
| RESEARCH ARTICLE

Intensity of interference with authors' rights to manage their rights in Slovenian law - aspects of EU law and comparative legal aspects

Eneja Drobež

Associate Professor, Department for Civil and Commercial Law, European Faculty of Law, Nova University, Nova Gorica, Slovenia

Corresponding Author: Eneja Drobež **E-mail:** eneja.drobez@epf.nova-uni.si

| ABSTRACT

The Directive 2014/26/EU introduced common rules on the management of CMOs, which strengthen the position of rightholders as members of these organizations and ensure their effective participation in decision-making. Ten years after its adoption, the European Commission is examining whether Member states have successfully implemented it, and its attention has also turned to Slovenia. The Commission emphasizes that the Slovenian legal framework still operates in a paternalistic manner and does not fully recognize authors' exclusive rights to their works, which is contrary to EU law. In this article, we will examine whether Slovenian legislation restricts rightholders more severely in the management of their rights than other Member States. We will explore the different forms of collective management, examine how Slovenian legislation takes them into account. Next, we will consider the copyright legislation in comparative law, in Austria, Germany and Croatia. In assessing the effectiveness of CMOs, this article limits itself to comparative legal aspects, which dictates the use of comparative legal research methods. The purpose of the article is to determine whether the Slovenian copyright law is a special case that warrants greater attention from the European Commission as in other MS. The article will contribute to the interpretation of the relationship between the European Commission and MS in determining infringements in the field of the implementation of EU copyright law.

| KEYWORDS

Copyright, EU law, collective management of copyright and related rights, comparative law, European Commission, infringement procedure

| ARTICLE INFORMATION

ACCEPTED: 01 March 2026

PUBLISHED: 12 March 2026

DOI: 10.32996/ijlps.2026.8.3.3

1. Introduction

The purpose of the Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market (European Parliament & Council, 2014) was to establish a uniform legal framework for the operation of collective management organizations (CMOs) in the Member States of the European Union (MS) and to improve the protection of rightholders and the transparency of the operations of these organizations. The Directive stems from the observation that CMOs perform an important intermediary function between rightholders and users of protected works, as they grant licenses for the use of works on behalf of rightholders, collect royalties, and distribute them to beneficiaries. Due to the great economic and legal importance of these organisations, the EU legislator has assessed that minimum standards for their operation should be ensured at EU level, in particular with regard to internal management, financial discipline, supervision and transparency. That being said, the implementation of the directive has not fully achieved its purpose, partly due to the fragmentation of copyright rules in the EU (Sganga, 2018).

The Directive 2014/26/EU (European Parliament & Council, 2014) introduces common rules on the management of CMOs, which strengthen the position of rightholders as members of these organizations and ensure their effective participation in decision-making. It reiterates the right of rightholders to freely choose an CMO, the possibility of limiting the scope of transferred rights,

Copyright: © 2026 the Author(s). This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC-BY) 4.0 license (<https://creativecommons.org/licenses/by/4.0/>). Published by Al-Kindi Centre for Research and Development, London, United Kingdom.

and the right to withdraw from an CMO. At the same time, it lays down the obligations of CMOs with regard to responsible management, separate management of funds, regular and timely distribution of collected remuneration, and ensuring adequate internal control. The Directive also places significant emphasis on greater transparency in the operations of CMOs. These measures provide rightholders, users, and the public with clear and accessible information about their rules, tariffs, contracts, and financial operations, including the publication of annual transparency reports. In addition, the directive requires MS to establish appropriate supervision of the activities of CMOs and effective mechanisms for resolving disputes between organizations, rights holders, and users (Guibault, 2014) .

Ten years after the adoption of the Directive 2014/26/EU (European Parliament & Council, 2014), the European Commission is examining whether MS have successfully implemented it, and its attention has also turned to Slovenia. On January 30, 2026, the European Commission launched infringement proceedings against Slovenia because Slovenian legislation is allegedly not in line with the respective Directive and the Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (European Parliament & Council, 2001). The Commission has sent Slovenia a letter of formal notice in case INFR(2025)4023 (European Commission, 2026). The Commission emphasizes that the Slovenian legal framework still operates in a paternalistic manner and does not recognize authors' full exclusive rights to dispose of their works, which is contrary to the InfoSoc Directive (European Parliament & Council, 2001). The European Commission's Concern is that such a system does not protect authors, but primarily the position and revenues of existing collective organizations, thereby creating an unlawful monopoly in the EU internal market. According to the Commission's assessment, Slovenian legislation provides for the mandatory collective management of certain copyrights (in particular the right of public communication), which means that rightholders have no real possibility of managing these rights themselves or transferring them to another organization. This arrangement is said to be contrary to EU rules, which guarantee authors the freedom to choose between individual and collective management of their rights, as well as the right to withdraw their rights from collective management.

Even before the European Commission took action, the Slovenian authorities had begun to implement measures to verify the compatibility of Slovenian law with EU law and the effectiveness of Slovenian collective organizations. The project "Effectiveness of collective management of copyright and related rights in the Republic of Slovenia" was carried out as a research project funded by the Public Agency for Science, Research and Innovation of the Republic of Slovenia (ARIS) in cooperation with the Ministry of Economy, Tourism and Sport and the Slovenian Intellectual Property Office. The aim of the project was to comprehensively analyze the effectiveness of the collective management system for copyright and related rights in Slovenia and to assess its legal, institutional, and economic functioning. The research included a review of Slovenian legislation, case law, and the functioning of collective organizations, an analysis of their annual reports, and a comparative study of regulations in other MS, including Germany, Austria and Croatia. The aim of the project was to identify which elements of the system are effective and where there is room for improvement, and to prepare recommendations for possible systemic changes based on the analysis, particularly at the level of legislation, subordinate legislation, and the internal rules of collective organizations. The study also included various stakeholders in the system (collective organizations, rights holders, and users), whose views were gathered through surveys and interviews (ARIS, n.d.).

In this article, we will examine whether Slovenian legislation actually restricts authors more severely in the management of their rights than is the case in other Member States. First, we will explore the different forms of collective management that exist. We will then examine how Slovenian legislation takes them into account and for which rights the respective forms of collective management are designated. Next, we will consider the legal institutes in comparative law: in legal systems of Austria, Germany and Croatia. In these MS, collective management has a long tradition and the CMOs are well established and reputable. Furthermore, the Slovenian legal system belongs to the continental (civil law) legal family, which is based on codified law and has its roots primarily in Roman law and the later development of European codifications. The Austrian, German and Croatian legal systems belong to the same legal tradition, which results in significant structural and conceptual similarities among them. Austrian and German law have had a particularly strong historical influence on the development of Slovenian law, as the Slovenian territory was for a long period part of the Habsburg legal system sharing the same laws and regulations. The subsequent development of law in Slovenia has preserved many legal concepts and institutions originating from the German-Austrian legal tradition. Due to these historical and systemic connections, Slovenian legal scholarship and legislation often draw on solutions developed in Austrian, German and Croatian law, which represent comparable continental legal systems and therefore provide a suitable basis for comparative legal analysis. The purpose of the article is to determine whether the Slovenian copyright law is a special case that warrants greater attention from the European Commission as in other MS. The article will contribute to the interpretation of the relationship between the European Commission and MS in determining infringements in the field of the implementation of EU copyright law.

2. Methods

In assessing the effectiveness of CMOs, this article limits itself to comparative legal aspects, which dictates the use of comparative legal research methods. Functional method will be used, which is based on the assumption that different legal systems solve the same or similar social problems, even though they may use different legal institutes. The comparison therefore focuses not only on legal norms, but also on the function that a particular legal solution performs in practice (Michaels, 2006). The descriptive method will also be used, which systematically describes the legal system in a particular country, including legislation, judicial practice, and doctrine, which forms the basis for further comparison between legal systems. Furthermore, the comparative-analytical method involves a detailed analysis of individual legal institutions and their direct comparison between legal systems. Similarities, differences, and reasons for discrepancies are identified (Al Abiad & Masadeh, 2024). Important is also the systemic method, which compares the entire structure of the legal system, and thus the relationship between legislation, judicial practice, and legal doctrine or the position of a particular legal institution in the legal system (Padjen, 2020). The historical-comparative method examines the development of legal institutions over time and compares their historical roots in different legal systems (Musson & Stebbings, 2012).

3. Elements of effective collective management of copyright and related rights

In the beginning, it is necessary to establish what are the basic conditions that must be met in order for the management of these rights to be considered effective? To answer this question, the nature of a CMO has to be considered. A CM can be defined as a community of rightholders united for the purpose of generating income from their rights. The fundamental tasks of a CMO are as follows: 1) allowing users to use works (licensing), 2) collecting royalties and fees from users, 3) distributing the collected funds among members and other beneficiaries; and 4) monitoring the use of their members' works and enforcing their rights in court (Gervais & Quintais, 2025).

Based on the fundamental tasks of CMOs, we have concluded that the basic principles of effective collective management in relation to users and rights holders are as follows:

In relation to users:

1. Providing clear, transparent, and unambiguous licenses that allow users to exploit protected works without interruptions. To achieve that, a clear legislation is necessary, including, in this context, precisely defined remuneration (compensation) rights. Care must be taken to ensure that the transferability of exclusive rights is not restricted without a valid reason. Authorizations of the state authority for the management shall be simple and unambiguous. Legitimacy of a CMO shall be based on the contractual relations the actual holders of rights of exploited works (restriction of legal mandate (legal trusteeship) to as few rights as possible – only when absolutely necessary).
2. Willingness of users to pay the copyright royalties and levies owed for the use of protected works, which are appropriate in relation to economic meaning of the usage of works. This is made possible by: a) reasonable and simple tariffs; b) legislation and collective agreements that encourage users to pay their obligations to rights holders through rewards and sanctions, with this legislation also being effectively enforced in practice, c) the possibility of effective judicial enforcement of rights if users are unwilling to pay for the use of works (prerequisites are uniform judicial practice, expedited court proceedings and the possibility for a CMO to apply for interim measures and to prohibit the use of works).

In relation to rights holders:

1. A clear determination of scope of rights managed by a CMO.
2. Distribution of as much of the collected royalties and levies as possible to those rightholders whose works are actually used. This is made possible by: a) singing costs of collective management, b) accurate data on the ownership of rights in the CMO repertoire, including up-to-date data for payments to rightholders (address, banking data); c) a close network of sister CMOs that manage comparable rights for comparable rightholders, d) accurate data on the actual use of works; and e) provided that accurate data on ownership and use of works is available – as little delay as possible in the collection and distribution of royalties and levies.

A prerequisite for effective collective management is that the rights in question are not of a type that can be managed more effectively on an individual basis. If the law requires that certain rights be managed only collectively, rightholders are deprived of the possibility of managing them individually. In some cases, rightholders may achieve a higher return through individual management, for example if this allows them to avoid paying the operating costs of the CMOs. This is possible if rights holders can monitor the use of their works themselves without incurring significant costs.

In certain cases, properly regulated CMOs can increase efficiency and promote the interests of rights holders and users: however, the diverse and often problematic history of CMOs must be taken into account when designing a collective management system (Band & Butler, 2013). This includes the retention of funds in balance sheets instead of their distribution to rights holders, the inability of numerous and dispersed members to effectively control CMOs, court-established misuse of funds, the inability to

prevent payola and streaming fraud, excessive management costs, excessive tariffs, and overly complex distribution rules (Band & Butler, 2013).

4. Slovenian collective management organizations

As of April 19, 2025, there are seven CMOs authorised by the Slovenian Intellectual Property Office (supervisory body) in the Republic of Slovenia:

1. The Institute for the Enforcement of Performers' and Producers' Rights – **IPF, k.o.** manages the rights of performers and producers of phonograms, i.e., related rights.
2. Slovenian Copyright and Publishing Organisation for Reproduction Rights. – **SAZOR GIZ, k.o.** manages the rights of authors and publishers of literary works to compensation for private reproduction and the exclusive right of photocopying beyond the scope of exceptions and limitations under Article 50 of the Copyright and Related Rights Act, CRRA (National Assembly, 1995), i.e. copyright.
3. The Institute for the Enforcement of the Rights of Authors, Performers, and Producers of Audiovisual Works of Slovenia, k.o. – **AIPA, k.o.** manages rights to audiovisual works, i.e., copyright and related rights,
4. Association of Composers and Authors for the Protection of Music Copyright in Slovenia – **SAZAS, k.o.** – manages rights to musical works (copyright).
5. The Association of Authors and Holders of Small and Other Copyrights of Slovenia, k.o. – **ZAMP, k.o.** manages rights to literary works for the same category of rightholders as SAZOR.
6. Association of Slovenian Visual Artists – manages rights on photographs and artworks. It is a new CMO, which was granted authorisation 10. 11. 2025 (Slovenian Intellectual Property Office, 2025).
7. KOPRIVA Association – **KOPRIVA, k.o.** collects levies for audio and visual recordings for private use for all categories of rightholders.

The first six CMOs distribute revenues directly to rightholders (primary CMOs), while the KOPRIVA, k.o. collects levies for private reproduction and distributes them to CMOs, which then distribute them to their beneficiaries (intermediary CMO).

All CMOs manage at least one copyright or related right under mandatory collective management: IPF, k.o. manages rights of performers of musical works and phonogram producers to communication of phonograms to the public and distribution of levies for audio and visual recordings for private use. SAZOR GIZ, k.o. the rights of authors and publishers of literary works to compensation for private reproduction and the exclusive right of photocopying beyond the scope of exceptions and limitations under Article 50 CRRA (National Assembly, 1995). AIPA, k.o. manages distribution of private copying levies and several rights of communication of audiovisual works and videograms and performances recorded on them, except for the rights of film producers under Articles 29 and 30 CRRA (National Assembly, 1995) and including several remuneration rights as residual rights, which co-authors of audiovisual works retain even after transferring their exclusive rights to phonogram producers. SAZAS, k.o. manages small musical rights (communication of musical works to the public), whereas ZAMP, k.o. manages small literary rights (communication of literary works to the public). Association of Slovenian Visual Artists distributes private copying levies. KOPRIVA, k.o. collects levies for audio and visual recordings for private use for all categories of rightholders.

Table 1: Collection and distribution of funds of Slovenian CMOs and costs of collective management in 2024 – source: data from yearly reports of CMOs (AIPA, 2025)

2024	Collected royalties and levies 2024	Costs - netto 2024	The percentage of costs in collected funds	Left for distribution
AIPA	7.699.622	2.384.434	31 %	5.315.188
IPF	8.658.444	2.320.264	27 %	6.177.099
SAZAS	25.209.336	7.515.982	30 %	17.693.355
SAZOR	1.007.854	495.902	49 %	511.974
ZAMP	989.605	357.417	36 %	610.178
KOPRIVA	(3.663.324)	370.273	10 %	-
Total	43.564.861	13.074.000	30 %	30.307.794

5. Forms of collective management of copyright and related rights in Slovenian law

Collective management means the management of rights on multiple objects of multiple rightholders simultaneously. Forms of collective management can be divided into voluntary, mandatory, and extended collective management:

5.1. Voluntary collective management

The fundamental characteristic of voluntary collective management is that the rightholder can decide whether to manage the rights themselves or to authorize a CMO to do so. The rights holder may authorize the CMO to manage only certain of their rights. In voluntary collective management, a collecting society may not manage rights whose holders are not its members or members of a collecting society with which it has concluded a reciprocal representation agreement. The rightholder is restricted in the independent management of the rights that are the subject of transfer on the CMO. The second paragraph of Article 5 of Directive 2014/26/EU (European Parliament & Council, 2014) states that the right of rights holders to freely choose a CMO is the fundamental principle in EU copyright law. Slovenian CMOs manage only few of the rights on a voluntary basis, such as the levies for clipping, managed by ZAMP, k.o.

5.2. Extended collective management/Extended collective licences

Extended collective management means that if collective management already exists for certain rights and categories of protected content for the vast majority of domestic and foreign rightholders, and the respective CMO is sufficiently representative in this area, its activities are automatically extended by law to all rights of respective category. Rightholders may withdraw from such management at any time. In this case, the burden of membership or participation is reversed, as the rightholder must be active in order to opt-out. Article 12 Directive 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market (European Parliament & Council, 2019) provides for a comprehensive regulation of extended collective management as a licensing mechanism that MS may establish in relation to the use of works on their territory. An essential prerequisite for the admissibility of extended collective management is that such a licensing mechanism "is used only in precisely defined areas of use where obtaining authorizations from rightholders on an individual basis is typically so difficult and impractical that the required licensing is unlikely to be carried out, due to the nature of the use or the types of works or other subject matter concerned, and that such a licensing mechanism protects the legitimate interests of the rightholders." (European Parliament & Council, 2019). Slovenian Collective Management of Copyright and Related Rights Act, CMCRRA (National Assembly, 2016) provides for this type of collective management only for works out-of-commerce.

5.3. Mandatory collective management

Mandatory collective management, as understood in Slovenian law, includes legal trusteeship (gesetzliche Treuhand, legal mandate). This means that rights are managed by a CMO on the basis of the law without the authorization of the rights holder and without a contract between the CMO and the rightholder. The rightholders become passive (extraordinary) members of the CMO, and the CMO becomes the compulsory administrator of their rights. Collective management is a form of compulsory license. As long as the collective management of rights is transferred to the CMO by law itself, rightholders cannot manage these rights personally (Drobež, 2017; Trampuž, 2007; Trampuž et al., 1997).

The characteristics of the Slovenian system of mandatory collective management stem from the following provisions of the CMCRRA (National Assembly, 2016)::

- rightholders may only manage their rights to already published copyrighted works through a CMO (Article 9),
- the CMO may manage rights without the authorization of the rightholder (third paragraph of Article 18),
- as long as the collective management of copyright is transferred to the CMO by law, the author may not personally manage these rights, unless the law provides otherwise (third paragraph of Article 7), and
- a legal monopoly is established (third paragraph of Article 14).

According to Article 9 CMCRRA (National Assembly, 2016), mandatory collective management is stipulated by law for:

1. public communication of non-theatrical musical and literary works, except for the right to make them available to the public under Article 32.a CRRA (National Assembly, 1995).
2. resale of originals of works of art (resale right under Article 35 CRRA);
3. reproduction of copyrighted works for private and other personal use and their photocopying beyond the scope of Article 50 CRRA;
4. cable or other radio broadcasting retransmission of copyrighted works, except for RTV organisations' own broadcasts, regardless of whether these are their own rights or have been transferred to them by other rights holders, and
5. the right to additional annual compensation for performers under Article 122.b CRRA;
6. public communication of audiovisual works and videograms and performances recorded on them, except for the rights of film producers under Articles 29 and 30 of the ZASP;

7. the right to remuneration for teaching using electronic means, at a distance or across borders, under Article 47.b of the ZASP, except in the part that is subject to mandatory collective management in accordance with point 1 of this article;
8. the author's right to an appropriate share of the revenue received by the publisher of a media publication for its use pursuant to Article 139.a of the ZASP.

In its letter to Slovenia, the EU Commission opposes the mandatory collective management of exclusive rights in areas where EU law does not provide for this. Due to its interference with contractual freedom, mandatory collective management must be limited to cases where, due to the nature of the matter, individual enforcement of rights was not feasible, or to situations where, for practical reasons confirmed by many years of foreign experience, only collective enforcement of rights was appropriate (Trampuž *idr.*, 1997). CMCRRRA (National Assembly, 2016) prescribes mandatory collective management for a number of exclusive rights of communication to the public, in musical and audiovisual works, whereby in the latter case it interferes in areas where rights have so far been managed individually, such as in cinemas.

6. Austria

Under Austrian law, CMOs usually have a monopoly, as according to the first paragraph of § 7 Federal Law on Collecting Societies, VerwGesG (Nationalrat, 2016) and taking into account the second paragraph of § 3 VerwGesG, a licence for the collective management of a specific right may only be granted to one CMO at a time. In this respect, Slovenian and Austrian law are identical. However, this does not mean that only one CMO manages the rights for all categories of rightholders who are entitled to a specific right. Rightholders may organize themselves into separate CMOs according to their interests — for example, film producers as derivative rightholders are organized in a different collecting society (Verwertungsgesellschaft für audiovisuelle Medien, VAM) than film creators i.e. co-authors and performers (Verwertungsgesellschaft der Filmschaffenden, VdFS). From this perspective, Slovenian and Austrian law differ, as Slovenian collective organizations manage a specific right for all rights holders, regardless of the fact that there may be categories of rights that pursue different interests (film producers and film creators - co-authors and performers).

The strictness of the monopoly position is somewhat mitigated in Austrian law by the possibility for rights holders to establish a new organisation if they are dissatisfied with the existing one. If two or more applicants apply for the same licence to management of rights, the licence shall be granted to the applicant who can be expected to perform these tasks and obligations in the best possible manner; in case of doubt, it shall be assumed that existing CMOs perform these tasks and obligations better than those that have not yet obtained a license to exercise rights. If no decision can be made on the basis of this criterion, the authorisation shall be granted to the one who can be expected to give the representation of the rights entrusted to it greater economic significance; if the economic significance is the same, the decisive factor shall be who submitted the application first. Furthermore, licences are only granted in a number needed for the proper and economical exercise of rights, taking into account the interests of rights holders and users. If a new CMO applies for a license to exercise rights, the supervisory authority must invite those existing CMOs that meet the conditions for the granting of the relevant license to exercise rights to also apply for a license (second and third paragraphs of § 7 VerwGesG (Nationalrat, 2016). In Slovenia, there is no rule allowing rightholders to establish a new CMO to manage the same rights as existing collective organizations, even if they demonstrate that they could manage the rights more effectively. This rule was included in CRRRA (National Assembly, 1995), but abolished in the CMCRRRA (National Assembly, 2016), thereby further strengthening the monopoly position of collective organizations. On the other hand, rights for the same rightholders are also managed by two different CMOs, which doubles the costs of collective rights management for rights holders, particularly in the field of literary works (ZAMP, k.o. and SAZOR GIZ represent the same rightholders).

§ 25 VerwGesG (Nationalrat, 2016) establishes a presumption of rights management. At the request of the CMO, a user or a society representing the users, a supervisory authority issues a decision that the CMO to which the supervisory authority has issued a license for rights management, exercises rights for almost the entire repertoire of works or other protected subjects for the entire area of its activity or for a specific part thereof. Only in this case a presumption exists that the CMO exercises rights for the entire repertoire of works or other protected subject matter in the area described in the decision, unless proven otherwise. If the conditions for the finding subsequently cease to apply, the supervisory authority must revoke the decision *ex officio* or upon request; the above-mentioned persons are entitled to make such a request.

§ 25b. VerwGesG (Nationalrat, 2016) provides for the possibility for a CMO to obtain a license from the supervisory authority for extended collective licensing. Extended collective management was introduced into the system by the Copyright Amendment Act 2021 (Nationalrat, 2021), which implemented Article 12 of Directive 2019/790 (European Parliament & Council, 2019). The proposal explains that in Austria, CMOs that already manage exclusive rights outside the mandatory management system and could benefit from extended collective management of rights due to their representativeness have not yet had explicit legal regulation. Recent discussions, particularly on the management of rights on digital platforms within the framework of Article 17 of Directive 2019/790 (European Parliament & Council, 2019), have also led to calls in Austria for this option to be used. This should not entail an

unacceptable interference with the rights of external rightholders (i.e. rights holders who do not authorise a collecting society), as it requires a special authorisation from the supervisory authority, which is only granted for those areas where collective enforcement of rights is in any case a practical and obvious solution within the meaning of the Directive. The representativeness criterion ensures that a significant proportion of the relevant rights holders grant their rights to the collecting society for the management of their rights on a contractual basis anyway (Justizausschuss, 2021). An example of such a license for extended collective licenses is the decision of the supervisory authority (Aufsichtsbehörde für Verwertungsgesellschaften, 2023), that the State-approved society of authors, composers, and music publishers AKM may, within the scope of its licence to enforce rights, issue licences for public performance and broadcast in accordance with § 18(2) and (3) Law on Copyright in Literary and Artistic Works and Related Rights 1936, UrhG (Nationalrat, 1936) in business premises (hospitality and retail) even for rights holders who have not granted these rights to AKM through a rights management agreement or an agreement with another CMO.

The Austrian UrhG stipulates that the exclusive right of cable retransmission (§ 17 UrhG (Nationalrat, 1936) and numerous remuneration rights (statutory claims for payment) can be exercised through a collecting society. However, the law does not provide for statutory trusteeship. This means that the rights holder can decide for himself whether to assert his rights through a CMO or not. Collecting societies only collect and distribute royalties and levies for their members, which enables them a swift distribution of funds and reduces the amount of funds held by CMO.

7. Germany

The German system is even more based on contractual rights management than the Austrian one and lacks legal monopoly of CMOs. When the German UrhG stipulates that a certain claim for remuneration (Vergütungsanspruch) may only be asserted through a collecting society, this still means that the collecting society only collects remuneration for those rights holders who have authorized it to do so.

The German Act on Copyright and Related Rights, UrhG (Deutscher Bundestag, 1965) stipulates for one exclusive right and several remuneration rights that they may only be managed by a collecting society, for example in the first paragraph of § 20b UrhG (broadcasting retransmission), the second paragraph of § 20b UrhG (residual remuneration right of the author who transferred the exclusive right to broadcast retransmission to a broadcasting organisation, a phonogram producer or a film producer); § 26 UrhG (resale right); § 26 UrhG (remuneration for lending and renting), etc.

§ 49 of the Act on the Management of Copyright and Related Rights by Collecting Societies, VGG (Deutscher Bundestag, 2016) stipulates that if a CMO manages remuneration rights in accordance with § 27 UrhG (remuneration for lending and rental), § 54(1) UrhG (remuneration for private reproduction), § 54c(1) UrhG (remuneration for reprography), § 77(2) UrhG (remuneration for lending and rental for performers), § 85(4) UrhG (remuneration rights of phonogram producers), § 94(4) UrhG (remuneration rights of film producers), or § 137l(5) UrhG (fair compensation for new forms of use), it is presumed that it is managing the rights of all rights holders. These are some, but not all, of the cases in which rightholders can only assert their claims for payment through a CMO. If more than one CMO is entitled to assert a claim, the presumption applies only if all entitled CMOs assert the claim jointly. If a collecting society also receives payments for rightholders whose rights it does not enforce, it must exempt the user from paying compensation to those rightholders. This presumption was first developed in the case law of the German Federal Court of Justice (BGH) in relation to the exclusive rights administered by Society for Musical Performing and Mechanical Reproduction Rights GEMA (the so-called GEMA Vermutung). It is presumed that works belonging to the GEMA repertoire are used when dance and entertainment music is made available to the public. The presumption also applies to the right of mechanical reproduction (vinyl, CDs, DVDs, Blu-Ray). Users do not have to pay GEMA license fees if they can prove with precise information that they have only used music by authors who are not represented by GEMA (Heker & Riesenhuber, 2018).

§ 50 UrhG (Deutscher Bundestag, 1965) provides for legal trusteeship of retransmission rights and live broadcast rights. If the rightholder has not transferred the exercise of these rights to a CMO, the CMO that asserts such rights upon state authorisation is deemed to be entitled to assert his rights. If several CMOs are eligible, they are considered jointly entitled; if the rightholder chooses one of them, only that CMO is considered entitled. This does not apply to the rights held by the broadcasting organization whose broadcast is being retransmitted. Pursuant to the second paragraph of § 50 UrhG, the rightholder, who is an »outsider« to a CMO, has the same rights and obligations in relation to this CMO as if he had transferred his rights to enforce them to it. His claims expire three years after the KO has to settle the retransmission rights in accordance with the distribution plan or the conditions for exercising the rights.

It is clear from the above that the mandatory rights management under German law does not mean that a CMO also collects remuneration for those rightholders who have not authorized it to do so. If it does so nevertheless, it must refund the amounts to the user. The only exception is the management of exclusive retransmission rights. The concept of mandatory collective

management is applied in German law to a smaller scope of rights than in Slovenian law, and the concept itself is less restrictive for authors and in most cases does not imply a legal transfer of rights to a CMO.

§ 51 UrhG (Deutscher Bundestag, 1965) provides for extended collective licenses. It stipulates that if a CMO concludes a contract for the use of its repertoire, it may also grant the corresponding rights for the use of the work of rightholders who have not authorized it to manage their rights (§ 7a UrhG). Rightholders may object to the CMO managing their rights at any time. A rightholder who has not granted this rights to a CMO has the same rights and obligations in relation to the CMO as in the case of management on a contractual basis.

Unlike under Austrian law, a CMO does not require a special license to issue extended collective licenses, but must meet the conditions set out in § 51a UrhG (Deutscher Bundestag, 1965). This stipulates that the granting of rights to works by persons who have not authorized CMO is valid under the following conditions: 1) the CMO is representative (§ 51b UrhG), 2) it is not reasonable to expect that the user or KO would obtain all consents for the use of works or for the management of rights in works, 3) the granting of rights is limited to use in Germany, 4) the CMO shall, within a reasonable period of at least three months prior to the granting of rights, announce on its website and then permanently publish on its website that it is able to grant collective licenses with extended effect the effects of collective licenses with extended effect on third parties the types of use, types of works, and groups of rights holders to be included in collective licenses with extended effect, and the right of third parties to object and opt out.

8. Croatia

The Croatian Copyright and Related Rights Act, ZASP (Hrvatski sabor, 2021) expressly determines, for certain remuneration rights, that they must be managed through a CMO. Such rights include remuneration for the use of national literary and artistic works (Article 18(7)), residual remuneration rights for rental and public lending (Article 34(6)–(7)), remuneration rights relating to the rental of audiovisual works (Article 92(4)), performers' remuneration rights for rental and public lending (Article 135(3)), phonogram producers' rights to equitable remuneration for public lending and communication of phonograms to the public (Article 142), performers' rights to additional annual remuneration (Article 147), audiovisual producers' remuneration for public lending (Article 152), publishers' rights to remuneration for rental and public lending of press publications (Article 165), journalists' and photojournalists' rights to a share of publishers' remuneration (Article 167), remuneration for private copying (Article 184), remuneration for ephemeral recordings (Article 190), and remuneration for reproduction and distribution of works within research collections (Article 197).

The scope of collective management of copyright is primarily defined in Article 217 ZASP (Hrvatski sabor, 2021), while Article 218 regulates collective management of related rights. Article 217(1) provides that collective management of copyright covers several groups of economic rights of authors. First, collective management may include rights of communication to the public, such as public performance, public transmission, broadcasting, retransmission, direct injection, making works available to the public, and other forms of communication to the public, including uses on online content-sharing platforms. Second, it may include rights related to reproduction and distribution, including reproduction of works, the production and distribution of phonograms, and the use of works in audiovisual productions or other media formats. Third, it may cover rights concerning digital uses and online exploitation, including making works available to the public via the internet and uses of works uploaded by users on content-sharing platforms. Fourth, specific rights may be collectively managed for journalistic works included in press publications, in particular rights of reproduction, distribution, public communication, and making such works available to the public when they are reused outside the original publication. Finally, for works of visual art, collective management may include the resale right. Other author's rights may also be managed collectively unless the law stipulates they must be managed through a CMO.

Article 217(3) ZASP (Hrvatski sabor, 2021) provides that certain exclusive and remuneration rights may only be exercised through CMOs. These include in particular:

1. for non-theatrical musical works and literary works: broadcasting-related rights (including satellite broadcasting, retransmission and direct injection); certain rights of reproduction, public communication and online making available connected with broadcasting or online services; adaptation and transformation rights relating primarily to the use of musical works in audiovisual productions, performances or other forms of exploitation; rights of reproduction connected with sound recording and incorporation of musical works into audiovisual works; remuneration rights such as rental remuneration, public lending remuneration and remuneration for communication of national literary and artistic works to the public, rights related to ephemeral recordings and their further use; remuneration rights for private copying, remuneration rights linked to the use of works within cultural heritage institutions or research collections.
2. For journalistic works included in press publications, rights subject to mandatory collective management include remuneration rights for rental and public lending and the right of journalists to participate in the remuneration of press publishers.

3. For audiovisual works, rights subject to mandatory collective management include retransmission and direct injection, as well as rental and public lending remuneration.
4. For all categories of works except computer programs and databases, collective management applies to uses by cultural heritage institutions of works that are not commercially available, as well as remuneration systems such as private copying compensation.

Article 218 ZASP (Hrvatski sabor, 2021) regulates collective management of related rights. Certain related rights must be exercised exclusively through CMOs (Art. 218(3)), such as the public communication rights of the performers for performances fixed in phonograms and the rights of producers of phonograms, including those incorporated in audiovisual works. Also several rights of audiovisual producers for videograms, rights of publishers of informative publications and rights of the publisher of written publications must be managed by a CMO.

Although Croatian legislation specifies very precisely which rights are managed in what way, the approach taken by the Croatian legislator is not the best, because the forms of collective management are first specified in some cases for each remuneration right and then again all together in two articles (Articles 217 and 218 of the Croatian ZASP).

Article 219 ZASP (Hrvatski sabor, 2021) further provides that Articles 217 and 218 do not apply to the rights of broadcasting organisations. This does not affect the remuneration rights granted to authors and performers under Articles 97(4) and 101(4) of the Act, nor other inalienable rights of authors and performers.

Under Article 224(5) ZASP (Hrvatski sabor, 2021) the supervisory authority may grant authorisation for collective management of a specific category of rights and category of right holders to only one CMO. In deciding which organisation should receive authorisation, the authority takes into account factors such as the number of members represented through mandates, the number of reciprocal representation agreements with foreign collective management organisations, and other circumstances demonstrating that the organisation would manage the rights most efficiently. Croatian law nevertheless contains a mechanism that mitigates the potential negative effects of such a monopoly. If a new CMO applies for the same authorisation, the supervisory authority must assess which organisation — the existing one or the applicant — would manage the rights more efficiently. According to the Regulation on the Granting of Authorisation for Collective Management Activities (Ministrstvo kulture i medija, 2022), the authority evaluates factors such as the number of members represented, reciprocal agreements with foreign organisations, the level of technical and professional infrastructure, the quality of the business plan and financial projections for the next three years, the organisation's commitment to promoting national culture and repertoire, the development of its activities within Croatia, its direct presence in the Croatian market in relations with users and right holders, and knowledge of the Croatian language. If the authority determines that another organisation would likely manage the rights more efficiently, it may grant the authorisation to that organisation and establish an appropriate transitional period for the previously authorised CMO to cease its activities. If it concludes that the existing CMO would continue to manage the rights more efficiently, the new application is rejected.

Under Article 224(6) ZASP (Hrvatski sabor, 2021), it is presumed that all domestic and foreign right holders have authorised the CMO that holds a licence for a particular category of rights and category of right holders to manage their rights, unless they have expressly notified the organisation in writing that they do not wish it to exercise their rights. Upon request, the CMO must inform users which rights it does not manage.

9. Discussion

The comparative legal analysis described above shows that comparative law does not stipulate mandatory collective management for the entire spectrum of exclusive rights, such as the communication to the public right, which includes various subrights (broadcasting, retransmission, public performances, making available to the public etc.). Although Croatian law stipulates that exclusive rights to musical works must be managed by a CMO, the same does not apply to the exclusive rights of authors of audiovisual works. In this respect, Slovenian legislation is unique from a comparative law perspective.

On the other hand, mandatory collective management does not mean that rights must always be transferred to the CMO by law. To ensure legal certainty for users, it is sufficient for the law to stipulate that a rightholder who wishes to exercise his rights must do so through a CMO. Legal trusteeship necessarily results in accumulation of funds by the CMO. In addition, the costs of searching for rightholders who do not register their rights with the CMO increase: these costs are ultimately borne by rightholders who have fulfilled all their obligations in relation to the CMO.

A comparative legal analysis has also shown that laws usually stipulate in the provision governing a particular exclusive or remuneration right whether that right must be exercised collectively. This ensures greater legal certainty for users and rights holders, as it explicitly distinguishes between different forms of collective management. On the other hand, Slovenian CRRA

(National Assembly, 2016) defines all rights that are subject to mandatory collective management in a single Article 9, stipulating without any distinction the compulsory management of all rights relating to the communication of musical and audiovisual works to the public, regardless of whether they are exclusive or remuneration rights. Additional confusion is caused by the fact that the right to make music available to the public is managed on a contractual basis, while the right to make audiovisual works available to the public is not. The exclusion of certain "rights of film producers" from mandatory collective management further contributes to the confusion, especially given the fact that there is a legal presumption of transfer of all rights in audiovisual works to film producers.

In Austria, Germany, and Croatia, the legislator has taken advantage of the option offered by Directive 2019/790 and introduced extended collective licenses for exclusive rights in the case of representative CMOs. However, extended collective management is always subject to additional conditions that the CMO must meet. We believe that the effectiveness of the collective management system in Slovenia should first be regulated, and then the possibility of introducing extended collective licenses should be examined.

Another example of facilitating the collective management of exclusive rights are the legal presumptions that a representative CMO is entitled to collect royalties and remuneration for all similar rights and for all rights holders in each category. These are presumptions that first developed in case law and were then incorporated into legislation. This means that these presumptions may also exist even if they are not expressly stated in the law.

Provisions in comparative law often also provide for a legal monopoly for collecting societies. Such a monopoly stems from the perspective of cost efficiency and consideration of the interests of the rights holders represented. Legislation often emphasizes or at least implements legal provisions in such a way that only one license is issued for a specific category of rights holders. This means that each category of rights holders is at least allowed to have its own CMO, which manages their rights and represents their interests in relation to users and other CMOs. Where a CO represents several categories of rightholders, consideration should be given to whether there is a willingness on the part of all categories of rightholders to have their rights managed jointly.

In conclusion, In conclusion, we believe that the European Commission has rightly devoted more attention to Slovenian legislation, as it imposes the most restrictions on authors in their choice of collective organization in comparative legal terms. The activities of the European Commission will contribute to improving the situation in the field of copyright in Slovenia.

Funding: This research was funded by the Slovenian Research and Innovation Agency and the Ministry of the Economy, Tourism, and Sport, CRP project V5-24014: Effectiveness of the collective management system for copyright and related rights in the Republic of Slovenia.

Conflicts of Interest: The authors declare no conflict of interest.

ORCID iD: Eneja Drobež 0009-0006-5187-9897.

Publisher's Note: All claims expressed in this article are solely those of the authors and do not necessarily represent those of their affiliated organizations, or those of the publisher, the editors and the reviewers.

References

- [1]. AIPA. (2025). *Letno poročilo 2024*. AIPA. https://aipa.si/api/media/file/AIPA_LP2024_A4_WEB-1.pdf
- [2]. Al Abiad, H., & Masadeh, A. (2024). Law Comparison as a Research Method in Legal Studies, and Its Importance in Promoting Uniformity in Legal Systems. V K. Al Marri, F. A. Mir, S. A. David, & M. Al-Emran (Ur.), *BUID Doctoral Research Conference 2023* (Let. 473, str. 446–454). Springer Nature Switzerland. https://doi.org/10.1007/978-3-031-56121-4_42
- [3]. ARIS. (b. d.). *Učinkovitost sistema kolektivnega upravljanja avtorske in sorodnih pravic v Republiki Sloveniji*. Pridobljeno <https://cris.cobiss.net/ecris/si/sl/project/22458>
- [4]. Aufsichtsbehörde für Verwertungsgesellschaften. (2023, jesen). *Decision AVW 9.110/23-002*. https://www.akm.at/wp-content/uploads/2023/04/avw-9.110_23-002.pdf
- [5]. Band, J., & Butler, B. (2023). *SOME CAUTIONARY TALES ABOUT COLLECTIVE LICENSING*. 470395 Bytes. <https://doi.org/10.57912/23889273>
- [6]. Deutscher Bundestag. (1965). *Act on Copyright and Related Rights*. WIPO. <https://www.wipo.int/wipolex/en/legislation/details/23030>
- [7]. Deutscher Bundestag. (2016, maj 24). *Act on the Management of Copyright and Related Rights by Collecting Societies*. WIPO. <https://www.wipo.int/wipolex/en/legislation/details/21831>
- [8]. Drobež, E. (2017). *Kolektivno varstvo avtorske in sorodnih pravic: Novosti v slovenskem in evropskem pravu ter uveljavljanje zahtevkov v pravnih postopkih*. Ius Software GV Založba.

- [9]. European Commission. (2026, pomlad). <https://digital-strategy.ec.europa.eu/en/news/commission-calls-slovenia-comply-eu-copyright-rules> [Post]. Shaping Europe's digital future. <https://digital-strategy.ec.europa.eu/en/news/commission-calls-slovenia-comply-eu-copyright-rules>
- [10]. European Parliament, & Council. (2001). *Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society*. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32001L0029>
- [11]. European Parliament, & Council. (2014, jesen). *Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market*. <https://eur-lex.europa.eu/eli/dir/2014/26/oj/eng>
- [12]. European Parliament, & Council. (2019). *Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market a*. <https://eur-lex.europa.eu/eli/dir/2019/790/oj>
- [13]. Gervais, D. J., & Quintais, J. P. (Ur.). (2025). *Collective management of copyright and related rights: Fourth edition* (Fourth edition). Wolters Kluwer.
- [14]. Guibault, L. (2014). COLLECTIVE RIGHTS MANAGEMENT DIRECTIVE. V I. Stamatoudi & P. Torremans, *EU Copyright Law* (str. 696–796). Edward Elgar Publishing. <https://doi.org/10.4337/9781781952436.00025>
- [15]. Heker, H., & Riesenhuber, K. (Ur.). (2018). *Recht und Praxis der GEMA: Handbuch und Kommentar*. De Gruyter. <https://doi.org/10.1515/9783110366792>
- [16]. Hrvatski sabor. (2021). *Zakon o autorsko pravu i srodnim pravima*. WIPO. <https://www.wipo.int/wipolex/en/legislation/details/20583>
- [17]. Justizausschuss. (2021). *Explanations on Copyright Amendment Act 2021*. https://www.parlament.gv.at/dokument/XXVII/ME/143/fnameorig_995659.html
- [18]. Michaels, R. (2006). The Functional Method of Comparative Law. V R. Michaels, *The Oxford Handbook of Comparative Law* (str. 338–382). Oxford University Press. <https://doi.org/10.1093/oxfordhb/9780199296064.013.0011>
- [19]. Ministrstvo kulture i medija. (2022, jesen). *Pravilnik o izdavanju odobrenja za objavljivanje djelatnosti kolektivnog ostvarivanja prava*. https://narodne-novine.nn.hr/clanci/sluzbeni/2022_03_38_469.html
- [20]. Musson, A., & Stebbings, C. (2012). *Making legal history: Approaches and methodologies*. Cambridge university press.
- [21]. National Assembly. (1995, zima). *Copyrights and Related Rights Act*. <https://pisrs.si/pregledPredpisa?id=ZAKO403>
- [22]. National Assembly. (2016). *Collective Management of Copyright and Related Rights Act*. <https://pisrs.si/pregledPredpisa?id=ZAKO7317>
- [23]. Nationalrat. (1936, zima). *Law on Copyright in Literary and Artistic Works and Related Rights 1936*. WIPO. <https://www.wipo.int/wipolex/en/legislation/details/22638>
- [24]. Nationalrat. (2016). *Federal Law on Collecting Societies 2016*. WIPO. <https://www.wipo.int/wipolex/en/legislation/details/21736>
- [25]. Nationalrat. (2021). *Copyright Amendment Act 2021*. <https://www.ris.bka.gv.at/eli/bgbl/I/2021/244>
- [26]. Padjen, I. L. (2020). Systematic Interpretation and the Re-systematization of Law: The Problem, Co-requisites, a Solution, Use. *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique*, 33(1), 189–213. <https://doi.org/10.1007/s11196-019-09672-x>
- [27]. Sganga, C. (2018). From Soulier to the EU copyright law reform: What future for non-voluntary collective management schemes? *ERA Forum*, 19(1), 137–154. <https://doi.org/10.1007/s12027-018-0496-5>
- [28]. Slovenian Intellectual Property Office. (2025). *Authorisation no. 31227-26/2023-35*. <https://www.gov.si/assets/organi-v-sestavi/URSIL/Dokumenti/Avtorska-in-sorodne-pravice/Dovoljenje-Zdruzenje-Slovenskih-Vizualnih-Avtorjev.pdf>
- [29]. Trampuž, M. (2007). *Kolektivno upravljanje avtorske in sorodnih pravic: Ureditev v Sloveniji in Evropski skupnosti*. GV Založba.
- [30]. Trampuž, M., Oman, B., & Zopančič, A. (Ur.). (1997). *Zakon o avtorski in sorodnih pravicah: (ZASP); s komentarjem*. Gospodarski Vestnik.