Estonian Authors' Society

ESTONIAN AUTHORS' SOCIETY
RULES FOR THE REGISTRATION OF WORKS AND THE DISTRIBUTION AND PAYMENT OF FEES

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1. General provisions

1.1. These Rules for the Registration of Works and the Distribution and Payment of Fees (hereinafter: Rules) apply to:

1.1.1. The registration of works by rights holders who are members or clients of the Estonian Authors' Society (EAÜ);

1.1.2. The distribution of licence fees, royalties, ancillary fees such as late interest and penalties, and other fees collected by EAÜ (hereinafter: Fees) between holders of rights in works and the payment of such Fees to the rights holders or collective management organisations representing the rights holders;

1.1.3. The distribution and payment of Fees collected by foreign collective management organisations and sent by such organisations to EAÜ for payment to the rights holders.

1.2. The core activity of EAÜ is exercising the rights to use musical works and, to a lesser extent, exercising the rights to use works of visual art, choreographic works and audiovisual works. Therefore, the provisions of these Rules are primarily applied to musical works. The provisions of these Rules for musical works apply to works of visual art, choreographic works and audiovisual works unless otherwise specified herein.

1.3. To cover the operating costs of EAÜ, EAÜ may charge a commission on the collected Fees at rates approved by the EAÜ general meeting. If the commission that EAÜ has deducted from the Fees collected in any given year exceeds the operating expenses of EAÜ for that year, EAÜ will distribute the surplus commission between the rights holders or transfer the surplus to a reserve fund. If the operating costs of EAÜ for any given year exceed the commission deducted from the Fees collected by EAÜ in that year, the deficit will be covered from the reserve fund.

1.4. EAÜ forms a reserve fund as part of its budget, into which it transfers the Fees received for the use of unidentified works, any commission surpluses and the amounts that EAÜ has the right to deduct from the collected Fees for the purpose of socio-cultural needs as agreed with specific foreign collective management organisations. The size and use of the reserve fund is approved by the EAÜ Board.

2. Definitions

For the purposes of these Rules, the following terms are used in the following meaning, regardless of whether or not these terms are capitalised or used in the singular or in the plural:

2.1. Works means copyright protected works, the holders of rights in which EAÜ represents under a transaction or under the law, including:

2.1.1. musical works with or without lyrics;

2.1.2. works of visual art such as graphic art, painting, sculpture;

2.1.3. choreographic works if used together with musical works;

2.1.4. audiovisual works.

2.2. Rights holders means persons having a specific role in the creation of a work (hereinafter: Authors) or in the publication of a work (hereinafter: Publishers), between whom the Fee received for using the work is distributed. In certain cases, rights holders also include persons to whom copyrights have transferred by inheritance (hereinafter: Heirs) and who are paid a part of the Fee for using the musical works when the Author dies.

2.3. Authors of musical works are understood as the following persons:

2.3.1. Composer (C) – a natural person who has created a musical work. If more than one person was involved in creating a musical work, they are regarded as co-authors.

2.3.2. Lyricist (A) – a natural person who has created a poem that has been used together with a musical work, or has created lyrics specifically for a musical work. If more than one person was involved in creating lyrics or a poem (hereinafter: Lyrics), they are regarded as co-authors. Lyricists are entitled to their share of the Fee even if the original version of the musical work with the Lyrics has been used without the Lyrics, i.e. as an instrumental version, except where the rights holders have separately registered the instrumental version of the respective musical work, and also in the case where the text in question has been previously published.

2.3.3. Author of a translation or new Lyrics (SA) – a natural person who has translated the original Lyrics of a musical work or created a local version or otherwise modified the original Lyrics in an original manner. The Author of a translation or new Lyrics is entitled to their share of the Fee only if they have the written consent of the Author or the holder of the rights of the Author in the original Lyrics (a music Publisher or a Heir) to the modification of the original Lyrics and to receiving a Fee. If the consent does not specify the share of the Fee to which the Author of the translation or new Lyrics is entitled, EAÜ will apply the automatic distribution key to distributing the Fee.

2.3.4. Arranger (AR) – a natural person who has modified a musical work in a creative and original manner. An arranger is entitled to their share of the Fee only if they have the written consent of the Author or the holder of the rights of the Author in the original musical work (a music Publisher or a Heir) to the modification of the original musical work and to receiving a Fee. If the consent does not specify the share of the Fee to which the arranger is entitled, EAÜ will apply the automatic distribution key to distributing the Fee. An arranger is entitled to their share of the Fee in the case of public performance of their musical work only if the repertoire report EAÜ has received on the use of musical works shows that the particular arranged version of the musical work was used and the arranged version is registered in the EAÜ database or an international database.

2.4. Publisher (E) – a natural or legal person who has acquired from the Authors or Heirs exclusive economic rights (rights of reproduction, distribution, modification, public performance, etc.) to publish and otherwise use musical works for the purpose of distributing and popularising the work of the relevant Authors and has entered into a relevant agreement (hereinafter: Publishing Agreement). The Publishing Agreement must allow the Publisher to exercise the received rights through EAÜ or a collective management organisation of another country. The Publishing Agreement must also specify that the respective assignments of rights are valid only to the extent that they do not conflict with the terms and conditions of any membership or client agreement that has been concluded or may be concluded in the future between the respective Author or Heir and a collective management organisation, and that the Fees collected by the collective management organisation for using the musical works will be distributed between the Publisher and the Authors according to the rates established by the collective management organisation.

2.5. Sub-Publisher (SE) – a natural or legal person who has entered into a sub-publishing agreement with the original Publisher to exercise in a certain territory the economic rights acquired by the original Publisher, including to exercise rights through EAÜ or a collective management organisation of another country.

2.6. Original work – the first published version of a musical work.

2.7. Derivative work – a version of a musical work derived from its first published version, i.e. from the original version, by either altering the original version by modification (arrangement), translating the original Lyrics into another language, or by a full or partial replacement of the original Lyrics by other Lyrics.

2.8. Automatic distribution key – the distribution of Fees between holders of rights in musical works according to the scheme provided in Annex 1 to these Rules, or the distribution of Fees between holders of rights in audiovisual works according to the scheme provided in Annex 2 to these Rules.

2.9. Specific percentage – the distribution of Fees among rights holders according to a specially agreed scheme of percentages.

2.10. Partner associations – collective management organisations with which EAÜ has signed relevant representation agreements.

2.11. Documentation of works – a data set held by EAÜ on works, containing information that has been received on each work from the rights holders, partner associations or other reliable sources and that, as a rule, has been entered in the works database, but may be kept by EAÜ in another format.

2.12. Works database – an electronic database of musical works.

2.13. Automatic processing – a process by which the data entered in the EAÜ Fee distribution system are automatically matched with the data in the works database.

2.14. Manual processing – a process by which the data sent to EAÜ concerning the use of works are manually compared by EAÜ employees with the documentation of works held by EAÜ in order to identify the correct works and rights holders participating in the distribution of Fees.

3. Registration of works

3.1. Purpose and methods of registration of works with EAÜ

3.1.1. The prerequisite for the collection, distribution and payment of Fees is the correct registration of musical works by the rights holders at the earliest opportunity. The registration of works with EAÜ does not create copyrights, since copyrights in works arise upon the creation of the work, and no formalities are required according to the Copyright Act for the exercise of copyrights. However, registration is important for EAÜ primarily because it is the only source of information (the primary source) for obtaining accurate data about musical works and entering them into the database, which in turn is necessary for EAÜ to be able to distribute the collected Fees correctly.

3.1.2. The EAÜ Board approves the methods and format of registration of works.

3.2. Agreements between rights holders prior to registration of musical works

3.2.1. In the case of musical works created by two or more persons either as joint Authors or co-authors, these persons should agree before registering the work with the EAÜ on their respective roles in the creation of the work (such as composer, lyricist, arranger) and how the collected royalties will be distributed between them: either according to the automatic distribution key or according to specific percentages. If no such written agreement has been prepared, the Authors can formalise an agreement when registering the work with EAÜ, as the registration of the work must be confirmed by all the original Authors of the work.

3.2.2. In the case of musical works that were not created jointly, but where an already existing copyrighted work is added to the newly created work (for example, adding music to an existing poem, adding Lyrics to an existing instrumental work), the Author who wants to add another Author's existing work to their new work should obtain the consent of the Author of the existing work or their Heir(s). An agreement should also be reached on how the royalties collected for musical works created in this way will be distributed. EAÜ recommends agreeing on the merging of works before the work is published.

3.2.3. A separate written agreement is required before a work can be registered with EAÜ when an existing music work has been modified (arranged), its Lyrics have been translated or new Lyrics have been created for it. By such a written agreement, the Author of the original work grants their permission to the modifier/translator/Author of new Lyrics and sets out the conditions for the modification or alteration, and specifies whether or not the modifier/translator/Author of new Lyrics will be entitled to payments from the Fee received for the use of the work,[1] the principles for distributing the Fee, and any other conditions. The following persons should be contacted to obtain permission for modification or alteration:

3.2.3.1. For a musical arrangement, permission has to be obtained from the Author of the music of the original work or the holder of their economic rights (a Heir or music Publisher);

3.2.3.2. To translate the Lyrics of or create new Lyrics for a musical work, permission has to be obtained from the Author of the original Lyrics of the musical work or the holder of the Author's economic rights (a Heir or a music Publisher);

3.2.3.3. If the original work has been published, permission for arrangement, translation or creating new Lyrics has to be sought from the music Publisher holding the relevant economic rights. The permission to arrange, translate or create new Estonian Lyrics for a musical work created by a foreign Author is usually granted by the music Publisher that owns the signing rights in the work for the territory of Estonia.

3.3. Registration of works by Authors of musical works

3.3.1. An Author who is a member of EAÜ must register with EAÜ all the musical works they have created and published.

3.3.2. Authors register their musical works with EAÜ either electronically using the EAÜ user interface or at the EAÜ office using the relevant cards. The Author who initiates the registration of a musical work must specify all the parties involved in the creation of the work and their roles, regardless of whether or not such parties are EAÜ members, when registering the work.

3.3.3. The registration of a musical work must be confirmed by each living original Author of the work. When registering a work on a card, the information must be manually signed by the Authors involved in the creation of the musical work. When registering using the EAÜ user interface, the information on the musical work being registered is confirmed digitally.

3.3.4. The registration card for a work, the information on which has not been confirmed by all the original Authors of the work, will be, as a general rule, returned by EAÜ to the submitter, unless

[1] When granting permission, the Author or the holder of their economic rights can decide whether the arranger, translator or creator of the new Lyrics will be entitled to payment for the use of the derivative work. Therefore, obtaining permission does not automatically mean that the arranger, translator or Author of new Lyrics will be entitled to a Fee.

there is an agreement that the Author whose signature is missing will confirm their involvement at the EAÜ office or by e-mail.

3.3.5. In the event that a musical work to be registered through the EAÜ user interface involves Authors who are not members of EAÜ or are members or clients of any of EAÜ's partner associations, the initiator of the registration is required to provide the following details to the EAÜ in addition to the standard information:

3.3.5.1. the names and contact details (preferably the e-mail address) of the other Authors involved in the creation of the work;

3.3.5.2. the IP number of Authors who are members of an EAÜ partner association[2].

3.3.6. Having received a musical work involving several Authors for registration through the user interface, EAÜ forwards the details of the work to all Authors who, apart from the initiator of the registration, have been involved in the creation of the work. EAÜ electronically transmits the details of the work to the e-mail addresses of the Authors, which the initiator of the registration has provided during the registration of the work or which have been previously given to the EAÜ by the Authors who are members of the EAÜ and which the EAÜ has entered in the relevant database.

3.3.7. An Author who has received information by e-mail from EAÜ on the registration of a work in the creation of which they have been involved can, in turn, confirm the details either by visiting the EAÜ office or through the EAÜ user interface, but only if they are a member of EAÜ and the original Author of the work (composer, Author of Lyrics).

3.3.8. Only the Author(s) of the original work may register modifications (arrangements) and translations (including new Lyrics) of copyrighted musical works using the EAÜ user interface. This means that the modifier or translator cannot register their modification or translation using the EAÜ user interface themselves, but can only do so using a card, provided that:

3.3.8.1. The written consent of the Author(s) of the original work is provided to EAÜ in addition to the card signed by the modifier or translator, or

3.3.8.2. The Author of the original work also signs the card.

3.3.9. A musical work created by several Authors is considered fully registered using the EAÜ interface if its details have been approved by all the original Authors of the work. As long as all the original Authors have not confirmed the details of the musical work, the registration of the musical work remains pending. The EAÜ must review the list of pending musical works at least once every calendar quarter and send reminders to the Authors to confirm the registration. If EAÜ is convinced of the correctness of the details of any of the pending musical works based on other sources, EAÜ may consider the musical work fully registered.

3.3.10. When registering the works, Authors must use their real name as entered in the population register. If the Author wishes that their authorship of the work be publicly associated with a pseudonym, they should specifically inform EAÜ of their wish. The Author can confirm the details of such a work only using their real name.

3.3.11. Any pseudonyms used by Authors when registering works must be previously registered with EAÜ. EAÜ may refuse to register a pseudonym that corresponds to the real name of another

[2] All music Authors represented by collective management organisations have their own unique identifier, or IP number, in the international database of Authors.

Author. If an Author wishes to register with EAÜ another Author's pseudonym that has already been registered and/or known to the public as the other Author's pseudonym, EAÜ will inform the Author of the risk of confusion and recommend choosing another pseudonym.

3.3.12. EAÜ registers the pseudonyms used by the Authors who are members of EAÜ, which have been registered with EAÜ, in an international database together with their real names. EAÜ also registers the Publishers' names used by the music Publishers who are members of the EAÜ, which have been registered with EAÜ, in an international database.

3.3.13. Any subsequent modifications, translations or other alterations of an original musical work must also be registered. Each such version must be distinguishable from the other versions by an important feature.

3.3.14. When resolving cases where a dispute arises between the Authors of an already registered musical work, which affects the distribution of Fees or where the authorship of the work is disputed, the provisions of Article 15 of these Rules shall apply.

3.4. Registration of musical works by Publishers

3.4.1. Musical works published by Publishers who are members or clients of EAÜ are registered by the employees of the EAÜ Distribution and Documentation Department based on the information contained in the Publishing Agreement submitted by the Publishers to EAÜ.

3.4.2. For registration, the Publisher is required to present an electronic or hard copy of the signed Publishing Agreement to EAÜ. If the Publisher has already submitted the Publishing Agreement to EAÜ earlier and the musical work(s) being registered are included in the publishing agreement after the agreement was originally signed, the Publisher is required to submit to EAÜ an annex to the publishing agreement (either electronically or as a hard copy), setting out the exact details of the published musical work(s).

3.4.3. The Publisher is required to submit the Publishing Agreement or a relevant annex to EAÜ in accordance with Article 3.4.2 of these Rules regardless of whether or not the Author(s) who created the work have already registered it with EAÜ. If the Author(s) who created the work have not registered it with EAÜ before signing the Publishing Agreement, the obligation to register the work lies particularly with the music Publisher. If the Author(s) who created the work have already registered the work with EAÜ, then after receiving the Publishing Agreement or the annex from the Publisher, the employees of the EAÜ Distribution and Documentation Department will only add the name of the Publisher to the details of the work, and the proportions of Fee distribution will be changed according to the Publishing Agreement.

3.4.4. When concluding Publishing Agreements, Publishers are required to consider that when exercising the economic rights acquired from the Author(s) or Heir(s) through EAÜ, the Publisher is not entitled to more than 33.33% of the Fee collected for the work through EAÜ in the case of the original Publishing Agreement, or 50% in the case of a sub-publishing agreement.

3.4.5. When registering works, music Publishers use their business name as stated in the commercial register. If the Publisher name of a music Publisher does not correspond to their business name, they can use their Publisher name when registering works only if they have previously registered it with EAÜ.

3.5. Registration of works of visual art

3.5.1. Visual artists are not required to register their works with EAÜ.

3.6. Registration of choreographic works

3.6.1. Authors of choreographic works are required to submit information to EAÜ in writing or in a format that can be reproduced in writing about the choreographic work to be registered and the musical work to which the choreographic work is performed.

3.6.2. The EAÜ Board approves the conditions and format of registration.

3.7. Registration of audiovisual works

3.7.1. Authors of audiovisual works are not required to register their works with EAÜ.

3.8. Registration of works by Heirs of Authors

3.8.1. The Heir of an Author of a musical work who is a member or client of EAÜ is required to provide EAÜ with information on the works created by the deceased Author if the Author was not a member of the EAÜ during their lifetime. The works of deceased Authors are registered by employees of the EAÜ Distribution and Documentation Department.

4. General principles of collecting and distributing Fees

4.1. The EAÜ as a collective management organisation has the right to exercise the economic rights of the holders of rights in works (including the right to collect Fees for them) under the agreements that EAÜ has concluded with the Authors who are members or clients of the EAÜ and their rights holders, as well as under the authorisations received from (agreements made with) other collective management organisations representing Authors and Publishers, i.e. partner associations. In certain cases, which are specifically set out by law, EAÜ has the right to represent the rights holders even without an authorisation.

4.2. The bases and rates for calculating the Fees paid to EAÜ for using works are:

4.2.1. established by the EAÜ Board unilaterally or as a result of bilateral or multilateral negotiations with users (or their representative organisations);

4.2.2. set out by law.

4.3. EAÜ relies on the following sources of information on the use of works:

4.3.1. the data in the reports submitted by the users of the works in accordance with their agreements with EAÜ;

4.3.2. the data sent by the users of the works in response to EAÜ's inquiries. Namely, EAÜ has the right to receive the necessary information about the use of works from all public and private persons;

4.3.3. the data submitted to EAÜ by the performers of the musical work;

4.3.4. the data sent by collective management organisations representing Authors and Publishers of other countries;

4.3.5. other sources.

4.4. EAÜ has the right to allow the use of works, but not to collect a Fee for the use of the works, if:

4.4.1. works are used at a charity event;

4.4.2. collecting a Fee for the use would be inefficient;

4.4.3. EAÜ has specifically agreed to that effect with the Author(s) and the user of the work(s).

4.5. EAÜ does not collect or distribute Fees for uses that the rights holder represented by EAÜ may license (permit) themselves, either under the law or a decision of EAÜ's governing bodies, except if the rights holder has agreed otherwise with EAÜ or the user.

4.6. The Fees EAÜ receives for the use of the works are distributed in stages:

4.6.1. In the first stage, it is decided which method will be used to distribute the received Fee. Depending on the method, the amount received is distributed either separately or added to other amounts and distributed together with the other amounts based on the same method. If the Fee received is distributed separately, the commission charged by EAÜ is first deducted from the Fee received for the particular use, in order to determine the amount to be distributed. If, according to the method, the Fee received for the particular use must be added to other amounts distributed using the same method and distributed together with these, the commission charged by EAÜ is first deducted from the received Fee before it is added to the other amounts.

4.6.2. In the second stage, the share of the Fee for a particular work is calculated and the Fee is distributed based on the number of times the work has been used, the duration of the work and the distribution scheme agreed between the Authors of the work (either on the basis of the automatic distribution key or a specific percentage).

5. Fee distribution methods

5.1. To distribute Fees fairly, reasonably and expediently, all areas of use for which EAÜ receives Fees have been divided into special usage groups. EAÜ uses different methods to distribute Fees falling under different usage groups. The method used to distribute the Fees in each usage group depends mainly on the importance of the works for the respective use, but also on the availability of data. The method used must ensure the fairest result for the rights holders, while being expedient and reasonable.

5.2. The main methods used by EAU in Fee distribution are as follows:

5.2.1. a detailed report – a repertoire report submitted to the EAÜ on the use of works, detailing all the works used. This is EAÜ's preferred method of Fee distribution.

5.2.2. selective report – a repertoire report submitted to EAÜ on the use of works, which contains data on the works used on a single day or in a single month, and which is used as the basis for distributing the royalties paid for the entire period of use (month, quarter or year).

5.2.3. analogy – an analogy-based distribution method where the collected royalty is distributed based on data that can be compared to a specific use according to certain attributes. The type of data used may include works from the core repertoire of specific performers, record sleeve data, data from other areas of use (for example, reports from broadcasters) and other materials.

5.2.4. survey – royalties are distributed according to a representative survey.

5.3. In the case of uses where EAÜ was unable to obtain a detailed or selective report or it was not reasonable to require such reports, the works participating in the distribution of Fees are determined based on data from other sources, in particular using the analogy and survey methods.

6. Data processing

6.1. Before starting to distribute Fees, it is important to process the data sent to EAÜ about the used works in order to determine the correct works and the rights holders involved in the Fee distribution process.

6.2. EAÜ prefers to processes data automatically. If automatic data processing is impossible or has not given results, data are processed manually.

7. Calculation of the value in use of works

7.1. The value of each use has to be calculated in order to distribute royalties. For this, EAÜ uses a duration method, meaning that the royalty is first divided by the total number of seconds of music used according to the report, from which the value per second is derived for the given distribution set. The value per second is then multiplied by the number of seconds each work was actually used to calculate the royalty for that particular work in that distribution set.

Example:

Royalty paid by User X during the distribution period	EUR 10,000
The total number of seconds of music used by User X during the distribution period	2,000,000
Value per second	EUR 0.005
The length of song A, i.e. of the actual duration during which User X used the song in the distribution period	2,000
Royalty for song A = actual duration of use of song A × value per second	EUR 10

8. Distribution of Fees for modified and altered works

8.1. If a copyrighted original work has been modified (arranged) or its Lyrics have been translated or new Lyrics have been created, the modifier/translator/creator of the new Lyrics will receive their share of the royalties for the work only if the holder of the rights in the original work has given their permission for the relevant modification or alteration to the modifier/translator/creator of new Lyrics. If no such permission has been forwarded to EAÜ, EAÜ distributes the collected Fees among the holders of the rights in the original work.

8.2. As an exception, EAÜ distributes the Fee received for the use of Estonian versions of musical works published in foreign countries and created by foreign Authors, without requiring a translation permit, also to the Authors of the translations represented by EAÜ, provided that the Estonian translation for the musical work was made and published and registered with the Estonian SSR Office of the USSR All-Union Agency of Copyrights before 12 December 1992[3].

[3] See Decision of the EAÜ General Meeting of 2015, Minutes No. 42.

8.3. The modifier/translator/creator of new Lyrics is entitled to a maximum of 16.67% of the Fee and this percentage may differ only if there is a special agreement between the owner of the rights in the original work and the modifier/translator/creator of new Lyrics. The Fee for the modifier/translator/creator of new Lyrics is deducted from the Fee paid to the composer or the Author of the original Lyrics, respectively.

8.4. In the event that the music or Lyrics of the original work is/are no longer protected by copyright, EAÜ treats the modifications or alterations of such works as original works.

8.5. The modifier/translator/creator of new Lyrics is entitled to their share of the royalties only if it is known that the modified/altered version has been used. In case of doubt or if it is impossible to determine whether the original or the modified/altered version has been used, the entire royalty will be distributed to the holder of the rights in the original work.

9. Identification of rights holders and distribution of Fees in case of incomplete documentation or unknown works

9.1. EAÜ is a member of CISAC, the umbrella organisation of international collective management organisations, and is therefore bound in its Fee distribution procedures by the Binding Resolutions agreed on by the members of CISAC.

9.2. If, during the Fee distribution, a work is identified for which the documentation at EAÜ's disposal is incomplete (i.e. not all rights holders of the respective work have been identified), but one of the parties has been identified by EAÜ's automated system or employee as a member of any of EAÜ's partner associations, EAU will forward all royalties for the work to the partner association, which will distribute the royalties according to its own documentation. In return, EAÜ has the right to receive correct information about the respective work from the partner association, so that EAÜ can correctly distribute the royalties for the work in the future. If the identified party is a member/client of EAÜ, then EAÜ will request the member/client to register the work.

9.3. A work that returns no match in the database and the royalties for which cannot be distributed is treated as an unknown work. Regarding such works, EAÜ generates a separate UP (Unidentified Performance) file according to the relevant international standard and makes it available to its partner associations and members (through the user interface) within three months of the expiration of the deadline specified in Article 13.1 of these Rules.

9.4. If the measures take to identify the owners of the rights holders are unsuccessful, EAÜ will publish the list of unknown works on its website within one year of the expiration of the three-month period referred to in Article 9.2 of these Rules.

9.5. If the rights holders are identified as a result of the measures taken by EAÜ, their unpaid royalties will be paid during the next distribution process.

9.6. EAÜ has the right to consider the amounts related to unknown works as non-distributable three years after the end of the budget year in which the revenue from the rights was collected, provided that EAÜ has taken every measure to identify and locate the rights holders.

9.7. The EAÜ Board decides on the use of non-distributable amounts for redistribution and/or financing cultural, social or educational services and/or using these amounts in another manner for the benefit of the rights holders.

10. Royalties to non-members

10.1. For the purposes of these Rules, a non-member is a rights holder who is neither a member nor a client of any collective management organisation.

10.2. As a rule, EAÜ does not collect royalties for the use of works created by non-members. If EAÜ has collected a Fee for works, the rights holders of which include non-members in addition to the rights holders represented by EAÜ, non-members are generally not paid their share of the Fee.

10.3. As an exception, non-members may apply to EAÜ within three years of the use of the work to claim payment of the part of the Fee due to them or the royalties for the use of the work created by them, in the following cases:

10.3.1. in the particular field of use, the rights holder can exercise their rights through a mandatory procedure only through a collective management organisation (for example, retransmission of works on a cable network and other cases specified in subsection 79 subsection 3 of the Copyright Act), and

10.3.2. EAÜ has agreed with the user operating in the respective field of use that EAÜ exempts the user from the claims of non-members, meaning that the Fee paid by the user also includes royalties for non-members.

11. Distribution of revenues not directly related to royalties

11.1. For the purposes of these Rules, revenues not directly related to royalties are understood as EAÜ's revenues that are not directly attributable to the royalties of any rights holder. Such revenues include:

11.1.1. interests on royalties pending distribution;

11.1.2. interests that EAÜ has received for late payment of license fees or other Fees and that are related to use for which the user is not required to submit a repertoire report to EAÜ or for which EAÜ has not been able to obtain a detailed or selective report;

11.1.3. penalties and late interests on penalties that EAÜ has received;

11.1.4. rental income.

11.1.5. Revenue not directly related to royalties is distributed once a year between the rights holders in proportion to their income and paid out as additional royalties. Also, EAÜ may use revenues not directly related to royalties in other ways for the benefit of rights holders, for example by paying grants, allowances to elderly members, etc.

12. Distribution methods across usage groups

12.1. Broadcasting

12.1.1. The Estonian broadcasting industry consists of the Estonian National Broadcasting Company (ERR) and private television and radio service providers.

12.1.2. The right of use that EAÜ grants to ERR and private television and radio service providers covers the rights to transmit, record and make available to the public.

12.1.3. ERR and private television service providers pay Fees to EAÜ on the basis of two separate agreements:

12.1.3.1. The first agreement covers the rights of using musical works, visual art works and choreographic works, i.e. the rights to record, transmit and make these works available to the public, and the Fee covers the use of all the three aforementioned types of works.

12.1.3.2. The Fee paid under the second agreement covers the rights of using audiovisual works (the rights to transmit and make these works available to the public) and the Fee is paid under subsection 14 (6) of the Copyright Act.

12.1.4. EAÜ has a single agreement with private radio service providers, the Fee collected under which covers the rights to use musical works.

12.1.5. Broadcasting organisations submit a repertoire report to EAÜ about the works they have transmitted. ERR submits a detailed report. Private television and radio service providers can submit either a detailed or selective report depending on the agreement and the amount of the license fee paid by the television and radio service provider to EAÜ.

12.2. Live performance of musical works.

12.2.1. Fees that EAÜ has collected for the performance of musical works at concerts and other events where musical works are normally performed live, as well as for the live performance of musical works in catering establishments, are distributed based on a detailed report provided by the organiser (or by the performers). In the absence of a detailed report, the analogy method is used for distribution.

12.2.2. Royalties from concerts with one main performer are distributed as follows: 80% according to the detailed report of the main performer and 20% according to the detailed report of the supporting act(s) preceding the main performer.

12.3. Theatre performances

12.3.1. Music Authors' Fees collected from theatre performances are distributed based on the theatre's detailed report of the music used in the performance.

12.4. The use of music in films

12.4.1. When distributing Fees for film music used in cinemas and film events, EAÜ proceeds from the film music sheet (detailed report) provided by the film producer, partner association or film music Author.

12.5. Mechanical background music

12.5.1. 12.5.1. Mechanical background music is music that is played not by the performer(s) of the music, but only through technical means, mainly in catering and accommodation establishments and trade and service establishments. EAÜ distributes the Fees received from the use of mechanical background music as follows:

a) based on a detailed report, if EAÜ has received such a report and its processing is reasonable in view of the amount of the Fee received;

b) using the analogy method, if no detailed report has been received or if the processing of a detailed report is not reasonable in view of the amount of the Fee received.

12.6. Retransmission

12.6.1. Fees collected from cable operators and other retransmitters of television programmes are distributed as follows:

a) Fees collected for television programmes produced in Estonia are distributed according to the reports received from the producer television organisation.

b) EAÜ forwards the Fees collected for foreign television programmes for distribution to the partner association in whose territory the original programme was produced.

12.7. Online use

12.7.1. EAÜ has signed agreements with several online music service providers. Considering the large amount of data associated with such uses, EAÜ decides the method of distributing the received Fees separately for each service provider.

12.7.2. The following methods are used:

a) based on a detailed report, if EAÜ has received such a report and its processing is reasonable in view of the amount of the Fee received;

b) using the analogy method, if no detailed report has been received or processing the detailed report is not reasonable in view of the amount of the Fee received;

c) a selective method, if the Fee received exceeds the costs of processing (for example, top 100 works); d) survey.

12.8. Recording

12.8.1. EAÜ distributes the Fees received from the recording of musical works (on audio or data media) based on the information provided by the producer in the recording application (detailed report).

12.9. Audiovisual works

12.9.1. Fees from the use of audiovisual works are distributed as follows:

a) fees received from television organisations – based on the detailed report from the television organisation;

b) fees received from cable operators – using the analogy method based on the reports from the television organisation;

c) fees received from VOD (video on demand) service providers – based on the detailed report from the service provider.

12.10. Works of visual art

12.10.1. Fees collected for Authors of works of visual art are distributed as follows:

a) fees received for reproduction – based on use in printed matter and other products (books, textbooks, magazines, newspapers, calendars, posters, stamps, etc.);

b) fees received for the resale of works of art by auction or through art galleries – based on the auction organiser's or art gallery's report on the works sold;

c) fees received from television organisations – based on the detailed report from the television organisation;

d) fees received from cable operators – using the analogy method based on the reports from the television organisation.

12.11. Combined use

12.11.1. If the license granted by EAÜ contains several different categories of rights, EAÜ may distribute the royalties received from the use based on the primary right distribution model.

13. Payment of Fees

13.1. EAÜ distributes and pays the amounts due to rights holders as soon as possible, but no later than nine months after the end of the financial year in which the Fee for the rights was collected.

13.2. EAÜ pays the amounts received from its partner associations to EAÜ members/clients as soon as possible, but no later than six months after receiving these amounts.

13.3. The deadlines stipulated in Articles 13.1 and 13.2 of these Rules do not apply if EAÜ cannot adhere to them for objective reasons, which are primarily related to user reporting, identification of rights and rights holders, or matching the details of the works and the rights holders, as well as in case a partner association has not submitted a correct report to EAÜ regarding the Fees transferred.

13.4. Royalties are paid to EAÜ members/clients once a month from a net amount of EUR 50 and once a quarter from a net amount of EUR 30.

14. Adjustment of payments

14.1. If there is a mistake in the royalty paid by EAÜ to a member/client or a partner association, EAÜ will correct the mistake and adjust the balance by either debiting or crediting it.

14.2. EAÜ is obliged to correct only payments that have been made during the past three years.

14.3. EAÜ applies a threshold of EUR 20 to the correction of member/client payments and a threshold of EUR 20 to the correction of payments to partner organisations, as the cost of processing corrections below these thresholds outweighs the value of the correction.

15. Complaints and claims

15.1. A person who submits a complaint to EAÜ and disputes the authorship of a work or the distribution of fee parts of the work is required to provide EAÜ with documents supporting their claim within 60 days.

15.2. If the complainant does not submit the relevant documents to EAÜ, EAÜ will not initiate proceedings, and the distribution of royalties will continue according to the current registration.

15.3. Upon receiving the relevant documents from the complainant, EAÜ will forward them to the person whose rights to the work are being disputed (hereinafter referred to as the respondent). The respondent then has the right to submit documents confirming their rights within 60 days

from the receipt of the relevant documents from EAÜ. Until the documents are received from the respondent, EAÜ will continue the distribution of royalties according to the current registration.

15.4. If the respondent does not submit documents to EAÜ within the timeframe specified in Article 15.3 of the Rules that confirm his rights, EAÜ will re-register the disputed work based on the documentary information received from the complainant.

15.5. The deadlines for submitting evidence specified in Articles 15.1 and 15.3 of the Rules do not apply to disputes concerning publishing agreements where the disputing parties are publishers. In such disputes, the publisher who submits the complaint must provide EAÜ with documents supporting their claim within 21 days. The publisher who is the respondent must, in turn, submit documents confirming their rights to EAÜ within 21 days after EAÜ has forwarded the documents received from the complainant publisher.

15.6. If EAÜ receives the relevant documents from the respondent within the timeframe specified in Articles 15.3 or 15.5, EAÜ will suspend the payment of royalties for the disputed work in its entirety, and the work will move to the status of disputed works.

15.7. If a work is disputed, EAÜ requires either a court decision or a written agreement between the disputing parties to remove the work from disputed status.

15.8. EAÜ is obligated to respond to complaints about the distribution and payment of royalties submitted by members and clients or partner organizations within one month. EAÜ is only required to correct payments that were made within the last three years.

15.9. EAÜ is obligated to satisfy claims for payment of royalties submitted by non-members if:

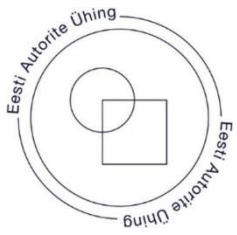
15.9.1. The usage area is one where rights holders can only exercise their rights through a collective management organization (for example, retransmission of works via cable networks and other cases specified in §79 (3) of the Copyright Act), and

15.9.2. EAÜ has agreed with a user in the relevant usage area that EAÜ will relieve the user of claims from non-members, meaning that the payment made by the user also includes royalties for non-members, and

15.9.3. The claim is submitted within three years from the date of the work's use.

15.10. If the disputing parties cannot reach an agreement, either party has the right to turn to a conciliator or the Harju County Court to resolve the dispute. The conciliator can be the Copyright Commission, or one or more individuals chosen by the parties who meet the conditions specified in the Conciliation Act.

15.11. In resolving disputes concerning the distribution and payment of royalties with partner organizations, EAÜ will adhere not only to the provisions of Article 15 of these Rules but also to the agreements made in representation contracts.



Annex 1

Automatic distribution key for musical works

Option	Music (C)	Lyrics (A)	Translation or new Lyrics (SA)	Arrangement (AR)	Publisher (E)	Condition
1	50	50	–	–	–	
3	33.33	50	–	*16.67	–	*Approval required from the Author of Lyrics
4	33.33	33.33	*16.67	*16.67	–	*Approval required from both the Authors of music and Lyrics
5	33.33	50	–	–	16.67	Music has been published
6	50	33.33	–	–	16.67	Lyrics have been published
7	33.34	33.33	–	–	33.33	Both music and lyrics have been published

Annex 2

Automatic distribution key for audiovisual works

	Feature film	Documentary film	Animated film	TV series
Director	40%	45%	40%	35%
Scriptwriter	25%	25%	20%	35%
Cinematographer	20%	30%	10%	20%
Art director	15%	0%	30%	10%

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