

To accompany the explanatory memorandum of the
Draft Act Amending the Copyright Act
(transposition of copyright directives)
Appendix 1

Correlation table with Directive (EU) 2019/789

Provision of EU legislation	Obligation to transpose a provision of EU legislation	National legislation to be enacted for the substantive implementation of a provision of EU legislation	Comments
Art. 1	No	-	The Article specifies the subject matter and scope of the Directive. Transposition is not required.
Art. 2 clause 1	Yes	Subsection 73 (7) of the Copyright Act	
Art. 2 clause 2	Yes	Subsection 10 ³ (1) of the Copyright Act	
Art. 2 clause 3	Yes	Subsection 10 ³ (3) of the Copyright Act	
Art. 2 clause 4	Yes	Subsection 10 ⁴ (1) of the Copyright Act	
Art. 3(1)	Yes	Subsections 73 (4), (5) of the Copyright Act	
Art. 3(2)	Yes	Subsection 73 (6) of the Copyright Act	
Art. 3(3)	Yes	Subsection 73 (4) of the Copyright Act	
Art. 4(1)	Yes	Subsection 79 (3) of the Copyright Act	
Art. 4(2)	Yes	Subsections 79 ¹⁷ (1), (2) of the Copyright Act	
Art. 4(3)	Yes	Subsections 79 ¹⁷ (3), (4) of the Copyright Act	
Art. 5(1)	Yes	Subsection 79 ¹⁷ (5) of the Copyright Act	
Art. 5(2)	Yes	Subsection 79 ¹⁷ (5) of the Copyright Act, sections 6, 14 of the Law of Obligations Act	
Art. 6	Yes	Section 87 of the Copyright Act	
Art. 7		Section 10 ³ of the Copyright Act	Estonia has made use of the option offered by the directive (provide that the rules for retransmission also apply to situations where both the initial transmission and the retransmission take place within their territory). Section 96 of the Copyright Act is repealed.
Art. 8(1)	Yes	Subsections 10 ⁴ (2), (3), (4) of the Copyright Act	
Art. 8(2)	No	Subsection 79 (3), subsection 79 ¹⁷ (4 ¹) of the Copyright Act	Estonia has made use of the option offered by the Directive (apply the mandatory extended collective management of rights also through the process of direct injection).

Art. 9	Yes	Subsection 10 ³ (2) of the Copyright Act	
Art. 10(1)	No		Review – the provision is aimed at the European Commission.
Art. 10(2)	No		For review, Member States shall provide the European Commission with the relevant and necessary information.
Art. 11	Yes	Subsections 88 ¹ (3 ⁵), (3 ⁶) of the Copyright Act	
Art 12(1)	Yes		Section 2 of the Draft, according to which the amendments to the Copyright Act enter into force on 7 June 2021. In addition, comment of legislative drafting (clause 55 of the Draft).
Art. 12(2)	No		According to the provision, Member States shall communicate the text of the measures of national law transposing the Directive.
Art. 13	No		Provision on the entry into force of the Directive
Art. 14	No		Addressees of the Directive

Correlation table with Directive (EU) 2019/790

Provision of EU legislation	Obligation to transpose a provision of EU legislation	National legislation to be enacted for the substantive implementation of a provision of EU legislation	Comments
Art. 1	No	-	The Article specifies the subject matter and scope of the Directive. Transposition is not required.
Art. 2 clause 1	Yes	Subsection 17 ¹ (2) of the Copyright Act	
Art. 2 clause 2	Yes	Subsection 17 ¹ (1) of the Copyright Act	
Art. 2 clause 3	Yes	Subsection 17 ¹ (3) of the Copyright Act	
Art. 2 clause 4	Yes	Subsection 73 ² (2) of the Copyright Act	
Art. 2 clause 5	Yes	Clause 2 1) of the Information Society Services Act	
Art. 2 clause 6	Yes	Section 57 ⁸ of the Copyright Act	
Art. 3(1)	Yes	Subsection 19 ¹ (1) of the Copyright Act	
Art. 3(2)	Yes	Subsection 19 ¹ (2) of the Copyright Act	
Art. 3(3)	Yes	Subsection 19 ¹ (3) of the Copyright Act	
Art. 3(4)	No	-	According to the provision, Member States shall encourage stakeholders (rightholders, research organisations and cultural heritage institutions) to define commonly agreed best

			practices concerning the application of Article 3 of the DSM Directive. See the meetings that have taken place in clause 10 of the Explanatory Memorandum to the Draft.
Art. 4(1)	Yes	Subsection 19 ² (1) of the Copyright Act	
Art. 4(2)	Yes	Subsection 19 ² (3) of the Copyright Act	
Art. 4(3)	Yes	Subsection 19 ² (2) of the Copyright Act	
Art. 4(4)	Yes	Subsection 19 ² (1) of the Copyright Act	
Art. 5(1)	Yes	Clause 19 (1) 3 ²) of the Copyright Act	
Art. 5(2)	No	-	The provision gives Member States the opportunity to apply specifications to the so-called educational exception. According to the Draft, Estonia will continue the current practice and no specifications will be applied to certain types of works.
Art. 5(3)	Yes	Subsection 19 (3) of the Copyright Act	
Art. 5(4)	No	-	The Directive gives Member States the opportunity to compensate the rightholder for the respective free use (e.g. educational exception). Estonia finds it expedient to continue the current practice, according to which it is not fully compensated free use (see subsection 27 ¹ (1) of the Copyright Act).
Art. 6	Yes	Clause 20 (1) 2) of the Copyright Act	
Art. 7(1)	Yes	Subsection 19 (2), subsection 20 (6) of the Copyright Act	
Art. 7(2)	Yes	Subsections 80 ³ (4), (5) of the Copyright Act	
Art. 8(1)	Yes	Subsection 57 ³ (1) of the Copyright Act	
Art. 8(2)	Yes	Section 57 ⁴ of the Copyright Act	
Art. 8(3)	Yes	Clause 57 ⁴ (1) 1) of the Copyright Act	
Art. 8(4)	Yes	Subsection 57 ³ (2), subsection 57 ⁴ (2), section 57 ⁶ of the Copyright Act	
Art. 8(5)	Yes	Section 57 ² of the Copyright Act	
Art. 8(6)	Yes	Subsection 57 ³ (1) of the Copyright Act	
Art. 8(7)	Yes	Section 57 ⁷ of the Copyright Act	
Art. 9(1)	Yes	Subsection 57 ³ (3) of the Copyright Act	
Art. 9(2)	Yes	Subsection 57 ⁴ (3) of the Copyright Act	

Art. 10(1)	Yes	Section 57 ⁵ of the Copyright Act	
Art. 10(2)	Partially yes	Section 57 ⁵ of the Copyright Act	According to the provision, Member States shall ensure that additional publicity measures can be taken. Each cultural heritage institution can organise these as necessary.
Art. 11	No	-	According to the provision, Member States shall consult rightholders, cultural heritage institutions and collective management organisations to establish criteria for assessing the object of rights outside the distributive network. See the meetings that have taken place in clause 10 of the Explanatory Memorandum to the Draft.
Art 12(1)	No	Subsection 57 ¹ (1) of the Copyright Act	Article 12 of the DSM Directive (option to enter into extended collective licence agreements) is optional for transposition to Member States, but if the option has been made use of (as is the case in this Draft), the procedure shall comply with the requirements of Article 12 of the DSM Directive.
Art. 12(2)	Yes	Clause 57 ¹ (2) 1) of the Copyright Act	
Art. 12(3)	Yes	Clauses 57 ¹ (2) 2)–4) of the Copyright Act	
Art. 12(4)	Yes	Subsections 57 ¹ (4), (5) of the Copyright Act	
Art. 12(5)	No	-	Pursuant to the provision, Member States shall notify the European Commission if the option to enter into extended collective licence agreements has been used. Estonia shall submit the respective notice once the Draft as proposed has entered into force as law.
Art. 12(6)	No	-	The provision contains obligations for the European Commission.
Art. 13	Yes	Section 87 of the Copyright Act	
Art. 14	Yes	Subsection 5 (9) of the Copyright Act	
Art. 15(1)	Yes	Subsections 73 ² (1), (3) of the Copyright Act	
Art. 15(2)	Yes	Subsection 73 ² (4) of the Copyright Act, subsection 370 (1) of the Law of Obligations Act	
Art. 15(3)	Yes	Subsection 25 ³ (1), clause 75 6) of the Copyright Act	
Art. 15(4)	Yes	Subsections 74 (1 ¹), (2), subsection 88 ¹ (3 ⁴) of the Copyright Act	
Art. 15(5)	Yes	Subsection 73 ² (5) of the Copyright Act	

Art. 16	No	Section 27 ¹ of the Copyright Act	Transposition of the provision is not obligatory, but the opportunity of the publisher to receive fair compensation in case of compensated free use is already included in the Copyright Act (section 27 ¹) currently in force.
Art. 17(1)	Yes	Subsection 57 ⁹ (1) of the Copyright Act	
Art. 17(2)	Yes	Subsection 57 ⁹ (2) of the Copyright Act	
Art. 17(3)	Yes	Subsection 57 ⁹ (6) of the Copyright Act	
Art. 17(4)	Yes	Subsection 57 ⁹ (3) of the Copyright Act	
Art. 17(5)	Yes	Subsection 57 ⁹ (4) of the Copyright Act	
Art. 17(6)	Yes	Section 57 ¹⁰ of the Copyright Act	
Art. 17(7)	Yes	Subsection 57 ⁹ (5), section 57 ¹¹ , Chapter IV, section 75 of the Copyright Act	
Art. 17(8)	Yes	Subsection 57 ⁹ (5), section 57 ¹² of the Copyright Act	
Art. 17(9)	Yes	Section 57 ¹¹ , clause 87 (1) 4 ¹) and subsection 87 (1 ⁴) of the Copyright Act	
Art. 17(10)	No	-	The provision obligates the European Commission to issue guidelines to Member States to facilitate the implementation of Article 17. The guidelines are being prepared and, to the knowledge of the Ministry of Justice, the intention is to publish them by the end of March 2021.
Art. 18(1)	Yes	Subsection 14 (1), subsection 68 (1) of the Copyright Act	
Art. 18(2)	No	-	According to the provision, Member States are free to use different mechanisms in the implementation of the obligation of fair and proportionate remuneration. In substantiating the principle of fair and proportionate remuneration, the Draft is primarily based on the general principle of implementing Chapter 3 of the DSM Directive (one party to the agreement is an author or performer who is a natural person and the other party to the agreement is a user) and the respective subsequent provisions (Articles 19–23 of the DSM Directive).
Art. 19(1)	Yes	Subsection 49 ¹ (1) of the Copyright Act	
Art. 19(2)	Yes	Subsections 49 ¹ (2), (3) of the Copyright Act	
Art. 19(3)	Partially yes	Subsection 49 ¹ (4) of the Copyright Act	According to the provision, the obligation to notify the user shall be proportionate. According to the

			second sentence of the provision, Member States may expressly provide for measures mitigating the notification obligation in the law of the Member State. The Draft has used the opportunity provided.
Art. 19(4)	No	Subsections 49 ¹ (5), (6) of the Copyright Act	According to the provision, Member States may in certain cases exclude the notification obligation altogether. The Draft has used the opportunity provided.
Art. 19(5)	No	-	The provision provides the Member States with the opportunity to apply specifications in the event of collective bargaining agreements. Because collective bargaining agreements are not very common in Estonia in the sectors in question, the Draft does not include any respective provisions.
Art. 19(6)	Yes	Subsection 49 ⁴ (1) of the Copyright Act	
Art. 20(1)	Yes	Section 49 ² of the Copyright Act	
Art. 20(2)	Yes	Subsection 49 ⁴ (1) of the Copyright Act	
Art. 21	Yes	Clause 87 (1) 4) of the Copyright Act	
Art. 22(1)	Yes	Subsection 49 ³ (1) of the Copyright Act	
Art. 22(2)	Partially yes	Subsections 49 ³ (4), (5) of the Copyright Act	The provision enables Member States to provide for specifications for establishing the procedure for “revoking the rights”, also the option to preclude unilateral termination of an agreement in certain cases. The Draft has used certain but not all the options (see the comments on respective provisions in the Explanatory Memorandum).
Art. 22(3)	Yes	Subsections 49 ³ (2), (3) of the Copyright Act	
Art. 22(4)	Yes	Subsection 101 (3) of the Law of Obligations Act	
Art. 22(5)	Yes	Subsection 49 ⁴ (2) of the Copyright Act	
Art. 23(1)	Yes	Subsection 49 ⁴ (2), subsection 87 (1 ³) of the Copyright Act	
Art. 23(2)	Yes	Subsection 49 ⁴ (3) of the Copyright Act	
Art. 24(1)a	Yes	Clause 19 (1) 3), clause 75 6) of the Copyright Act	
Art. 24(1)b	Yes	Clause 75 ⁶ 5) of the Copyright Act	
Art. 24(2)a	Yes	Clause 20 (1) 2) of the Copyright Act	
Art. 24(2)b	Yes	Clause 19 (1) 3), clause 75 6) of the Copyright Act	
Art. 24(2)c	No	-	The provision supplements Article 12(4) of Directive 2001/29/EC, which

			lists the tasks of a contact committee established pursuant to the Directive. Transposition of the provisions into the law of the Member States is not required.
Art. 25	No	-	In drafting amendments to Chapter IV of the Copyright Act arising from the DSM Directive, the current regulation on free use has been kept the same as much as possible.
Art. 26(1)	No	-	Provides for the application of amendments resulting from the Directive in time with the aim of ensuring that amendments resulting from the Directive are applied in respect of all objects of rights that are protected as at 7 June 2021. This approach is in line with the general logic of the Copyright Act. No specifications in the scope of protection are foreseen, so the provision does not need to be transposed separately.
Art. 26(2)	No	-	According to the provision, amendments resulting from the DSM Directive shall be without prejudice to any acts concluded and rights acquired before 7 June 2021. This approach is in line with the general logic of the Copyright Act. No retroactive effect is foreseen in this matter, so the provision does not need to be transposed separately.
Art. 27	Yes	Subsection 88 ¹ (3 ³) of the Copyright Act	
Art. 28	Yes	Subsection 2 (4) of the Copyright Act	
Art. 29(1)	Yes		Section 2 of the Draft, according to which the amendments to the Copyright Act enter into force on 7 June 2021. In addition, comment of legislative drafting (clause 55 of the Draft).
Art. 29(2)	No		According to the provision, Member States shall communicate the text of the measures of national law transposing the Directive.
Art. 30(1)	No		Review – the provision is aimed at the European Commission.
Art. 30(2)	No		For review, Member States shall provide the European Commission with the relevant and necessary information.
Art. 31	No		Provision on the entry into force of the Directive
Art. 32	No		Addressees of the Directive