



August 5th, 2024

## Creators' rights organisations call for drastic cut in Finland's private copying compensation to be reversed

European and international associations of authors' collective management organisations in the audiovisual, music, text and visual art's sectors – CISAC, EVA, IFRRO, GESAC and the SAA – have been informed about the recent cut in the private copying compensation in Finland and joined forces to express their great concern on behalf of both the Finnish authors and all European/international authors community whose rights are represented in Finland through our Finnish members.

The Finnish government's decision to half the level of private copying compensation paid from the state budget - from 11 million euros to 5,5 million euros cannot be justified. This decision, taken without a proper economic assessment of its impact on rightsholders, would have harmful and destructive consequences for authors and to the whole creative ecosystem in Finland.

The compensation for private copying is mandatory under the Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society ('InfoSoc Directive') and the Finnish Copyright Act as a condition to the freedom of citizens to copy works for their private use through a private copy exception. Finland thus has the responsibility to organise and secure this fair compensation to authors<sup>1</sup>.

Private copying compensation is a significant source of income for authors in the European Union and beyond<sup>2</sup>.

In Finland, a yearly amount of 5,5 million euros to be split between the authors, performers, producers and publishers in the audiovisual, music, text and visual arts' sectors cannot be considered in any way as an adequate, sufficient or fair compensation for private copying.

This severe cut would seriously harm authors and the Finnish cultural sector in two ways:

1. **The amount of compensation received by authors in the creative fields would suddenly be reduced by 50 %**, and
2. **Cultural promotion centres**, partially sustained by private copy compensation **would need to considerably reduce their support** to events and the creation of new works in the creative

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<sup>1</sup> The European Court of Justice ruled that (Case C-462/09 Stichting de Thuis kopie v. Opus) the EU laws "impose on a Member State which has introduced the private copying exception into its national law an obligation to achieve a certain result, meaning that it must guarantee, within the framework of its competences, the effective recovery of the fair compensation intended to compensate the authors harmed for the prejudice sustained". Moreover, it has established that the levy should be proportional to the harm caused to rightsholders due to private copying (Case C-467/08 Padawan v. SGAE). A significant reduction in private copying compensation would not be consistent with this principles and current practices across the EU, where private copying systems are developed in a way that ensures that rightsholders receive fair and proportionate compensation. Such a reduction would undermine the efforts to adequately compensate authors and other rightsholders, jeopardizing the balance intended by the EU law and jurisprudence.

<sup>2</sup> In 2022, it generated 368 million euros for CISAC societies worldwide.

sector (The Foundation for Music Promotion MES, The Promotion Centre for Audiovisual Culture AVEK and The VISEK Centre for the Promotion of Visual Art).

The effects of this cut on the cultural sector, which is still recovering from the COVID-19 pandemic, would be catastrophic throughout Finland, where culture has a huge impact on the economy. Today, about 140 films and works of media art are financed annually with AVEK's support, and 200 municipalities events are financed with grants from MES. We therefore, find it disconcerting that the Finnish government would want to make it even more difficult to create new works and generate growth in the creative industries.

Despite the ruling of the CJEU which considered “*a scheme for fair compensation for private copying which, (...), 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 not compliant with the EU law<sup>3</sup>, and some problematic practices of state budget-based compensation schemes at EU level (e.g. Spain and Estonia, which fortunately changed their system back to levy-based compensation in the end), Finland’s approach has not, until potentially now, raised any of the likely negative outcomes of such a model in terms of unpredictability and fluctuation of state-budget considerations at national level and arbitrariness in setting the amounts by public authorities.

Hence, we ask the Finnish government to reconsider its destructive decision of cutting private copying compensation in half and to:

1. **Ensure that the level** of private copying revenue **is maintained** at least at 11 million euros in order to safeguard the ability of authors to earn a living from their art and to ensure Finland’s legal responsibility to achieve a fair compensation scheme as required by the CJEU. This is a precondition for the future growth of the creative industries in Finland.
2. **Update the private copying system** to meet the standards set by the CJEU and to accurately reflect the actual number of copies being made and their extensive use, particularly in the digital environment, to ensure a sustainable and fair level of compensation.

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## List of signatories

**CISAC** (International Confederation of Societies of Authors and Composers) is the world’s leading network of authors’ societies. With 227 member societies in 116 countries, CISAC represents more than 5 million creators from all geographic areas and all artistic repertoires: music, audiovisual, drama, literature and visual arts.

**EVA** (European Visual Artists) represents the interests of authors’ collective management societies for the visual arts. 32 societies are gathered under its roof as members or observers. They manage collectively authors’ rights of close to 170 000 creators of works of fine art, illustration, photography, design, architecture and other visual works.

**GESAC** groups 32 European authors’ societies (CMOs) and represents as such more than one million authors from various artistic fields, including music, audiovisual, visual, literary, and dramatic arts.

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<sup>3</sup> Case C-470/14

**IFRRO** (International Federation of Reproduction Rights Organisations), is an international, independent, not-for-profit organisation representing collective management organisations for text and image materials (known as Reproduction Rights Organisations, or RROs), authors and publishers in the field of text and image-based works. RROs administer reproduction and other relevant rights, including certain digital rights, on behalf of both publishers and authors, including visual artists. With over 150 members from over 80 countries, IFRRO plays a key role in the global copyright ecosystem.

**SAA** (The Society of Audiovisual Authors) is the umbrella association of European collective management organisations representing audiovisual authors. Its 34 members in 26 countries manage rights for over 167,000 film, television and multimedia European screenwriters and directors. The SAA supports audiovisual authors and promote cultural diversity through policies that enable the dissemination of audiovisual authors' works to the audience. CMOs' role is to give easy, legal access to those works and ensure authors are fairly paid to encourage further creativity for the benefit of society.

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