



**Re: Bulgaria - Dysfunctional private copying and reprography system**

Dear Commissioner Gabriel,



We, the undersigned organisations, representing authors, performers, publishers and producers of musical, audiovisual, literary and visual arts works, are writing to you to support the complaint of MUSICAUTOR before the European Commission regarding Bulgaria's in compliance with Articles 5.2(a) and (b) of 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 (i.e., InfoSoc Directive). We fully support the arguments raised in MUSICAUTOR's complaint and call on you to swiftly come to a decision over this issue. For many years, it has been causing significant harm to rightholders in Bulgaria and other European Union countries, as well as to rightholders from across the world.

Private copying is an essential source of income for the rightholders we represent. According to the Stichting de Thuiskopie survey published in 2017, private copying royalties reached more than € 581 million in the EU in 2015. In the majority of the countries, a significant amount of the royalties collected is used for social and cultural purposes.

The complaint points out that the current Bulgarian private copying and reprography system makes it impossible, in practice, to effectively collect and distribute any remuneration to rightholders. Depriving rightholders of compensation for the harm caused by private copying makes Bulgarian legislation incompatible with EU law. This is because a fair compensation scheme is required by European law when the exception for private copying is adopted in national law. This principle has been confirmed by the CJEU (Case C-462/09 Stichting de Thuiskopie vs Opus Supplies). The Court established that *"Member States who have introduced an exception for private copying are obliged to ensure effective recovery of the fair compensation intended to compensate the authors"* and *"Member States may authorise private copying on condition that the rightholders receive fair compensation"*.

The Bulgarian system also disregards Berne Convention provisions, the WIPO Performances and Phonograms Treaty (WPPT) as well as the International Treaty on Trade Related Aspects of Intellectual Property (TRIPS), with which Bulgaria and the European Union are also bound to comply. This is because it unreasonably prejudices the legitimate interests of rightholders by limiting their exclusive reproduction right and, at the same time, it does not provide an effective mechanism for fairly compensating them for the loss of revenues or harm caused by acts of private copying.



The Bulgarian authorities have been alerted on numerous occasions about the need to change Bulgaria's obsolete and non-functional private copying and reprography system, particularly to introduce a levy on recording and reproduction digital devices that enable copying. Unfortunately, all efforts have been neglected by Bulgarian authorities so far.

Considering the above, we - the undersigned organisations – kindly ask you to duly investigate the complaint of MUSICAUTOR and take all the necessary measure to redress the private copying and reprography situation in Bulgaria.

**Signatories :**

**AEPO-ARTIS** - Association of European Performers' Organisations

<http://www.aepo-artis.org>

**BIEM** - Bureau international des sociétés gérant les droits d'enregistrement et de reproduction mécanique

<http://www.biem.org>

**CISAC** - International Confederation of Societies of Authors and composers

<https://fr.cisac.org>

**EUROCINEMA** - Association de Producteurs de Cinéma et de télévision

<http://www.eurocinema.eu>

**EUROCOPYA** - European Federation of Joint Management Societies of Producers for Private Audiovisual Copying

<http://www.eurocopya.org>

**EVA** - European Visual Artists

<https://www.evartists.org>

**FIM** - International Federation of Musicians

<https://www.fim-musicians.org>

**GESAC** - European Grouping of Societies of Authors and Composers

<http://www.authorsocieties.eu>

**IMPALA** - Independent Music Companies Association

<https://impalamusic.org>

**SAA** - Society of Audiovisual Authors

<https://www.saa-authors.eu/en#.XJEIvXmguUk>

