

ESTONIAN AUTHORS' SOCIETY

TRANSPARENCY REPORT

01 January 2019 – 31 December 2019

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1. Foreword

You are facing the transparency report of Estonian Authors' Society (hereinafter as EAÜ) concerning the period 01 January 2019 – 31 December 2019.

By notifying the public about what we are, the structure and affiliation of our organisation and its financial data, we hope to increase the trust of both authors and their rightsholders' as well as of users towards us.

The transparency report of EAÜ has been compiled in conformity with the requirements set out in § 79¹⁶ of the Republic of Estonia Copyright Act (hereinafter as AutÕS).

2. What we are

EAÜ was founded on 8 October 1991 at the initiative of 16 Estonian people engaged in creative activities. EAÜ considers itself as the legal successor of the Estonian Authors' Protection Union, established in 1932 and active until 1940.

EAÜ is a non-profit public organisation which exercises authors' rights. EAÜ operates in accordance with the principles provided in AutÕS § 79 and exercises the authors' and their rightsholders' (heirs, publishers) copyright in the following categories, depending on transaction and law:

- musical works
- works of visual arts
- choreographic works
- audio-visual works

EAÜ's right of representation after the transaction arises from the authorizations received from the members of EAÜ and their rightsholders and from the authorizations received from the Estonian Association of Audiovisual Authors and other collective management organisations in foreign countries (via agreements).

The list of Estonian authors represented by EAÜ as well as the list of foreign countries where the collective management organisations are located, with which EAÜ has concluded representation agreements are available on EAÜ website: www.eau.org

Areas where EAÜ has a legal right of representation have been set out in AutÕS in § 79(3). Additionally, being a collective management organisation and pursuant to AutÕS § 79(7), EAÜ has a right to represent all the authors and their rightsholders without authorization in cases of obvious violation of their rights.

The intermediation of rights to use musical works forms the largest part of EAÜ activities. The reason for this is that just music is performed at the same time in very many places (radio, television, concerts, catering establishments, hotels, discotheques, e.g.), whereby not one but a huge number of works are used. Therefore, the field of use of musical works is the widest, undoubtedly requiring an intermediary organisation, namely, the existence of a collective management organisation in order to facilitate communication between users and authors of musical works. In Estonia EAÜ is the only organisation that grants licences for the use of musical works and collects remuneration for the authors of musical works or their rightsholders.

3. What copyrights we exercise

EAÜ exercises only proprietary rights that belong to the authors or their rightsholders. In accordance with mandates received from the members of EAÜ and other collective management organisations, EAÜ provides licences for the use of works in the following ways:

- public performance of works as a live or technically mediated performance (**right of public performance**);
- transmission or retransmission of works by radio, television, cable network, satellite and by means of other technical devices (**right of transmission and retransmission**);
- making works available to the public in such a way that members of the public may access these works at a place and time individually chosen by them, including via the Internet (**right of making available to the public**);
- reproduction of works on sound and video media, on film and on other similar media or device and distribution of them (**right of reproduction and synchronisation**).

Additionally, EAÜ is entitled to collect remuneration for the uses, where the authors can exercise their right to remuneration only through a collective management organisation. Inclusively, EAÜ is entitled to:

- collect remuneration for the reproduction of audio-visual work and sound recording of a work for private purposes;
- collect remuneration for the resale of an original work of art at a public auction or through an intermediary of an art gallery or dealers in works of art.

In general, the membership agreement concluded by the authors (or by their rightsholders) with EAÜ covers all the above-mentioned categories of proprietary rights, in other words ways of using the works. It covers also all the works created by the author and is generally valid

worldwide. Therefore, if the author so wishes, he/she may decide which categories of proprietary rights from the four above mentioned ones he/she transfers to EAÜ for exercise and which not and on which territories. However, the author cannot choose which works he/she transfers to EAÜ for exercise. Having become a member of EAÜ the author transfers all the works to EAÜ for exercise.

Authors who have joined EAÜ and the authors' rightsholders do not have to pay either registration or membership fees. EAÜ is entitled to take commission to cover the expenses made and the amount of which is fixed every year by the general meeting of EAÜ.

4. Description of legal and management structure

EAÜ is a private legal person. As all the collective management organisations founded in Estonia must act as non-profit organisations according to the requirements stipulated in AutÕS, EAÜ in its activities also follows Non-Profit Association Act. In addition, EAÜ in its activities is guided also by the principles and requirements to collective management organisations prescribed in AutÕS.

The highest management body of EAÜ is the General Meeting of its members. All the members of EAÜ may participate at the General Meeting. The General Meeting of EAÜ takes decisions on basic management issues of EAÜ, which have not been given into the competence of the Board or Revision Committee either by law or statutes. Within the present financial period one General Meeting of EAÜ has been held.

EAÜ activity is managed by the Board the members of which are elected for three years. At the General Meeting of 2017 the Board consisting of 8 members was elected to EAÜ, the members being Mikk Targo (chairman), Kadri Hunt, Helena Tulve, Olav Ehala, Tõnis Kaumann, Mario Kivistik, Eero Johannes, Juko-Mart Kõlar.

Everyday work of EAÜ is carried out by EAÜ office. Within the present financial period 22 people worked in the EAÜ office.

EAÜ has one wholly - owned private limited company: OÜ Estmusic Publishing (registry code 12943401), run by Mikk Targo. The private limited company was founded on 6 November in 2015 in order to carry out a project "Muinaslugu sinilinnust / Estonian Evergreens".

EAÜ activity is supervised by the Audit Committee the members of which are elected for three years by the General Meeting of EAÜ. At the General Meeting in 2017 Tajo Kadajas, Toivo Tulev and Margo Kõlar were re-elected into the Audit Committee for three years.

State supervision over the requirements that EAÜ as a collective management organisation must fulfil according to copyright act is exercised by the Ministry of Justice.

5. Information on refusals to enter into licensing agreements

Within the present financial period EAÜ has not refused to conclude any licensing agreement. Which means that all the users, who have applied to EAÜ with a wish to receive a licence to use the works, belonging into EAÜ repertoire in the categories where EAÜ provides licences, and who have accepted the rates of licence fees, that EAÜ applies on certain category or way of use, have been provided the licence in question by EAÜ.

6. Essential court cases

The most essential court case EAÜ has been continuously engaged in during the present financial period is a claim of EAÜ and other associations against the Government of the Republic.

Namely, on 25 April 2018 EAÜ together with Estonian Association of Phonogram Producers, Estonian Performers' Association, Estonian Association of Audiovisual Authors, Estonian Composers' Union, Association of Estonian Professional Musicians, Estonian Theatre Directors' Association, Association of Estonian Scenographers, and with Estonian Actors' Union submitted a new claim for compensation from the Government of the Republic for damage in the amount of € 48 524 441 for the years 2014-2018. In calculating the amount of the damage submitted to the court the rightsholders took into account the current Copyright Act, which sets out the rates of private copying fees for recording devices and storage media, and adapted them to newer technology, taking into account the practice of other countries. Volumes of devices and storage media have been calculated on the bases of the statements of Statistical Office on foreign trade.

The previous claim with the similar content against the Government of the Republic concerned the years 2010-2013 and was submitted only by three associations: EAÜ, Estonian Association of Phonogram Producers and Estonian Performers' Association. This administrative case has been finished by now and by court decision the Republic of Estonia was ordered to pay to EAÜ, Estonian Association of Phonogram Producers and Estonian Performers' Association €80 000 to compensate material damage caused.

In essence, the dispute lies in the fact that the Government of the Republic has not updated the list of recording devices and storage media on which the so-called blank tape levy fee is calculated and which was confirmed by Regulation No 14 of the Government of Estonia on 17 January 2006 "The procedure for payment of remuneration for compensation of the private use of an audio-visual work and sound recording of a work, the list of recording devices and storage media and the procedure for charging remuneration for the development of music and film culture and for the financing or use of training and research programs for other similar purposes."

A member state of the European Union has an obligation to create a mechanism to facilitate collection of the creators' fair remuneration for private copying in total from all the contemporary storage media and devices with recording function. Almost all the states use the system, where royalty is already included in the price of the device. According to the Estonian Copyright Act the similar system exists also in Estonia. However, the government regulation, that must state all the storage media on the market, has not been adapted to real life for years, containing only VHS-cassette, magnetic tape and compact disc.

Average compensation for private copying collected in the member states of European Union was €1.42 per person in 2015 and it was collected from all the devices with recording function and storage media. The discussion paper, compiled at the roundtable meeting convened by the Ministry of Justice in January 2020, aiming at the renewal of the system of so-called blank tape levy fee, presents the total amount of remunerations and numbers of residents of the member states of the European Union in 2016, on the basis of which the calculated average compensation rate is €1.57 per person. In Estonia the corresponding figure is 0 euro because

the devices and media that people use today have not been added into the Government Regulation that has stayed unchanged since 2006, which is the reason of our appeal to the court.

With the decision of 13 November 2019 Tallinn Administrative Court upheld the claim of EAÜ and other rightsholders in part and ordered the Government of the Republic to pay compensation in the amount of € 816 559 to the rightsholders for the damage caused within 2014 – 2018 and as cost of proceedings € 251.25.

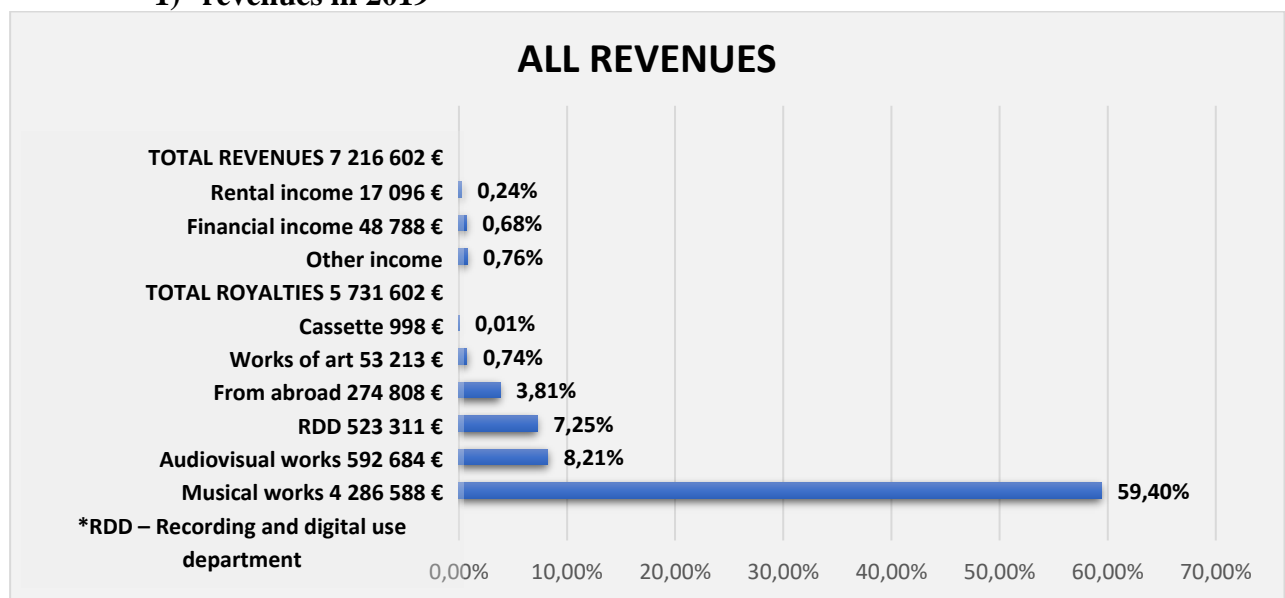
EAÜ and other eight previously mentioned organisations first appealed against this decision of Tallinn Administrative Court on the ground that the judge had made an essential calculation error, calculating the compensation for only one year and not for five years in question. In addition, a number of digital and smart devices have been disregarded in determining compensation, but which have been taken into account in the regulations of fair compensation in other European countries, thus putting Estonian people engaged in creative activities in a significantly worse position than their European counterparts.

The judge of the Tallinn Administrative Court Kaupo Kruusvee who made the decision admitted his calculation error but rejected the application to correct the calculation error. This inevitably leads to the question of whether the judge was free in his decision. As a matter of fact 800 000 euros was the sum which the previous Minister of Justice Urmas Reinsalu mentioned in his conversation with Kalev Rattus, Urmas Ambur and Rauno Haabmets in 2018 when it came to how much the Estonian state is willing to pay in connection with this case to the people engaged in creative activities.

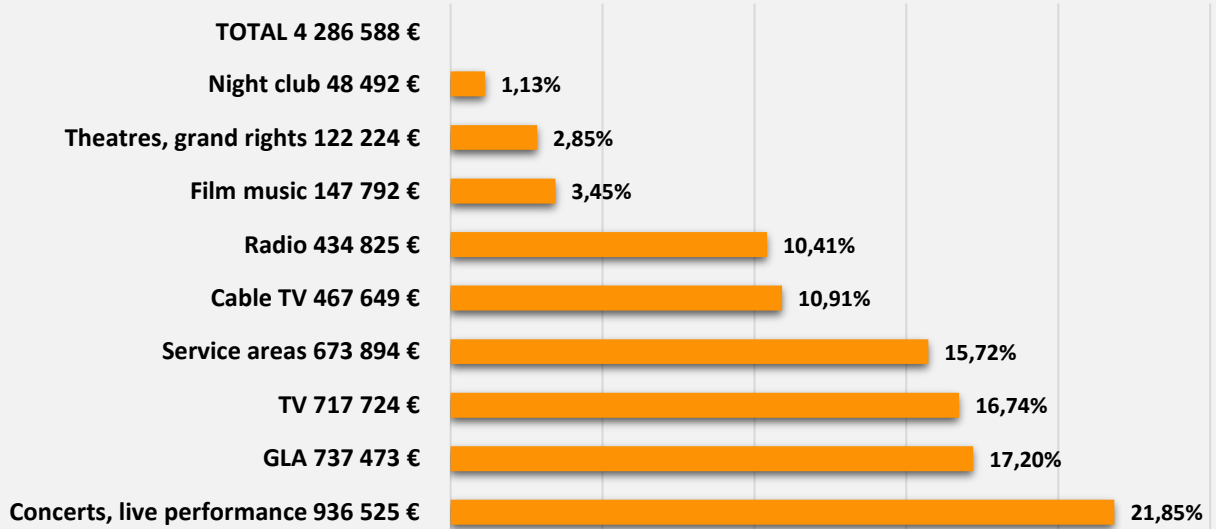
On 13 December 2019, EAÜ and eight other organisations lodged a substantive appeal against the decision of Tallinn Administrative Court with Tallinn District Court.

7. Financial information

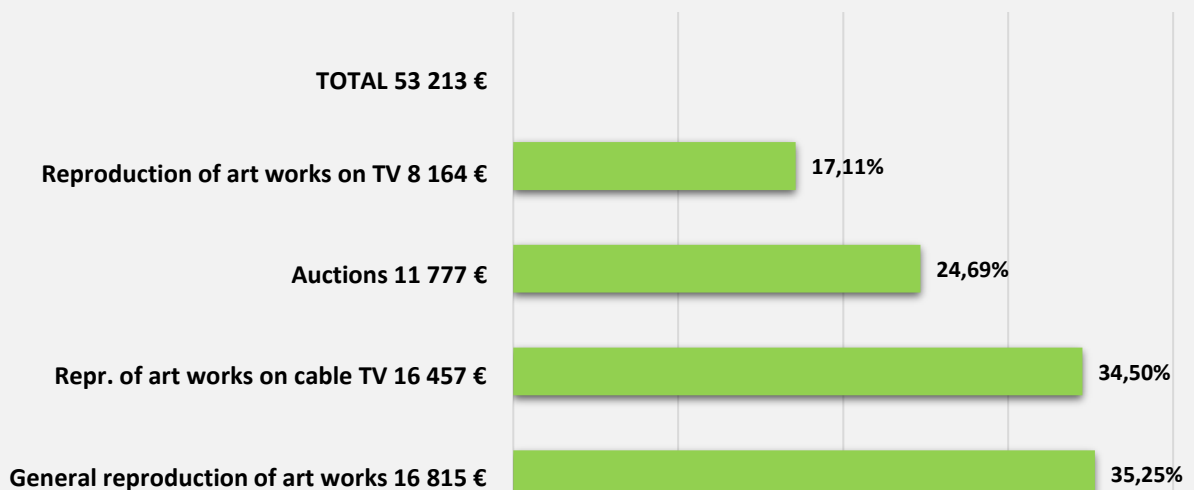
1) revenues in 2019



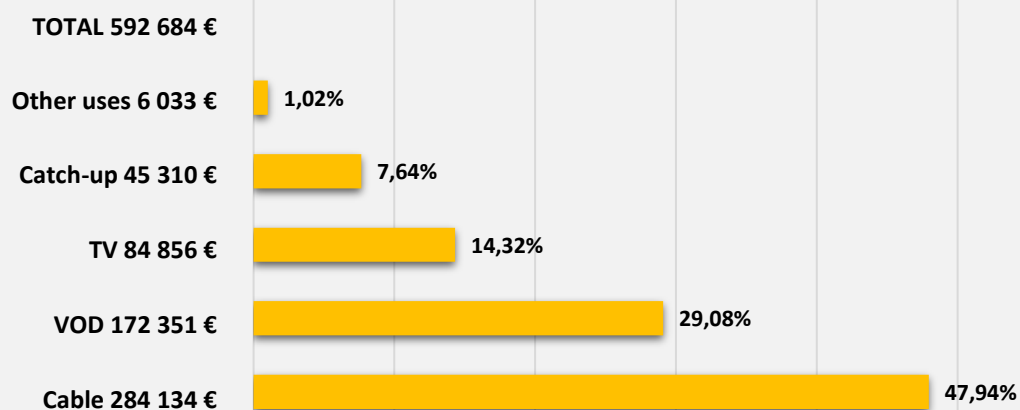
ROYALTIES FOR THE USE OF MUSIC



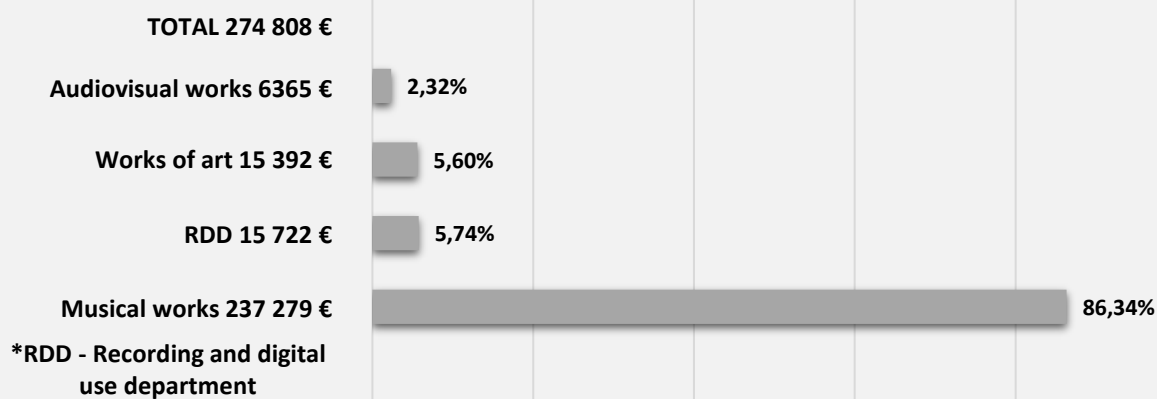
ROYALTIES FOR THE USE OF ART



ROYALTIES FOR THE USE OF AUDIOVISUAL WORKS



ROYALTIES RECEIVED FROM ABROAD

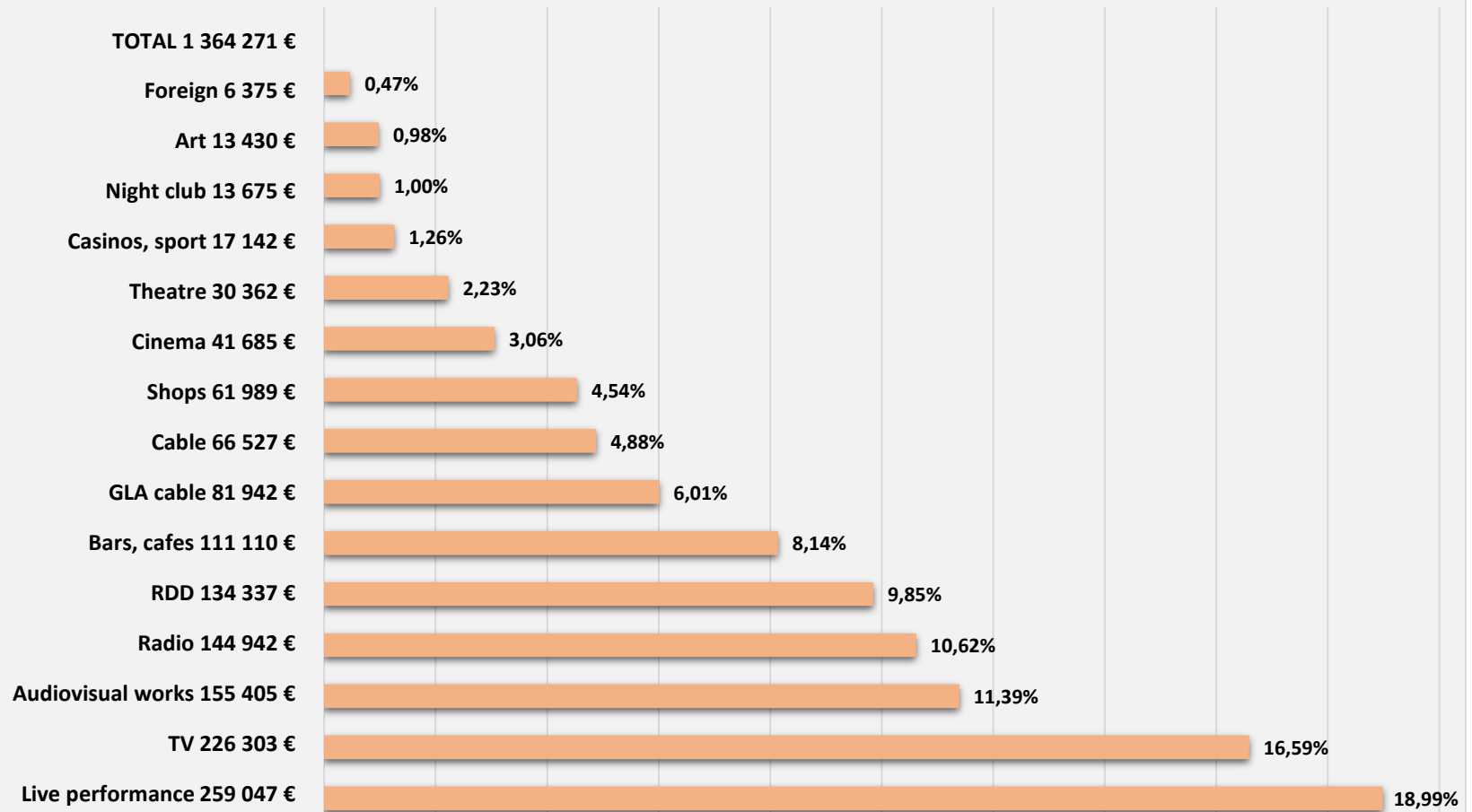


ROYALTIES RECEIVED FROM FOREIGN ASSOCIATIONS

amount	country	%
30 524	Germany	11.11
29 877	Sweden	10.87
28 698	USA	10.44
27 754	France	10.10
27 470	England	10.00
26 935	Finland	9.80
17 981	Denmark	6.54
13 571	The Netherlands	4.94
10 015	Latvia	3.64

9 925	Japan	3.61
6 185	Hungary	2.25
5 828	Lithuania	2.12
5 281	Switzerland	1.92
5 133	Spain	1.87
4 619	Portugal	1.68
3 934	Australia	1.43
3 455	Slovakia	1.26
3 093	Poland	1.13
2 903	Norway	1.06
1 936	Canada	0.70
1 904	Austria	0.69
1 872	China	0.68
1 477	Israel	0.54
1 350	Czech Republic	0.49
874	Brazil	0.32
560	South Korea	0.20
529	Romania	0.19
475	Russia	0.17
286	Ireland	0.10
182	South Africa	0.07
138	Belorussia	0.05
44	Armenia	0.02
274 808		100

COMMISSIONS



*RDD - Recording and digital use department

2) Expenses

Expenses in 2019	Euro	Euro	%				
				Incl. reception of guests		1 406	
				Incl. Baltic summer seminar		1 182	
WAGES	530 803		52.40	Incl. general meeting		629	
SOCIAL TAXES	177 058		17.48	PR EXPENSES	5 183		0.51
Incl. social tax		172 820		OFFICE EXPENSES & AUDIT	15 571		1.54
Incl. unemployment tax		4 238		Incl. office expenses		4 925	
OTHER TAXES	3 440		0.34	Incl. subscription to periodicals		1 346	
Incl. social tax on fringe benefits		1 793		Incl. auditing		9 300	
Incl. income tax on fringe benefits		1 183		INSURANCE	3 606		0.36
Incl. VAT on fringe benefits		0		ECONOMIC & OTHER COSTS	13 677		1.35
Incl. land tax		464		Incl. water consumption		574	
HEATING	2 608		0.26	Incl. IPI service to SUIISA		6 882	
ELECTRICITY	2 987		0.29	Incl. economic expenses		5 730	
SECURITY	1 119		0.11	Incl. other expenses		118	
PHONE, COMMUNICATION	5 146		0.51	Incl. control raids		373	
TRANSPORT				CISAC & OTHER MEMBERSHIP FEES	13 775		1.36
Incl. fuel		6 713		Incl. EAKO membership fee		4 035	
Incl. maintenance & repair		3 570		Incl. CISAC, GESAC membership fees		8 681	
Incl. parking		554		Incl. other membership fees		1 059	
Incl. use of personal car		2 176		TRAINING	1 031		0.10
DEPRECIATION	31 635		3.12	IMPROBABLE BILLS	712		0.07
BUSINESS TRIPS	29 303		2.89	EAÜ JUBILEE CD	0		0.00
LEGAL COSTS				PÄRNU HOLIDAY HOUSE COSTS	7 748		0.76
SOFTWARE MAINTENANCE	57 731		5.70	EMPLOYEES' HEALTH PROMOTION	4 105		0.41

POST	1 346		0.13	TOTAL	1 012 980		100
BANK CHARGES	743		0.07				
REPRESENTATION EXPENSES	3 217		0.32				

3) Payment of royalties

Royalties are paid to Estonian music authors on a monthly basis if the amount paid is €50 or more. Royalties in excess of €30 are paid quarterly.

Estonian art authors are paid royalties 1-2 times a year.

Estonian audio-visual authors are paid royalties once a year.

Foreign associations representing foreign authors are paid royalties at least once a year.

PAYMENT OF ROYALTIES IN 2019			
REMUNERATIONS PAID TO FOREIGN ASSOCIATIONS			
Radio	289 774	7.60	5.08
TV	382 142	10.02	6.69
Public Performance	521 083	13.67	9.13
Night Clubs	12 589	0.33	0.22
Cinema	308 698	8.10	5.41
Grand rights	6 864	0.18	0.12
Mechanical music	480 302	12.60	8.41
GLA	597 704	15.68	10.47
Cable	696 263	18.26	12.20
Art	19 753	0.52	0.35
Audiovisual	292 317	7.67	5.12
TOTAL	3 607 489	95	63.19
REMUNERATIONS PAID TO ESTONIAN AUTHORS			
Music	1 784 925	101.75	31.27
Art	48 228	2.75	0.84
Audiovisual	268 060	15.28	4.70
TOTAL	2 101 213	120	36.81
ALL IN TOTAL	5 708 702		100

9.Special report on the amount deducted during the financial year for the purpose of providing social, cultural and educational services

RESERVES in 2019					
	balance	in	out	redistribution	balance
	1.01.2019				31.12.2019
EXPENDITURE FUND	297 200		-97 173	198 473	398 500
DEVELOPMENT FUND	311 208		-249 647	253 619	315 180
SOCIO-CULTURAL FUND	564 742	204 344	-504 743	317 109	581 452
ROYALTY RISK RESERVE	150 000				150 000
FIXED ASSETS RISK RESERVE	60 000				60 000
	1 383 150	204 344	-851 563	769 201	1 505 132

FORMATION OF RESERVES IN 2019	
BALANCE OF RESERVES	735 931
COMMISSION	1 364 271
RENTAL INCOME	17 096
FINANCIAL INCOME	48 788
OTHER INCOME	54 845
UNALLOCATED ROYALTIES IN 2013-2014	328 262
IN TOTAL	2 549 193
EXPENDITURE OF EAÜ	-1 012 980
OTHER LIABILITIES	-31 081
	1 505 132
EXPENDITURE FUND	398 500
DEVELOPMENT FUND	315 180
SOCIO-CULTURAL FUND	581 452
ROYALTY RISK RESERVE	150 000
FIXED ASSETS RISK RESERVE	60 000
	1 505 132

EUR 1 383 150 were transferred to reserves from the balance of reserves in 2018 and unused commissions, financial income, rental income and unidentified royalties in 2018, increasing the amount in the Socio-Cultural Fund to EUR 564 742, Expenditure Fund to EUR 297 200, Development Fund to EUR 311 208, Royalties Risk Reserve to EUR 150 000 and Fixed Assets Risk Reserve to EUR 60 000.

The Development Fund financially supported various projects important for Estonian music life. Namely, by 1 February 2019, EAÜ received 130 support applications related to the Estonian internal project. Applications related to Estonian internal projects were reviewed by the Board of EAÜ and it was decided to provide financial support to 61 applicants in the total amount of 174 975 euros. Among the large beneficiaries the following could be mentioned: Estonian Composers' Union, Estonian Association of Phonogram Producers, Festival AFEKT,

Lootsi Koda, Estonian Music Council. More detailed information on Estonian internal projects, which the Board of EAÜ decided to support financially in 2019, can be found on the EAÜ website: https://www.eau.org/wp-content/uploads/2014/02/EAÜ_poolt_2019_eraldatud_toetused-1.pdf

EUR 75 000 was allocated by the Board of EAÜ to provide financial support for export projects. By 1 February 2019, EAÜ received 40 support applications related to export projects. These projects were reviewed by special 5-member committee (Heidi Kiisa, Timo Steiner, Peedu Kass, Priit Pajusaar and Mikk Targo), that decided that 33 export projects deserved support. In the autumn of 2019, another round related to export projects took place, where the same committee decided to consider another 19 export projects worthy of EAÜ's financial support. More detailed information on the projects that received financial support from the export support program in 2019 can be found on EAÜ website: <https://www.eau.org/wp-content/uploads/2014/02/Muusika-ekspordi-toetuse-taotlused-2019-I-pool.pdf>
<https://www.eau.org/wp-content/uploads/2019/10/2019.a.-eksporditoetuste-teine-voor.pdf>

As has already become a tradition every year EAÜ also funded the annual award for the musical design of the best theatre performance and original music issued by the Estonian Theatre Association (prize amount 2000 euros) and again supported by a financial prize also the Estonian authors who won the song contest „Eesti Laul“ (prize amount 3000 euros).

The members of the Board and Audit Committee of EAÜ were paid from the Expenditure Fund for their participation in the work of the Board 55 905 euros in 2019 and a one-time bonus was paid to the employees of EAÜ in the amount of 41 295 euros for good results in 2018. For comparison, in 2018 the remuneration paid to the members of the Board and Audit Committee of EAÜ from the same fund was 60 588 euros and the one-time bonus paid to the employees of the office was 39 100 euros.

During the financial period, Socio-Cultural Fund received 211 660 euros, which has been deducted from payments made to foreign associations. Namely, under the agreements concluded with some foreign associations representing music authors, EAÜ is entitled to deduct a certain percentage for the socio-cultural support of its members. In 2019, 66 250 euros were paid out of the fund as a one-time financial support to music authors who were at least 65 years old and members of EAÜ. The criterion is that the respective author must have been a member of EAÜ for not less than 5 years, the author must have received royalties, his/her works must have been registered and he/she must have reached the age of 65 by the beginning of 2019. By comparison, it can be said that in 2018 the older authors received financial support in the amount of 49 000 euros.

In 2019, also a one-time additional payment of royalties in the total amount of 438 493 euros was made from the Socio-Cultural Fund to 669 music authors who had received at least 200 euros during the financial period. For comparison, in 2018 EAÜ paid additional royalty to 565 music authors in the total amount of 147 672 euros.