

Public Lending Right in Latvia

History and legal background

The eligibility of authors for remuneration for the public lending of their works was first asserted by the Latvian Copyright Law passed on 6 April 2000 – but the Law bore a transitional stipulation that payment to authors for works circulating in libraries financed from the State budget or from the budgets of local governments would not become a reality until January 2003. The Government did not actually establish a PLR system until 2004.

On 22 April 2004 the Copyright Law was amended with a special section on public lending. This amendment stipulated that the Cabinet would determine the procedures for calculating the amount of remuneration for public lending by State and local government libraries, as well as procedures for the proportional distribution of remuneration among authors, performers, phonogram and film producers. Subsequently, on 27 April 2004, the Cabinet adopted the Regulations Regarding Public Lending, thereby completing the legal framework for Latvia's PLR scheme. Both librarians and the representatives of authors were consulted during the drafting process.

According to the aforementioned Regulations, this remuneration is calculated by taking into consideration the amount of money granted by the State and local governments for increasing library collections. For the year 2003 the sum of remuneration was set at 7 % of the expenses for the increase of collections in 2002. According to transitional provisions included in the Regulations for Public Lending, this sum will be raised by 0.5% per annum until it reaches the 10 % level in 2009.

In accordance with Article 5, Paragraph 3 of Directive 92/100/EEC, the amount of remuneration shall not take into account financing for the increase of collections that is allocated to libraries for visually and/or hearing impaired persons.

The Ministry of Culture calculates the amount of PLR remuneration for the current year and submits a budgetary request for the following year. As soon as the Cabinet grants the requested amount for further distribution, the sum is transferred to the Copyright and Communication Consulting Agency/ Latvian Authors' Association (AKKA/LAA) – a multi-repertoire collective management organization authorized to administer PLR in Latvia by the Ministry of Culture. After annual statistical sampling determines which works, phonograms and film copies have been lent by libraries and the frequency of their lending, AKKA/LAA distributes the sum among authors, performers, film and phonogram producers.

The Ministry of Culture initially failed to secure the required sum in the State budget, and authors therefore spent more than a year and a half waiting for their remuneration to be transferred to AKKA/LAA. The possibility of legal action against the Government for its failure to fulfil its obligations was considered, but the funding was finally received in December 2005.

The PLR scheme in action

a) Statistical research

The first statistical research analysing which books, phonograms and film copies were lent by libraries and the frequency of their lending in 2003, 2004 and 2005 was commissioned by AKKA/LAA in the summer of 2006. It covered lending by 10 libraries, selected on a regional basis. In February-March 2007 additional statistical samples for loans made in 2005 was taken in another six libraries. Since electronic data for library loans will only be available from 2006 onwards, the data for the previous years had to be processed manually in all libraries but one. The costs of the research were reimbursed by AKKA/LAA.

b) Distribution

Because the Regulations for Public Lending provide rather general outlines of the scheme and are focused primarily on the legal framework and financing, the rules for distribution applied to different categories of authors were to be decided by the rights holders themselves. A special commission formed by AKKA/LAA and representatives of the Writers' Union of Latvia and the Artists' Union of Latvia agreed upon the following shares:

* <i>author of the text</i>	100%
* <i>translator</i>	50% (prose), 60% (drama), 75% (poetry)
* <i>illustrator</i>	share to reflect contribution (calculated in addition to author's/ translator's share)
* <i>compiler</i>	5% (if material of 5 or less authors is compiled) and 25% (if material of more than 5 authors is in question)
* <i>adaptor</i>	50%

Of the remuneration for phonogram lending, 40% is allocated to composers and authors, while 60 % goes to producers and performers. Publishers are not included in the PLR scheme.

In order to receive PLR remuneration, each author must submit an application form for each of his or her books, naming any co-authors and indicating the volume of illustrations¹.

In December 2006 the first PLR distribution was carried out in Latvia, covering book loans and loans of non-book materials in 2003 and 2004. The sum of 212 387.17 LVL (302 201.43 EUR) was paid out to 1089 authors. 722.89 LVL (1028.59 EUR) was transferred to the Latvian Performers' and Producers' Association (LaIPA) for further distribution to neighbouring rights holders.

The second and most recent distribution took place in March 2007 when 1207 authors received the total amount of 114 754.86 LVL (163 282.38 EUR) for public lending in 2005. 650.89 LVL (926.14 EUR) were paid out as the producers' and performers' share.

No maximum or minimum thresholds are set for the amount payable. The highest sum paid to a single author per annum was 3952, 50 LVL (5623, 93 EUR), the smallest 0, 02 LVL (0,03 EUR).²

¹ for those authors who already had agreements with AKKA/LAA before PLR scheme was launched, filling of applications is not a compulsory matter, however they are encouraged hand in lists of their works to ensure that not a single book is missed in statistical sample. Composers and other authors entitled to receive remuneration for the lending of their sheet music and/or phonograms do not need to apply for PLR as most of them are already represented by AKKA/LAA and receive their payments in PLR distribution according to the lending data from libraries. Payments for non-book material constitute only 3 % of the whole amount distributed;

² such small sums are usually added to higher ones paid to authors by AKKA/LAA for the exploitation of their works other than public landing, e.g. public performance or broadcasting.

PLR as a cultural benefit

Though it was designed to be part of the copyright system and operates as such, and though the primary idea behind it is to compensate the use of authors' works in non-commercial lending, the Latvian PLR scheme is also a tool for cultural support. The fact that only a few writers in Latvia make their living as writers is no secret – for others, literature is more of a hobby than it is a profession. The introduction of PLR offers the hope that annual payments to authors will serve not only as acknowledgement for work done but also as an encouragement for their further creative endeavours. Moreover, as soon as the first payments were made it became clear that PLR would be a kind of social support for senior writers.

Not only authors profit from the PLR system. Librarians find the annual surveys quite useful – they get a detailed picture of reading trends on a broader scale, and this helps them to plan the increase of library stocks.

Administering organisation and future developments

As mentioned above, The Ministry of Culture has accredited a non-governmental authors' organisation, AKKA/LAA, to administer PLR in Latvia. A multi-repertoire collecting organization that was founded in 1995, AKKA/LAA administers authors' musical, literary, visual and audiovisual rights. It represents more than 3500 national authors and has reciprocal representation agreements with 96 sister organisations worldwide. Its 2006 collections totalled 2 929 535 LVL (4 168 376, 40 EUR).

In addition to the legally stipulated 0.5 % annual increase of PLR remuneration till 2009, some funding is expected to come from private libraries that are accessible to the general public. AKKA/LAA currently negotiates new PLR Regulations with the Ministry of Culture to ensure a clear scheme for private lending institutions – the libraries of private educational institutions, companies, etc. The percentage to be paid by these institutions is the same as it is for libraries funded by the State or local authorities. The new Regulations are to be implemented by September 2007.

In conclusion, some remarks on digital matters in the context of PLR. The situation in the field of digitalisation in Latvia remains rather ambiguous. The National Library of Latvia has launched the so-called "Digital Library Project", but until now only the digital copies of works in public domain have been made available to users. Collective administration of authors' rights in the Internet, executed by AKKA/LAA, currently covers only audio-visual works. Authors administer their rights themselves when literary works are concerned.

All in all, the long-awaited PLR scheme has already established itself as an integral part of the Latvian cultural landscape. Its further development is indeed a pleasant task to manage.