

Statement of the Estonian Association of Architects regarding the institution of freedom of panorama in Estonian Copyright Act

Dear Ms. Eva Lepik,

You have contacted the Estonian Association of Architects (Eesti Arhitektide Liit, hereinafter EAL) on behalf of NCO Wikimedia Eesti regarding your efforts to change the current Estonian Copyright Act to add a freedom of panorama exception to the Act. EAL hereby present their official position regarding freedom of panorama.

§ 20¹ of the Estonian Copyright Act states that it is permitted to reproduce works of architecture, works of visual art, works of applied art or photographic works which are permanently located in places open to the public, without the authorisation of the author and without payment of remuneration, by any means except for mechanical contact copying, and to communicate such reproductions of works to the public except if the work is the main subject of the reproduction and it is intended to be used for direct commercial purposes. If the work specified in this section carries the name of its author, it shall be indicated in communicating the reproduction to the public.

According to Copyright Act § 10 (7), a “place open to the public” means the territory, building or room which is granted for use by the public or to which its owner or holder allows individual access (a street, square, park, sports facility, festival grounds, market, recreation area, theatre, exhibition hall, cinema, club, discotheque, shop, retail enterprise, service enterprise, public means of transport, accommodation establishment etc.). Therefore, the current version of Estonian Copyright Act permits photographing, filming or copying in any other way works located in public space for personal use. Identifying the author is mandatory. It is forbidden to use such a copy for commercial purposes.

EAL finds that the current version of the Copyright Act does not correspond to the actual behaviour commonly practiced in the society. In reality, most Estonian people do not know that when taking a photo in front of a building protected by copyright, they are required ask for the author’s permission before uploading the photo to Facebook, Twitter or any other Internet portal, as said Internet portals can use photos uploaded by users for commercial purposes. Therefore, most people living in Estonia are de facto guilty of copyright infringement. Such a situation is not reasonable.

EAL supports NCO Wikimedia Eesti’s goal of introducing a freedom of panorama exception in Estonian Copyright Act. This would mean that works that are located in places open to the general public can be copied (photographed, filmed, painted, etc.) by third parties without the author’s consent and those images, videos and other copies can also be used for commercial purposes. However, the EAL finds that if an architectural work is used in such a way that the work is in the focus of the image, the author of the original work must always be identified.

Sincerely,

/signed digitally/

Jaak Huimerind

Vice President,

Manager of EAL’s Copyright Working Group