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## **Highest Court of Europe reinforced the legitimacy of private copying levies and their role for the European cultural scene**

On 11<sup>th</sup> July 2013, the Court of Justice of the European Union (CJEU) delivered a very important preliminary ruling in Case 522/21 between Amazon and Austro-Mechana (the Austrian collective management society for reproduction right and a member of GESAC) confirming that part of the levies collected from the sale of recording media can be used for cultural and social purposes, which was challenged by Amazon.

In a large number of EU countries, the law provides for the use of a percentage of the revenues collected as private copying levies for social and cultural purposes. In 2011, 17 of GESAC member authors' societies (from 14 EU countries) alone spent 171 622 960 EUR for social and cultural purposes, three times the amount of the EU budget for Culture. A large part of this amount comes from the remuneration for private copying and is used to finance films, music festivals, awards, trade fairs, support schemes for risky or niche repertoires such as contemporary musical creation, training for authors and emerging artists.

The judgement also gives guidance on practical implementation of levies both nationally and in cross-border trade by confirming that reimbursement procedures for the levies paid for devices that are not in the end used for private purposes are in compliance with the EU law, as long as they are effectively applied and do not constitute an excessive burden for those who are entitled for reimbursement.

Two weeks ago, in its VG Wort judgement of 27<sup>th</sup> June on the Joined Cases C-457/11 to C-460/11, the CJEU once again underlined that if a Member State provides for a private copying exception, it should be accompanied by 'fair compensation'. That compensation is to compensate authors for the reproduction, without their authorisation, of their protected works. Indeed, this is an essential part of the copyright income for authors and composers and represents approximately 5% of authors' earnings in Europe.

The CJEU also ruled that the possibility of applying technological measures cannot render inapplicable the condition relating to fair compensation provided for by the Copyright Directive 2001/29/EC.

It is important to note that these two decisions clearly recognise the value and efficiency of the private copying compensation system that is today being widely opposed by the importers of recording media, mainly non EU companies, and was recently unfairly questioned by the mediator Mr Vitorino, who by large followed their line.

**About GESAC:**

The European Grouping of Societies of Authors and Composers (GESAC) represents 33 of the main copyright management societies (authors' societies) in the European Union, Iceland, Norway and Switzerland, administering the rights and remuneration of almost 800 000 authors, composers and writers in a variety of sectors (music, audiovisual, literary and visual and graphic arts) and music publishers. Behind authors' societies are thus hundreds thousands of authors and composers who are members of these CMSs and managing and controlling them.

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