

THE PRIVATE COPY REMUNERATIONS SYSTEM

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Abstract

The study aims to provide an actual overview of private copying compensation systems (also known as private copying levies or remunerations). These remuneration systems are an important element of copyright and related rights infrastructure.

Private copy remunerations systems vary substantially across the world because of a multitude of circumstances. Remuneration is funded either by importers and manufacturers of devices on which consumers make copies, or by State funds. Either way, the intention is that consumers should pay directly or indirectly for private copying. Levies on products are collected either as a percentage of the sales price or as a flat rate.

The study demonstrates that significant differences exist in key areas such as tariff levels, the selection of products for which levies can be collected, the liability of market players, methods of reporting, legal tools for monitoring and enforcement and methods of setting the tariff, to mention just a few.

In the early 1990s, the European Commission attempted to harmonize private copying compensation systems in the EU, but the Commission's efforts have not yet resulted in legislative proposals. On the contrary, legal and practical developments in the countries involved have proceeded unaffected by any cross-border considerations. The recent renewed interest of the European Commission and the European Parliament in investigating the viability of measures that would further the approximation and possibly the harmonization of (the important parts of) the private copying systems in the EU is of great significance for the future of levy systems, as is the multitude of rulings issued by the Court of Justice of the European Union.

Keywords: *private copy, remunerations, levies, INFO-SOC Directive, tariffs, products, EU legislative proposals and developments.*

1. Introduction

The **Berne Convention** allows Member States to provide for exceptions and limitations to the right of reproduction, provided that the conditions of the three-step-test are met. Many jurisdictions limit the application of the reproduction right for activities that can be qualified as "private copying" because it is practically impossible to grant permission to large numbers of individuals or to monitor how such permission is subsequently used. In general, the solution was found in an exception or limitation to the exclusive right on condition that fair compensation was paid to authors and other rightholders for loss of revenues or harm caused to the rightholder whose work had been copied. This is currently the only efficient mechanism for compensating creators for the widespread copying of their works for private or domestic use.

In EU copyright law, private copying has been given a specific meaning relating **only to the reproduction right**, not to other rights like: communication to the public, distribution to the public, public performance or adaptation. Also, at EU level the private copy is regulated by the **Directive on the harmonization of certain aspects of copyright and related rights in the information society** (called INFOSOC Directive)¹.

According with art. 5 (2) (b) of the Directive: *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.*

By consequence, a private copy is usually defined as any copy for non-commercial purposes made by a natural person for his/her own personal use.

A levy on products used for copying was **first introduced in Germany in 1966**, replacing the exclusive reproduction right with a right to equitable remuneration. In other jurisdictions, levies were attached to longstanding private copying exceptions when modern technological developments made it difficult to deny that private copying was affecting the income potential of rightholders.

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

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¹ Published in the Official Journal of the European Communities no. L 167/10 from 22.06.2001.

Also the private copy **doesn't apply to computer programs**, case in which, for example according with the Romanian Law on copyright and related rights² – Law no. 8/1996, the authorized user of a computer program may, without authorization from the author, make an archive or reserve copy where necessary for the use of the program.

2. Content³

The European Commission has been reviewing the copyright framework, including the private copy topic, for a long time.

In 2012, the issue of private copying levies was the subject of an industry **mediation process fostered by the Commission and led by former Commissioner António Vitorino**⁴. Mr. Vitorino delivered a report on this issue in February 2013, including several recommendations, although it has not led to any legislation. The aim of the recommendations is to make EU copyright law and practice fit for the digital age. The core elements of the recommendations are to clarify that copies that are made by end users for private purposes in the context of a service that has been licensed by rightholders do not cause any harm that would require additional remuneration in the form of private copying levies, also that levies should be collected in cross-border transactions in the Member State in which the final customer resides, and the fact the liability for paying levies should be shifted from the manufacturer's or importer's level to the retailer's level while simplifying the levy tariff system and obliging manufacturers and importers to inform collecting societies about their transactions concerning goods subject to a levy, or alternatively, clear and predictable ex ante exemption schemes should be established. In the field of reprography, the core elements of the recommendation, are set on the fact that more emphasis should be placed on operator levies than on hardware based levies. Regarding the final customers, the levies should be made visible for them, and as regards the negotiation procedures, there is a need to provide a procedural framework that would reduce complexity, guarantee objectiveness and ensure the observance of strict time-limits⁵.

The debate on levy systems has continued through **stakeholder dialogue**.

In 2014, the European Parliament published the **Castex Report**⁶ which describes the private copying levies as a virtuous system, which is nonetheless in

need of modernization and harmonization. It focused especially on cross-border situations, the scope of the exception and the need for transparent and effective exemptions for professional uses. The Report also emphasizes that the major disparities between national systems for the collection of levies, especially as regards the types of product subject to the levy and the rates of levy, can distort competition and give rise to 'forum shopping' within the internal market.

As an important element the Report invites the Member States and the Commission to conduct a study on the essential elements of private copying, in particular a common definition of the concept of 'fair compensation' – which at present is not explicitly regulated by Directive 2001/29/EC – and of the concept of 'harm' to an author resulting from unauthorized reproduction of a rightholder's work for private use. From this point of view, the Castex Report calls on the Commission to look for common ground as regards which products should be subject to the levy and to establish common criteria for the negotiating arrangement for the rates applicable to private copying, with a view to enforcing a system that is transparent, equitable and uniform for consumers and creators.

Also as my opinion, the Report considers that the private copying levy should apply to all material and media used for private recording and storage capacity where private copying acts cause harm to creators and that private copying levies should be payable by manufacturers or importers, because if the levy were transferred to retailers, this would result in an excessive administrative burden for the small and medium-sized distribution companies and the collective management organizations.

In line with the judgment in Case C-462/09 (Opus), cited above Case C-462/09, Stichting de Thuiskopie v Opus Supplies Deutschland GmbH and others, the Report recommends, in the case of cross-border transactions, that private copying levies be collected in the Member State in which the end user that purchased the product resides.

July 2014 saw the **results of the Consultation on Copyright in the 2013-14 3rd consultation** (review of EU copyright rules), and on December 9, 2015, the communication "**Towards a modern, more European copyright framework**" was published⁷. The communication revealed the European Commission's vision to modernize the EU copyright rules: the first step was to adopt a legislative proposal on cross-border

² Art. 77 (1) of Law no. 8/1996.

³ *International Survey on Private Copying*, Hester Wijminga, Wouter Klomp, Marije van der Jagt, Joost Poort Law & Practice 2016, published by de Thuiskopie and WIPO.

⁴ http://ec.europa.eu/internal_market/copyright/docs/levy_reform/130131_levies-vitorino-recommendations_en.pdf - accessed on 08.03.2018.

⁵ Ana-Maria Marinescu, *Analiza Recomandărilor lui Antonio Vitorino rezultate din medierea privind copia privată și remunerațiile în reprografie*, article published in RRDPI no. 3 (36)/2013, p. 34-50.

⁶ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2014-0114+0+DOC+XML+V0//EN> – accessed on 08.03.2018.

⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0626&from=EN> - accessed on 08.03.2018.

portability, then to review the Satellite and Cable Directive and other Directives in the field⁸.

At the present, the levy systems are not much discussed in the communication and are no longer a priority on the copyright agenda for the new EU Commission. For the most part, the possible impact on the Digital Single Market is a concern and even though the CJEU clarified some issues, some disparities remain and the national legislation in the field differ as it will be detailed in the following.

The relevant jurisprudence of the European Court of Justice regarding the private copy systems can be summarized as it follows: in the case C-467/08 *Padawan v SGAE* the issue was the indiscriminate application of the private copying levy; C-462/09 *Stichting de Thuiskopie v Opus GmbH* cross-border transactions; C-277/10 *Luksan v Van der Let* the main issue was that the author is entitled directly and originally to the right of fair compensation; the cases *VG Wort v Kyocera* tackled the issues of technological measures and the consequences of an authorization to reproduce; the case C-521/11 *Amazon v Austro-Mechana Gesellschaft* referred to the indiscriminate application combined with a reimbursement scheme, payment of the revenue in part to social or cultural institutions, double payment in cross border transactions; in the case C-435/12 *ACI Adam v Stichting de Thuiskopie* the issue was the lawful nature of the origin of the copy; in the case C-463/12 *Copydan Båndkopi v Nokia Danmark* the main topics referred to equal treatment, reimbursement scheme, consequences of an authorization to reproduce; the case C-572/13 *HP v Reprobel* relates to the allocation of fair compensation to publishers and copying of sheet music; the case C-470/14 *EGEDA* pointed the compensation financed from the General State Budget; C-110/15 *Nokia Italia v SIAE ex ante* exemption and reimbursement scheme for professional use; the case C-37/16 *Minister Finansów v SAWP* referred to the value-added tax and the last case C-265/16 *VCAST Ltd v R.T.I. SpA* in the field is referring to the cloud computing services.

The scope and legal construction of private copying differs considerably between countries:

- In some countries, sources need to be lawful, in others not;
- In some countries, there are a set number of permitted copies specified, in others there are definitions of private circles;
- In some countries, the levy is constructed as a statutory license, in others as a debt;
- In some countries compensation is only due for private copying of music, in others for printed matter (reprographics) and audio-visual works.

22 of 27 EU countries have implemented the private copy, with the exceptions of UK, Ireland, Malta, Cyprus and Luxembourg. In the world, the private copy is implemented also in countries like: Burkina Faso, Canada, Japan, Norway, Paraguay, the

Russian Federation, Switzerland, Ukraine, United States, Canada, Turkey, Ecuador, Peru, Nigeria, Côte d'Ivoire, Morocco etc.

The levy schemes vary widely in the following respects:

- Levies apply to different media or equipment that can be used to make copies (e.g. recordable carriers, hard disks, MP3 players, printers, PCs);
- Levies differ in tariffs for the same media or equipment, and apply different methods of calculation (e.g. memory capacity, percentage of price);
- Levies differ in whether they are imposed on the manufacturers, importers or distributors of media or equipment, or consumers;
- Levies differ in beneficiaries (music, audio-visual, reprographic rightholders; wider cultural or social purposes);
- Regulatory structures differ (processes for setting tariffs and distribution, contestability of tariffs, governance and supervision of agencies).

The tariffs setting models are presented in the *Annex 1*.

Countries commonly apply a **fixed tariff** directly related to the capacity of objects. An overview of the countries that apply a fixed tariff can be seen in the *Annex 2* and in *Annex 3* is presented the fixed tariff for 8 standardized media types and devices in 14 countries/Euros/2016.

As an alternative to fixed tariffs, countries can also apply a **tariff based on a percentage of the sales or import price** to determine the amount of the levy.

The Czech Republic, Latvia and Lithuania **combine fixed tariffs and a percentage** depending on the medium or device.

The levies and remuneration are intended as compensation for private copying acts by consumers in a certain country; rightholders whose works have been copied in that specific country have a right to be remunerated.

For this reason, if leviable products are exported, the exported items are exempted in most countries.

Different systems exist for refunding the levies that have already been paid on a product which is later exported.

Usually, the exporter can request a refund from the collecting society if he can show the proof of the actual export.

Another possibility is a **contractual relationship between an exporter** (often a wholesaler) **and an importer and/or the collecting society**, which can include an upfront exemption such that the exporter can buy within his country without levies and no refunds are payable upon export.

Some countries do not have a refund system in place; the exporter is only required to report goods sold in the home country. In these cases, levies on exports can often be recovered in the next report to the collecting society.

⁸ <https://ec.europa.eu/digital-single-market/en/news/towards-modern-more-european-copyright-framework-commission-takes-first-steps-and-sets-out-its> - accessed on 08.03.2018.

Finally, some countries have **multiple possibilities**: exemption upfront via an agreement with the collecting society or a refund request.

Examples for exports and exemption from payment are presented in *Annex 4*.

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

In some countries, either products sold to professional end users are exempted from the payment of the levy or liable parties are entitled to a refund.

Within the EU, the CJEU ruling in *Padawan v SGAE* (October 21, 2010) had a considerable impact on the collection of levies. The court ruled that the indiscriminate application of the private copying levy to all types of digital reproduction equipment, devices and media, including cases in which such equipment is acquired by persons other than natural persons for purposes clearly unrelated to private copying, is incompatible with the 2001 Information Society (or “Copyright”) Directive. Before this ruling, mutualisation systems, as they were known, were common. In these systems, **the professional use was incorporated into the tariff, resulting in a reduced flat-rate tariff to be paid on all sales.** Without this approach, the tariff would have been higher for products intended for private copying.

Padawan has led to follow-up cases in national jurisdictions and new cases before the CJEU to clarify the ruling further. **In Spain, the result was the abolition of the collecting system through media and devices**, leaving Spanish rightholders with an amount determined annually by the government based on the harm caused to rightholders by private copying. European rightholders have lodged a complaint with the European Commission and the questions have been referred to the CJEU (C-470/14). **For Spain, the recent ruling in this case has created the possibility of reintroducing a levy system.**

Court cases resulting from *Padawan* are still ongoing in many European countries.

In some countries, the systems exempting professional users were adapted in order to implement the latest case law.

Similar to the procedures used in the case of exports, if the professional use is exempted, **countries have implemented a refund system or an upfront exemption** (in the law or via contractual arrangements with the collecting society) for specific professional users (e.g., hospitals or government institutions).

Many of the levied products are bought online and sometimes the seller is located in another country, where a different private copying system is in place or there is no such system at all.

Of particular relevance for EU Member States, but also interesting for other jurisdictions, is the judgment of the CJEU in *Thuisakopie v Opus* (2011). The Court ruled that **the State that has a private copying exception in the law in conjunction with a levy system should ensure that the levy is paid.** The judgment states: *[...] it is for the Member State which has introduced a system of private copying levies chargeable to the manufacturer or importer of media for reproduction of protected works, and on the territory of which the harm caused to authors by the use for private purposes of their work by purchasers who reside there occurs, to ensure that those authors actually receive the fair compensation intended to compensate them for that harm.*

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

The collection process of the private copy remunerations is done by the collective management organization appointed by the government or by rightholders. The collective management organization must be representative of the whole variety of rightholders, and often the board of such a collective management organization consists of various rightholders’ representatives (authors, performing artists, producers and the like).

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

In some cases, however, the collecting society only represents a specific group of rightholders and multiple societies collect remunerations on behalf of their rightholders. This is the case for the Czech Republic, Greece, the Slovak Republic and Romania.

Distribution follows a more complicated scheme.

Some collected funds are distributed directly to individual rightholders – this is the case if multiple collection societies operate on the market – but in most cases, distribution is done in stages.

The society responsible for the collection **allocates the funds to organizations of rightholders** (distributing organizations) representing the various categories of rightholders (authors, producers and performing artists) **for further distribution to individual rightholders.**

Distribution to different categories of rightholders, represented by the collecting societies responsible for distribution to individual rightholders, follows the schemes determined either by rightholders’ organizations or by law, ministerial decree or other State intervention.

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

Usually, the total amount collected is first split between categories like audio, video, written works and interactive works. The amounts allocated to these categories are divided among the groups of rightholders within them. Distribution to audio rightholders is split between authors, performers and producers; video rightholders are authors (directors, screenwriters, music authors, and literary authors), producers and performing artists (actors and dancers).

The introduction of levies on multifunctional devices makes it possible to remunerate copying of all digital works, and the advent of relatively new digital content like e-books and other written works that implies the creation of new schemes for distribution to these rightholders.

The first step is the allocation of the remunerations to a category of copied works that is usually based on a market research regarding the type of the works copied on the various media. As the levied products become increasingly multifunctional and all works can be digitized, the actual copying behavior becomes more important for distribution. Some countries (like Switzerland) have a distribution scheme for each levied product for which monies were received.

In the majority of the countries, a percentage is deducted for social and cultural purposes, on average about 30 per cent. These cultural funds are intended for the promotion of young artists or to feed pension funds for artists.

In most cases, **the law determines these percentages** (i.e., Austria, Bulgaria, Croatia, Denmark, France, Portugal, and Turkey) **or they are established in the Statute by law** (i.e., Latvia, Poland, and Switzerland). Cultural government bodies welcome funds that are allocated to promote the culture of society and improve the position of rightholders. The percentages vary from 10 per cent to 100 per cent (i.e., 50% - Austria, 30% - Bulgaria, 30% - Croatia, 33% - Denmark, 25% - France, 20% - Poland, 20% - Portugal, 10% - Latvia, 10% - Switzerland). Turkey is the only country where the levies are used entirely for cultural purposes by the Ministry of Culture. In the future copyright legislative reform in Turkey, the private copy remunerations will be still collected by the State, but is intended that a part of the remunerations to be distributed also to the copyright and related rights holders' through the collective management organizations.

In Romania, according with the Law on copyright and related rights⁹, the list (see *Annex 5*) 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, at the request of one party, 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, on the other hand.

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.

The compensatory remuneration for private copy is a percentage quota from the aforementioned value, as follows:

- a) A4 paper sheets for photocopier: 0.1%;
- b) Other physical media: 3%;
- c) Devices: 0.5%.

The compensatory remuneration for private copy is collected as follows¹⁰:

- By one CMO sole collector for the works reproduced after sound and audiovisual recording
- By one CMO sole collector for the works reproduced from paper.

The two sole collector collecting management organizations, are designated through the majority vote of the beneficiary collecting management organizations, at the first meeting, or the majority vote of those present, at the second meeting.

Compensatory remuneration for private copy collected by the CMOs, sole collector is distributed to the beneficiaries as follows¹¹:

- a) in the case of physical media and devices for sound recorded copies, by analogical proceeding: 40% from the remuneration shall be paid, in negotiable shares, to the authors and publishers of the recorded works, 30% shall be paid to performers and 30% shall be paid 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) In the case of copies recorded by digital proceeding, on any type of support, the remuneration shall be divided in equal shares between the beneficiaries corresponding to both categories mentioned above;
- d) In the case of paper recorded copies, by analogical proceeding, on paper, the remuneration shall be divided in equal shares between authors and publishers. The due sums for publishers are

⁹ Art. 107 of Law no. 8/1996.

¹⁰ Art. 107¹ of Law no. 8/1996.

¹¹ Art. 107² of Law no. 8/1996.

distributed only through publishers associations, based on a protocol established between them which includes the criteria for distribution as well the shares owed to each association.

The 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 broadcasts¹².

In the case of paper recorded copies, by analogical proceeding, the remuneration shall be divided in equal shares between authors and publishers¹³. The distribution rule is set down by the Law on copyright and related rights.

The due sums for publishers are distributed only through publishers associations, based on a protocol established between them which include the criteria for distribution as well the shares owed to each association.

At the distribution protocol shall take part only publishers associations fulfilling the conditions established Romanian Copyright Office Director General's decision.

There are no deductions for social and cultural purposes and the administrative fee composed by the fee owed by the owners of rights, which are members of a collective management organization, for covering the operation expenses, cumulated with the fee owed to the collective management organization which is the sole collector, cannot exceed 15% from the annually collected amounts.

The distribution scheme for each category of copyright and related rights holders is established by each collective management organization in their Statute by law approved by the Romanian Copyright Office and by the courts.

In Poland, in the case of written works the distribution of the private copy remunerations is made also in 'waterfall' or three-level distribution scheme:

- Level 1: 50:50 author–publisher split set by law;
- Level 2: division between book publishers and press publishers;
- Level 3 (book publishers): number of titles / category / number of copies (based on statistical data supplied by the National Library and on results of private copying surveys).

The remunerations are divided between COPYRIGHT POLSKA which is representing the publishers' reprography rights and KOPIPOL which is representing authors' reprography rights.

The distribution principles are controlled by the Ministry of Culture and National Heritage and the data is reported to the Ministry and to the public (via website) by 30 June of the following year.

The distribution is done on the basis of surveys of copying practice that are conducted annually and that are underlying the division of all the collected levies between press publishers and book publishers (the macro-distribution scheme) and the share of the various types of books (academic, scientific, school, popular, fiction, maps, music sheets, etc.) in copying.

Also, the statistical data concerning the Polish book market provided by the Polish National Library are taken into account, as well as the legal deposit of all books published in Poland and the data concerning the number of copies printed of each book published by any Polish publisher.

On the basis of the macro-distribution scheme (books–press) the relevant amounts are transferred to the press publishers' collective management organization – the Association of Press Publishers REPROPOL, which distributes them directly to individual press publishers.

The remaining share of the collected levies (usually ca. 60–70%) is distributed by COPYRIGHT POLSKA directly to book publishers that are taking into account various types of books (academic, scientific, school, popular, fiction, maps, music sheets, etc.) in copying.

Some 80–85% of this share of the levies is distributed to academic, scientific and textbook publishers (these types of book are copied most frequently)

The amount assigned to specific book types is divided into two tranches: number of books published in the two years preceding the distribution year (two-thirds of the amount) and number of copies printed data (one-third of the amount).

3. Conclusions

The private copy remunerations are an important part of the copyright and related rights system in EU and the world. The system should be balanced in order to compensate the prejudice brought to the copyright and related rights holders by the private copy uses.

The article aims to provide an overview on the important developments in the private copying law and practice of countries that have such an exception in place.

¹² Art. 108 of Law no. 8/1996.

¹³ Art. 107² (1¹) of Law no. 8/1996.

Annex 1 - The tariffs setting models

Models	Countries
State-funded system (no tariffs)	Norway, Finland. In Spain, the royal decree was recently annulled by the Spanish Supreme court.
Direct state intervention	Burkina Faso, Czech Rep., Denmark, Estonia, Greece, Italy, Lithuania, Paraguay, Poland, Portugal, Russian Federation, Slovak Republic, Slovenia, Turkey, Ukraine, USA
Negotiation with industries and societies	Austria, Croatia, Germany, Japan
Set by law/government after proposals by rightholders or negotiation among stakeholders in special government-appointed body	Belgium, Bulgaria, Canada, France, Hungary, Latvia, Netherlands, Romania, Sweden, Switzerland

Annex 2 - Overview of countries that apply a percentage as tariff

Country	Percentage of levy on blank media and devices
Bulgaria	1% to 1.5% on magnetic and optical media (including HDD and flash memory)
Burkina Faso	10% on blank media and devices
Czech Republic	Fixed amount on blank media, 0.75% to 3% on devices
Estonia	8% on blank media, 3% on devices
Greece	6% on all products/devices
Japan	3% on blank media, 2% on devices (audio only)
Latvia	4%/6% on flash/blank media, fixed amount on devices (all pc)
Lithuania	6% on blank media, fixed amount on devices and flash media
Paraguay	0,50% on all products/devices' import price
Poland	Ranging from 0.05% to 3%
Romania	3% on blank media, 0.5% on devices
Russian Federation	1% (of production price)
Slovak Republic	6% on blank media, 0.35% up to 3% on devices
Ukraine	0.02% to 1% blank media and devices
USA	3% on blank media, 2% on devices

Annex 3 – Fixed tariff for 8 standardized media types and devices in 14 countries/Euros/2016

Mdia types and devices	Austria	Belgium	Canada	Croatia	Denmark	France	Germany	Hungary	Italy	Netherlands	Portugal	Sweden	Switzerland	Average
CD (700 MB)	0,24	0,12	0,20	,01	0,32	0,35	0,06	0,14	0,10	0,02	0,05	0,06	0,09	0,14
DVD (4.7 GB)	0,36	0,40		,01	0,50	0,90	0,27	0,24	0,20	0,02	0,10	0,28	0,28	0,30
External HDD (1 TB)	4,50	6,75		,40		20,00	17,00	6,75	10,24	0,70	4,10	8,47		7,89
MP3 player (8 TB)	5,25	2,50		,86		12,00	5,00	13,35	6,44	1,40	1,60	0,85	4,20	4,95
PC (500 GB)	5,00			,80			13,19		5,20	3,50	2,00	8,47		5,45
Set-top box (500 GB)	20,00	10,75		,31		45,00	34,00	19,22	14,81	3,50	8,00	33,87	22,91	19,76
Smartphone (16 GB)	2,50	2,50		,33		8,00	6,25	10,25	4,00	3,50	1,92	5,93	1,17	4,30
Tablet (16 GB)	3,75	2,50		,33		8,40	8,75	10,25	4,00	3,50	1,92	1,69	2,20	4,39

Annex 4 - Exports and exemption from payment

Models	Countries
Exemption with refund (but exports by manufacturer/ importer are exempted upfront)	Austria, Belgium, Bulgaria, Denmark, Estonia, France, Hungary, Italy, Latvia, Lithuania, Netherlands, Portugal, Russian Federation, Switzerland
Upfront exemption	Canada, Croatia, Czech Republic, Germany, Greece, Japan, Romania, Slovak Republic, Sweden, Ukraine, Netherlands
No refund and/or exemption	Burkina Faso, Paraguay, Poland, Turkey, USA

Annex 5 - The list of supports and devices

Remuneration	Support/Device	Calculation method	
		For importers	For producers
3%	SUPPORTS 1. Memory sticks (other than for cellphones); 2. Disc Blu-ray; 3. HD DVD Disk; 4. Audio cassettes; 5. Minidisk ; 6. Video cassettes type VHS, Super VHS (except for cassettes for portable video cameras such as: Video 8, Digital 8, HI8, DVM, VHS-C, Super VHS-C), D-VHS, video cassettes HD; 7. Any type of DVD or blank CD, including CD-data.	amount declared in custom	amount without VTA when products are placed into commercial circuit
0,5%	DEVICES 1. TVs and digital magneto scopes with HDD or incorporated media storage, audio/video players with media storage, MP3 players, MP4 players, IPOD media player which supports the following formats: AVI, MPEG-1, MPEG-2, MPEG-4, XVID, DIVX (v3.11, v4.x, V.5x, V.6x), XVID/VCD, SVCD, DVD, ACC, WMA, WMV, ASF, MP3, MP4, WAV, IMOD and any other subsequent versions of these; 2. Blu-ray recorder; 3. HD DVD recorder; 4. Audio recorder; 5. Minidisk recorder; 6. Video recorder; 7. CD recorder, HI FI equipment which functions independently; 8. DVD recorder, HI FI equipment which functions independently; 9. MP3 recorder; 10. CD writer; 11. DVD writer; 12. incorporated in computer CD writer (the percentage applies to the amount that represents 7% from the value of the entire system with which it sells the CD writer); 13. incorporated in computer DVD writer (the percentage applies to the amount that represents 7% from the value of the entire system with which it sells the DVD writer); 14. External Hard disk, including the one with audio video input and/or output, regardless of its name; 15. incorporated in computer Hard disk (the percentage applies to the amount that represents 10% from the value of the entire system with which it sells the hard disk); 16. Memory sticks.		
0,1%	sheets of paper for copy machines, A4 format (regardless of the weight)		
0,5%	photocopy machines		
0,5%	printers, scanners, multifunctional devices		

References

- Directive on the harmonization of certain aspects of copyright and related rights in the information society
- Law no. 8/1996 on copyright and related rights, as amended and supplemented
- *International Survey on Private Copying*, Hester Wijminga, Wouter Klomp, Marije van der Jagt, Joost Poort Law & Practice 2016, published by de ThuisKopie and WIPO
- Ana-Maria Marinescu, Analiza Recomandărilor lui Antonio Vitorino rezultate din medierea privind copia privată și remunerațiile în reprografie, article published in RRDPI no. 3 (36)/2013.
- http://ec.europa.eu/internal_market/copyright/docs/levy_reform/130131_levies-vitorinorecommendations_en.pdf
- <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2014-0114+0+DOC+XML+V0//EN>
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- <https://ec.europa.eu/digital-single-market/en/news/towards-modern-more-european-copyright-framework-commission-takes-first-steps-and-sets-out-its>