is used solely or together with other appliances, storage mediums or accessories, for the making of such reproductions.
- (2) The claim according to paragraph (1) shall not apply where in the light of the circumstances it can be expected that the appliances or storage mediums will not be used for reproductions in the territory to which this Act applies.

### Art n°54 A of the Law on Copyright and Related Rights as amended up to 2013

- (1) The amount of remuneration shall be determined by the extent to which the appliances and storage mediums are actually used as types for reproductions pursuant to Article 53 (1) to (3). Here account shall be taken of the degree of use of technological protection measures in respect of the works concerned pursuant to Article 95a.
- (2) Remuneration in respect of appliances shall be set so as to be altogether equitable also in relation to the obligation to pay remuneration for storage mediums contained in such appliances or for other appliances or storage mediums functioning together therewith.
- (3) In determining the amount of remuneration, account shall be taken of such properties of the appliances and storage mediums as are relevant to exploitation, in particular the capacity of appliances, as well as the storage capacity of storage mediums and the extent to which they are rewritable.
- (4) The remuneration shall not have an inequitable effect on the manufacturers of appliances and storage mediums; its relationship to the price level of the appliance or of the storage medium must be economically equitable.

### Art n°54 B of the Law on Copyright and Related Rights as amended up to 2013

- (1) Alongside the manufacturer any person who, on a commercial scale, imports or re-imports the appliances or storage mediums into the territory to which this Act applies or any person who trades therewith shall bear liability as a joint and several debtor.
- (2) The importer shall be the person who introduces the appliances or storage mediums, or who causes them to be introduced, into the territory to which this Act applies. Where importation is based on a contract with a non-resident, the importer shall be solely the contracting party residing in the territory to which this Act applies as long as he is acting on a commercial scale. Any person acting only as forwarding agent, carrier, or in a similar function, in the introduction of the goods shall not be deemed to be the importer. Any person who introduces items from third countries into a free zone or a free warehouse pursuant to Article 166 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, p. 1) shall be deemed to be the importer only if the items are used in that area or if they are released for free circulation for customs purposes.



# GERMANY

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...

- (3) There shall be no obligation incumbent on the trader to pay remuneration.
1. if a person obliged to pay the remuneration, from whom the trader obtains the appliances or storage mediums, is bound by an inclusive contract concerning the remuneration, or
  2. if the trader notifies the receiving office pursuant to Article 54h (3) in writing of the nature and quantity of the appliances and storage mediums received and of his source of supply by 10 January and 10 July for each preceding six months of a calendar year.

## COLLECTION AND DISTRIBUTION SYSTEMS

### Art n°54 H of the Law on Copyright and Related Rights as amended up to 2013

- (1) Claims pursuant to Articles 54 to 54c, 54e (2), Articles 54f and 54g may be asserted only through a collecting society.
- (2) Each rightholder shall be entitled to an equitable share of the remuneration paid pursuant to Articles 54 to 54c. So far as works are protected by technological measures pursuant to Article 95a, they shall not be taken into account when income is distributed.
- (3) For reports pursuant to Article 54b (3) and Article 54e the collecting societies shall designate in respect of the German Patent and Trade Mark Office (Deutsches Patent- und Markenamt) a joint receiving office. The German Patent and Trade Mark Office shall specify the joint receiving office in the Federal Gazette.
- (4) The German Patent and Trade Mark Office may publish specimens for the reports pursuant to Article 54b (3), item 2, and to Article 54e in the Federal Gazette. If specimens are published, their use shall be compulsory.
- (5) The collecting societies and the receiving office may only use the information received pursuant to Article 54b (3), item 2, and to Articles 54e and 54f for the purpose of asserting claims pursuant to paragraph (1).



## COMMENTS/LEGAL DEVELOPMENTS

On the basis of the CJEU ruling in the HP/Reprobel case of November 2015, the German Federal court held in April 2016 that compensation right is inalienable and CMOs should distribute 100% to authors (i.e. publishers should not have received a share in the revenues generated by VG Wort).

As a consequence, all German CMOs therefore stopped distributing publishers in 2016. The rightholders intended to address this issue in the national law before the end of this year but this project has been put on hold since the European Commission has published its proposal of Copyright Directive on the 14<sup>th</sup> September 2016. In this proposal, the EC suggests a clarification of the existing copyright framework in order for member states to be able to continue to operate— or, as in the case of Germany re-establish— systems in which the harm suffered by publishers when uses are made under exceptions be recognized.



# GREECE



10.812 million

GDP: 185.082 million €

1/4



## OVERVIEW

### EXCEPTION

Yes, it is defined as a reproduction by a person of a lawfully published work for his own private use.

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Authors, performers and producers (musical works, audiovisual works, visual art and literary works).

### LIABLE

Manufacturers, importers.

### EXEMPTION

Export.

### RATE SETTING

Levies are fixed by law  
Tariffs: percentage of the price of the products

### COLLECTION AND DISTRIBUTION SYSTEM

Yes, all CMOs collect and distribute the remuneration for its rightholders.

### SOCIAL AND CULTURAL DEDUCTIONS

No

### REVENUE DECLARED TO CISAC IN 2014

360 000€



## LEGAL BASIS

### EXCEPTION

**Article 18 of law No. 2121/1993 on Copyright, Related Rights and Cultural Matters (as amended up to Law No. 4281/2014)**

- (1) Without prejudice to the provisions laid down in the following paragraphs, it shall be permissible for a person to make a reproduction of a lawfully published work for his own private use, without the consent of the author and without payment. The term "private use" shall not include use by an enterprise, a service or an organization.
- (2) The freedom to make a reproduction for private use shall not apply when the act of reproduction is likely to conflict with normal exploitation of the work or to prejudice the author's legitimate interests, and notably:
  - (a) when the reproduction is an architectural work in the form of a building or similar construction;
  - (b) when technical means are used to reproduce a fine art work which circulates in a restricted number of copies, or when the reproduction is a graphical representation of a musical work.



## GREECE

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...

## LEVY

**Article 18 of law No. 2121/1993 on Copyright, Related Rights and Cultural Matters (as amended up to Law No. 4281/2014)**

- (3) If, for the free reproduction of the work, use is made of technical media, such as (as amended with article 46 Law 3905/2010) recording equipment for sound or image or sound and image, equipment or parts incorporated or not in the main computer unit operating in conjunction therewith, used solely for digital reproduction or digital transcription to or from analog media (with the exception of printers), magnetic tapes or other devices for the reproduction of sound or image or sound and image, including digital reproduction devices - such as CD-RW, CD-R, portable optical magnetic discs with a capacity of more than 100 million digits (over 100 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.

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

- (4) Every collecting society is entitled to request at any time any debtor, by written notification, to declare the following by statutory statement of Law 1599/1986 to the Copyright Organization:
- (a) the total value of the sound or visual or audiovisual recording equipment, the sound or visual or audiovisual recordings, photocopier machines, photocopier paper, computers or other technical means used for the reproduction of sound which he imported or made available and



# GREECE

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...

(b) that this is the real total value, without any omissions.

Within one month from the notification, the debtor is obliged to submit the said statutory statement to the Copyright Organization which should be signed by the debtor, if a personal enterprise, or the statutory representative, if a company.

- (5) The collecting societies are not entitled to request the same debtor to submit a new statutory statement before the lapse of at least six months from the submission of the previous one.
- (6) If the debtor does not comply with the obligation to submit the statutory statement referred to above, the one-member district court, by the procedure of injunction measures, may order the immediate submission of the statutory statement; in case of non-compliance, a pecuniary fine of one to ten million drachmas will be imposed in favour of the applicant collecting society.
- (7) If within twenty days from the publication of the said court order, the debtor does not comply with the obligation to submit the statutory statement, the time limit of six months is lifted regardless of any other sanction, and the collecting society is entitled to request the submission of a statutory statement every month. In this case, the provisions of the previous paragraph apply for every statutory statement.
- (8) Every collecting society, at its own cost, is entitled to request the investigation of the accuracy of the contents of any statutory statement by a certified accountant appointed by the Copyright Organization. In case the debtor refuses to comply with the said investigation, the one member district court may order it to in accordance with the above. The report of the certified accountant is submitted to the Copyright Organization and each collecting society is entitled to receive a copy. There cannot be carried out a new investigation for the same statement at the request of other collecting societies.
- (9) All enterprises that import or produce or market technical means and recordings that are subject to the fees of this article have the same rights the ones towards the others as the collecting societies referred to in the previous paragraphs. In case of investigation by a certified accountant, the expenses are incurred by the enterprise that requested the investigation.
- (10) In the case that the importer is required to pay an equitable remuneration whether it concerns an import or inter-community acquisition of the sound or image or sound and image recordings or other technical means referred to in paragraph (3) of this Article, the remuneration is calculated on the value stated in the invoice of the foreign company, and the invoice note provided for by this article is made on the basis of the disposal invoice of the said recordings and technical means and simply states that the disposal price includes the fee calculated on the said value under paragraph (3) of this Article. The remuneration is payable three months after the import.
- (11) When the same category or subcategory of beneficiaries includes more than one collecting societies and they have not reached an agreement on the distribution of the percentage of reasonable remuneration between them by 1st April of each year, the distribution of the percentages of reasonable remuneration to the collective management organisation of each category or subcategory of beneficiaries, the method of collection and payment, as well as any other relevant detail are determined by resolution of the Copyright Organisation (OPI). The resolution of OPI is shaped according to the opinions of the concerned collecting societies, good faith, transaction ethics and practices followed at international and community level. Collecting societies that do not agree with the resolution of OPI may apply



## GREECE

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...

to the One-member First Instance Court under the procedure of injunction measures to determine other distribution; however, debtors are obliged to pay the reasonable remuneration to collecting societies according to the resolution of OPI. Such payment entails full settlement and discharge thereof".

- (12) Foreign, companies that are not established in Greece and they have received a special license according to Article 29 par. 4 (a) of the Code of Customs, as it was introduced by Law 4132/2013 (Official Gazette A 59) and ministerial decision 1126/12.06.2013 (Official Gazette B 1420), are not obliged to pay the equitable remuneration of Article 18 par. 3 Law 2121/1993 14 (Official Gazette A 25) for the products that they import under the regime of suspension of VAT payment. The equitable remuneration of Article 18 par. 3 Law 2121/1993 due to rightholders is paid by the first established in Greece buyer that purchases the products from the foreign companies that have received a special license according to Article 29 par. 4 (a) of the Code of Customs, in order to dispose of them in Greece and is mentioned (as a percentage and as an amount) in the tax documentation that it is issued by the above mentioned companies when they deliver the above mentioned products in Greece and is collected by the Collecting Societies, as defined in the present article. The companies of Article 29 par. 4 (a) of the Code of Customs are obliged to notify to the Collecting Societies the data of their deliveries in Greece (with full data of buyer, quantity, value, product code, purchase date and any other data that might be considered as necessary for the collection of the remuneration) in quarterly lists, as per paragraph 10 of this article. A decision by the Minister of Culture and Sports may regulate the details concerning the application of this paragraph (as added with article 235 Law 4281/2014).

## COLLECTION AND DISTRIBUTION SYSTEMS

**Article 18 of law No. 2121/1993 on Copyright, Related Rights and Cultural Matters (as amended up to Law No. 4281/2014)**

(3) (...)

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.

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



## COMMENTS/LEGAL DEVELOPMENTS

A draft law implementing the CRM Directive is pending on the Greek Parliament, this draft law aims at extending the scope of the private copying exception to computers and suggests a new levy of 2% on their value.



# HUNGARY



9.856 million

GDP: 24,176.202 million €

1/3



## OVERVIEW

<b>EXCEPTION</b>	Yes, it is defined as a reproduction of a work by a natural person for his own private use and for non-commercial purpose.				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes</td></tr> <tr> <td>Media</td><td>Yes</td></tr> </table>	Equipment	Yes	Media	Yes
Equipment	Yes				
Media	Yes				
<b>BENEFICIARIES</b>	Authors, performers and producers (musical works, audiovisual works, visual art and literary works).				
<b>LIABLE</b>	Manufacturers, importers.				
<b>EXEMPTION</b>	Export. Professional use via (upfront or not) exemption agreement.				
<b>RATE SETTING</b>	Levies are set up by CMOs, approved by the Hungarian Intellectual Property Office after a consultation process and published via a Charter. Tariffs: fixed prices depending on the capacity of the products.				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	ARTIJUS has been appointed as the competent CMO in agreement with other CMOs. ARTIJUS collects the private copying remuneration and distribution the amount to other CMOs (4) which directly redistribute their rightholders.				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	7%				
<b>REVENUE DECLARED TO CISAC IN 2014</b>	29,2M€				



## LEGAL BASIS

<b>EXCEPTION</b>	<b>Article 35 of Act No. LXXVI of 1999 on copyright (as amended up to 2007)</b>
	<p>(1) A copy of the work may be made by a natural person for private purposes if it is not intended for earning or increasing income even in an indirect way. This provision shall not apply to architectural works, to engineering structures, to software and to databases operated by a computer device, as well as to the fixation of the public performance of a work on video or sound carrier. It shall not be allowed to reproduce sheet music by means of reprography.</p> <p>(2) A complete book as well as the whole of a periodical or daily may be copied even for private purpose only by handwriting or typing.</p> <p>(3) It shall not be considered as free use to have a work copied by someone else by means of a computer and/or on an electronic data carrier, even if it is done for private purposes.</p>



# HUNGARY

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...

**LEVY****Article 20 (1) of Act No. LXXVI of 1999 on copyright (as amended up to 2007)**

- (1) A fair and equitable remuneration shall be due, on the private purpose copying of their works, performances, films and sound recordings, to the authors of works, the performers of performances, and the producers of films and sound recordings that are broadcast in the programmes of radio and television organizations, included in the programmes of the entities communicating their own programmes to the public by cable, and released for distribution on audiovisual or audio carriers.
- (2) The remuneration referred to in paragraph (1) shall be determined by the organization performing the collective administration of rights in literary and musical works in agreement with the organizations performing collective administration of rights of other interested rightholders. At the determination of the remuneration, it shall be taken into account whether effective technological measures for the protection of copyright and related rights are applied on the works, performances, films and sound recordings concerned (Article 95). The remuneration shall be paid by the manufacturer of blank video and audio carriers, 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 them and by their first domestic distributor, under joint liability, to the organization performing the collective administration of rights in literary and musical works within eight days from the completion of the customs clearance and the payment of the customs duties, or – in the absence of obligation to pay customs duties – from the date of putting into circulation of the carriers, or – if this is earlier – from the date of having them in stock with the intention of putting them into circulation. For the payment of the remuneration, all domestic distributors of the carriers concerned shall be jointly liable.
- (3) The obligation to pay remuneration shall not apply to :
  - a) putting into circulation for export purposes, furthermore
  - b) video and audio carriers applicable exclusively with devices (e.g., studio equipment, dictaphones) which are not used in their regular application for the private-purpose making of copies of works, performances of performers, or sound recordings.

**COLLECTION AND DISTRIBUTION SYSTEMS****Article 20 of Act No. LXXVI of 1999 on copyright (as amended up to 2007)**

- (4) In the case of sound carriers, the royalties collected, with the expenditures deducted from them, shall be distributed to the rightholders, and namely – unless otherwise agreed before 31 March every year between the affected organizations performing collective administration of rights– forty-five per cent shall be due to the music composers and writers, thirty per cent to the performers and twenty-five per cent to the producers of sound recordings.
- (5) In the case of video carriers the royalties collected, with the expenditures deducted from them, shall be distributed to the rightholders, and namely - unless otherwise agreed before March 31 of every year between the affected organizations performing collective administration of rights - thirteen per cent shall be due to the producers of movie pictures, twenty-two per cent to the cinematographic creators of movie pictures, four per cent to creators of 7 fine arts, designs and authors of artistic photographs, sixteen per cent to script writers, twenty percent to composers and lyricists, and twenty-five per cent to performers.





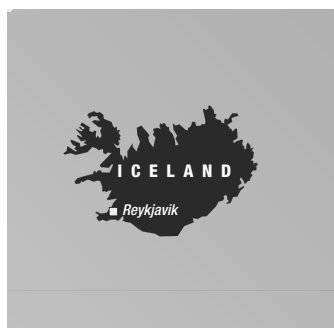
# HUNGARY

3/3



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- (6) The organization performing the collective administration of rights in literary and musical works shall remit the part of the royalties, due to authors and copyright rightholders, performers and producers of sound recordings who are not represented by the said organization regarding the distribution of royalties, to the organizations performing the collective administration of rights for the rightholders involved.
- (7) The rightholders may enforce their claims to remuneration only by the organizations performing the collective administration of their rights (Articles 85 to 93), and they may renounce the remuneration only with effect following the date of the distribution and to the extent of the amount due to them.



# ICELAND



0.329 million

GDP: 1,282.372 million €

1/2



## OVERVIEW

### EXCEPTION

Yes, it is defined as a reproduction of published works for private use, providing that this is not done for commercial purposes. Such reproductions may not be used for any other purpose.

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Authors, performers and producers

### LIABLE

Manufacturers and Importers.

### EXEMPTION

No

### RATE SETTING

Detailed rules on levies fixation are set up by The Minister of Education, Science and Culture.

### COLLECTION AND DISTRIBUTION SYSTEM

An Association of local CMOs, including societies of performers and producers (IHM), shall collect and distribute. IHM has a special arrangement with the custom authorities who are in charge of the collection. IHM distributes the amount to each CMOs representatives of categories of rightholders according to IHM statutes, adopted in consultation with the Ministry of Education, Science and Culture and subject to its endorsement.

### SOCIAL AND CULTURAL DEDUCTIONS

Yes, IHM statutes may also make provision for contributions in support of the production of audio and video recordings.

### REVENUE DECLARED TO CISAC IN 2014

N/A



## LEGAL BASIS

### EXCEPTION

**Art. 11 of Copyright Act No. 73 of May 29, 1972, as last amended by Act No. 97 of 30 June 2006**

[Individuals may make reproductions of published works exclusively for private use, providing that this is not done for commercial purposes. Such reproductions may not be used for any other purpose.]

1) [The provisions of the first paragraph do not confer the right to:

1. erect structures copying a work which is protected by rules concerning architecture,
2. reproduce works which are protected by rules concerning sculpture, applied art or drawing if the assistance of other persons is sought for this purpose,
3. reproduce protected musical and literary works, if the assistance of other persons who carry out such reproduction on a commercial basis is sought for this purpose,
4. reproduce protected computer programs],2)
5. [reproduce electronically readable copies of databases.].3)



# ICELAND

2/2



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## LEVY

### **Art. 11 of Copyright Act No. 73 of May 29, 1972, as last amended by Act No. 97 of 30 June 2006**

[The authors of works, which have been broadcast or which have been issued on an audio or video recording, shall be entitled to special compensation due to their recording for private use on tape, disk, CD-ROM or other means, in any form whatsoever by which audio or video material may be recorded by analogue or digital means. Furthermore, a fee shall be paid for equipment intended in particular for such recording. This levy shall be paid without regard to whether the product is of domestic or imported origin and the obligation to pay this levy rests with importers and producers.

The levy provided for in the third paragraph shall amount to:

1. For devices, the charge shall be 4% of the import price or production price in the case of domestic production;
2. For tapes, disks, CD-ROMs or other materials for audio recording only, the fee shall be ISK 35;
3. For tapes, discs, records or other materials for visual recording, with or without sound as the case may be, the fee shall be ISK 100.
4. The fees provided for in Points 2 and 3 are based on a performance time of up to 180 minutes for materials for audio recording and up to 240 minutes for materials for video recording. If the performance time is longer the fee shall be increased proportionally.

The Minister of Education, Science and Culture shall set detailed rules on fees in accordance with the third and fourth paragraphs, specifying, for instance, for what materials and devices fees shall be paid. The amounts provided for in the fourth paragraph, for tapes, disks, CD-ROMs or other materials, may be lowered if it can be assumed that only a portion of them is intended for recording in accordance with the third paragraph.

## COLLECTION AND DISTRIBUTION SYSTEMS

### **Art. 11 of Copyright Act No. 73 of May 29, 1972, as last amended by Act No. 97 of 30 June 2006**

The association of copyright holders societies, including societies of performers and producers, shall collect and dispose of fees as provided for in the third paragraph. The association may entrust the customs authorities with the collection of those fees which importers are to collect and submit. The association shall operate according to statutes adopted in consultation with the Ministry of Education, Science and Culture which are subject to its endorsement. These statutes shall determine, for instance, how revenues are divided between member societies and may also make provision for contributions in support of the production of audio and video recordings.]4)



## COMMENTS/LEGAL DEVELOPMENTS

A draft bill, which intends to update the list of devices levied, is pending before the Parliament.



# ITALY



60.796 million

GDP: 1,547.233 million €

1/3



## OVERVIEW

### EXCEPTION

Reproduction of a work by a natural person for its private use and for non-profit making and non-commercial purpose, and from a lawful source, respecting technical measures, is covered by the private copying exception.

### LEVY

Equipment Yes (analogue or digital recording)  
Media Yes (analogue or digital carriers)

### BENEFICIARIES

Authors and producers of phonograms, as well as original producers of audiovisual works, performing artists and producers of videograms

### LIABLE

Importer and Manufacturer.

### EXEMPTION

Professional use (refund or exemption agreement).  
Export

### RATE SETTING

The levies are set by Decree of the Minister of Culture (on the advice of the Permanent Consultative Committee for Authors Rights and the hearing of representatives of liable).  
Tariffs: fixed price depending on the capacity of the product or percentage of the sale price.

### COLLECTION AND DISTRIBUTION SYSTEM

SIAE has been appointed by Law.  
SIAE collects and distributes to its rightholders or to other organisations of rightholders.

### SOCIAL AND CULTURAL DEDUCTIONS

Yes, 50 % of the video amount distributed to performers.

### REVENUE DECLARED TO CISAC IN 2014

39,8 M€



## LEGAL BASIS

### EXCEPTION

**Article 71 sexies Law for the Protection of Copyright and Neighboring Rights (Law No. 633 of April 22, 1941, as last amended up to 2003)**

1. Private reproduction of phonograms and videograms on any carrier is permitted on condition that it is carried out by natural person with the sole purpose of personal use and provided that it has not a gainful intent, nor does it have direct or indirect commercial purposes and incompliance with the technological measures under art.102-quater.
2. The reproduction under paragraph 1 shall not be carried out by a third party. The supply of services for the purpose of enabling the reproduction of phonograms and videograms by a natural person for personal use shall constitute an act of reproduction and shall be subject to the provisions pursuant to articles 13, 72, 78-bis, 79 and 80.



# ITALY

2/3



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3. The provision under paragraph 1 does not apply to protected works and subject matter made available to the public in such a way that members of the public may access them from a place and at a time individually chosen by them, when the work is protected by the technological measures under art. 102- quater or when the access is permitted on the basis of agreed contractual terms.
4. Without prejudice to the provisions under paragraph 3, rightholders must allow that, notwithstanding the application of technological measures under art.102-quater, the natural person who has acquired legal possession of copies of the protected works or of protected subject matters, or has legally accessed them, may make a private copy, which can also be just an analogue copy, for personal use, on condition that this act does not conflict with the normal exploitation of the work or of the other subject-matter and does not unreasonably prejudice the rightholders.

## LEVY

### **Article 71sexies Law for the Protection of Copyright and Neighboring Rights (Law No. 633 of April 22, 1941, as last amended up to 2003)**

1. Authors and producers of phonograms, as well as original producers of audiovisual works, performing artists and producers of videograms and their successors in title, are entitled to receive a remuneration for the private reproduction of the phonograms and videograms under art.71-sexies. In respect of the devices solely meant for the analogue or digital recording of phonograms or videograms, this remuneration shall consist of a percentage on the price paid by the retailer or of a fixed amount for each device. For multifunctional devices, the remuneration is based on the price of a device which has features equivalent to the internal recording component or, when it is not feasible, it shall consist of a fixed amount for each device.  
As to audio and video recording media, such as analogue carriers, digital carriers, fixed or removable memories which are meant for the recording of phonograms and videograms, the level of the remuneration shall take full account of the recording capacity of each medium.
2. The remuneration under paragraph 1 shall be determined by a decree of the Minister of Culture, after hearing the Committee under art.190 and the most representative trade associations of manufacturers of devices and media under paragraph 1.  
For the purpose of determining the level of the remuneration, the application or non-application of the technological measures under art.102-quater shall be taken into account; to the same purpose it shall also be considered the different impact of digital copying in comparison to analogue copying. The decree shall be submitted to revision every three years.
3. The remuneration is due by the persons who manufacture or import  
In the territory of the State for commercial purposes, the devices and media referred to in paragraph 1. The above persons shall quarterly submit to the Italian Society of Authors and Publishers a statement of the sales made and of the remuneration due; this latter must be paid upon presentation of the statement.  
In the event the remuneration is not paid, the distributor of the recording devices and media shall be jointly liable for its payment.
4. In the event the obligations under paragraph 3 are not fulfilled, or when there is serious evidence that the above statement is untruthful, the Italian Society of Authors and Publishers (S.I.A.E.) may ask the judge to be shown the accounting books of the defaulter, or it may also require that the judge oblige this latter to supply all the prescribed documentation.



# ITALY

3/3



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## COLLECTION AND DISTRIBUTION SYSTEM

1. The remuneration referred to in art.71-septies from audio recording devices and media shall be paid to the Italian Society of Authors and Publishers which shall distribute it, net of expenses, in the measure of the 50% to the authors and successors in title and for the remaining 50% to the phonogram producers, also through their most representative trade associations.
2. The phonograms producers shall pay to the concerned performing artists 50% of the remuneration they have received, pursuant to paragraph 1, without delay and not later than a period of six months.
3. The compensation under art.71-septies from video recording devices and media shall be paid to the Italian Society of Authors and Publishers, which shall distribute it, net of expenses, also through their most representative trade associations, in the measure of 30% to the authors and the remaining 70%, unequal shares, to the original producers of audiovisual works, to the producers of videograms and to the performing artists. The amount received by the performing artists shall be allocated in the measure of 50% to the activities and purposes referred to in art. 7, paragraph 2, of the law 5 Feb, 1992, no. 93.



## COMMENTS/LEGAL DEVELOPMENTS

A Decree establishing new tariffs entered into force in June 2014 and was immediately attacked by consumers' representatives and hardware companies because of an increase in rates, particularly as regards smart phones and tablets. The biggest industrial companies have filled a complaint against the Decree in September 2014.

The previous Private Copying Decree, adopted in 2010, was the subject of an appeal lodged by eight high-tech and electronics companies to the Regional Administrative Court of Lazio (TAR) to nullify it, complaining about an excessive increase in the final retail cost of the newest electronic devices. In March 2012 the administrative court rejected the appeals. In February 2015, the Second Instance Administrative Court confirmed the private copying system but referred to the ECJ regarding "ex ante and ex post" exemption to pay levy for professional uses. In its decision on 22 September 2016, the ECJ confirmed that the private copying levy system in Italy is in line with EU Law. However, the Court ruled that some adjustments are required in order to meet the requisites of the exclusions for professional use (i.e. the introduction of an ex post procedure for reimbursements to professional users).



# LATVIA



1.986 million

GDP: 21.448 million €

1/2



## OVERVIEW

### EXCEPTION

Reproduction of a work by a natural person for its private use and for non-profit making and non-commercial purpose, and from a lawful source, respecting technical measures, is covered by the private copying exception.

### LEVY

Equipment	Yes
Media	Yes (audio recording cassettes, videotapes or video cassettes, laser discs, compact discs, minidisks and the like)

### BENEFICIARIES

Authors, performers, phonogram and film producers, visual works.

### LIABLE

Importer and Manufacturer.

### EXEMPTION

Professional use (refund).  
Export.

### RATE SETTING

The levies are determined by Law  
Tariffs: percentage of the sale price

### COLLECTION AND DISTRIBUTION SYSTEM

AKKA/LAA has been appointed by rightholders after approval of the Ministry of culture AKKA/LAA collects for all rightholders and distributes to its members (authors) and to organisations of others rightholders (neighboring rights societies).

### SOCIAL AND CULTURAL DEDUCTIONS

Not imposed by law, but some reciprocal representation agreement may provide such a deduction.

### REVENUE DECLARED TO CISAC IN 2014

170 000€



## LEGAL BASIS

### EXCEPTION

#### Article 34 of the Copyright Law of 2000 (as amended up to 2014)

(1) Without the permission of the author, a natural person shall be permitted to reproduce (including in a digital format) in one copy works that have been included in lawfully acquired films or phonograms or in other form of expression that is to be protected, as well as visual works for personal use without direct or indirect commercial purpose. Third persons shall not be involved in the production of such copy. The author is entitled to receive a fair compensation (blank tape levy) for the production of such copy.

### LEVY

#### Article 34 of the Copyright Law of 2000 (as amended up to 2014)

(1) Without the permission of the author, a natural person shall be permitted to reproduce (including in a digital format) in one copy works that have been included in lawfully acquired films or phonograms or in other form of expression that is to be protected, as well as visual works for personal use without direct or indirect commercial purpose. Third persons shall not be involved in the production of such copy. The author is entitled to receive a fair compensation (blank tape levy) for the production of such copy.



# LATVIA

2/2



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- (2) The blank tape levy for reproduction for personal use shall be paid by manufacturers and persons who import into Latvia equipment used in such reproduction and blank recording media (audio recording cassettes, videotapes or video cassettes, laser discs, compact discs, minidisks and the like).
- (3) The blank tape levy shall not be paid if the equipment and blank recording media referred to in Paragraph two of this Section is imported for professional use by broadcasting organisations or the equipment and blank recording media are imported wholesale for reproduction of works for commercial purposes, as well as where natural persons import such equipment and blank recording media for non-commercial purposes.
- (4) If the equipment and blank recording media referred to in Paragraph two of this Section are exported unused from Latvia, persons who have paid the blank tape levy have the right to receive it back.
- (5) The seller of the equipment and blank recording media referred to in Paragraph two of this Section, on the basis of a request from a collective management organisation, has a duty to prove that the blank tape levy for the referred to equipment and blank recording media has been paid.
- (6) If a seller cannot prove that the blank tape levy has been paid, the seller shall pay such levy. In such case, the seller is entitled to bring a subrogation action against the manufacturer or the person who imported the referred to equipment and blank recording media into Latvia.
- (..)
- (8) The provisions of this Section shall not apply to computer programs and data bases.

## COLLECTION AND DISTRIBUTION SYSTEM

### Article 34 of the Copyright Law of 2000 (as amended up to 2014)

- (7) The amount of the blank tape levy, procedures for collection, repayment and payment of the levy, as well as proportional distribution among authors, performers and phonogram and film producers shall be determined by the Cabinet.





# LITHUANIA



2.904 million

GDP: 33.450 million €

1/3



## OVERVIEW

<b>EXCEPTION</b>	Reproduction of a work by a natural person for its private use and non-commercial purpose, and from a lawful source is covered by the private copying exception.	
<b>LEVY</b>	Equipment	Yes (analogous and digital)
	Media	Yes (analogous and digital)
<b>BENEFICIARIES</b>	Authors, performers, phonogram and audiovisual producers.	
<b>LIABLE</b>	Importer and Manufacturer.	
<b>EXEMPTION</b>	Professional use (refund), Export, Disables.	
<b>RATE SETTING</b>	The levies are determined by Law. Tariffs: fixed price depending on the capacity or percentage of the sale price.	
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	AGATA has been appointed by the Ministry of culture. AGATA collects for all rightholders and distributes each organisations of rightholders.	
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	25%	
<b>REVENUE DECLARED TO CISAC IN 2014</b>	896 000€	



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Article 20 of the Law on Copyright and Related Rights No. VIII-1185 of May 18, 1999 (as amended up to 2014)</b></p> <ol style="list-style-type: none"> <li>1. It shall be permitted for a natural person, without the authorisation of the author of the work or any other owner of copyright in the work, to reproduce, exclusively for his individual use and not for commercial advantage, in a single copy a work lawfully published or communicated to the public.</li> <li>(..)</li> <li>3. The provisions of paragraph 1 of this Article shall not apply to the reproduction of the following works: <ol style="list-style-type: none"> <li>1) works of architecture in the form of building or other construction works;</li> <li>2) computer programmes (with the exception of the cases provided for in Articles 30 and 31 of this Law);</li> <li>3) electronic databases (with the exception of the cases provided for in Article 32 of this Law).</li> </ol> </li> </ol>
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# LITHUANIA

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## LEVY

### Article 20 of the Law on Copyright and Related Rights No. VIII-1185 of May 18, 1999 (as amended up to 2014)

4. The owners of copyright and related rights shall be entitled to receive compensatory remuneration for reproduction of audiovisual works or works fixed in phonograms referred to in paragraph 1 of this Article for personal use (hereinafter in this Article: 'the compensatory remuneration').
5. The compensatory remuneration must be paid for the devices and analogous and digital blank audio and audiovisual media listed in Annex 1 to this Law, released for circulation and sold in the Republic of Lithuania for the first time, produced in the Republic of Lithuania or imported into the territory of the Republic of Lithuania and intended for reproduction for private use (hereinafter in this Article: 'devices' and 'blank media'). The compensatory remuneration must be paid by the persons selling such devices and blank media (hereinafter in this Article: 'compensatory remuneration payers') in the Republic of Lithuania.
6. A list of blank media and devices subject to the compensatory remuneration and the compensatory remuneration rates laid down out in Annex I to this Law shall be reviewed at least once in two years. Other terms and conditions and procedure for paying the compensatory remuneration shall be established by the Government taking into consideration the application or non-application of technological protection measures determined in Article 74(1) and (2) of this Law, after agreement with associations representing the compensatory remuneration payers and associations of collective administration of copyright and related rights.
7. The paid compensatory remuneration shall be refunded in accordance with the procedure laid down by the Government in the following cases:
  - 1) where blank media and devices are acquired for professional needs.  
For the purposes of the present Article, professional needs shall be deemed to be the needs of broadcasting organisations and persons circulating audiovisual works and works fixed in phonograms or objects of related rights for producers of audiovisual works and phonograms, where such needs are related to the fixation of works or objects of related rights and the needs of the persons who acquire blank media and devices for the purposes evidently other than reproduction of works for private use (e.g. where works are reproduced in public administration and defense agencies and organisations, hospitals, educational institutions, libraries and state archives, museums, research institutions and organisations and where reproduction of works is meant exclusively for the operational needs of the said institutions and organisations);
  - 2) where blank media and devices are acquired for the needs of persons with a disability;
  - 3) where blank media and devices are brought out of the territory of the Republic of Lithuania.



# LITHUANIA

3/3



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## COLLECTION AND DISTRIBUTION SYSTEM

### Article 20 of the Law on Copyright and Related Rights No. VIII-1185 of May 18, 1999 (as amended up to 2014)

8. The compensatory remuneration for the owners of rights referred to in paragraph 4 of this Article shall be collected, allocated and paid by the collective administration associations approved by the institution authorised by the Government in accordance with the procedure laid down by the Government.
9. 25 per cent of the compensatory remuneration collected in accordance with the procedure established by the Government shall be allocated for creative programmes and programmes for the protection of copyright and related rights.
10. After deducting from the collected compensatory remuneration the amount referred to in paragraph 9 of this Article and the costs incurred by collective administration associations as a result of collection, distribution and refunding of the compensatory remuneration, the remaining amount shall be allocated as follows:
  - 1) 1/3 of the compensatory remuneration collected for blank audio recording media and devices shall be allocated to authors, 1/3 to performers and 1/3 to producers of phonograms (including broadcasting organisations for phonograms produced by them);
  - 2) 1/3 of the compensatory remuneration collected for blank audiovisual media and devices shall be allocated for authors, 1/3 for performers and 1/3 for producers of audiovisual works (including broadcasting organisations, for the audiovisual works produced by them).
11. In the accounting documents drawn up for sale of the media and devices referred to in paragraph 5 of this Article, the amount of the compensatory remuneration shall be calculated, singled out and indicated in a separate line and the notes of the issued invoices shall indicate that the person who has acquired the media or devices is entitled to refunding of the compensatory remuneration in the cases set out in paragraph 7 of this Article.



## COMMENTS/LEGAL DEVELOPMENTS

The wording of the article 20 clearly grants the right to receive remuneration for private use copying only for authors of audiovisual works or works fixed in phonograms (music works), excluding other authors such as authors of literature, visual arts and drama. It should be make efforts to ensure the non-discriminatory public policy towards authors of various types of arts as well as the correct implementation of EU legislation (Directive 2001/29/CE) into national laws.

Following a CISAC resolution of the 21 April 2016, the Ministry of culture has committed to conduct a comprehensive comparative analysis of compensatory wage regulation practice within the EU and the practice of the ECJ on this matter, with regard to the distribution of compensatory remuneration to specific right holders. After that, they could provide possible change to the Copyright Law.



# NORWAY



5.205 million

GDP: 3,188.287 million €

1/2



## OVERVIEW

### EXCEPTION

Yes, single copies of a work that has been issued may be made for private use. Such copies may not be used for other purposes.

### LEVY

Equipment No (state-funded system)  
Media No (state-funded system)

### BENEFICIARIES

Authors performers, phonogram and audiovisual producers.

### LIABLE

The Norwegian Government

### EXEMPTION

No

### RATE SETTING

There is no levy, the remuneration is funded by the Norwegian government as an item on the national budget.

### COLLECTION AND DISTRIBUTION SYSTEM

Norwaco, representing 35 organisations from different groups of rightholders, has been appointed by the Norwegian Government to distribute the compensation. Norwaco pays out the remuneration once a year, and member organizations do the same. The government defines the criteria for distribution, for example as a threeway split, with 1/3 for authors, 1/3 for performers and 1/3 for producers. Further distribution is determined through negotiations between members, based on background information from an annual survey.

### SOCIAL AND CULTURAL DEDUCTIONS

No

### REVENUE DECLARED TO CISAC IN 2014

496.216€



## LEGAL BASIS

### EXCEPTION

**Section 12 of the Copyright Act (Act No. 2 of May 12, 1961, relating to Copyright in Literary, Scientific and Artistic Works) (consolidated version of 2015)**

Making copies for private use.

§ 12. Provided this is not done for purposes of gain, single copies of a work that has been issued may be made for private use. Such copies may not be used for other purposes.

The authors shall receive fair compensation through annual grants via the State Budget. The King may issue further regulations governing the distribution of the compensation. The provision in the first paragraph shall not confer a right to: a) copy an architectural work through the construction of a building, b) make machine-readable copies of computer programs, c) make machine-readable copies of databases in machine-readable form, or d) make copies of works of art by means of photocopying, taking a cast or impression or by other similar means of reproduction if the copy may be perceived



# NORWAY

2/2



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as an original. The provision in the first paragraph shall not confer a right to engage outside assistance to a reproduction regarding a) musical works, b) cinematographic works, c) sculpture, pictorial weavings and articles of artistic handicraft and applied art, or d) the artistic reproduction of other works of art.

Disabled persons can without hinder under this provision let the production of musical or cinematographic works be carried out with the aid of outside assistants that do not participate for the purpose of gain, when this is necessary due to the disablement.

Copies cannot be made pursuant to this paragraph on the basis of a representation of the work in conflict with section 2, or on the basis of a copy that has been the subject matter of or is the result of a circumvention of protected technological protection measures, unless such production is necessary pursuant to section 53 a third paragraph second sentence.

## LEVY

### **Section 12 of the Copyright Act (Act No. 2 of May 12, 1961, relating to Copyright in Literary, Scientific and Artistic Works) (consolidated version of 2015)**

The authors shall receive fair compensation through annual grants via the State Budget. The King may issue further regulations governing the distribution of the compensation.

## COLLECTION AND DISTRIBUTION SYSTEM

### **Section 12 of the Copyright Act (Act No. 2 of May 12, 1961, relating to Copyright in Literary, Scientific and Artistic Works) (consolidated version of 2015)**

The authors shall receive fair compensation through annual grants via the State Budget. The King may issue further regulations governing the distribution of the compensation.



# POLAND



38.006 million

GDP: 1,671.313 million €

1/3



## OVERVIEW

### EXCEPTION

Yes, it is defined as a reproduction of a single copies of works by a person for his own personal use (or within a family circle) and for non-commercial purpose.

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Authors, performers and producers of phonograms and videograms.

### LIABLE

Manufacturers, importers

### EXEMPTION

No exemption (refund for export not implemented)

### RATE SETTING

Levies are set up by the Minister of Culture and National Heritage through a regulation. Tariffs: percentage of the sale price.

### COLLECTION AND DISTRIBUTION SYSTEM

3 CMOs (ZAIKS, SAWP and ZPAV) have been appointed by the Minister of Culture and National Heritage to collect the private copying levy. The 3 designated CMOs collect the private copying and distributes the amount to their members or to other CMOs for video (SFP, ZASP, ZPAV).

### SOCIAL AND CULTURAL DEDUCTIONS

Not stated by law, but CMOs can choose to apply deductions for social and cultural purposes.

### REVENUE DECLARED TO CISAC IN 2014

2,5M€



## LEGAL BASIS

### EXCEPTION

#### Article 23 of Copyright and Neighboring Rights Act of 1994 (as amended up to October 21, 2010)

1. It shall be permitted to use free of charge the work having been already disseminated for purposes of personal use without the permission of the author. This provision shall not authorize to build constructions according to other authors' architectural works as well as architectural and urban planning works and to use electronic data bases possessing the features of a piece of work unless this applies to one's own scientific use not connected with any profit-gaining purposes.
2. The scope of personal use shall include use of single copies of works by a circle of people having personal relationships, and in particular any consanguinity, affinity or social relationship.



# POLAND

2/3



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## LEVY

### Article 20 of Copyright and Neighboring Rights Act of 1994 (as amended up to October 21, 2010)

1. Producers and importers:
  - 1) of tape recorders, video recorders and other similar devices;
  - 2) of photocopiers, scanners and other similar reprographic devices which allow to make copies of all or a part of a published work;
  - 3) of blank carriers used for fixing, within the scope of personal use, works or objects of related rights, with the help of the devices listed in subparagraphs 1 and 2 - shall be obliged to pay to collective management organizations specified in paragraph 5 which act to the benefit of artists, artistic performers, producers of phonograms and videograms, and publishers, fees at not more than 3% of the amount due from the sale of those devices and carriers.
2. The amount received in the form of fees from the sale of tape recorders and other similar devices as well as blank carriers related thereto, shall be distributed as follows:
  - 1) 50% - to artists;
  - 2) 25% - to artistic performers;
  - 3) 25% - to producers of phonograms.
3. The amount received in the form of fees from the sale of video recorders and other similar devices as well as blank carriers related thereto, shall be distributed as follows:
  - 1) 35% - to artists;
  - 2) 25% - to artistic performers;
  - 3) 40% - to producers of videograms.
4. The amount received in the form of fees from the sale of reprographic devices as well as blank carriers related thereto, shall be distributed as follows:
  - 1) 50% - to artists;
  - 2) 50% - to publishers.
5. The Minister competent for culture and protection of the national heritage, having consulted collective management organizations, associations of authors, artistic performers, organizations of producers of phonograms, producers of videograms and publishers as well as organizations of producers or importers of the devices and blank carriers listed in paragraph 1, shall define, by way of a regulation: categories of devices and carriers as well as the fees referred to in paragraph 1, on the basis of the capacity of a device and carrier to reproduce works, and the designed use thereof for functions other than reproduction of works, the manner of collection and distribution of the fees as well as the collective management organizations authorized to collect such fees.



# POLAND

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## COLLECTION AND DISTRIBUTION SYSTEMS

### **Article 20 of Copyright and Neighboring Rights Act of 1994 (as amended up to October 21, 2010)**

5. The Minister competent for culture and protection of the national heritage, having consulted collective management organizations, associations of authors, artistic performers, organizations of producers of phonograms, producers of videograms and publishers as well as organizations of producers or importers of the devices and blank carriers listed in paragraph 1, shall define, by way of a regulation: categories of devices and carriers as well as the fees referred to in paragraph 1, on the basis of the capacity of a device and carrier to reproduce works, and the designed use thereof for functions other than reproduction of works, the manner of collection and distribution of the fees as well as the collective management organizations authorized to collect such fees.



## COMMENTS/LEGAL DEVELOPMENTS

Since 2014, an active lobbying campaign against the private copying levy has been initiated by representatives of the liable (manufacturer and importer) because of the attempt of CMOs to propose a new amendment to extend the list of products covered by the private copying exception.

Another problem that are facing the CMOs in charge of the collection of the levy is the position of the tax authorities regarding the inclusion of their activities in the VAT system.

On 18 January 2017, the European Court of Justice gave its opinion in Case C-37/16 between the Ministry of Finance of Poland and the collecting society SAWP concerning the application of the VAT to compensation for private copying. The Court ruled against the application of the VAT on perceptions for private copying insofar, the Court considered that no service was provided by the collecting societies to manufacturers or consumers in this context.





# PORTUGAL



10.411 million

GDP: 171.157 million €

1/4



## OVERVIEW

### EXCEPTION

Yes, it is defined as a reproduction of a single copies of works by a person for his own personal use (or within a family circle) and for non-commercial purpose.

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Authors, performers and producers of phonograms and videograms.

### LIABLE

Manufacturers, importers and traders.

### EXEMPTION

Export and professional use (refund system) and disables or cultural non-profit making entities.

### RATE SETTING

Levies are set up by law.  
Tariffs: fixed price depending on capacity of the product or per unit.

### COLLECTION AND DISTRIBUTION SYSTEM

AGECOP has been appointed since 1998 by the Government.  
AGECOP collects the levy and distributes to CMOs of each categories of rightholders, which redistributes directly to their members.

### SOCIAL AND CULTURAL DEDUCTIONS

20%

### REVENUE DECLARED TO CISAC IN 2014

200 000€



## LEGAL BASIS

### EXCEPTION

**Article 81 of the Portuguese Copyright Code**  
**(No translation available)**

É consentida a reprodução:

(...)

- b) Para uso exclusivamente privado, desde que não atinga a exploração normal da obra e não cause prejuízo injustificado dos interesses legítimos do autor, não podendo ser utilizada para quaisquer fins de comunicação pública ou comercialização.

### LEVY

**Article 82 of the Portuguese Copyright Code**  
**(No translation available)**

1. No preço de venda ao público de todos e quaisquer aparelhos mecânicos, químicos, eléctricos, electrónicos ou outros que permitam a fixação e reprodução de obras e, bem assim, de todos e quaisquer suportes materiais das fixações e reproduções que por qualquer desses meios possam obter-se, incluir-se-á uma quantia destinada a beneficiar os autores, os artistas, intérpretes ou executantes, os editores e os produtores fonográficos e videográficos.



# PORTUGAL

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2. A fixação do regime de cobrança e afectação do montante da quantia referida no número anterior é definida por decreto-lei.
3. O disposto no número 1 deste artigo não se aplica quando os aparelhos e suportes ali mencionados sejam adquiridos por organismos de comunicação audiovisual ou produtores de fonogramas e videogramas exclusivamente para as suas próprias produções ou por organismos que os utilizem para fins exclusivos de auxílio a diminuídos físicos visuais ou auditivos.

## **Article 3 of the New Portuguese Law N°49/2015 on Private Copy of June 5, 2015 (No translation available)**

1. A quantia referida no artigo anterior tem a natureza de compensação equitativa, visando compensar os titulares de direitos dos danos patrimoniais sofridos com a prática da cópia privada.
2. Sempre que a utilização seja habitual e para servir o público mediante a prática de atos de comércio, o preço de venda ao público das fotocópias de obras, eletrocópias e demais suportes inclui uma compensação equitativa correspondente a 3 % do valor do preço de venda, antes da aplicação do IVA, montante que é gerido pela entidade gestora a que se refere o artigo 6.º
3. Para os efeitos do disposto no número anterior, e em ordem a permitir a sua correta exequibilidade, devem as entidades públicas e privadas que utilizem, nas condições supramencionadas, aparelhos que permitam a fixação e a reprodução de obras e prestações, celebrar acordos com a entidade gestora referida no número anterior.
4. No preço da primeira venda ou disponibilização em território nacional e antes da aplicação do IVA em cada um dos aparelhos, dispositivos e suportes analógicos e digitais que permitem a reprodução e armazenagem de obras, é incluído um valor compensatório nos termos da tabela anexa à presente lei.

## **Article 4 of the New Portuguese Law N°49/2015 on Private Copy of June 5, 2015 (No translation available)**

1. Estão isentos do pagamento das compensações previstas na presente lei os equipamentos e suportes adquiridos por pessoas singulares ou coletivas, públicas ou privadas, nas seguintes condições:
  - a) Quando a sua atividade tenha por objeto a comunicação audiovisual ou produção de fonogramas e de videogramas, exclusivamente para as suas próprias produções;
  - b) Quando a sua atividade tenha por objeto o apoio a pessoas com deficiência;
  - c) Quando a sua atividade principal tenha por objeto a salvaguarda do património cultural móvel;
  - d) Quando os suportes sejam especialmente destinados à fixação de imagens ou outro tipo de obras para uso exclusivo no âmbito da atividade profissional do respetivo autor, designadamente na atividade de fotógrafo, designer, arquiteto ou engenheiro, assim como profissões artísticas devidamente enquadradas pelo código de atividade económica;
  - e) Quando os aparelhos, dispositivos ou suportes sejam destinados exclusivamente para fins clínicos, para as missões públicas da defesa, da justiça, das áreas da segurança interna e de investigação científica, bem como dos utilizados para garantia da acessibilidade por pessoas com deficiência.



# PORTUGAL

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2. Para os efeitos do disposto no número anterior, as pessoas singulares ou coletivas adquirentes devem:
  - a) Requerer junto da entidade gestora a que se refere o artigo 6.º, previamente à aquisição dos equipamentos e suportes, a emissão de declaração de onde conste que a utilização dos mesmos se integra numa das situações de isenção, indicando e comprovando o respetivo objeto de atividade;
  - b) Apresentar, no ato da compra dos equipamentos e suportes, a declaração referida na alínea anterior.
3. Não ocorrendo recusa fundamentada, a falta de emissão da declaração a que alude a alínea :
  - a) Do número anterior, no prazo de 15 dias a contar da entrega do requerimento, pode ser suprida pela exibição de comprovativo de entrega deste.
4. Estão também isentas do pagamento das compensações previstas na presente lei as pessoas coletivas que utilizem os equipamentos e suportes de armazenamento previstos nas alíneas p) e q) do n.º 2.3 da tabela anexa à presente lei sem os disponibilizarem a pessoas singulares para uso individual, desde que os equipamentos e suportes sejam parte integrante de sistemas de processos automatizados de gestão documental e de dados que não incluam reproduções de obras protegidas.
5. Estão ainda isentos do pagamento das compensações equitativas os aparelhos, dispositivos e suportes destinados à exportação.

## **Article 5 of the New Portuguese Law N°49/2015 on Private Copy of June 5, 2015 (No translation available)**

1. A responsabilidade pelo pagamento das compensações equitativas fixadas pela presente lei incumbe ao primeiro adquirente dos aparelhos e suportes em território nacional, desde que estes não se destinem a exportação ou reexportação.
2. A responsabilidade pela cobrança e entrega à entidade gestora a que se refere o artigo 6.º das compensações equitativas referidas no número anterior incumbe aos fabricantes estabelecidos no território nacional e aos importadores.
3. Os montantes pecuniários referidos no n.º 2 devem ser pagos, trimestralmente, mediante depósito em conta bancária a favor da entidade gestora a que se refere o artigo 6.º
5. Os fabricantes e os importadores comunicam, semestralmente, à Inspeção -Geral das Atividades Culturais e à entidade gestora a que se refere o artigo 6.º as seguintes informações:
  - a) As quantidades de aparelhos e suportes cujo preço inclui a compensação equitativa;
  - b) O preço de venda dos aparelhos e suportes a que acresce a compensação equitativa;
  - c) A compensação equitativa total cobrada.

## **Article 5A of the New Portuguese Law N°49/2015 on Private Copy of June 5, 2015 (No translation available)**

1. A partir de 2015, em cada ano civil, caso o montante da compensação equitativa cobrado pela entidade gestora a que se refere o artigo 6.º seja superior a 15 milhões de euros, o montante superior a esse valor constitui receita própria do Fundo de Fomento Cultural e destina -se a contribuir para financiar programas de incentivo à promoção de atividades culturais e à criação cultural e artística, com prioridade ao investimento em novos talentos.



# PORTUGAL

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2. A entidade gestora deve proceder à transferência do referido montante para o Fundo de Fomento Cultural com periodicidade trimestral.

## COLLECTION AND DISTRIBUTION SYSTEMS

### **Article 6 of the New Portuguese Law N°49/2015 on Private Copy of June 5, 2015 (No translation available)**

1. A cobrança, gestão e distribuição da compensação equitativa a que se refere o artigo 3.º incumbem à AGE COP — Associação para a Gestão da Cópia Privada, adiante designada entidade gestora, pessoa coletiva, sem fins lucrativos, de natureza associativa, constituída por todas as entidades de gestão coletiva que em Portugal representam os autores, os artistas, intérpretes e executantes, os produtores de fonogramas, os produtores de videogramas, e os editores.

### **Article 7 of the New Portuguese Law N°49/2015 on Private Copy of June 5, 2015 (No translation available)**

1. A entidade gestora deve afetar 20 % do valor total das compensações equitativas percebidas para ações de incentivo à atividade cultural e à investigação e divulgação dos direitos de autor e direitos conexos.
2. A entidade gestora deve, deduzidos os custos do seu funcionamento, repartir o remanescente das quantias recebidas nos termos dos artigos anteriores do seguinte modo:
  - a) No caso do disposto no n.º 2 do artigo 3.º: 50 % para os organismos representativos dos autores e 50 % para os organismos representativos dos editores;
  - b) No caso do disposto no n.º 4 do artigo 3.º:
    - i) Na parcela de compensação equitativa que corresponde à proporção da utilização típica do suporte para a reprodução de obras áudio e audiovisuais: 40 % para os organismos representativos dos autores, 30 % para os organismos representativos dos artistas, intérpretes ou executantes e 30 % para os organismos representativos dos produtores de fonogramas ou de videogramas;
    - ii) Na parcela de compensação equitativa que corresponde à proporção da utilização típica do suporte para a reprodução de obras escritas, livros, incluindo livros outras publicações periódicas e não periódicas: 50 % para os organismos representativos dos autores e 50 % para os organismos representativos dos editores.



## COMMENTS/LEGAL DEVELOPMENTS

After long political debates, in July 2015, the Portuguese Assembly of the Republic overcame a presidential veto and confirmed the approval of amendments to the Private Copying Law, updating the selection of products that are levied (in particular digital devices) and modernizing the system despite the very low value of levies. One of the issues that has been broadly discussed relates with the decision about who is going to pay, after all, the amounts of the levies.

Moreover, a threshold of €15M has been fixed and all amount collected above must be allocated to the Portuguese Cultural Development Fund whose mission is to support the promotion and dissemination of all cultural fields.



# ROMANIA



19.909 million

GDP: 600.416 million €

1/4



## OVERVIEW

### EXCEPTION

Reproduction of a lawfully published work by a natural person for its private use or a use in family circle, for non-commercial purpose is covered by the private copying exception.

### LEVY

Equipment Yes (analogous or digital)  
Media Yes (analogous or digital)

### BENEFICIARIES

Authors, performers, publishers, phonogram and audiovisual producers.

### LIABLE

Importer and Manufacturer.

### EXEMPTION

Professional use, Export.

### RATE SETTING

The levies are published by the Romanian Copyright office (ORDA) after negotiation between stakeholders (rightholders and liable).  
Tariffs: percentage of the tax value of the products.

### COLLECTION AND DISTRIBUTION SYSTEM

The Union of Phonogram Producers in Romania (UPFR) has been appointed by ORDA. UPFR collects for all rightholders and distributes to each organisations of rightholders.

### SOCIAL AND CULTURAL DEDUCTIONS

No

### REVENUE DECLARED TO CISAC IN 2014

10 000€



## LEGAL BASIS

### EXCEPTION

**Article 34 of the Law No. 8 of March 14, 1996 on Copyright and Neighboring Rights**

(1) It shall not be a violation of copyright, for the purposes of this law, the reproduction of a work, without the author's consent for personal use or for use by a normal family circle, provided that the work has already been disclosed to the public, while the reproduction does not contravene to the normal use of the work or prejudice the author or the owner of the rights.

### LEVY

**Article 34 of the Law No. 8 of March 14, 1996 on Copyright and Neighboring Rights**

(2) For the media on which sound or audio-visual recordings can be made or on which reproductions of the works graphically expressed can be made, as well as for equipment dedicated for copying, in the situation provided for in paragraph (1), a compensatory remuneration established by negotiation, according to the provisions of this law, shall be paid.



# ROMANIA

2/4



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## **Article 107 of the Law No. 8 of March 14, 1996 on Copyright and Neighboring Rights**

- (1) The authors of works susceptible for being reproduced through sound or audiovisual recordings, on any kind of physical medium, as well as the ones of the works susceptible for being reproduced on paper, directly or indirectly, under the conditions provided for under Art. 34 paragraph (1) shall be entitled, together with the publishers, producers and with the performers, as the case may be, to compensatory remuneration for the private copy, in accordance with Article 34 paragraph (2). The beneficiaries cannot waive the right to compensatory remuneration for the private copy.
- (2) Compensatory remuneration for private copy shall be paid by the manufacturers and importers of physical media or devices provided for in Art. 34 paragraph (2), regardless of whether the procedure is an analogical or digital one.
- (3) Importers and manufacturers of physical media and devices, provided for in Art. 34 paragraph (2), are bound to register themselves with the Romanian Copyright Office, with the National Registry of Private Copy and may only carry out the said activities of import and production, subject to prior obtaining of the Registration Certificate from the Romanian Copyright Office. The certificate is issued by the Romanian Copyright Office based on evidences regarding the object of activity legally stated and of the Sole Registration Certificate with the Trade Registry, within five days from their submittal.
- (4) The list of physical media and devices for which compensatory remuneration for private copy is owed, as well as the quantum of such remuneration is negotiated every 2 years, within a committee consisting of:
  - a) one representative of each main collective management organizations, which activate for a category of rights each, on the one hand;
  - b) one representative for each of the main associative structures mandated by manufacturers and importers of physical media and devices, appointed from them, and one representative each of the first 3 manufacturers and importers of physical media and devices, established on the basis of the turnover and market-share in the respective field, provided that they are stated with Romanian Copyright Office on the own responsibility, on the other hand.
- (5) In view of initiating the negotiation in accordance with the procedures provided under Article 131 paragraph (2)-(4), the collective management organizations and associations of manufacturers and importers of physical media and devices shall file with the Romanian Copyright Office an application containing the list of the physical media and devices, application that will be published in the Official Gazette of Romania, Part I. according to the Romanian Copyright Office general manager's decision, as well as the quanta of the remunerations that are to be negotiated. The list will be prepared separately for the devices and physical media from the sound and audiovisual fields and for the devices and physical media from the graphical field and they shall be negotiated in two committees.
- (6) The remunerations are in percentages and calculated at the value in custom for importers, respectively to the invoiced value without VAT, with the occasion of putting into circulation of products by the producers, and it shall be paid in the following month of import or date of invoicing.



# ROMANIA

3/4



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- (7) The remunerations negotiated by the parties are in percentages and owed for the devices and physical media provided under Art. 34 paragraph (2), as well for A4 paper sheets for photocopier and digital supports.
- (8) The compensatory remuneration for private copy is a procentual quota from the value provided for in paragraph (6), as follows:
  - a) A4 paper sheets for photocopier: 0.1%;
  - b) other physical media: 3%;
  - c) devices: 0.5%.
- (9) The negotiations for the establishment of the list of physical media and devices for which such remuneration is owed, are convened by the Romanian Copyright Office within 15 days from the publishing date of the negation request in the Official Gazette of Romania, Part I and are carried out according to the proceedings provided for in Art. 131.2.

## **Article 108 of the Law No. 8 of March 14, 1996 on Copyright and Neighboring Rights**

Compensatory remuneration for private copy shall not be paid where unrecorded video, audio or digital physical media manufactured within the country or imported are traded wholesale to the producers of audiovisual and sound recordings or to television and radio broadcasting organizations for their own broadcasts.

## **Article 110 of the Law No. 8 of March 14, 1996 on Copyright and Neighboring Rights**

The provisions of Article 107 shall not apply to the import of physical media and devices that serve for the making of copies, made with no commercial purposes, in the inside the legally allowed personal luggage.

## **COLLECTION AND DISTRIBUTION SYSTEM**

### **Article 107- 1 of the Law No. 8 of March 14, 1996 on Copyright and Neighboring Rights**

Compensatory remuneration for private copy is collected by a management organization sole collector for the works reproduced after sound and audiovisual recording and by another sole collector management organization for the works reproduced from paper, in accordance with the conditions provided for under Art. 133 paragraph (6)-(8). The two collective management organizations, having duties of sole collector, are designated through the majority vote of the beneficiary collective management organizations, at the first summoning, or majority vote of those present, at the second summoning. The collective management organizations designated by voting will file with the Romanian Copyright Office the minutes of the proceedings in accordance with which they have been designated. Within 5 workdays as from the filing, the Romanian Copyright Office shall appoint the sole collector by the general manager's decision which shall be published in the Official Gazette of Romania, Part I.



# ROMANIA

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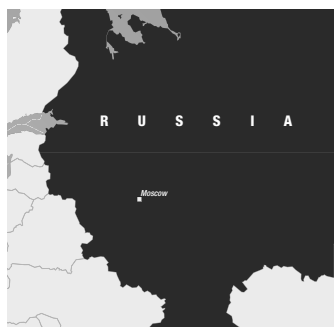


...

## **Article 107- 2 of the Law No. 8 of March 14, 1996 on Copyright and Neighboring Rights**

- (1) Compensatory remuneration for private copy collected by the sole collector management organizations is distributed to the beneficiaries as follows:
- a) in the case of physical media and devices for sound recorded copies, by analogical proceeding, 40 per cent from the remuneration shall be payable, in negotiable shares, to the authors and publishers of the recorded works, 30 per cent shall be payable to performers and the remaining 30 per cent shall be payable to the producers of sound recordings;
  - b) in the case of physical media and devices for audiovisual recorded copies, by analogical proceeding, the remuneration shall be divided in equal shares between the following categories: authors, performers and producers;
  - c) Repealed;
  - d) in the case of copies recorded by analogical proceeding, on any type of physical medium, the remuneration shall be divided in equal shares between the beneficiaries corresponding to each of the three categories provided for in letters a), b) and c) and, within each category, according to those established at the aforementioned letters.





# RUSSIA



146.300 million GDP: 44,953.947 million €

1/2



## OVERVIEW

### EXCEPTION

Yes, it is authorized to reproduce a copyright work if necessary and exclusively for personal purposes, a legally promulgated work without the author's or other right holder's consent and without paying a fee.

### LEVY

Equipment Yes  
Media Yes

### BENEFICIARIES

Authors, performers, phonogram and movie producers.

### LIABLE

Manufacturers and importers.

### EXEMPTION

Manufacturers of exported products.  
Technical devices which are usually not used for the copying of works for personal non-commercial purposes.

### RATE SETTING

Levies/remuneration are determined by the Russian government, on the basis of (1) the copying behaviour of consumers; (2) reproduction/playback; and (3) copying for private purposes.

### COLLECTION AND DISTRIBUTION SYSTEM

The Russian Union of Rightholders (RUR) is appointed by the Ministry of Culture, pursuant to the Civil Code. RUR is responsible for the collection and distribution of private copying remunerations to all rights owners. RUR distributes remuneration directly to rightholders.

### SOCIAL AND CULTURAL DEDUCTIONS

Yes, not more than 20 %.  
Deduction for social and cultural purposes is established by law and should be approved by the rightholders (art. 1243 (4) of the Civil Code). The Council of the RUR takes the decision, which must subsequently be implemented by the management of the organization.

### REVENUE DECLARED TO CISAC IN 2014

8.769 463€ (RA0)



## LEGAL BASIS

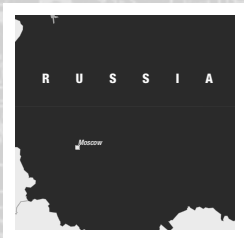
### EXCEPTION

**Art. 1273 of Civil Code of the Russian Federation  
(as amended up to Federal Law No. 358-FZ of November 28, 2015)**

#### **Article 1273. Free Reproduction for Personal Purposes**

1. A citizen may reproduce, if necessary and exclusively for personal purposes a legally promulgated work without the author's or other right holder's consent and without paying a fee, except for the following:

- 1) the reproduction of works of architecture in the form of buildings and similar structures;
- 2) the reproduction of databases or significant parts thereof;
- 3) the reproduction of computer programmes, except for the cases envisaged by Article 1280 of the present Code;
- 4) the reproduction (Item 2 of Article 1275) of books (in full) and musical notation texts;



# RUSSIA

2/2



...

- 5) the video recording of an audiovisual work when it is publicly performed in a place open to the public or in a place attended by a significant number of persons who do not belong to the ordinary family group;
  - 6) the reproduction of an audiovisual work using professional equipment not intended for home use.
2. When phonograms and audiovisual works of art are reproduced exclusively for personal purposes, authors, performers and manufacturers of the phonograms and audiovisual works of art have the right to the remuneration provided for by Article 1245 of this Code.

## LEVY

### **Art. 1245 of Civil Code of the Russian Federation (as amended up to Federal Law No. 358-FZ of November 28, 2015)**

Article 1245. The Fee for Free Reproduction/Playback of Sound Recordings and Audiovisual Works for Personal Purposes

1. The authors, performers and manufacturers of sound recordings and audiovisual works are entitled to receive a fee for a free reproduction/playback of the sound recordings and audiovisual works exclusively for personal purposes. Such fee is of a compensatory nature, and is payable to right holders from the funds payable by the manufacturers and importers of the equipment and material media used for the reproduction/playback. A list of the equipment and material media, and also the amount of, and procedure for collecting, the funds shall be approved by the Government of the Russian Federation. (...)

## COLLECTION AND DISTRIBUTION SYSTEMS

### **Art. 1245 of Civil Code of the Russian Federation (as amended up to Federal Law No. 358-FZ of November 28, 2015)**

Article 1245. The Fee for Free Reproduction/Playback of Sound Recordings and Audiovisual Works for Personal Purposes:

(...)

2. The collection of the funds intended for disbursing fees for the free reproduction/playback of sound recordings and audiovisual works for personal purposes is the responsibility of the accredited organisation (Article 1244).
3. A fee for a free reproduction/playback of sound recordings and audiovisual works for personal purposes shall be distributed among the right holders in the following proportion: 40 per cent to the authors, 30 per cent to the performers, 30 per cent to the manufacturers of the sound recordings or audiovisual works. The distribution of the fee among specific authors, performers, manufacturers of sound recordings or audiovisual works shall be made pro rata to the actual use of the relevant sound recordings or audiovisual works. The procedure for distributing the fee and for paying it out shall be established by the Government of the Russian Federation.
4. No amounts of money for the purpose of paying out the fee for the free reproduction/playback of sound recordings and audiovisual works for personal purposes shall be collected from the manufacturers of the equipment and the material media deemed for exportation, or from the manufacturers and importers of professional equipment not intended for home use.



# SERBIA



7.132 million

GDP: 3,122.949 million €

1/4



## OVERVIEW

### EXCEPTION

Yes, any natural person shall have the right to reproduce for personal non-commercial purposes a disclosed work without the author's permission and without paying remuneration

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Authors, performers, producers.

### LIABLE

Manufacturers, importers.

### EXEMPTION

Technical devices which are usually not used for the copying of works for personal non-commercial purposes.

### RATE SETTING

Agreement between right holders' representatives and representatives of manufacturers and importers. If there is no agreement, tariffs are fixed by the Commission for Copyright and Related Rights.

### COLLECTION AND DISTRIBUTION SYSTEM

YES, it is a right that has to be managed collectively.  
Local society SOKOJ is collecting and distributing the remuneration among rightholders.

### SOCIAL AND CULTURAL DEDUCTIONS

No

### REVENUE DECLARED TO CISAC IN 2014

20 341€



## LEGAL BASIS

### EXCEPTION

#### Art. 46 of Law on Copyright and Related Rights

- (1) Without prejudice to the provisions of Article 208, Paragraph 1, Items 4 and 5 of this Law, any natural person shall have the right to reproduce for personal non-commercial purposes a disclosed work without the author's permission and without paying remuneration.
- (2) The copies referred to in Paragraph 1 of this Article shall not be placed on the market or be used for any other form of public communication of that work.
- (3) The provisions of Paragraph 1 of this Article shall not apply to the following:
  - 1) Recording of the performance, presentation or showing the work;
  - 2) Three dimensional realization of drawings for works of fine arts;
  - 3) Constructed works of architecture;
  - 4) Construction of a new building after an existing building, which is a work of authorship;
  - 5) Computer programs and electronic data bases,



# SERBIA

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- 6) Multiplication of the written works in the scope of an entire book, unless if copies of that book have been sold out for at least two years,
- 7) Multiplication of the sheet music, except by manual copying.
- (3) The author shall have the right of remuneration in accordance with the provisions of Article 39 of this Law for the use of its work in a manner prescribed by paragraphs 1 and 2 of this Article.

## LEVY

### Art. 39 of Law on Copyright and Related Rights

- (1) When the copyright protected work is copied without the permission of the author, in compliance with provisions of article 46, paragraph 1 and 2 of this Law, the authors of the works for which, bearing in mind their nature, it can be expected that they will be multiplied by photocopying or recording onto the carriers of sound, picture or text for personal non-commercial needs of the natural persons (literary works, music, films, etc.) have a right for special remuneration from import or sale of technical devices and empty carriers of sound, picture and text for whom we can justifiably assume that they shall be used for such multiplication.
- (2) The remuneration from paragraph 1 of this article are paid by the producers of devices for sound or visual recording, producers of photocopying devices or other devices with the similar technology for multiplication, the producers of empty carriers of sound, picture and text, and in solidarity with them, the importers of devices for sound or visual recording, photocopying devices or other devices with the similar technology for reproduction and empty carriers of sound, picture or text, with the exception of the import of small amounts intended for the private and non-commercial use, as part of the personal luggage.
- (3) If the devices and items from paragraph 1 of this article are not produced in the Republic of Serbia, the remuneration is paid by the importer.
- (4) The obligation for the payment of remuneration from paragraph 1 of this article originates: 1) at the first sale in the Republic of Serbia or import in the Republic of Serbia of new devices for sound or visual recording; 2) at the first sale in the Republic of Serbia or import in the Republic of Serbia, of empty carriers of sound, picture and text; 3) at the first sale in the Republic of Serbia or import in the Republic of Serbia, of new devices for photocopying or other devices with the similar technology of copying.
- (5) In the case of copying works protected by copyright by photocopying or similar technology, apart from the right to remuneration from paragraph 1 of this article, the author has the right to remuneration from the legal or natural person providing commercial services of photocopying.
- (6) Persons from paragraph 2 of this article do not pay remuneration for the: 1) technical devices and empty carriers of sound, picture and text if they are intended for export, 2) technical devices which are usually not used for the copying of works for personal non-commercial purposes (for example, studio equipment and devices, dictaphone, and similar), 3) empty carriers of sound, picture and text applicable exclusively with technical devices from item 2 of this paragraph.



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- (7) Persons from paragraphs 2 and 5 of this article have an obligation, at the request of the organizations for collective management of copyright and related rights, to forward information on the type and number of sold or imported devices or carriers of sound, picture and text, as well as information on the number of photocopies made, as the ground for the calculation of compensation. Information obtained in such a way can be used by the organization only for the calculation of the remuneration and must not be used for any other purposes.
- (8) Remuneration from paragraphs 1 and 5 of this article must be the fair compensation and the determination of its amount must take into account the probable damage suffered by the author when his work is copied without his permission for personal non-commercial use, the application of technical measures of protection and other circumstances that can influence the correct calculation of the amount of this special remuneration.
- (9) The authors may realize their right to remuneration from paragraphs 1 and 5 of this article only through the organizations for collective management of copyright and related rights.
- (10) Author cannot renounce the right to special remuneration from paragraphs 1 and 5 of this article. Right to special remuneration cannot be the subject matter of abandonment, disposition for life and judicial enforcement.
- (11) At the proposal of the bodies of government administration competent for the intellectual property matters (henceforward: competent body), with the previously obtained opinion of the body of government administration competent for the development of information society, the Government shall establish the list of technical devices and objects for which there is an obligation of payment of special remuneration under the conditions of paragraphs 1 to 9 of this article.

## COLLECTION AND DISTRIBUTION SYSTEMS

### Art. 178 of Law on Copyright and Related Rights

- (1) The single equitable remuneration for the realization of right to a special remuneration from article 39 and 146 of this Law, which is paid from the first sale or import into the Republic of Serbia of devices to sound or visual recording and empty carriers of sound, picture and text, is determined by agreement in writing between the organizations which exercise the right of those holders of copyright and related rights that by the virtue of this law enjoy the right to a special remuneration on one side and on the other side the representative association of producers or importers of devices for sound and visual recording and importers of empty carriers of sound, picture and text.
- (2) The organizations from Paragraph 1 of this Article jointly initiate the negotiations on the single equitable tariff, jointly negotiate in the procedure and in a way determined by article 173 and 174 of this Law and jointly publish the single equitable remuneration from paragraph 1 of this article in the "Official Gazette of the Republic of Serbia".
- (3) The single equitable remuneration determined in a way prescribed by Paragraphs 1 and 2 of this Article is enforced on the eight day from the publication date in the "Official Gazette of the Republic of Serbia".
- (4) If in the term of two months from the date of the publication of the invitation from Article 174 of this Law, the agreement from Paragraph 1 of this Article has not been reached, the proposal of the single equitable tariff from Paragraph 1 of this Article is determined by the administrative boards of the organizations on the basis of a written agreement.



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- (5) The proposal of a single equitable remuneration is communicated to the Commission for an opinion.
- (6) If in the term from 90 days from the publication of the invitation from the article 173 of this Law, the organizations from paragraph 1 of this article do not file to the Commission the request for the opinion on the proposal of a single equitable tariff, that tariff shall be determined by the Commission.
- (7) The collection of the single equitable remuneration from Paragraph 1 of this Article is performed by the organization for the collective management of musical rights with the previously reached agreement in writing with the organizations that participated in the negotiations on the single equitable tariff and the amount of the expenses of collecting the special remuneration and the regime of distribution of the special remuneration among the organizations from this paragraph.
- (8) The organization for the collective management of musical rights has the obligation to devide the totally collected special remuneration, after the deduction of expenses of collection of the special remuneration determined as agreed, to the authors and direct to the organizations of the interpreters and the producers of phonograms or videograms in the following way: 40% to the authors, 30% to the interpreters and 30% to the producers and phonograms and the producers of videograms.



# SLOVAK REPUBLIC



5.417 million

GDP: 75.793 million €

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## OVERVIEW

### EXCEPTION

Yes, natural person making reproduction of a work for his/her personal use and for purposes which are directly or indirectly non-commercial without the author's consent, shall not be guilty of copyright infringement.  
The origin of a copy of a work which was made without the author's consent pursuant to this exception shall not infringe the author's rights.

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Authors, performers, publishers and producers (literary, musical, audiovisual works and visual arts).

### LIABLE

Manufacturers, importers, sellers.

### EXEMPTION

Export, own use by liable persons.

### RATE SETTING

Levies are set up by law.  
Tariffs: percentage of the sale price or import price.

### COLLECTION AND DISTRIBUTION SYSTEM

SOZA has been appointed by rightholders to collect the private copying levy for all categories of rightholders.  
SOZA collects and distributes the amount to its proper members and to the 3 others CMOs representatives of other categories of rightholders (OZIS, LITA and SLOVGRAM).

### SOCIAL AND CULTURAL DEDUCTIONS

No

### REVENUE DECLARED TO CISAC IN 2014

154 384€ (SOZA share collected in 2014)



## LEGAL BASIS

### EXCEPTION

#### Section 42 of the Copyright Act No. 185/2015

(1) A natural person, who makes reproduction of a work for his/her personal use and for purposes which are directly or indirectly non-commercial without the author's consent, shall not be guilty of copyright infringement.

#### Section 35 of the Copyright Act No. 185/2015

(3) The origin of a copy of a work which was made without the author's consent pursuant to Sections 42 and 43 shall not infringe the author's rights.

### LEVY

#### Section 36 of the Copyright Act No. 185/2015

(2) The use of a work pursuant to Sections 42 and 43 is subject to obligation to pay remuneration to an author from the basis and up to the amount according to Annex 2.



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## Section 36 of the Copyright Act No. 185/2015

(3) The remuneration pursuant to par. 2 shall be settled by:

- a) a manufacturer, a recipient from a Member State, an importer from a third country (hereinafter referred to as a "third country"), or another person who will place it for the purpose of sale for the first time on the market in the Slovak Republic, including the online sale of technical device which allows temporarily or permanently the reproduction, deposition or preservation of a copy of a work or the online sale of a blank recording medium allowing the deposition and preservation of copies of a work,
- b) a person, who provides reprographic services for consideration.

## Annex 2 to the Copyright Act No. 185/2015

The basis for calculation of the author's remuneration pursuant to Section 36 par. 2 and its amount.

- (1) A person pursuant to Section 36 par. 3 shall pay the remuneration for use of a work pursuant to Section 42 for:
  - a) a blank recording medium allowing the deposition or preservation of copy of a work such as CD, DVD, Blu-ray carriers, minidisc, magnetic tape or other similar optical, magnetic or electronic medium or USB key, memory card, hard disc, which is not integrated in technical device, in the amount of 6 % of the purchase price or import price of such a medium,
  - b) a technical device allowing to make a copy of a work on a hard disc, USB key, memory card or medium pursuant to letter a) or other technical device with such function or effect, which is audio or audio-video recorder, set-top box allowing to make or store a copy of a work on other independent technical device or medium, game console, smart TV, mp3 player or mp4 recorder or other technical device with such effect except from technical devices pursuant to letters c) to g) and except from technical devices mentioned in the second part of letter a), in the amount of 3% of the purchase price or import price of such a device.
  - c) technical device allowing to make a copy of a work which is a mobile phone, in the amount of 0,7 % of the purchase or import price of such device,
  - d) technical device allowing to make a copy of a work, which is a tablet, in the amount of 0,6 % of the purchase or import price of such device,
  - e) technical device allowing to make a copy of a work, which is a computer, in the amount of 0,85 % of the purchase or import price of such device,
  - f) technical device allowing to make a copy of a work, which is a video recorder, in the amount of 1 % of the purchase or import price of such a device,
  - g) technical device allowing to make a copy of a work, which is a camera, in the amount of 0,35 % of the purchase or import price of such a device.

## COLLECTION AND DISTRIBUTION SYSTEMS

### Section 146 of the Copyright Act No. 185/2015

- (1) Right holder is not entitled for individual execution of his economic rights in the areas of collective management pursuant to par. 2.





# SLOVAK REPUBLIC

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(2) Collective management organization carries out the execution of economic rights pursuant to par. 1 in following areas of collective management:

- a) collection of remuneration for making a copy of subjects of protection for personal use pursuant to Section 42,
- b) collection of remuneration for making a copy of subjects of protection by means of reprographic device

(..)

## Section 166 of the Copyright Act No. 185/2015

- (1) A person entitled to pay remuneration pursuant to Section 36 par. 3 shall provide to collective management organization all necessary information in order to perform the proper execution of collective rights management.
- (2) A person pursuant to par. 1 shall enable collective management organization to control his/her accounting records or other documentation in the extent necessary for determining the remuneration.

(..)

## Section 167 of the Copyright Act No. 185/2015

- (1) A person entitled to pay a remuneration pursuant to Section 36 par. 3 shall provide to collective management organization information regarding the type, quantity and import price or purchase price of the imported, accepted or sold or otherwise disposed mediums, technical devices or equipment for the purpose of sale for the first time on the market in the Slovak Republic, including sales via Internet, or data regarding total revenue for reproduction services, on a quarterly basis within the 10th day of the first month of the following quarter; failure to fulfil this obligation even within an addition period granted by the relevant collective management organization shall result in doubling of the initial rate of remuneration. The initial rate of remuneration shall also be doubled when a negative difference between remuneration according to documentary information and correct remuneration is determined.
- (2) A person entitled to pay remuneration pursuant to Section 36 par. 3 shall pay remuneration pursuant to Section 36 par. 2 to relevant collective management organization on a quarterly basis by the end of the first month of the following quarter.
- (3) Remuneration shall not be paid for technical device or blank recording medium pursuant to Section 36 par. 3 a), which have been exported to third country or sent to another Member State. Remuneration shall not be paid also for technical device or blank recording medium pursuant to Section 36 par. 3 a) which will be demonstrably and exclusively used only for personal use of the importer or recipient.
- (4) A person entitled to pay remuneration pursuant to Section 36 par. 3 shall provide to collective management organization information regarding the registered office of purchaser, type, quantity, import price, export price or selling price of the technical devices or blank recording mediums pursuant to Section 36 par. 3 a), which are exported to third countries or sent into a Member State for resale purposes, on a quarterly basis by the end of the first month of the following quarter.



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- (5) If the seller, exporter or transporter of technical devices or blank recording mediums pursuant to Section 36 par. 3 a) fails to report to relevant collective management organization upon its formal notice the data necessary for the identification of the person entitled to pay remuneration pursuant to Section 36 par. 3, he/ she is obliged to pay a remuneration instead of this person.

## ***Provision related to mandatory one-stop-shop collections***

### **Section 175 of the Copyright Act No. 185/2015**

- (1) Collective management organizations executing collective administration in relevant areas shall conclude an agreement on common rights management, if subjects of protection are being used in the following way:
- b) making a copy of a work pursuant to Sections 42 and 43

(..)

### **Section 174 of the Copyright Act No. 185/2015**

(..)

- (2) Agreement on common rights management must contain
- a) commission for one collective management organization to act on behalf of other parties to this agreement, if not stipulated otherwise,
  - b) the amount or the manner of determining the amount of necessary and appropriated costs related to common rights management, which shall not exceed the amount of costs, that collective management organization would expend for collective management within the scope of subjects of protection pursuant to section 1, if it was carried out independently,
  - c) method and criteria of revenue distribution from collective rights management to parties of agreement on common rights management,
  - d) rules for other collective management organization to access the agreement on common rights management.
- (3) Agreement on common rights management shall be made in writing.



## **COMMENTS/LEGAL DEVELOPMENTS**

Since the 1<sup>st</sup> January 2016, the New Copyright act (185/2015) is in force; it modifies the private copying levy system and extends significantly the devices covered by the private copying exception, in particular concerning new media devices.

The Copyright Act now explicitly incorporates the conclusions of the ACI Adam case and stresses that the reprography and private copying exceptions are applicable only if the source of the copy is lawful.



# SPAIN



46.384 million

GDP: 1,071.941 million €

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## OVERVIEW

### EXCEPTION

Yes, a reproduction of a work made by a natural person exclusively for its non-professional personal use, on non-commercial direct or indirect purposes as long as the copy is made from a licit source, the access conditions have not been circumvented and the copy is not used collectively, nor for profit, nor for paid distribution.

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Authors (music, audiovisual, literary works, visual arts), performers, phonogram and audiovisual producers, publishers.

### LIABLE

Manufacturers, importers and sellers (as severally liable).

### EXEMPTION

Yes:

- Will not generate an obligation to compensate:
  - Those reproductions that cause a "minimum harm", to be determined by Royal Decree
- Not considered private copying reproductions:
  - Those made by reprographic businesses.
  - Those manifestly reserved to different usages
- Will be exempted to pay the compensation:
  - Copies made by the entities within the public sector
  - Copies made by natural or legal persons that can justify the exclusive professional usage of the equipment or media
  - Those made for reproduction of works, for business purposes and with the previous authorization by the rightholders
  - Copies made by natural persons for their private usage outside the Spanish territory

There are also possibilities of refund for professional end-user uses and export.

### RATE SETTING

Determined by the State through Royal Decree (see Comments below).

### COLLECTION AND DISTRIBUTION SYSTEM

CMO's in Spain are compelled by law to create a legal entity for the collection and distribution, as well as for the administration of the exceptions and refunds.

### SOCIAL AND CULTURAL DEDUCTIONS

Yes:

- Article 155.2, establishes the obligation for CMO's to dedicate a percentage of the private copying amounts to cultural and social activities. Such percentage to be determined by Royal Decree.

### REVENUE DECLARED TO CISAC IN 2015

5 M€ (the total annual amount fixed for the period 2013-2016 was 5M€). The amounts for 2015 and 2016 have not been paid by the State, since after the Supreme Court's ruling of November 2016 (see below) there is no legal basis for the payment (Royal Decree 1657/2012 of December 7 has been declared null and void).



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## LEGAL BASIS

### EXCEPTION

**Article 31 of Consolidated Text of the Law on Intellectual Property (TRLPI) as it has been amended by Real Decreto-Ley 12/2017, de 3 de Julio.**

2. Sin perjuicio de la compensación equitativa prevista en el artículo 25, no necesita autorización del autor la reproducción, en cualquier soporte, sin asistencia de terceros, de obras ya divulgadas, cuando concurren simultáneamente las siguientes circunstancias, constitutivas del límite legal de copia privada:
  - a) Que se lleve a cabo por una persona física exclusivamente para su uso privado, no profesional ni empresarial, y sin fines directa ni indirectamente comerciales.
  - b) Que la reproducción se realice a partir de una fuente lícita y que no se vulneren las condiciones de acceso a la obra o prestación.
  - c) Que la copia obtenida no sea objeto de una utilización colectiva ni lucrativa, ni de distribución mediante precio.

### LEVY

**Article 25 of the TRLPI as it has been amended by the Real-Decreto Ley 12/2017, de 3 de Julio**

1. La reproducción de obras divulgadas en forma de libros o publicaciones que a estos efectos se asimilen mediante real decreto, así como de fonogramas, videogramas o de otros soportes sonoros, visuales o audiovisuales, realizada mediante aparatos o instrumentos técnicos no tipográficos, exclusivamente para uso privado, no profesional ni empresarial, sin fines directa ni indirectamente comerciales, de conformidad con el artículo 31, apartados 2 y 3, originará una compensación equitativa y única para cada una de las tres modalidades de reproducción mencionadas dirigida a compensar adecuadamente el perjuicio causado a los sujetos acreedores como consecuencia de las reproducciones realizadas al amparo del límite legal de copia privada. Dicha compensación se determinará para cada modalidad en función de los equipos, aparatos y soportes materiales idóneos para realizar dicha reproducción, fabricados en territorio español o adquiridos fuera de este para su distribución comercial o utilización dentro de dicho territorio.
2. Serán sujetos acreedores de esta compensación equitativa y única los autores de las obras señaladas en el apartado anterior, explotadas públicamente en alguna de las formas mencionadas en dicho apartado, conjuntamente y, en los casos y modalidades de reproducción en que corresponda, con los editores, los productores de fonogramas y videogramas y los artistas intérpretes o ejecutantes cuyas actuaciones hayan sido fijadas en dichos fonogramas y videogramas. Este derecho será irrenunciable para los autores y los artistas intérpretes o ejecutantes.
3. Serán sujetos deudores del pago de la citada compensación los fabricantes en España, en tanto actúen como distribuidores comerciales, así como los adquirentes fuera del territorio español, para su distribución comercial o utilización dentro de este, de equipos, aparatos y soportes materiales previstos en el apartado.

Asimismo, serán responsables solidarios del pago de la compensación los distribuidores, mayoristas y minoristas, que sean sucesivos adquirentes de los mencionados equipos, aparatos y soportes materiales, con respecto de los deudores que se los hubieran suministrado, salvo que acrediten haber satisfecho efectivamente a estos la compensación.



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Los distribuidores, mayoristas y minoristas que sean sucesivos adquirentes de los mencionados equipos, aparatos y soportes materiales podrán solicitar a las entidades de gestión, conforme al procedimiento para hacer efectiva la compensación equitativa que se desarrollará por real decreto, la devolución de aquella en lo que corresponda a las ventas de equipos, aparatos y soportes materiales de reproducción a sujetos exceptuados según el apartado 7.

4. La determinación de los equipos, aparatos y soportes materiales sujetos al pago de la compensación equitativa, las cantidades que los deudores deberán abonar por este concepto a los acreedores y la distribución de dicha compensación entre las distintas modalidades de reproducción se fijarán por Orden del Ministerio de la Presidencia y para las Administraciones Territoriales, a propuesta de los Ministerios de Educación, Cultura y Deporte y de Energía, Turismo y Agenda Digital, previo informe a la Comisión Delegada del Gobierno para Asuntos Económicos.

Con carácter previo a su aprobación será consultado el Consejo de Consumidores y Usuarios y emitirá informe preceptivo la Sección Primera de la Comisión de Propiedad Intelectual.

Durante el procedimiento de elaboración de dicha Orden se dará audiencia a las entidades de gestión de derechos de propiedad intelectual, a los interesados y a las asociaciones mayoritarias que representen a los sujetos deudores, de acuerdo con lo que determine el Ministerio de Energía, Turismo y Agenda Digital, debiendo aportar, todos estos, una propuesta motivada respecto a su ámbito de interés, que irá acompañada de un informe justificativo.

Por parte del Centro directivo promotor de la Orden se prestará primordial atención a las alegaciones de cada parte interesada directamente relacionadas con sus respectivos derechos legítimos específicos.

La Orden podrá ser revisada en cualquier momento en función de la evolución tecnológica y de las condiciones del mercado. En cualquier caso, deberá ser revisada, al menos, con una periodicidad de tres años.

5. A los efectos previstos en el apartado anterior, se tendrá en cuenta lo siguiente:

- a. La determinación de la cuantía de la compensación equitativa se calculará sobre la base del perjuicio causado a los sujetos acreedores como consecuencia de las reproducciones realizadas al amparo del límite al derecho de reproducción previsto en el artículo 31, apartados 2 y 3. Para ello se tendrán en cuenta, al menos, los siguientes criterios objetivos:

1. La intensidad de uso de los equipos, aparatos y soportes materiales, para lo que se tendrá en cuenta la estimación del número de copias realizadas al amparo del límite legal de copia privada.
2. La capacidad de almacenamiento de los equipos, aparatos y soportes materiales, así como la importancia de la función de reproducción respecto al resto de funciones de aquellos.
3. El impacto del límite legal de copia privada sobre la venta de ejemplares de las obras, teniendo en cuenta el grado de sustitución real de estos por las copias privadas realizadas y el efecto que supone que el adquirente de un ejemplar o copia original tenga la posibilidad de realizar copias privadas.



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4. El precio de la unidad de cada modalidad reproducida.
  5. El carácter digital o analógico de las reproducciones efectuadas al amparo del límite legal de copia privada, o la calidad y el tiempo de conservación de las reproducciones.
  6. La disponibilidad, grado de aplicación y efectividad de las medidas tecnológicas a las que se refiere el artículo 160.3 del texto refundido de la Ley de Propiedad Intelectual y su impacto en las reproducciones realizadas al amparo del límite legal de copia privada.
  7. Las cuantías de la compensación equitativa por copia privada que resulte de aplicación en otros Estados miembros de la Unión Europea siempre que existan bases homogéneas de comparación.
- b. No darán origen a una obligación de compensación aquellas situaciones en las que el perjuicio causado al titular del derecho de reproducción haya sido mínimo, que se determinarán mediante real decreto.
  - c. No tendrán la consideración de reproducciones para uso privado las siguientes:
    - 1.º Las efectuadas en establecimientos dedicados a la realización de reproducciones para el público, o que tengan a disposición del público los equipos, aparatos y materiales para su realización.
    - 2.º Las realizadas mediante equipos, aparatos y soportes de reproducción digital que no se hayan puesto a disposición de derecho o de hecho usuarios privados y que estén manifiestamente reservados a usos distintos a la realización de copias privadas.
  - d. Los equipos, aparatos y soportes materiales de reproducción concebidos manifiestamente para uso profesional y que no se hayan puesto de derecho o de hecho a disposición de usuarios privados para la realización de copias privadas, no estarán sujetos al pago de la compensación equitativa por copia privada.
6. La obligación de pago de la compensación prevista en el apartado 1 de este artículo nacerá en los siguientes supuestos:
    - a. Para los fabricantes en tanto actúen como distribuidores y para los adquirentes de equipos, aparatos y soportes materiales fuera del territorio español con destino a su distribución comercial en este, en el momento en que se produzca por parte del deudor la transmisión de la propiedad o, en su caso, la cesión del uso o disfrute de cualquiera de aquellos.
    - b. Para los adquirentes de equipos, aparatos y soportes materiales fuera del territorio español con destino a su utilización dentro de dicho territorio, desde el momento de su adquisición.



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7. Quedarán exceptuadas del pago de la compensación, las siguientes adquisiciones de equipos, aparatos y soportes materiales de reproducción:

a. Las realizadas por las entidades que integran el sector público según se establezca en el texto refundido de la Ley de Contratos del Sector Público, aprobado por Real Decreto Legislativo 3/2011, de 14 de noviembre, así como por el Congreso de los Diputados, el Senado, el Consejo General del Poder Judicial, el Tribunal de Cuentas, el Defensor del Pueblo, las Asambleas legislativas de las Comunidades Autónomas y las instituciones autonómicas análogas al Tribunal de Cuentas y al Defensor del Pueblo. Esta excepción se podrá acreditar a los deudores y, en su caso, a los responsables solidarios:

1.º Mediante una certificación emitida por el órgano competente de la Administración General del Estado, de las Administraciones de las Comunidades Autónomas, de las Entidades que integran la Administración Local, de las entidades gestoras y los servicios comunes de la Seguridad Social, de las Universidades Públicas así como del Congreso de los Diputados, el Senado, el Consejo General del Poder Judicial, el Consejo de Estado, el Tribunal de Cuentas, el Defensor del Pueblo, las Asambleas legislativas de las Comunidades Autónomas y las instituciones autonómicas análogas al Consejo de Estado, Tribunal de Cuentas y al Defensor del Pueblo.

2.º Mediante una certificación emitida por el órgano de dirección y tutela respecto de las mutuas colaboradoras con la Seguridad Social.

3.º Mediante una certificación emitida por la administración territorial de la que dependan o a la que estén vinculados el resto de entes que conforman el sector público.

b. Las realizadas por personas jurídicas o físicas que actúen como consumidores finales, que justifiquen el destino exclusivamente profesional de los equipos, aparatos o soportes materiales adquiridos y siempre que estos no se hayan puesto, de derecho o de hecho, a disposición de usuarios privados y que estén manifiestamente reservados a usos distintos a la realización de copias privadas, lo que deberán acreditar a los deudores y, en su caso, a los responsables solidarios mediante una certificación emitida por la persona jurídica prevista en el apartado 10.

c. Las realizadas por quienes cuenten con la preceptiva autorización para llevar a efecto la correspondiente reproducción de obras, prestaciones artísticas, fonogramas o videogramas, según proceda, en el ejercicio de su actividad, lo que deberán acreditar a los deudores y, en su caso, a sus responsables solidarios, mediante una certificación emitida por la persona jurídica prevista en el apartado 10.

d. Las realizadas por personas físicas para uso privado fuera del territorio español en régimen de viajeros.

En defecto de certificación, los sujetos beneficiarios de la excepción podrán solicitar el reembolso de la compensación.



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8. Aquellas personas jurídicas o físicas no exceptuadas del pago de la compensación podrán solicitar el reembolso de esta cuando:

- a) Actúen como consumidores finales, justificando el destino exclusivamente profesional del equipo, aparato o soporte material de reproducción adquirido, y siempre que estos no se hayan puesto, de derecho o de hecho, a disposición de usuarios privados y que estén manifiestamente reservados a usos distintos a la realización de copias privadas.
- b) Los equipos, aparatos o soportes materiales de reproducción adquiridos se hayan destinado a la exportación o entrega intracomunitaria.

No se admitirán solicitudes de reembolso por importe inferior a veinticinco euros. No obstante, si la solicitud de reembolso acumula la compensación equitativa abonada por la adquisición de equipos, aparatos y soportes materiales realizada en un ejercicio anual, se admitirán aun cuando no alcancen los veinticinco euros.

9. La compensación equitativa se hará efectiva a través de las entidades de gestión de derechos de propiedad intelectual conforme al procedimiento que se determine a tal efecto por real decreto, debiendo las mismas garantizar a los deudores y a los responsables solidarios una comunicación unificada de la facturación que a estos les corresponda abonar.

10. Las entidades de gestión de derechos de propiedad intelectual participarán en la constitución, conforme a la legalidad vigente, gestión y financiación de una persona jurídica que ejercerá, en representación de todas ellas, las siguientes funciones:

- a. La gestión de las excepciones del pago y los reembolsos
- b. La recepción y posterior remisión a las entidades de gestión de la relaciones periódicas de equipos, aparatos y soportes de reproducción respecto de los que haya nacido la obligación de pago de la compensación, elaborada por los sujetos deudores y , en su caso , por los responsables solidarios, en el marco del procedimiento para hacer efectiva la compensación que se determine mediante real decreto.
- c. La comunicación unificada de la facturación.

11. Los deudores y sus responsables solidarios permitirán a la persona jurídica que las entidades de gestión constituyan conforme a lo previsto en el apartado anterior, el control de las adquisiciones y de las ventas sujetas al pago de la compensación equitativa así como de aquellas afectadas por las excepciones establecidas en el apartado 7. Asimismo, los sujetos que hayan obtenido la certificación de excepción facilitarán, a petición de la referida persona jurídica, los datos necesarios para comprobar que se mantiene el efectivo cumplimiento de los requisitos para ser beneficiario de la excepción.





# SPAIN

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12. A los efectos de que el Ministerio de Educación, Cultura y Deporte, en el ejercicio de sus funciones de inspección, vigilancia y control sobre las entidades de gestión de derechos de propiedad intelectual, vele por el cumplimiento de las obligaciones de la referida persona jurídica, esta comunicará a la Secretaría de Estado de Cultura, el día 1 de abril de cada año, la siguiente información respecto del año anterior:

- a) Un listado pormenorizado de las relaciones periódicas de equipos, aparatos y soportes de reproducción respecto de los que haya nacido la obligación de pago de la compensación, elaboradas por los sujetos deudores y por los responsables solidarios.
- b) Un listado pormenorizado de las compensaciones pagadas por los sujetos deudores y por los responsables solidarios.
- c) La relación de certificaciones de exención y de reembolsos tramitadas.
- d) Cuanta información adicional que el Ministerio de Educación Cultura y Deporte considere necesaria para ejercer sus funciones.

Dicha información se publicará en el sitio web del Ministerio de Educación, Cultura y Deporte.

Asimismo, el Ministerio de Educación, Cultura y Deporte resolverá los conflictos que se le planteen respecto de las denegaciones, por la referida persona jurídica, de los certificados de exención previstos en las letras b) y c) del apartado 7 y las solicitudes de reembolso del pago de la compensación equitativa por copia privada previstas en el apartado 8.»

## COLLECTION AND DISTRIBUTION SYSTEM

**See Article 25 above**

**Also:**

**Disposición Transitoria Segunda. Real Decreto-Ley 12/2017, de 3 de julio.**

1. Desde la entrada en vigor del presente real decreto-ley y hasta la entrada en vigor del real decreto previsto en la disposición final primera, la compensación que deberá satisfacer cada sujeto deudor o responsable solidario será la resultante de la aplicación de las siguientes cantidades sobre los equipos, aparatos y soportes materiales que se indican a continuación:

- a. (...)

**Disposición Final Primera Real Decreto-Ley 12/2017, de 3 de julio.**

*Desarrollo reglamentario.*

En el plazo máximo de un año desde la entrada en vigor del presente real decreto-ley, deberá aprobarse un real decreto que desarrolle reglamentariamente las disposiciones incluidas en este y que, aplicando el procedimiento y los criterios contenidos, respectivamente, en los apartados 4 y 5 del artículo 25 del texto refundido de la Ley de Propiedad Intelectual, determine por primera vez, con carácter no transitorio, los equipos, aparatos y soportes materiales sujetos al pago de la compensación equitativa, las cantidades que los deudores deberán abonar por este concepto a los acreedores y la distribución de dicha compensación entre las distintas modalidades de reproducción.



# SPAIN

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## COMMENTS/LEGAL DEVELOPMENTS

The private copying levy system was drastically modified between 2011 and 2017. The traditional legal system put in place in 1987 established the obligation for manufactures and importers of technical devices used for copying to compensate authors and the rest of right-holders, in an analogous way as it was implemented in other EU countries like France or Germany. The reform undertaken in 2011 replaced the traditional system by a new one in which the compensation to right-holders was assumed by the State, on the basis of the harm caused to right-holders, but within the limits of the annual General State Budget. As a consequence of the reform, the amounts received by right-holders melt down from 115 M € in 2011 to 5 M€ in 2012.

The compliance of the new compensation system with EU legislation (in particular Directive 2001/29/CE) as well as with the Spanish Constitution was challenged by the Spanish CMO's before the Spanish Supreme Court and Constitutional Court.

On September 10<sup>th</sup> 2014, the Spanish Supreme Court referred for a preliminary ruling before the EUJC the following questions:

- (1) Is a scheme for fair compensation for private copying compatible with Article 5(2) (b) of Directive 2001/29 where the scheme, while taking as a basis an estimate of the harm actually caused, is financed from the General State Budget, it thus not being possible to ensure that the cost of that compensation is borne by the users of private copies? ?
- (2) If the first question is answered in the affirmative, is the scheme compatible with Article 5(2)(b) of Directive 2001/29 where the total amount allocated by the General State Budget to fair compensation for private copying, although it is calculated on the basis of the harm actually caused, has to be set within the budgetary limits established for each financial year?'

In response to it, on June 9<sup>th</sup> 2016, the EUCJ stated in its Decision C-470/14 that the Directive 2001/29/CE must be interpreted as precluding a scheme for fair compensation for private copying which, like the one at issue in the main proceedings, is financed from the General State Budget in such a way that it is not possible to ensure that the cost of that compensation is borne by the users of private copies.

As a consequence of the EUCJ resolution, the Spanish Supreme Court ruled, in a judgment on November 10, 2016, that the legal reforms on the private copying exemption and compensation system undertaken between 2011 and 2014 in Spain, were against the European Law and therefore were declare null and void.

On March 2017, the organizations representing authors, artists, publishers and audiovisual producers in Spain (AIE, AISGE, CEDRO, DAMA, EGEDA, SGAE and VEGAP) presented to the European Commission a claim against the Spanish Government for failure in the accomplishment of the EUCJ and the Spanish Supreme Court's Decision.

On July 3<sup>rd</sup> 2017, through the Royal Decree 12/2017 of July 3<sup>rd</sup>, the Government re-introduced the private copy levy system existing before the drastic changes made in 2011, adding a reimbursement system for professional uses and public entities, in line with the EUCJ jurisprudence in Padawan (C-467/08) and subsequent cases. This Royal Decree has been ratified by the Spanish Parliament on July 12.

The new regulation introduces other changes in the legislation, like the creation of a one-stop-shop between the Spanish CMO's in order to administer the certificates of exemption; reimbursements, payments by debtors and invoicing.



# SPAIN

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It provides as well that in a year from the enactment of the Royal Decree, the Government, also through Royal Decree, will be responsible for the determination of the equipment and media subject to the levy; the amounts the debtors will have to pay to rightholders and the distribution of the amounts among the different modalities of reproductions. Before such determination, the Government will consult the Council of Users and Consumers and will receive a compulsory report from the Intellectual Property Commission. The Collective Management Organizations will also have the right to be listened and to present a motivated proposal, prior of the final approval.

Meanwhile, Royal Decree 12/2017 has established, through a transitory article (Disposición Transitoria Segunda) the media and devices subject to private copying compensation and the amounts.

At the time of the closing of this edition of the Private Copying Global Study (August 2017) the decision from the Spanish Constitutional Court is still pending.



# SWEDEN



9.879 million

GDP: 4,078.596 million €

1/3



## OVERVIEW

### EXCEPTION

Yes, it is defined as a reproduction of one or several copy of a published work by a person for his own personal use, from a lawful source, and for non-commercial purpose.

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Authors, performers and producers

### LIABLE

Manufacturers, importers, retailers

### EXEMPTION

Export, professional use and disables persons.

### RATE SETTING

Levies are set up by law.  
Tariffs: percentage of the sale price or import price.

### COLLECTION AND DISTRIBUTION SYSTEM

COPYSWEDE have been appointed by rightholders to collect the private copying levy for all categories of rightholders.  
COPYSWEDE collects and distributes the amount to each CMOs representatives of categories of rightholders or directly to rightholders.

### SOCIAL AND CULTURAL DEDUCTIONS

No

### REVENUE DECLARED TO CISAC IN 2014

1,2M€



## LEGAL BASIS

### EXCEPTION

#### Article 12 of Act No. 1960/729 on Copyright in Literary and Artistic Works (as amended up to 2006)

Anybody is entitled to make, for private purposes, one or a few copies of works that have been made public. As regards literary works in written form the making of copies may, however, concern only limited parts of works, or such works of limited scope. The copies must not be used for purposes other than private use.

The provisions in the first Paragraph do not confer a right to:

1. construct works of architecture
2. make copies of computer programs, or
3. make copies in digital form of compilations in digital form.

Furthermore, the provisions in the first Paragraph do not confer a right to engage, for private purposes, another person to:

1. make copies of musical works or cinematographic works
2. make utilitarian articles or sculptures, or
3. copy another person's work of fine art by means of artistic reproduction.

This Article does not confer a right to make copies of a work when the copy that constitutes the real master copy has been prepared or has been made available to the public in violation of Article 2.



# SWEDEN

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## LEVY

### Article 26k of Act No. 1960/729 on Copyright in Literary and Artistic Works (as amended up to 2006)

When a businessman, in the course of his professional activities, manufactures or imports into this country material supports on which sounds or moving images may be recorded and which are especially suitable for the making of copies of works for private purposes, the authors of such protected works, that have thereafter been broadcast by sound radio or television or have been published on material supports by means of which they can be reproduced, have a right to remuneration from the businessman.

The authors have, however, no right to remuneration, where the material supports manufactured or imported are intended for:

1. use for purposes other than the making of copies of works for private purposes
2. export from the country, or
3. use for the making of copies of works for persons with a disability.

### Article 26l of Act No. 1960/729 on Copyright in Literary and Artistic Works (as amended up to 2006)

When a businessman, in the course of his professional activities, manufactures or imports into this country material supports on which sounds or moving images may be recorded and which are especially suitable for the making of copies of works for private purposes, the authors of such protected works, that have thereafter been broadcast by sound radio or television or have been published on material supports by means of which they can be reproduced, have a right to remuneration from the businessman.

The authors have, however, no right to remuneration, where the material supports manufactured or imported are intended for:

1. use for purposes other than the making of copies of works for private purposes
2. export from the country, or
3. use for the making of copies of works for persons with a disability.

### Article 26l of Act No. 1960/729 on Copyright in Literary and Artistic Works (as amended up to 2006)

The remuneration pursuant to Article 26k is:

1. In respect of material supports for analogue recording, two and a half "Öres" for each possible recording minute on the support.
2. In respect of material supports where digital recording can be made repeatedly, 0,4 "Öres" for each megabyte storage capacity.
3. In respect of other material supports for digital recording 0,25 "Öres" for each megabyte storage capacity.

The businessman is entitled to a reduction of the amounts of the remuneration pursuant to the first Paragraph, if:

1. the authors have in some other form received compensation for the making of copies of such works as referred to in Article 26k, or
2. the remuneration is unreasonably high, taking into account the circumstances relating to the material support or other conditions on the market.



# SWEDEN

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## COLLECTION AND DISTRIBUTION SYSTEMS

### **Article 26m of Act No. 1960/729 on Copyright in Literary and Artistic Works (as amended up to 2006)**

Only an organization representing a substantial number of Swedish authors and holders of neighbouring rights in the field concerned is entitled to collect the remuneration and to conclude agreements on the reduction of the remuneration pursuant to Articles 26k and 26l.

The organisation shall collect the remuneration and distribute it to those entitled to it after deduction of a reasonable compensation to the organization for its costs.

Right-owners who are not represented by the organization shall, for the purposes of the distribution, be treated in the same way as those right-owners who are represented by the organization.

The businessman referred to in Article 26k, first Paragraph, shall give notice of himself to an organization as referred to in the first Paragraph. The businessman shall, upon request by the organization, provide an account of the number of material supports to which the right to remuneration applies, the recording time or the storage capacity, whether the supports can be used repeatedly for digital recording and when the supports were manufactured or imported. The account shall indicate the number of material supports referred to in Article 26k, second Paragraph.



## COMMENTS/LEGAL DEVELOPMENTS

There are pending lawsuit concerning liability of importers to pay remuneration on digital devices such as mobile phone, tablets, computers.



# SWITZERLAND



8.238 million

GDP: 652.812 million €

1/2



## OVERVIEW

### EXCEPTION

Yes, a copy of a published work by a person for his own personal use (and use within a family circle or by third person) and for non-commercial purpose.

### LEVY

Equipment	No
Media	Yes (blank media and others)

### BENEFICIARIES

Authors and neighboring rightholders.

### LIABLE

Manufacturers, importers.

### EXEMPTION

Export. Professional uses are not exempted but they are taken into account to lower the levy.

### RATE SETTING

Levies are negotiated between the collecting societies and association representing manufacturers and importers. If there is no agreement, a commission appointed by the Government decides.  
Tariffs: fixed price depending on the storage capacity.

### COLLECTION AND DISTRIBUTION SYSTEM

SUISA has been appointed by rightholders for being the collecting societies. SUISA distributes to its members (musical works) and to other organisations of rightholders.

### SOCIAL AND CULTURAL DEDUCTIONS

No deduction provided by law, but each CMO determines its proper deduction.

### REVENUE DECLARED TO CISAC IN 2014

5,4M€



## LEGAL BASIS

### EXCEPTION

**Art. 19 of the Federal Act of October 9, 1992, on Copyright and Related Rights (as of January 1, 2011)**

1. Published works may be used for private use. Private use means:
  - a. any personal use of a work or use within a circle of persons closely connected to each other, such as relatives or friends;
  - b. any use of a work by a teacher and his class for educational purposes;
  - c. the copying of a work in enterprises, public administrations, institutions, commissions and similar bodies for internal information or documentation.
2. Persons entitled to make copies of a work for private use may also have them made by third parties subject to paragraph 3; libraries, other public institutions and businesses that make copying apparatus available to their users are also deemed third parties within the meaning of this paragraph.



# SWITZERLAND

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3. The following are not permitted outside the private sphere defined in paragraph 1 letter a:
  - a. the complete or substantial copying of a work obtainable commercially;
  - b. the copying of works of art;
  - c. the copying of musical scores;
  - d. the fixation of recitations, performances or presentations of a work on blank media.
- 3bis. Copies which are made by accessing works that are lawfully made available are neither subject to the restriction of private use under this Article nor are they included in the claims for remuneration under Article 20.
4. This Article does not apply to computer programs.

## LEVY

### Art. 20 of the Federal Act of October 9, 1992, on Copyright and Related Rights (as of January 1, 2011)

1. The use of the work within a circle of persons under Article 19 paragraph 1 letter a does not give rise to a right of remuneration subject to paragraph 3.
  2. Any person who reproduces works in any manner for private use under Article 19 paragraph 1 letter b or letter c, or any person who does so as a third party under Article 19 paragraph 2 owes remuneration to the author.
  3. Any person who produces or imports blank media suitable for the fixation of works owes remuneration to the author for the use of the works under Article 19.
- (...)

## COLLECTION AND DISTRIBUTION SYSTEMS

### Art. 20 of the Federal Act of October 9, 1992, on Copyright and Related Rights (as of January 1, 2011)

- (...)
4. Claims for remuneration may only be asserted by the authorised collective rights management organisations.



## COMMENTS/LEGAL DEVELOPMENTS

On 11 December 2015, the Swiss government opened a consultation on its preliminary draft amendment to the Swiss Copyright Act (CopA). This proposal put forward insofar are based on a compromise identified by AGUR12, a working group for the interested parties, created by the Ministry of Justice in 2012. Some government proposals however, are to be criticised, while others threaten the equilibrium of the compromise reached by the interested parties in particular the issue of "double-payment" of levies. Regarding the possibility of creating private copies on cloud computing, the government considers that the law is sufficient as it stands today.





# THE NETHERLANDS



16.935 million

GDP: 650.787 million €

1/3



## OVERVIEW

<b>EXCEPTION</b>	Yes, it is defined as a reproduction of a work by a person for his own personal use and for non-commercial purpose.				
<b>LEVY</b>	<table> <tr> <td>Equipment</td><td>Yes</td></tr> <tr> <td>Media</td><td>Yes</td></tr> </table>	Equipment	Yes	Media	Yes
Equipment	Yes				
Media	Yes				
<b>BENEFICIARIES</b>	Authors, performers and producers (literary, artistic and scientific works).				
<b>LIABLE</b>	Manufacturers, importers.				
<b>EXEMPTION</b>	Export. Professional use via (refund or exemption agreement).				
<b>RATE SETTING</b>	Levies are negotiated within a special body (SONT) composed of representatives of rightholders and liable and an independent chairman appointed by the Ministry of Justice who can decide of levies in case of disagreement. Then, the levies are approved by the State Secretary and published by Royal Decree. Tariffs: fixed prices per unit.				
<b>COLLECTION AND DISTRIBUTION SYSTEM</b>	STICHTING DE THUISKOPIE has been appointed by the Minister of Justice STICHTING DE THUISKOPIE collects the private copying and distributes the amount to each CMO representing rightholders, which directly redistribute the amount to their members.				
<b>SOCIAL AND CULTURAL DEDUCTIONS</b>	Each CMOs can deduct a maximum of 15% for social and cultural purpose.				
<b>REVENUE DECLARED TO CISAC IN 2014</b>	7,3M€				



## LEGAL BASIS

<b>EXCEPTION</b>	<p><b>Article 16c of the Dutch Copyright Law of 1912 (as amended up to 2014)</b></p> <p>1. Reproduction of the work or any part thereof shall not be regarded as an infringement of the copyright in a literary, scientific or artistic work provided that the reproduction is carried out without any direct or indirect commercial motivation and is intended exclusively for personal exercise, study or use by the natural person who made the reproduction.</p>
<b>LEVY</b>	<p><b>Article 16c of the Dutch Copyright Law of 1912 (as amended up to 2014)</b></p> <p>2. The manufacturer or the importer of any object intended to allow a work such as specified in paragraph 1 to be heard, to show it or to relate it will be due to make a fair payment to the author or his successor in title.</p> <p>3. The manufacturer's obligation to make the payment will arise at the point when the manufactured object is ready to be put into circulation. The importer will become subject to this obligation at the time of importing.</p>



# THE NETHERLANDS

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4. The obligation to pay shall lapse if the person obliged to make the payment under paragraph 3 exports the object as specified in paragraph 1.
5. The payment shall be due only one time per object.
6. Government orders may prescribe more detailed regulations in relation to the objects giving rise to the obligation for payment as specified in paragraph 2. Government orders may also provide more detailed regulations and impose more detailed conditions as regards the implementation of this Article in relation to the level, indebtedness and format of the fair payment.
7. If a reproduction permitted by this Article has taken place, objects as defined in paragraph 1 may not be issued to third parties without consent from the author or his successors in title unless the issuance occurs for judicial or administrative proceedings.
8. This Article shall not apply to reproduction of a collection accessible by electronic means, as specified in Article 10, paragraph 3.

## **Article 16e of the Dutch Copyright Law of 1912 (as amended up to 2014)**

The level of the remuneration referred to in article 16c shall be determined by a foundation to be designated by Our Minister of Justice, the board of which shall be so composed as to represent in an balanced manner the interests of the authors or their successors in title and the persons liable for payment pursuant to article 16c, paragraph 2. The chair of the board of the said foundation shall be appointed by Our Minister of Justice.

## **Article 16f of the Dutch Copyright Law of 1912 (as amended up to 2014)**

Persons required to pay the remuneration referred to in article 16c shall be obliged to submit to the legal person referred to in article 16d, paragraph 1, either immediately or within a period agreed with the said legal person, the number of the objects imported or manufactured by him as referred to in article 16c, paragraph 1. They shall also be obliged to give the said legal person, at the latter's request, immediate access to the documents needed to establish indebtedness and the level of the remuneration.

## **Article 16g of the Dutch Copyright Law of 1912 (as amended up to 2014)**

1. Whoever sells the objects specified in Article 16c, paragraph 2, shall be obliged to furnish to the legal person specified in Article 16d, first paragraph, immediately on request, the documents necessary to establish whether the payment specified in Article 16c, paragraph 1 has been paid by the manufacturer or importer.
2. If the seller cannot demonstrate that the payment has been paid by the manufacturer or the importer, he will be obliged to make the payment to the legal person specified in Article 16d, paragraph 1, unless the documents mentioned in paragraph 1, above, show who the manufacturer or importer is.

## **COLLECTION AND DISTRIBUTION SYSTEMS**

### **Article 16d of the Dutch Copyright Law of 1912 (as amended up to 2014)**

1. The payment referred to in Article 16c shall be made to a legal person appointed and considered to be representative by Our Minister of Justice, who will be charged with collection and distribution of this payment in accordance with a scheme prepared by that legal person and approved by the Supervisory Board as specified in the Act on Supervision of Collective Management Organizations for Copyright and Related Rights. This legal person shall represent the authors or their successors in title in matters pertaining to the collection and distribution of payments, both at law and otherwise.



# THE NETHERLANDS

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2. The legal person specified in paragraph 1 will be supervised by the Supervisory Board specified in Act on Supervision of Collective Management Organizations for Copyright and Related Rights.
3. Further regulations regarding the exercise of supervision over the legal person referred to in paragraph 1 may be laid down by order in council.



## COMMENTS/LEGAL DEVELOPMENTS

On 23 October 2012, the Dutch government issued a new decree on private copying levies. The Decree acknowledges two important rulings of the ECJ and the Hague Court of Appeal:

- the 2011 Opus decision, in which the ECJ ruled that the harm caused to authors by the use for private purposes of their works takes place in the territory of the Member State in which the final users reside. According to the Court, it is an obligation of that State to guarantee the effective recovery of the compensation.
- the 2012 judgment of the Hague Court of Appeal in the NORMA v. Dutch State case. In this ruling, the Court of Appeal held that the governmental decrees by which the private copying tariffs had been frozen were issued unlawfully and the Dutch State would have to pay damages to the rights holders.

The 2012 Decree introduced new levies on CDs, DVDs, external HDD drives, MP3 players, HDD recorders, smartphones, tablets, PCs and laptops. This levy 'scheme was based on the decisions of SONT. Amongst other provisions, the SONT decision provided for a refund system for professional use of most (but not all) categories of copying devices. Smartphones, for example, were excluded from the refund system since it is assumed that these items are used for private copying even when purchased professionally.

Just after the Decree's approval, a number of companies (Acer, HP, Dell, Imation & FIAR) brought legal proceedings against the Dutch State. Nokia filed a separate procedure. In separate proceedings that were referred to the ECJ, it was held that the private copying exception cannot be interpreted as covering copies made from unlawful sources. The proceedings began with a dispute between the Dutch private copying society *Stichting de Thuiskopie* and *ACI Adam*, a manufacturer of blank media. The latter argued that the amount of the applicable private copying levies should not take into account compensation for harm suffered as a result of reproductions from unlawful sources. The European Court ruled that exceptions and limitations to exclusive rights must be interpreted strictly, and Member States must comply with the three-step test according to Article 5(5) of the EU Copyright Directive. In compliance with these principles, the private copying exception must be understood as excluding reproductions from unlawful sources.

Since, according to the current Dutch legal framework, reproductions from unlawful sources fall within the scope of the private copying exception, the State Secretary for Justice requested SONT to issue an advice concerning the practical effects of the ECJ judgement on the existing tariffs. The Secretary of State indicated that until SONT issues the new advice, the current governmental decree setting the tariffs will remain in force.

On January 2015, a new Royal Decree has been published which introduces a levy on e-readers, but lowers all other levies of 30% and extend the professional use exemption to all media and devices.

Finally, there is still pending national cases regarding the amount of the private copying remuneration with industrial like Nokia, or regarding the professional use with Imation and others importers.



# UKRAINE



42.591 million

GDP: 960.789 million €

1/3



## OVERVIEW

### EXCEPTION

Yes, it is permitted to reproduce works and performances fixed on phonograms, videograms and specimens thereof, in home conditions and exclusively for personal purposes or for a regular family members and close acquaintances of this family, without the consent of the author(s), performers, manufacturers of the phonograms, or manufacturers of the videograms.

### LEVY

Equipment	Yes
Media	Yes

### BENEFICIARIES

Authors, performers and producers.

### LIABLE

Manufacturers, importers.

### EXEMPTION

Export, professional use, import by an individual exclusively for personal purposes and without a commercial purpose.

### RATE SETTING

Levies are determined by law; a strict list of levies is established by the Government Resolution on Equipment.

Rate system: 5% of the contractual price of blank media and 3% of the contractual price of equipment.

### COLLECTION AND DISTRIBUTION SYSTEM

YES, a local association representing related-rightsholders (Ukrainian Music Alliance) is appointed by law and by the decision of the Ministry of Science and Education. The Ukrainian Music Alliance distributes yearly to authors, performers and producers, as well as their successors. The Ukrainian Music Alliance determines the distribution schemes; the remuneration is distributed according to sales figures for music and films.

### SOCIAL AND CULTURAL DEDUCTIONS

No

### REVENUE DECLARED TO CISAC IN 2014

N/A



## LEGAL BASIS

### EXCEPTION

#### Art. 25 of Law on Copyright and Related Rights

Article 25. Free Reproduction of Works for Personal Purposes

1. (...)

2. It shall be permissible to reproduce works and performances fixed on phonograms, videograms and specimens thereof, in home conditions and exclusively for personal purposes or for a regular family members and close acquaintances of this family, without the consent of the author(s), performers, manufacturers of the phonograms, or manufacturers of the videograms, by paying remuneration. The specifics of the payment of the remuneration in this case are stipulated in Article 42 of this Law.



## UKRAINE

2/3



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## LEVY

## Art. 42 of Law on Copyright and Related Rights

Article 42. Restriction of the Proprietary Rights of Performers, Phonogram and Videogram Manufacturers and Broadcast Organizations

1. (...)
2. It shall be permissible to reproduce the works and performances fixed on phonograms and videograms and their specimens in home conditions and exclusively for personal purposes without the consent of the author(s), performers and manufacturers of phonograms (videograms), but paying remuneration to them in the manner stipulated in part four of this Article.
3. (...)
4. The remuneration of manufacturers of phonograms and videograms and other persons holding copyright and (or) related rights with respect to the reproductions stipulated in part two of this Article shall be paid as deductions (interest) from (on) the value of equipment and (or) material media by the manufacturers and (or) importers of the equipment and material media, with the use of which it is possible to carry out the reproduction of works fixed on phonograms and videograms exclusively for personal purposes in home conditions, except for: a) professional equipment and (or) material media not designed for use for recording in home conditions; b) equipment and material media that are exported outside the customs territory of Ukraine; c) equipment and material media that are imported by an individual into the customs territory of Ukraine exclusively for personal purposes and without a commercial purpose.
5. The amount of deductions (interest), indicated in parts two and four of this Article, to be paid by the manufacturers and (or) importers of the equipment and material media, shall be determined by the Cabinet of Ministers of Ukraine. This money shall be remitted by the manufacturers and importers of the equipment and (or) material media to the collective management organizations (hereinafter - "authorized organizations") specified by the Institution. The collected money shall be distributed among the collective management organizations registered with the Institution on the basis of contracts that authorized organizations shall enter into with all collective management organizations. The importers shall remit this money to an authorized organization when they import goods into the customs territory of Ukraine; and to the manufacturers - at the end of each month after the sale of equipment and material media.

## COLLECTION AND DISTRIBUTION SYSTEMS

## Art. 42 of Law on Copyright and Related Rights

6. The Institution and the authorized organizations specified by the Institution for the collection of money shall be entitled to require from manufacturers and importers information concerning the manufacture, import and realization (sale) of the equipment and material media indicated in part three of this Article. 29
7. The collected money specified in parts two and four of this Article shall be distributed between the authors, performers, manufacturers of phonograms and videograms. This money shall be distributed in the following proportions, unless otherwise stipulated in the contracts between the collective management organizations: authors - 50 percent, performers - 25 percent and manufacturers of phonograms (videograms) - 25 percent.



# UKRAINE

3/3



## COMMENTS/LEGAL DEVELOPMENTS

Several cases with manufacturers are pending in particular with Samsung Electronics. Under EBA (European Business Association), manufacturers are lobbying to remove the private copying levy system from the draft law.



## 5 - OCEANIA

If Oceania is undoubtedly the most beautiful region in the world, it is unfortunately a desert for private copying remuneration.

On the 14 countries studied seven have no private copying exception (Kiribati, Marshall Islands, Micronesia, Nauru, Solomon Islands, Tuvalu, and Vanuatu). The seven others (Australia, Fiji, New Zealand, Palau, Papua New Guinea, Samoa and Tonga) have implemented an exception without accompanying it with compensation for rightholders.

In this region Australia and New Zealand have significant potential revenue sources for creators.

In Australia, where a remuneration scheme has been introduced and later removed because of unconstitutionality issues, rightholders are actively engaged in lobbying efforts to prevent the introduction of a broad fair use exception that has been proposed by a Reform Commission of the Australian Government (ALRC).

Like Australia, it is also urgent to introduce a private copying levy in New Zealand due to the increasing opportunities for private copying offered by technological developments and increasing sales of digital recording media and devices.



# OCEANIA: COUNTRIES WITHOUT PRIVATE COPYING EXCEPTION

## KIRIBATI

■ Tarawa-Sud

## KIRIBATI

Intellectual Property protection in Kiribati is governed by four pieces of inherited laws from the United Kingdom. Currently, Kiribati has limited copyright legislation, the Copyright Ordinance of 1917 (revised and consolidated in 1998) has little relevance but it is the only law in Kiribati which recognizes copyright in this jurisdiction. There is no private copying exception in this legislation.

## MARSHALL ISLANDS

## MARSHALL ISLANDS

The Marshall Islands is not a member of the World Trade Organization, the World Intellectual Property Organization (WIPO), or any other international agreement on intellectual property rights. There is inadequate protection for intellectual property.

## MICRONESIA

■ Palikir

## MICRONESIA

The Code of the Federated States of Micronesia of 2003 doesn't provide an explicit private copying exception, but there is limitation of copyright for "fair use" but only for criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research.

## NAURU

■ District de Yaren

## NAURU

The Copyright Law of England applies in Nauru because, according to the Custom and Adopted Laws Act 1971 of Nauru, the common law and statutes of general application, which were in force in England on January 31, 1968, are adopted as laws of Nauru. Since there is no private copying exception in the copyright Law of England, Nauru has not neither.

## SOLOMON ISLANDS

■ Honiara

## SOLOMON ISLANDS

The Copyright Act of 1987 (as amended until 1996) doesn't provide an explicit private copying exception, but there is limitation of copyright for "fair dealing" for purposes of research and private study.

## TUVALU

■ Funafuti

## TUVALU

Tuvalu has limited copyright legislation and it adopts the application of parts of the Copyright Act 1956 of England. Since there is no private copying exception in the copyright Law of England, Tuvalu has not neither.

## VANUATU

■ Port-Vila

## VANUATU

There is no Intellectual Property legislation available.





# AUSTRALIA

 2 million

GDP: 1 million €

1/3



## OVERVIEW

### EXCEPTION

Yes, there is an exception which allows a copy of a sound recording for a private use. There are also exceptions known as “format-shifting” (a person is allowed to copy certain types of material that he or she owns for private and domestic use into a different ‘format’) and “time-shifting” (a person is allowed to record a television or radio broadcast and watch or listen to it later).

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Articles 43C (books, newspapers and periodicals), 47J (photographs), 109A (sound recordings) and 110AA (video recording) of the Copyright Act of 1968 (as amended until 2015) for the format-shifting exception and Article 111 of the Copyright Act of 1968 (as amended until 2015) for the time-shifting exception (examples of provisions below).**

### 109A - Copying sound recordings for private and domestic use

(1) This section applies if:

- (a) the owner of a copy (the earlier copy) of a sound recording makes another copy (the later copy) of the sound recording using the earlier copy; and
- (b) the sole purpose of making the later copy is the owner’s private and domestic use of the later copy with a device that:
  - (i) is a device that can be used to cause sound recordings to be heard; and
  - (ii) he or she owns; and
- (c) the earlier copy was not made by downloading over the internet a digital recording of a radio broadcast or similar program; and
- (d) the earlier copy is not an infringing copy of the sound recording, a broadcast or a literary, dramatic or musical work included in the sound recording.

(2) The making of the later copy does not infringe copyright in the sound recording, or in a literary, dramatic or musical work or other subject-matter included in the sound recording.

(3) Subsection (2) is taken never to have applied if the earlier copy or the later copy is:

- (a) sold; or
- (b) let for hire; or
- (c) by way of trade offered or exposed for sale or hire; or
- (d) distributed for the purpose of trade or otherwise; or
- (e) used for causing the sound recording to be heard in public; or
- (f) used for broadcasting the sound recording.



# AUSTRALIA

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...

## 110AA- Copying cinematograph film in different format for private use

(1) This section applies if:

- (a) the owner of videotape embodying a cinematograph film in analog form makes a copy (the main copy) of the film in electronic form for his or her private and domestic use instead of the videotape; and
- (b) the videotape itself is not an infringing copy of the film or of a broadcast, sound recording, work or published edition of a work; and
- (c) at the time the owner makes the main copy, he or she has not made, and is not making, another copy that embodies the film in an electronic form substantially identical to the electronic form in which the film is embodied in the main copy.

For this purpose, disregard a temporary copy of the film incidentally made as a necessary part of the technical process of making the main copy.

- (2) The making of the main copy is not an infringement of copyright in the cinematograph film or in a work or other subject-matter included in the film.
- (3) Subsection (2) is taken never to have applied if the main copy is:
  - (a) sold; or
  - (b) let for hire; or
  - (c) by way of trade offered or exposed for sale or hire; or
  - (d) distributed for the purpose of trade or otherwise.
- (4) To avoid doubt, paragraph (3)(d) does not apply to a loan of the main copy by the lender to a member of the lender's family or household for the member's private and domestic use.
- (5) Subsection (2) is taken never to have applied if the owner of the videotape disposes of it to another person.
- (6) If subsection (2) applies to the making of the main copy only as a result of disregarding the incidental making of a temporary copy of the film as a necessary part of the technical process of making the main copy, then:
  - (a) if the temporary copy is destroyed at the first practicable time during or after the making of the main copy — the making of the temporary copy does not infringe copyright in the film or in any work or other subject-matter included in the film; or
  - (b) if the temporary copy is not destroyed at that time—the making of the temporary copy is taken always to have infringed copyright (if any) subsisting in the film and in any work or other subject-matter included in the film.

## 111 - Recording broadcasts for replaying at more convenient time

- (1) This section applies if a person makes a cinematograph film or sound recording of a broadcast solely for private and domestic use by watching or listening to the material broadcast at a time more convenient than the time when the broadcast is made.
- (2) The making of the film or recording does not infringe copyright in the broadcast or in any work or other subject-matter included in the broadcast.



# AUSTRALIA

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...

- (3) Subsection (2) is taken never to have applied if an article or thing embodying the film or recording is:
  - (a) sold; or
  - (b) let for hire; or
  - (c) by way of trade offered or exposed for sale or hire; or
  - (d) distributed for the purpose of trade or otherwise; or
  - (e) used for causing the film or recording to be seen or heard in public; or
  - (f) used for broadcasting the film or recording.
- (4) To avoid doubt, paragraph (3)(d) does not apply to a loan of the article or thing by the lender to a member of the lender's family or household for the member's private and domestic use.

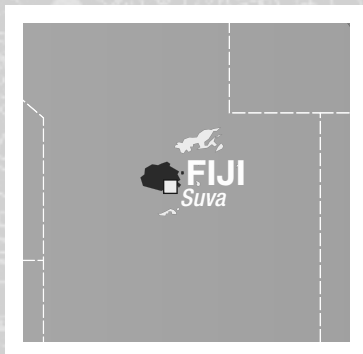


## COMMENTS/LEGAL DEVELOPMENTS

A private copying remuneration scheme was introduced in Australia in 1989, but declared unconstitutional by the High Court in 1993. A similar scheme – but which would have avoided the constitutional difficulties of the 1989 scheme – was proposed by the Government in 1993 but never introduced.

In the framework of its recommendations regarding “Copyright and the Digital Economy”, a reform commission (ALRC) had undertaken an inquiry into whether the exceptions of the Australian copyright law are adapted to the digital environment, and the question of a more freely permission to copy copyright contents for private use was addressed.

The Australian Government is still actively considering its policy response to the ALRC's various recommendations including this one, and it has recently commissioned Ernst & Young to undertake a cost benefit analysis of the ALRC's recommendations to assist it in determining its policy response and Australian CMOs have been consulted by E&Y regarding the potential costs to rights holders. Nevertheless, it is unlikely this particular recommendation will be adopted by Government, but the more likely danger is the introduction of a broad fair use exception.



# FIJI



0.890 million

GDP: 6.694 million €



## OVERVIEW

### EXCEPTION

Yes, there is an exception for "time-shifting" which allows a person to record a television or radio broadcast and watch or listen to it later.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 76 of the Copyright Act of 1999 - Recording for purposes of time shifting

- (1) The making for private and domestic use of a recording of a broadcast or cable programme solely for the purpose of enabling the recording to be viewed or listened to at a more convenient time does not infringe copyright in the broadcast or cable programme or in any work included in the broadcast or cable programme.
- (2) A recording that is (a) made under subsection (1) and (b) retained for any longer than is reasonably necessary to enable the recording to be viewed or listened to at a more convenient time, infringes copyright in the broadcast or cable programme recorded and in any work included in the recording, and is to be treated as an infringing copy.



## COMMENTS/LEGAL DEVELOPMENTS

The time shifting exception is intended to provide protection for individuals who make a copy or recording of a broadcast for viewing at a more convenient time, if for private and domestic use.

This exception is considered as a private copying exception and should be compensated by a remuneration for rightholders whose works are copying or recorded.



# NEW ZEALAND



4.650 million

GDP: 222.482 million €

1/2



## OVERVIEW

### EXCEPTION

Yes, there are an exception for the reproduction of a sound recording for personal use and a “time-shifting” exception which allows a person to record a television or radio broadcast and watch or listen to it later.

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

**Articles 81A (copying a sound recording for personal use) and 84 (time shifting) of the Copyright Act of 1994 (as amended until 2015).**

#### 81A - Copying sound recording for personal use

- (1) Copyright in a sound recording and in a literary or musical work contained in it is not infringed by copying the sound recording, if the following conditions are met:
  - (a) the sound recording is not a communication work or part of a communication work; and
  - (b) the copy is made from a sound recording that is not an infringing copy; and
  - (c) the sound recording is not borrowed or hired; and
  - (d) the copy is made by the owner of the sound recording; and
  - (e) that owner acquired the sound recording legitimately; and
  - (f) the copy is used only for that owner’s personal use or the personal use of a member of the household in which the owner lives or both; and
  - (g) no more than 1 copy is made for each device for playing sound recordings that is owned by the owner of the sound recording; and
  - (h) the owner of the sound recording retains the ownership of both the sound recording and of any copy that is made under this section.
- (2) For the avoidance of doubt, subsection (1) does not apply if the owner of the sound recording is bound by a contract that specifies the circumstances in which the sound recording may be copied.

#### 84 – Recording for purposes of time-shifting

- (1) A person (A) does not infringe copyright in a programme included in a communication work, or in any work included in it, by recording it, if:
  - (a) A makes the recording solely for A’s personal use or the personal use of a member of the household in which A lives or both; and makes the recording solely for the purpose of viewing or listening to the recording at a more convenient time; and
  - (c) the recording is not made from an on-demand service; and
  - (d) A has lawful access to the communication work at the time of making the recording.



# NEW ZEALAND

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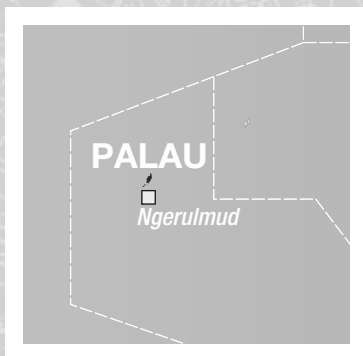
...

- (2) However, subsection (1) does not apply, and A does infringe copyright in the communication work recorded and in any work included in the communication work, if:
  - (a) A retains the recording for any longer than is reasonably necessary for viewing or listening to the recording at a more convenient time; or
  - (b) in the event that the person who views or listens to the recording wishes to make a complaint to a complaint authority, A retains the recording for any longer than is reasonably necessary to prepare and despatch the complaint.
- (3) If a person infringes copyright under subsection (2), the recording is treated as an infringing copy.



## COMMENTS/LEGAL DEVELOPMENTS

The copyright law should be enhanced in order to introduce a levy in compensation of such exceptions.



# PALAU



0.018 million

GDP: / 0.201 million €



## OVERVIEW

### EXCEPTION

Yes, there is an exception for the reproduction of a published work for personal purposes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Section 7 of the Republic of Palau Copyright Act of 2003 - Private reproduction for personal purposes

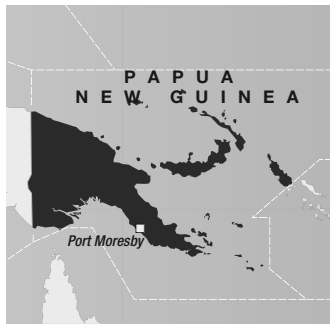
- (a) Notwithstanding the provisions of section 6, the private reproduction of a single copy of a published work shall be permitted without the authorization of the author or copyright owner, where the reproduction is made by a natural person for his or her own personal purposes.
- (b) The permission provided in subsection (a) shall not extend to reproduction:
  - (1) of a work of architecture in the form of a building or other construction;
  - (2) in the form of reprography of the whole or a substantial part of a book or of a musical work in the form of notation;
  - (3) of the whole or a substantial part of a database in digital form;
  - (4) of a computer program, except as otherwise provided in this Act; and
  - (5) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or owner of the copyright.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not precised that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.



# PAPUA NEW GUINEA



7.718 million

GDP: 17.199 million €



## OVERVIEW

### EXCEPTION

Yes, there is an exception for the reproduction of a published works for personal purposes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 8 of the Copyright and Neighbouring Rights Act of 2000 - Private reproduction for personal purposes

- (1) Notwithstanding the provisions of section 6 (1) (a), the private reproduction of a published work in a single copy may be made without the authorisation of the author or owner of copyright, where the reproduction is made by a person exclusively for his own personal purposes.
- (2) Subsection (1) does not apply to the reproduction:
  - (a) of a work of architecture in the form of building or other construction; or
  - (b) in the form of reprography of the whole or a substantial part of a book or of a musical work in the form of notation; or
  - (c) of the whole or a substantial part of a database in digital form; or
  - (d) of a computer program, except as provided in Section 13; or
  - (e) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or other owner of the copyright.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not precised that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.





**SAMOA**  
Apia

# SAMOA



0.193 million

GDP: 1.719 million €



## OVERVIEW

### EXCEPTION

Yes, there is an exception for the reproduction of a published works for personal purposes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 8 of the Copyright Act of 1998 (as consolidated in 2011) - Private reproduction for personal purposes

- (1) Despite section 6(1)(a), and subject to subsection (2), the private reproduction of a published work in a single copy shall be permitted without the authorisation of the author or owner of copyright, where the reproduction is made by a physical person exclusively for his or her own personal purposes.
- (2) The permission under subsection (1) does not extend to reproduction:
  - (a) of a work of architecture in the form of building or other construction;
  - (b) of the whole or a substantial part of a data base;
  - (c) of a computer program, except as provided in section 13; and
  - (d) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or other owner of the copyright.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not precised that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.

**TONGA**  
Nuku'alofa 🇸🇲

# TONGA



0.104 million

GDP: 0.801 million €



## OVERVIEW

### EXCEPTION

Yes, there is an exception for the reproduction of a published works for personal purposes

### LEVY

Equipment	No
Media	No



## LEGAL BASIS

### EXCEPTION

#### Article 8 of the Copyright Act of 2002 - Private reproduction for personal purposes

- (1) Notwithstanding section 6(1)(a), and subject to subsection (2), the private reproduction of a published work in a single copy shall be permitted without the authorisation of the author or owner of copyright, where the reproduction is made by a physical person exclusively for his or her own personal purposes.
- (2) The permission under subsection (1) does not extend to reproduction:
  - (a) of a work of architecture in the form of building or other construction;
  - (b) in the form of reprography of the whole or a substantial part of a book or of a musical work in the form of notation;
  - (c) of the whole or a substantial part of a database in digital form;
  - (d) of a computer program, except as provided in section 14; or
  - (e) of any work in cases where reproduction would conflict with a normal exploitation of the work or would otherwise unreasonably prejudice the legitimate interests of the author or other owner of the copyright.



## COMMENTS/LEGAL DEVELOPMENTS

This private copying exception is narrowed to one copy of a work. Moreover, it is not precised that the copy should be made for non-commercial purpose.

This provision deserves to be enhanced and completed by a compensation levy for rightholders benefits.

At the international level, there are at least 74 countries that have a levy system for private copying in their legislation, however only 38 have effectively implemented it. Among these countries, 21 countries of the 28 Member States of the European Union, as well as 6 countries from Central and Eastern Europe, 4 African countries, 3 Asian countries and 4 North and South American countries.

In Africa, Algeria and Burkina Faso are the only countries where right holders are remunerated for private reproduction of their works. CISAC has initiated public awareness campaigns on the importance of private copying remuneration at both the institutional and educational levels in certain countries such as Ivory Coast. This is particularly important in countries that currently have a private copying exception without remuneration for rightholders. It is worth noting that national law usually appoints local authors' societies as the qualified entities in charge of collecting and distributing fair remuneration. For this reason, the presence of these societies and their technical capacities need to be improved in order to ensure their ability of collecting fair remuneration and distributing it to rightholders in the most efficient way. With this aim in mind, CISAC organises training sessions and seminars both for collective management organisations and authors. An example of this is the training session on management of private copying remuneration organised in partnership with the OIF (Organisation Internationale de la Francophonie) in Ivory Coast on December 2015. 12 societies from 11 French-speaking countries were invited to attend a training that was focused on technical issues related to collection and distribution of fair remuneration for private copying. A number of experts on collection and distribution of remuneration for private copying in Europe and Africa shared knowledge and best practices.

Another strategic tool is mentoring programs where established societies share technical and professional knowledge and skills with emerging societies. Partnership programs are currently underway with established CMOs such as ONDA in Algeria and BBDA in Burkina Faso acting as mentors to new CMOs.

In Asia, Latin America and Oceania, the majority of countries have a private copying exception in their legislation without compensation remuneration. It is very detrimental for creators, which are not fairly remunerated. In a first step, CISAC efforts will be focused on the development of lobbying activities for the introduction of a private copying levy system in the BRICS economies, particularly in China and India. China and India are key markets for the manufacturing of blank and digital storage media. There is a huge potential of remuneration for creators in these regions. In China, key lobbying initiatives shall be on the current review of the Copyright Act. CISAC's Asia-Pacific regional office is working hard on this.

In the United States of America and Canada, where collections are decreasing year-after-year because devices used are not covered by the levy, CISAC will concentrate on helping local societies prove that the systems needs to be extended to more copyright protected works, to be updated and adapted to new uses with levies on digital devices.

In Europe, the focus should be made on countries where a proper collection and distribution system is not functioning. Although the right exists in some Central and Eastern European countries for instance, there have not been any collections so far. CISAC will help seek ways of solving this issue. As in Africa, lobbying activities to promote a stable system of collective management shall be taken. The Russian Federation is an example as it has made impressive developments since 2013.

In the EU, few countries (e.g. Bulgaria, Slovenia) have introduced the private copying exception but haven't effectively implemented such legislation. As a result, these countries are infringing the binding provision of the EU InfoSoc Directive while depriving thousands of domestic and foreign creators of fair remuneration.

One of the main conclusions of the study is that while a compensation system has been provided by law in many countries, there is no proper collecting and distribution system in place. Thus, creators have been deprived from lawful compensation. There are different reasons explaining this dysfunction. The first reason is that CMOs are not entitled to fulfil these functions. To address this gap, efforts should be made to support the presence of local societies and their technical capacities in order to ensure their ability of collecting fair remuneration from liable parties and distributing it to rightholders in the most efficient way.

The second reason is that national laws often reserve the details of the collection/distribution system to regulation, but governments do not define a mechanism to put in place. In this case, efforts should be made on supporting government in implementation of an efficient system.

The third reason is the length of legal proceedings or copyright reforms, which paralyze the collection and distribution system. CISAC could assist governments or the CMOs on the issues they face through legal assistance and/or technical support.

In countries where a private copying exception applies without any remuneration for rightholders, initiatives aimed at ensuring the introduction of a compensation system should be adopted. This is particularly the case in Africa, Asia and in Latin American countries. As an example, in May 2016, CISAC Regional Director for Asia-Pacific intervened in a symposium organised by SACEM and KOMKA in South Korea on authors' rights. The government was been urged to introduce a levy system in order to compensate rightholders for the current private copying exception allowing reproduction of copyright works without permission from the copyright owner.

Awareness should be raised among decision makers that reform is needed to align such countries with the vast majority of the signatory countries of the Berne Convention, to which the principle of the three-step test applies. These countries have implemented the private copying exception under the condition that fair compensation is paid to creators for the loss of revenues or harm caused by the copies. Close cooperation should be established with Creator Councils and Regional Committees to promote the private copying levy system in those regions. Partnership programs must be pursued with established societies acting as mentor to new ones.

# ANNEX 1: SUMMARY TABLE

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## CONTINENT: AFRICA

\* Y/N: YES/NO

Country	Exception	Levy	Collection and distribution mechanism	Social and cultural deductions	Reference Page
Algeria	Y	Y	Y	Y	85
Angola	Y	N	N	N	13
Benin	Y	Y	N	N	39
Botswana	Y	Y	Y	N	87
Burkina Faso	Y	Y	Y	Y	89
Burundi	Y	Y	N	N	41
Cameroon	Y	Y	N	Y	44
Cape Verde	Y	Y	N	N	46
Central African Republic	Y	N	N	N	14
Chad	Y	Y	N	N	48
Comoros	Y	N	N	N	15
Congo	N	Y	N	N	16
Djibouti	Y	Y	N	Y	52
Egypt	Y	N	N	N	17
Equatorial Guinea	N	N	N	N	12
Eritrea	Y	N	N	N	18
Ethiopia	Y	N	N	N	19
Gabon	Y	Y	N	Y	54
Gambia	Y	N	N	N	20
Ghana	Y	Y	N	Y	56
Guinea	Y	Y	N	N	21
Guinea Bissau	N	N	N	N	12
Ivory Coast	Y	Y	N	N	59
Kenya	Y	Y	N	Y	92
Lesotho	Y	N	N	N	22
Liberia	N	N	N	N	12
Lybia	Y	N	N	N	23
Madagascar	Y	Y	N	N	62
Malawi	Y	N	N	N	24
Mali	Y	Y	N	Y	65
Morocco	Y	N	N	Y	69
Mauritania	Y	N	N	N	25
Mauritius	Y	Y	N	N	67
Mozambique	Y	Y	N	N	72
Namibia	Y	N	N	N	26
Niger	Y	Y	N	N	74
Nigeria	Y	Y	N	Y	77
Congo (Democratic Republic)	Y	N	N	N	51
Rwanda	Y	N	N	N	27
Sao Tomé and Príncipe	N	N	N	N	12
Senegal	Y	Y	N	Y	80
Seychelles	Y	N	N	N	28
Sierra Leone	Y	N	N	N	29
Somalia	N	N	N	N	12
South Africa	Y	N	N	N	30
South Sudan	Y	N	N	N	32
Sudan	Y	N	N	N	33
Swaziland	N	N	N	N	12
Tanzania	Y	N	N	N	34
Togo	Y	N	N	N	35
Tunisia	Y	Y	N	N	83
Uganda	Y	N	N	N	36
Zambia	Y	N	N	N	12
Zimbabwe	Y	N	N	N	37

# ANNEX 1: SUMMARY TABLE

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## CONTINENT: AMERICA

\* Y/N: YES/NO

Country	Exception	Levy	Collection and distribution mechanism	Social and cultural deductions	Reference Page
Antigua-and-Barbuda	Y	N	N	N	97
Argentina	N	N	N	N	95
Bahamas	Y	N	N	N	99
Barbados	Y	N	N	N	100
Belize	N	N	N	N	95
Bolivia	N	N	N	N	95
Brazil	Y	N	N	N	100
Canada	Y	Y	Y	N	118
Chile	N	N	N	N	95
Colombia	Y	N	N	N	101
Costa Rica	Y	N	N	N	102
Cuba	N	N	N	N	95
Dominica	Y	N	N	N	103
Dominican Republic	Y	Y	N	N	114
Ecuador	Y	Y	N	N	116
El Salvador	N	N	N	N	95
Grenada	Y	N	N	N	104
Guatemala	N	N	N	N	95
Guyana	N/A	N/A	N/A	N/A	N/A
Haiti	Y	N	N	N	105
Honduras	Y	N	N	N	106
Jamaica	N	N	N	N	96
Mexico	Y	N	N	N	107
Nicaragua	Y	N	N	N	108
Panama	Y	N	N	N	109
Paraguay	Y	Y	Y	Y	126
Peru	Y	Y	Y	N	129
Saint Christopher and Nevis	Y	N	N	N	110
Saint Vincent and the Grenadines	Y	N	N	N	111
Sainte Lucia	N	N	N	N	96
Suriname	N	N	N	N	96
Trinidad and Tobago	Y	N	N	N	112
United States of America	Y	Y	Y	N	121
Uruguay	N	N	N	N	96
Venezuela	Y	N	N	N	113

# ANNEX 1: SUMMARY TABLE

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## CONTINENT: ASIA

\* Y/N: YES/NO

Country	Exception	Levy	Collection and distribution mechanism	Social and cultural deductions	Reference Page
Afghanistan	Y	N	N	N	134
Arménia	Y	N	N	N	135
Azerbaijan	Y	Y	N	N	156
Bahrain	Y	N	N	N	136
Bangladesh	Y	N	N	N	137
Bhutan	Y	N	N	N	138
Brunei	N	N	N	N	132
Cambodia	Y	N	N	N	139
China	Y	N	N	N	140
Democratic People's Republic of Korea	Y	N	N	N	141
East Timor	N	N	N	N	133
Georgia	Y	Y	Y	Y	168
India	Y	N	N	N	142
Indonesia	N	N	N	N	132
Iran (Republic of)	Y	N	N	N	143
Iraq	N	N	N	N	132
Israel	Y	Y	Y	N	171
Japan	Y	Y	Y	Y	173
Jordan	Y	N	N	N	144
Kazakhstan	Y	Y	N	N	158
Kuwait	Y	N	N	N	145
Kyrgyz Republic	Y	Y	N	N	160
Lao People's Democratic Republic	N	N	N	N	132
Lebanon	Y	N	N	N	146
Malaysia	N	N	N	N	132
Maldives	Y	N	N	N	147
Mongolia	Y	N	N	N	148
Myanmar	N	N	N	N	132
Népal	Y	N	N	N	149
Oman	N	N	N	N	132
Pakistan	N	N	N	N	133
Philippines	N	N	N	N	133
Qatar	Y	N	N	N	150
Saudi Arabia	N	N	N	N	133
Singapore	N	N	N	N	133
South Korea	Y	N	N	N	152
Sri Lanka	Y	N	N	N	151
Syria	N	N	N	N	133
Tajikistan	Y	N	N	N	153
Thailand	Y	N	N	N	154
Turkey	Y	Y	N	N	162
Turkmenistan	Y	Y	N	N	164
United Arab Emirates	Y	N	N	N	155
Uzbekistan	Y	Y	N	N	166
Vietnam	N	N	N	N	133
Yémen	N	N	N	N	133

# ANNEX 1: SUMMARY TABLE

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## CONTINENT: EUROPE

\* Y/N: YES/NO

Country	Exception	Levy	Collection and distribution mechanism	Social and cultural deductions	Reference Page
Albania	Y	N	N	N	177
Andorra	Y	N	N	Y	178
Austria	Y	Y	Y	Y	205
Belarus	Y	Y	N	N	181
Belgium	Y	Y	Y	Y	210
Bosnia-Herzegovina	Y	Y	N	N	183
Bulgaria	Y	Y	N	Y	186
Croatia	Y	Y	Y	Y	215
Cyprus	Y	Y	N	N	190
Czech Republic	Y	Y	Y	N	217
Denmark	Y	Y	Y	Y	219
Estonia	Y	Y	Y	Y	223
Finland	Y	Y	Y	Y	227
France	Y	Y	Y	Y	229
Germany	Y	Y	Y	N	233
Greece	Y	Y	Y	N	236
Hungary	Y	Y	Y	Y	240
Ireland	Y	N	N	N	179
Iceland	Y	Y	Y	Y	243
Italy	Y	Y	Y	Y	245
Latvia	Y	Y	Y	N	248
Liechtenstein	N/A	N/A	N/A	N/A	N/A
Lithuania	Y	Y	Y	Y	250
Luxembourg	Y	Y	N	N	191
Macedonia	Y	Y	N	N	192
Malta	Y	Y	N	N	199
Moldova	Y	Y	N	N	195
Monaco	N	N	N	N	176
Monténégro	Y	Y	N	N	200
Norway	Y	Y	Y	N	253
Poland	Y	Y	Y	N	255
Portugal	Y	Y	Y	Y	258
Romania	Y	Y	Y	N	262
Russia	Y	Y	Y	Y	266
San Marino	Y	N	N	N	180
Serbia	Y	Y	Y	N	268
Slovak republic	Y	Y	Y	N	272
Slovenia	Y	Y	N	N	203
Spain	Y	Y	Y	N	276
Sweden	Y	Y	Y	N	285
Switzerland	Y	Y	Y	N	288
The Netherlands	Y	Y	Y	Y	290
Ukraine	Y	Y	Y	N	293
United Kingdom	N	N	N	N	176



# ANNEX 1: SUMMARY TABLE

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## CONTINENT: OCEANIA

\* Y/N: YES/NO

Country	Exception	Levy	Collection and distribution mechanism	Social and cultural deductions	Reference Page
Australia	Y	N	N	N	298
Fiji	Y	N	N	N	301
Kiribati	N	N	N	N	297
Marshall Islands	N	N	N	N	297
Micronesia	N	N	N	N	297
Nauru	N	N	N	N	297
New Zealand	Y	N	N	N	302
Palau	Y	N	N	N	304
Papua New Guinea	Y	N	N	N	305
Samoa	Y	N	N	N	306
Solomon Islands	N	N	N	N	297
Tonga	Y	N	N	N	307
Tuvalu	N	N	N	N	297
Vanuatu	N	N	N	N	297

# ANNEX 2: BIBLIOGRAPHY

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- Background document "Fair compensation for acts of private copying", 2008, European commission
- The future of levies in a digital environment, 2003, Prof. Bernt HUGENHOLTZ, Dr. Lucie GUIBAULT, Mr. Sjoerd VAN GEFFEN.

For more information, see Focus on Methodology.

**NOTES**

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