

QUESTIONNAIRE – ALAI CONGRESS 2018 – MONTREAL

Since the congress theme should attract many copyright practitioners, the Canadian group has chosen to develop a questionnaire which you are asked to complete with succinct answers, in either **French, English or Spanish**. The answers will be compiled in an analytical table that will be given to congress participants so that they can leave with a document allowing them to quickly compare the situation prevailing in several countries.

It is therefore essential to complete the table below by briefly answering each question. We invite you to refer to the legal provisions that apply in your country, if any.

For national groups who would also like to provide additional information related to certain questions, we ask you:

1) to indicate "* see also answer No. X below" after the short answer that you have provided in the table.

2) to put your more detailed answer after the table.

Please note, however, that only the answers to the table will be compiled in the practical tool that will be given to the participants.

<p align="center">__FINLAND__ Country__</p> <p align="center">Name of the person(s) answering the questionnaire Rainer Oesch_&_Jukka Liedes</p>											
QUESTIONS FOR THE SUMMARY TABLE	1) Are statutory damages available? If so, please indicate the criteria for awarding them and the amount of such damages.	2) If punitive damages are available, indicate the criteria for awarding them. No.	3) Are class actions or class remedies available in copyright matters? If so, indicate in what circumstances they are used.	4) If seizures before judgment are available, indicate what gives rise to such procedures and the criteria for granting them.	5) Are there in your country 1) criminal remedies; 2) customs measures, in connection with copyright? If so, which ones?	6) Describe how circumvention of technological protection measures is dealt with, if such is done.	7) Is there a mandatory notice and notice regime or notice and take down regime for intermediaries in the case of alleged copyright infringement? If so, describe it briefly, and indicate if how it is dealt with differs based on which rights holder requests it.	8) Does the notion of secondary copyright infringement in the digital world exist in your country? If so, describe it briefly.	9) Indicate for which rights collective management is available.	10) With respect to collective management, indicate who sets the tariffs and how they are set.	11) Indicate whether copyright remedies are within the power of specialized courts or common law courts, and in the case of a mixed system, please specify in which cases an action should be brought before one rather than the other.
ANSWERS TO QUESTIONS FOR THE SUMMARY TABLE	1) Yes. FinnCopAct Section 57. -depending on the level of the culpability: compensation + damages (See 1	Not possible (See 2 below)	Class action applied to consumer – enterprise – relationship only	Yes. Preliminary injunctions possible in copyright cases. procedural Code Ch 7, Section 3.	1)Yes: criminal sanctions for copyright violation 2) EU regulation	Yes. FinnCopAct Section 56 b Violation of technical measures (InfoSoc, Article 6)	Permanent or Interim order on discontinuation order FinnCopAct Section 60 b and 60 c	No such notion in proper terms in the area of copyright. (See 8 below)			

below)

FURTHER QUESTIONS (OPTIONAL)

QUESTION: Are there recent legislative or jurisprudential developments in your country that would be interesting to share with the ALAI public?

ANSWER :
According to the law full compensation & damages is the main rule.
But in case law – partly because of the lacking evidence – maybe the level of compensation can be described to be low in cases of file sharing. Some negative tendencies of so called warning letters can have had an influence here.

QUESTION: Are there any special remedies in your jurisdiction that, to your knowledge, are less or not available in other jurisdictions?

ANSWER : Probably no such remedies

QUESTION 1: (additional remark)

Damages; if wilful or negligent:

- the court evaluates on the basis of fact evidence; amounts have been quite modest during the last few years; especially for illegal file sharing.

QUESTION 2: (additional remark)

No punitive damages; because, according to the traditions of the domestic legislation, these damages are not covered by the general law of torts.

QUESTION 8:

CJEU cases, as Svensson, GS Media v Sanoma etc. may have an impact to future jurisprudence; however, no such effects visible for the moment.

QUESTION 9:

Rights subject to collective management; often supported by provisions on the ECL in the Copyright Act:

- right of reproduction (mechanical music rights, reprography)
- right of distribution
- right of communication (broadcasting, retransmissions, internet streaming)
- right of public performance (to the members of the public present in the place of performance)
- right of public display

QUESTION 10:

The levels of remuneration collected by the collecting management organisations are normally negotiated between a representative organisation of users and the CMO.
When no representative organisations of users do not exist, remunerations are subject to negotiation between single users and the CMO

QUESTION 11:

Specialized Court (Market Court):

- civil claims in the context of infringes, as well as
- petitions, disputes, confirmations and injunctions

General Courts:

- criminal cases / cases based on criminal procedure