

 Respondent 101797
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**Single response:** Questionnaire on Limitations and Exceptions  
 Respondent id: 101797  
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**1. The answers to this questionnaire have been provided on behalf of:**

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**2. Does your national statute provide for a limited number of specific statutory limitations and exceptions, an open system of limitations and exceptions (such as fair use or fair dealing) or a mix of both systems?**

1. Specific

**3. Does your national statute include the three-step test as a general provision on copyright limitations and exceptions?**

1. Yes

**4. Does your national statute provide limitations and exceptions as free uses (there is no need for authorization or for payment of remuneration)?**

1. Yes

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Estonian Copyright Act Chapter IV contains provisions on free use. The chapter is divided in 3 sub-parts, part 2 of them consists of limitations and exceptions where no authorization is required and no payment (Section 18 - free use for private purposes; Section 19 - free use of works for scientific, educational, informational and judicial purposes; Section 20 - free use of works by public archives, museums or libraries; Section 20.1. - free use of reproductions of works located in places open to public; Section 20.2. - free use of reproductions of works of architecture located in places open to public in real estate advertisements; Section 22 - free public performance of works (educational institutions); Section 23 - use of ephemeral recordings of works by broadcasting organisations; Section 24 - free use of computer programs; Section 25 - decompilation of computer programs; Section 25.1. - free use of database.

**5. Does your national statute include limitations and exceptions based on statutory licenses (direct permission granted by the law against remuneration)?**

1. Yes

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Section 13.3. of Copyright Act - Remuneration for lending of copy of work from libraries; Section 14 subsec 6, 7 - Where an author has transferred (assigned) the author's economic rights to a producer of audiovisual works or phonogram producer, the author shall retain the right to obtain equitable remuneration for rental (and some other uses in cases of audiovisual works); Section 26, 27 - Remuneration for private use of audiovisual works and sound recordings of works; Section 27.1. - Remuneration for reprographic reproduction works; Section 64 subsec 2 p 7 - performer's right to obtain equitable remuneration in case of rental; Section 72 - Remuneration for use of phonogram;

**6. Does your national statute include limitations and exceptions based on compulsory licenses (obligation of the**

rights owners under the law to grant licenses against remuneration)?

2. No

**7. Does your national statute include specific limitations or exceptions permitting the use of copyrighted works for private or personal purposes, without previous authorization of the copyright or related rights owner?**

1. Yes

Section 18 of Copyright Act: Free reproduction and translation of works for purposes of personal use A lawfully published work may be reproduced and translated by a natural person for the purposes of personal use without the authorisation of its author and without payment of remuneration on the condition that such activities are not carried out for commercial purposes. The following shall not be reproduced for the purposes of personal use without the authorisation of the author and without payment of remuneration: 1) works of architecture and landscape architecture; 2) works of visual art of limited edition; 3) electronic databases; 4) computer programs, except the cases prescribed in §§ 24 and 25 of this Act; 5) notes in reprographic form.

**8. Does your national statute provide remuneration for private or personal uses (for instance, copyright levies)?**

1. Yes

See answers to p 4 above. In case of private use the reprographic reproduction (Sec 27.1.) and reproduction of audiovisual works and sound recording (Sec 26, 27) is remunerated.

**9. Does your national statute allow parties to agree in licensing agreements or other binding contracts not to engage in conduct that would otherwise be permitted under the national statute's exceptions and limitations?**

1. Yes

There is no specific regulation found in the Copyright Act on the issue and no practice in such cases, so principle of freedom of contract prevails.

**10. Does your national statute subject the exercise of limitations and exceptions to the condition of a lawful or authorized source requirement (for instance, that copies are made from a lawful source)?**

1. Yes

The requirement of the lawfully published source is stipulated in all cases of exceptions and limitations (Sec 18, 19, 26 etc).

**11. Does your national statute protect technological measures?**

1. Yes

**12. Does your national statute protect rights management information?**

1. Yes

**13. Does your national statute provide specific mechanisms to ensure that limitations or exceptions continue to apply despite the existence of any technological measures implemented by the copyright or related rights owners?**

1. Yes

Copyright Act Section 80.3. subsection 4 stipulates: In the cases of free use of the works permitted by § 18, clauses 19 2), 3), 8) and 9) of and §§ 20 and 23 of this Act and objects of related rights permitted by clauses 75 (1) 1), 2), 5) and 6) of this Act, the rightholder shall adjust such measures to his or her work or object of related rights which allow the entitled persons to freely use the work or object of related rights to the extent necessary for the free use in the cases prescribed by law on the condition that entitled persons have legal access to the protected work or object of related rights. If the person entitled to freely use the work or object of related rights and the rightholder fail to reach an agreement on application of the corresponding measures

within a reasonable period of time, the person entitled to freely use the work or the object of related rights has the right to address the copyright committee under the conditions set out in § 87 of this Act.

**14. If recourse to legal proceedings is needed, what is the average time to ensure the exercise of limitations and exceptions if some type of technological measures of protection is applied by copyright and related rights owners?**

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No practice yet on complaints regarding technological measures.

**15. Does your national statute provide that certain limitations or exceptions prevail over the prohibitions on the act of circumventing technological protection measures or rights management information?**

1. Yes

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See p 12 above.

**16. If recourse to legal proceedings is needed regarding limitations and exceptions, what is the average time needed to resolve a dispute regarding the prohibition of circumventing the technological measures of protection and digital rights management?**

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No practice yet on complaints regarding technological measures.

**17. Does your national statute include limitations and exceptions especially for the use of computer programs?**

1. Yes

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Section 24 and 25 of Copyright Act stipulate the conditions of free use and decompilation of computer programs.

**18. Does your national statute provide limitations and exceptions for the temporary use of digital works?**

1. Yes

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Section 18.1. of Copyright Act: Restriction of author's right to reproduce (1) Without the authorisation of the author and without payment of the remuneration, a temporary or casual reproduction of the work which occurs as an integral and essential part of a technical process and the purpose of which is to mediate the communication of the work in the network between third parties or to make possible the lawful use of the work or an object of related rights and which has no independent commercial purpose is permitted. (2) Subsection (1) of this section does not extend to computer programs

**19. Does your national statute include limitations and exceptions, or statutory safe harbors (statutory safe harbor refers to any statutory enactment which provides that a person will not be liable upon taking certain measures), for the activities of the service providers of digital transmission of works?**

1. Yes

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Information Society Services Act Sections 8-11 contain provisions on 1) restricted liability upon mere transmission of information and provision of access to public data communications network, 2) restricted liability upon temporary storage of information in cache memory, 3) restricted liability upon provision of information storage service, 4) No obligation to monitor.

**20. Does your national statute provide that certain limitations or exceptions prevail over the prohibition on the acts of trafficking with devices or providing services that allow the circumvention of technological protection measures or rights management information?**

2. No

21. If recourse to legal proceedings is needed regarding exceptions and limitations, what is the average time needed to resolve a dispute regarding the prohibition of dealing with devices or providing services to circumvent the technological protection measures and rights management information?

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22. If your national statute is included in the analysis of specific exceptions contained in any of the studies on limitations and exceptions for educational or research activities (documents SCCR/19/4, SCCR/19/5, SCCR/19/6, SCCR/19/7, SCCR/19/8)<sup>1</sup>, do you consider that the analysis is correct?

1. Yes

23. Does your national statute provide specific limitations and exceptions for educational purposes?

1. Yes

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Section 19 p 2: the use of a lawfully published work for the purpose of illustration for teaching and scientific research to the extent justified by the purpose and on the condition that such use is not carried out for commercial purposes; Section 19 p 3: the reproduction of a lawfully published work for the purpose of teaching or scientific research to the extent justified by the purpose in educational and research institutions whose activities are not carried out for commercial purposes; Section 22: Free public performance of works. The public performance of works in the direct teaching process in educational institutions by the teaching staff and students without the authorisation of the author and without payment of remuneration is permitted if mention is made of the name of the author or the title of the work used, if it appears thereon, on the condition that the audience consists of the teaching staff and students or other persons (parents, guardians, caregivers, etc.) who are directly connected with the educational institution where the work is performed in public.

24. In case of affirmative answer to the previous question, what kind of activities are those limitations and exceptions related to?

1. Face-to-face activities

25. Does your national statute provide specific limitations and exceptions allowing performances for educational purposes, such as performances by teachers in classrooms or school concerts?

1. Yes

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See p 22 above.

26. Does your national statute provide remuneration against the exercise of the specific limitations and exceptions that permit performances for educational purposes?

2. No

27. Does your national statute provide for any specific requirement regarding the qualitative or quantitative limits and nature of the works or objects of related rights covered by the specific limitations and exceptions allowing performances for educational purposes?

2. No

28. Who is eligible to engage in activity covered by the specific limitations and exceptions allowing performances for educational purposes? (more than one option can be selected)

1. Teachers  
2. Students  
4. Others

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See p 22 above

29. In case educational institutions are eligible to engage in activities covered by specific limitations and exceptions allowing performances for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

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30. Does your national statute provide targeted limitations and exceptions allowing reproduction for educational purposes?

1. Yes

Copyright Act Section 19: The following is permitted without the authorisation of the author and without payment of remuneration if mention is made of the name of the author of the work, if it appears thereon, the name of the work and the source publication: 1) making summaries of and quotations from a work which has already been lawfully made available to the public, provided that its extent does not exceed that justified by the purpose and the idea of the work as a whole which is being summarised or quoted is conveyed correctly; 2) the use of a lawfully published work for the purpose of illustration for teaching and scientific research to the extent justified by the purpose and on the condition that such use is not carried out for commercial purposes; 3) the reproduction of a lawfully published work for the purpose of teaching or scientific research to the extent justified by the purpose in educational and research institutions whose activities are not carried out for commercial purposes.

31. What kind of reproduction is covered by those limitations and exceptions? (more than one option can be selected)

1. Reprography
2. Digital copying

32. Do the limitations or exceptions allowing reproduction include the preparation of course packs, compilations or anthologies?

1. Yes

Those activities must follow the conditions listed in Section 19 p 1-3, see p 29 above

33. Does your national statute provide remuneration for the exercise of the specific limitations and exceptions allowing reproduction for educational purposes?

1. Yes

Remuneration for the reprographic reproduction, Section 27.1. in Estonian Copyright Act (the reproduction of a lawfully published work for the purpose of teaching or scientific research to the extent justified by the purpose in educational and research institutions whose activities are not carried out for commercial purposes is remunerated).

34. Does your national statute provide for any specific requirement regarding the qualitative or quantitative limits and nature of the works or objects of related rights covered by the specific limitations and exceptions allowing reproduction for educational purposes?

1. Yes

All materials must be lawfully published.

35. Who is eligible to engage in activities covered by the specific limitations and exceptions allowing reproduction for educational purposes? (more than one option can be selected)

1. Teachers
2. Students
3. Educational institutions

36. In case educational institutions are eligible to engage in activities covered by the enumerated limitations and exceptions allowing reproduction for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

1. For-profit
2. Not-for-profit
3. Public
4. Private

**37. Does your national statute subject the limitations and exceptions on reproduction for educational purposes to the use of technological measures?**

1. Yes

Section 80.3. subsection 4 stipulates, that also 1) the use of a lawfully published work for the purpose of illustration for teaching and scientific research to the extent justified by the purpose and on the condition that such use is not carried out for commercial purposes and the reproduction of a lawfully published work for the purpose of teaching or scientific research to the extent justified by the purpose in educational and research institutions whose activities are not carried out for commercial purposes the rightholder shall adjust such measures to his or her work or object of related rights which allow the entitled persons to freely use the work or object of related rights to the extent necessary for the free use in the cases prescribed by law on the condition that entitled persons have legal access to the protected work or object of related rights.

**38. Does your national statute provide specific limitations and exceptions allowing translations for educational purposes?**

1. Yes

**39. Does your national statute provide remuneration against the exercise of specific limitations and exceptions allowing translations for educational purposes?**

2. No

**40. Does your national statute provide for any specific requirement regarding the extent and nature of the works or objects of related rights covered by the enumerated limitations and exceptions allowing translations for educational purposes?**

1. Yes

Section 19 p 2 allows the use of a lawfully published work for the purpose of illustration for teaching and scientific research to the extent justified by the purpose and on the condition that such use is not carried out for commercial purposes

**41. Who is eligible to engage in activities covered by the specific limitations and exceptions allowing translations for educational purposes? (more than one option can be selected)**

1. Teachers
2. Students
3. Educational institutions

**42. In case educational institutions are eligible to engage in activities covered by any of the enumerated limitations and exceptions allowing translations for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)**

2. Not-for-profit

**43. Does your national statute provide specific limitations and exceptions for making available in digital networks for educational purposes?**

1. Yes

**44. Do the specific limitations or exceptions for making available in digital networks include coursepacks, compilations or anthologies?**

1. Yes

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See p 31 above

45. Does your national statute provide remuneration against the exercise of the specific limitations and exceptions for making available in digital networks for educational purposes?

2. No

46. Does your national statute include any specific requirement regarding the qualitative or quantitative limits extent and nature of the works or objects of related rights covered by the specific limitations and exceptions for making available in digital networks for educational purposes?

1. Yes

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Conditions of lawful source must be fulfilled and other requirements stipulated in Section 19 p 1-3 (see above).

47. Who is eligible to engage in activities covered by the specific limitations and exceptions for making available in digital networks for educational purposes? (more than one option can be selected)

1. Teachers

48. In case educational institutions are eligible to engage in activities covered by the specific limitations and exceptions for making available in digital networks for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

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49. Does your national statute subject the limitations and exceptions on making available in digital networks for educational purposes to the use of technological measures?

1. Yes

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All relevant acts in educational activities must follow the conditions of Section 19 p 1-3, on technological measures see p 36 above.

50. Does your national statute include any other specific limitations or exceptions related to educational purposes that have not been covered above?

2. No

51. If not, what other limitations and exceptions for educational purposes would be necessary?

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Special provision on digital use and its conditions (distance learning), at the moment Section 19 p 1-3 must be followed in any kind of use for educational purposes. Also a provision on anthologies could be appropriate.

52. Are there impediments to the use of limitations and exceptions for educational purposes (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?

1. Yes

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Internationally different exceptions and limitationd would be viewed as impediment to distance-learning systems.

53. If your national statute is included in the analysis of specific exceptions contained in the Annex of the WIPO Study on Copyright Limitations and Exceptions for Libraries and Archives (document SCCR/17/2)<sup>3</sup>, do you consider that the analysis is correct?

1. Yes

54. Does your national statute contain any limitations or exceptions that permit copying by libraries and/or archives for purposes of preservation or replacement?

1. Yes

Section 20 of Estonian Copyright Act "Free use of works by public archives, museums or libraries"

55. What types of works may be reproduced for these purposes?

A public archive, museum or library has the right to reproduce a work included in the collection thereof without the authorisation of its author and without payment of remuneration, in order to: 1) replace a work which has been lost, destroyed or rendered unusable; 2) make a copy to ensure the preservation of the work; 3) replace a work which belonged to the permanent collection of another library, archives or museum if the work is lost, destroyed or rendered unusable; 4) digitise a collection for the purposes of preservation; 5) make a copy for a natural person for the purposes specified in § 18 of this Act; 6) make a copy on the order of a court or a state agency for the purposes prescribed in clause 19 6) of this Act. The provisions of clauses (1) 1)-3) of this section apply in the case when acquisition of another copy of the work is impossible.

56. Does your national statute establish qualitative or quantitative limits for these purposes?

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See p 54 above

57. What other conditions must be met in order for such reproduction to be authorized?

See p 54 above

58. Does your national statute contain any limitations or exceptions that permit copying by libraries or archives for patron use?

2. No

59. What types of works may be reproduced for these purposes?

60. Does your national statute include specific provisions regarding orphan works?

2. No

61. Does your country have plans to include or modify the specific exceptions and limitations related to the activities of libraries and archives?

2. No

62. If not, what other limitations and exceptions for libraries and archives would be necessary?

Provisions on the use of orphan and out of print works

63. Are there impediments to the use of limitations and exceptions related to the activities of libraries and archives (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?



1. Yes

Rules on the use of orphan and out of print works are necessary in the international level

64. Does your national statute establish qualitative or quantitative limits for these purposes?

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65. What other conditions must be met in order for such reproduction to be authorized?

66. Does your national statute contain any limitations or exceptions that permit libraries to reproduce and/or distribute works (either reprographic and/or digital) for the purposes of interlibrary lending?

1. Yes

Section 20 subsec 4 stipulates, that public archives, museums and libraries have the right to make available works in their collections through special equipment located in their territory on orders from natural persons for study or scientific purposes

67. Does your national statute contain any limitations or exceptions that permit any other organizations (such as museums or educational institutions) to reproduce or distribute works for archival, preservation, or replacement purposes?

1. Yes

Section 20 (see p 53 above) applies to public libraries, archives and museums and works in their collections.

68. If your national statute is included in the analysis of specific exceptions contained in Annexes 2 and 3 of the Study on Limitations and Exceptions for the Visually Impaired (document SCCR/15/7)<sup>4</sup>, do you consider that the analysis is correct?

2. No

Since 2006 the Estonian Copyright Act Section 19 p 6 covers exceptions in the interest of all disabled persons, not only blind persons (see SCCR/15/7 p 149 annex 2)

69. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for persons with print disabilities<sup>5</sup> or visually impaired persons, including the reading impaired?

1. Yes

Section 19 p 6 of Estonian Copyright Act stipulates that it is permitted without the authorisation of the author and without payment of remuneration if mention is made of the name of the author of the work, if it appears thereon, the name of the work and the source publication, the reproduction, distribution and communication to the public of a lawfully published work in the interests of disabled persons in a manner which is directly related to their disability on the condition that such use is not carried out for commercial purposes. Works created especially for disabled persons may not be reproduced, distributed and made available without the authorisation of the author.

70. Does your national statute specify the formats (for instance, Braille or large print) that fall under this exception?

2. No

71. What other conditions must be met in order for such uses to be authorized?

\_\_\_\_\_  
See p 68 above

72. Does your national statute contain any limitations or exceptions that permit the importation and/or exportation of material accessible to persons with print disabilities or visually impaired persons, including the reading impaired?

2. No

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Distribution is mentioned in Section 19 p 6 of Estonian Copyright Act, nevertheless not specifically importation or exportation.

73. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for deaf persons?

1. Yes

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See p 68 above

74. Does your national statute specify the formats that fall under this exception?

2. No

75. What other conditions must be met in order for such uses to be authorized?

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\_\_\_\_\_  
See p 68 above

76. Does your national statute contain any limitations or exceptions that permit the importation and/or exportation of material accessible to the deaf persons?

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\_\_\_\_\_  
See p 71 above

77. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for persons with any other disabilities?

1. Yes

\_\_\_\_\_  
See p 68 above

78. Does your national statute specify the formats that fall under this exception?

2. No

79. What other conditions must be met in order for such uses to be authorized?

\_\_\_\_\_  
See p 68 above

80. Does your national statute contain any limitations or exceptions that permit the importation and/or exportation of material accessible to persons with any other disabilities?

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See p 71 above

81. Does your country have plans to include or modify the specific exceptions related to persons with print disabilities, visually impaired persons or other persons with disabilities?

2. No

82. If not, what other the limitations and exceptions for persons with disabilities would be required?

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The scope of the exception for the persons with disability is wide enough and at the moment no changes are foreseen

83. Are there impediments to the use of the limitations and exceptions for persons with disabilities (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?

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Lack of information might be the widest problem along with capacity building issues

84. Does your national statute provide limitations and exceptions for religious, social and cultural purposes?

1. Yes

85. In case of affirmative answer to the previous question, what kind of activities are those limitations and exceptions related to?

3. Social Activities

86. Does your national statute subject the exercise of limitations and exceptions for religious purposes to the condition of the nature of the religious activities?

2. No

87. Does your national statute provide remuneration for the exercise of limitations and exceptions for religious purposes?

2. No

88. Does your national statute subject the exercise of limitations and exceptions for religious purposes to any specific requirement regarding the extent and nature of the works or objects of related rights?

2. No

89. Does your national statute subject the exercise of limitations and exceptions for cultural purposes to the condition of the nature of the cultural activities?

2. No

90. Does your national statute provide remuneration for the exercise of limitations and exceptions for cultural purposes

2. No

91. Does your national statute provide for any specific requirement regarding the extent and nature of the works or objects of related rights covered by the limitations and exceptions for cultural purposes?

2. No

92. Does your national statute subject the exercise of limitations and exceptions for social purposes to the

condition of the nature of social activities?

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Section 19 p 5 of Estonian Copyright Act contains a provision which permits reproduction of a work for the purposes of a judicial procedure or insurance of public security and to the extent justified by the purposes of a judicial procedure or insurance of public security.

**93. Does your national statute provide remuneration for the exercise of limitations and exceptions for social purposes?**

2. No

**94. Does your national statute subject the exercise of limitations and exceptions for social purposes to any specific requirement regarding the extent and nature of the works or objects of related rights?**

2. No

**95. Does your national statute provide any limitations or exceptions for reverse engineering?**

1. Yes

Sections 24 and 25 of Estonian Copyright Act, see p 16 above

**96. Does your national statute impose any kind of liability (direct, indirect, or secondary) according to which a party can be held liable for the copyright infringement of third parties under certain circumstances (such as when that party has the ability to control an infringer's actions or contributes to a third party's infringing actions)?**

1. Yes

In cases of criminal offences listed in Estonian Penal Code (Chapter 14), according to Penal Code Section 22 there is a possibility to impose a punishment also on an aider (a person who intentionally provides physical, material or moral assistance to an intentional unlawful act of another person). In the case of an aider, the court may mitigate the punishment. No specific rule on copyright issues is stipulated in that respect. The above does not apply to misdemeanours listed in Copyright Act (Sections 81.2.-81.5.).

**97. With respect to liability that arises from the infringing activities of third parties, does your national statute, for purposes such as to encourage online service providers to cooperate with rightsholders in deterring infringement, provide limitations or exceptions, or statutory safe harbors, to the liability of online service providers in any way?**

1. Yes

As listed in Estonian Information Society Services Act, see p 18 above.

**98. With respect to liability that arises from the infringing activity of a third party, for which of the following activities, if any, does your national statute provide limitations or exceptions, or statutory safe harbors, to the liability of online service providers?**

1. Acting as a conduit for infringing material (e.g., transmitting, routing, or supplying connections for material)
2. Caching infringing material
3. Storing infringing material at the direction of a user

**99. What conditions, if any, must be met in order for an online service provider to qualify for the limitation of liability, exception to liability, or statutory safe harbor?**

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**100. Are the following limitations or exceptions included in your national statute? (more than one option can be**

selected)

1. right of quotation
2. news reporting
3. ephemeral copies
5. government uses

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Copyright Act Section 19 p 1 stipulates, that without the authorisation of the author and without payment of remuneration if mention is made of the name of the author of the work, if it appears thereon, the name of the work and the source publication it is permitted to make summaries of and quotations from a work which has already been lawfully made available to the public, provided that its extent does not exceed that justified by the purpose and the idea of the work as a whole which is being summarised or quoted is conveyed correctly. Section 23 of Copyright Act regulates the use of ephemeral recordings of works by broadcasting organisations. Section 19 p 5 permits to make copies of works for the purposes of a judicial procedure or insurance of public security and to the extent justified by the purposes of a judicial procedure or insurance of public security. Section 19 p 4 permits for the purpose of reporting current events, the reproduction in the press and communicating to the public of works seen or heard in the course of an event, to the extent justified by the purpose, in the form and to the extent required by the purpose of reporting current events.

**101. Does your national statute include limitations and exceptions for any other activities that are not covered in the questionnaire so far?**

1. Yes

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Section 20.1. of Copyright Act permits free use of reproductions of works located in places open to public and Section 20.2. permits free use of reproductions of works of architecture located in places open to public in real estate advertisements.

**102. Has your country signed, or is in the process of negotiating, a Free Trade Agreement (FTA) containing clauses on copyright and related rights exceptions and limitations?**

2. No

**103. If so, with which country or group of countries?**

**104. Please add any further comments and information you deem interesting for this questionnaire.**