

## EUROPEAN PARLIAMENT

26 April 2016, World Intellectual Property Day

# The European author in the 21st century

## INTRODUCTION

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- **Jean-Marie Cavada, Member of the European Parliament (ALDE, France)**

The artistic creation market in Europe – including all types of media and creation – has recently been valued at €536 billion. It accounts for as many jobs as the automobile and telecommunications industries combined.

"It is a promising sector that is particularly strong in the European continent". We cannot just consign an entire section of this economy to the moneyless market. Its protection is essential, since our identity is at stake.

This conference aims to place authors at the heart of the debate that has been the focus of the European Parliament over the last year because of its work on the "InfoSoc" directive. It is important and constructive that the authors themselves tackle the issues affecting them and express their thoughts.

The European Parliament is now in consensus with the Commission on the issue of copyright, although some Commissioners initially had a strong "all-digital" vision.

"Authors' rights is not an obstacle to accessibility. The author is an essential link in the chain of creativity". The author is the user's ally: he/she nourishes the user intellectually, and the user in turn protects the creator by paying a price for the creation.

Digital technology is merely a vehicle for such creation. "An algorithm has never produced poetry".

We must think of the best way to adapt the law to new user behaviours. We need to control the impact of modern developments. To this end, we must explore several avenues meeting the "three R's: respect for authors, respect for contents, respect for taxes":

- Safeguarding the fair remuneration of creators;
- Curbing the increasing trivialisation of piracy;
- Making service providers more accountable ("Net neutrality is a purely economic joke");
- Those who trade in such economy shall pay their taxes wherever their consumers are;
- Ensure the protection of pure players as an alternative to GAFAs (Google, Apple, Facebook, and Amazon).

- **Michel Magnier, Director of "Culture and Creativity", General Direction for Education and Culture, European Commission.**

It is very fitting that authors are commemorated since, like all creators, they do not generally enjoy the spotlight.

The European Union has only limited powers in terms of culture (an area reserved for the respective Member States). The Union's initiatives in this regard have two major objectives: safeguarding and promoting cultural diversity and the competitiveness of the cultural and creative industries.

According to Ernst & Young, there are 150,000 book authors in Europe, with 500,000 new titles published every year. The book industry generates a revenue of €36 billion. In addition, the European Union supports this industry via the Creative Europe programme.

The Commission's author's rights projects have often been presented inaccurately. The Commission has never supported the views expressed by Julia Reda.

In this area, the European Commission aims to protect author's rights and adapt it to a world that has undergone deep-seated changes since 2001. "Failure to act would jeopardize author's rights".

Three important messages for authors:

- Creation lies at the heart of any cultural policy. We must reaffirm the key role of creators and artists to prevent them from being cheated. Studies are under way at the Commission to assess the value chain in the digital era.
- The digital world offers major opportunities, but also heavy ambiguities. It is a fantastic tool for the democratisation of knowledge, but we need to fight the myth of free services on the Internet. "Anything with value must have a price". Regarding piracy, a "follow the money" approach would allow us to tackle business models promoting platforms that profit unduly from author's rights -protected works. It is more important to fight the mechanism enabling this practice than to fight pirates themselves.
- Remuneration for creative work is essential. The artist is an entrepreneur who contributes to the economy. "Living from his/her creation guarantees artistic independence".

Several avenues for future action:

- Transparent and fair contracts applied and applicable to creators. There is still room for improvement through dialogue between market players;
- Making a part of the author's rights as non-transferable and irrevocable;
- In addition to the author's rights reform, considering a new type of remuneration for creativity. Collective management is an interesting area that is being looked at by the Commission.

The twelve proposals formulated by the CPE are shared by the Commission.

- **Hervé Rony and Cécile Deniard, Vice-Presidents of the CPE**

Following the initial worrying statements made by the Juncker Commission, which presented copyright as a roadblock to the development of the digital market in Europe, the European Commission moderated its approach. The dialogue with industry representatives is now a constructive and fruitful one.

The 12 proposals of the French Permanent Council of Writers (CPE) for a European policy for the book sector:

Some of the points addressed in the CPE's proposals are specific to authors:

- The crucial issue of remuneration (recent studies in England and France show that the situation has deteriorated) and the restructuring of contractual arrangements (see the recommendations of the European Parliament's report on [Contractual Arrangements Applicable to Creators](#)). Authors have high hopes for the study conducted by the Commission's department for authors' rights on these issues.
- Reiterating the existence of a two-pronged authors' rights/copyright system within which the "continental" approach – dominant in Europe – enables the author to benefit from a non-transferable moral right and a substantive intellectual property right.

Lastly, the final points (fixed book-price policies, cultural exceptions, encouraging translation and creation) aim to define for Europe a future in which cultural goods are not seen as commonplace commodities, readers are not reduced to consumer status, and authors are supported in their creative activity (freedom of expression, material support for creation and innovation, and a book and reading culture).

### ROUND TABLE 1 – The creator at the heart of authors’ rights (chaired by Constance Le Grip)

- **Constance Le Grip, member of the European Parliament (PPE, France)**

MEPs attach great value to the principles of fair remuneration of labour, of creation, promotion, respect and the protection of European cultural diversity, which form an integral part of this continent’s identity. In addition, they are attached to the principle of maintaining a sustainable system for the funding of creative and cultural industries and the fight against piracy, theft, and appropriation without the creator’s consent.

We must protect authors’ rights, defend creators, and adapt to the new conditions created by the digital economy. These are priorities.

Efforts to make authors’ rights even stronger and more protective – including in the digital age – do not mean to weaken, tone down or transform such rights. *“To adapt does not mean to tone down or to weaken; quite the contrary”*.

We must insist on an essential linguistic distinction: we are here talking about “authors’ rights”, a rich expression that is not at all outdated or irrelevant. “Copyright” is something else entirely, although both concepts are translated by the same term in French (*droit d’auteur*).

- **Frank Gotzen, Catholic University of Leuven**

The European Parliament plays a key role in protecting copyright. It is a bastion for the defence of authors’ interests.

The “mathematics” of author’s rights are based on the distinction between exclusive rights and exceptions. Some exceptions entail mandatory compensations guaranteed by the legislator, which are beneficial to authors.

The Court of Justice plays a crucial role: author’s rights is not the prerogative of the legislator, as they are increasingly becoming a matter of interpretation. Regarding exclusive rights, the general principle of the CJEU is as follows: directives must be read in their entirety, including the preamble. In the directive of 22 May 2001, the Court stresses the following points:

- It is essential to rely on a high level of protection;
- Artists must enjoy an exclusive right of reproduction in the broadest sense. This principle was reiterated in several judgements rendered by the CJEU, and is now established.

In terms of exceptions, the CJEU advocates a strict interpretation, which is good for author’s rights, since an exception reduces the author’s exclusivity. Several judgements were made to that effect. This theory is an established opinion which is not limited to author’s rights: exceptions must always be interpreted strictly. In the list of copyright exceptions, only one is mandatory (technical reproduction). It is the only “harmonised” exception. The fifteen other exceptions are optional and “non-harmonised”. This justifies the need for harmonisation, which can only be achieved through new legislations. It is one of the aims of the Digital Single Market strategy.

In this regard, 9 December 2015 will remain an important date, signalling:

- The proposed regulation on portability, which should not be seen as a stab in the back for author's rights;
- The communication on author's rights was issued. Should exclusive rights be redefined? Should new exceptions be introduced? In any event, new exceptions will be necessary to accommodate the Marrakesh treaty. However, other exceptions are also being considered (text and data mining, private searches in private networks, panorama, etc.). Questions are raised, but we do not yet have the answers. The communication mentions "mandatory" exceptions. As such, there is a quest for harmonisation.
- On value-sharing: creators must be at the very heart of the law, even in a digital environment. This issue concerns platforms in particular. How can we ensure appropriate remuneration in the new digital environment? The EU must work towards the need for mandatory (non-optional) rules.

The CPE's proposal on the distinction between "copyright" and "authors' rights" is important. The open public consultation held on 23 March on the role of publishers in the copyright value chain and on the panorama exception is an opportunity for everyone to discuss the role of publishers: their situation is difficult, not only with respect to the Google Tax, but also regarding European and national case law on remuneration generated from photocopying. Publishers are the partners of authors and they also need protection. Authors must make the most of this opportunity to support publishers and, especially, to require fair and equitable contracts from them in return, and to put an end to abusive contracts requiring authors to transfer all their rights. First and foremost, we need a "new deal" with our main partners – the publishers – before focusing on digital technology to restore the sharing of value.

- **Mary Honeyball, Member of the European Parliament (S&D, United Kingdom)**

Despite their conceptual differences, France and the United Kingdom have much in common. The differences might have to do with the application of rules. For example, regarding freedom of panorama (which is the most extreme case), practices are very strict in France and much more liberal in the United Kingdom.

Creation needs to be protected. We have only just celebrated the 400<sup>th</sup> anniversary of William Shakespeare's death. He became one of the greatest European authors because his works were protected. The world has changed and we must now deal with digital technology; but how should we go about it?

We must regulate the platforms. The Commission will make proposals, but we must ensure that piracy is eradicated. Platforms must monitor the content that they distribute. Criminal or hateful content is one thing, but copyright is yet another, and it should not be left to their discretion.

Attention is currently focused on music, but the same principles should apply to written materials. "Platforms must accept their responsibility with respect to the content being distributed".

There has been a worrying fall in writers' earnings. Only a lucky few authors are able to live on their writing alone. Culture is vital – it is what makes us human. We cannot imagine the world without creativity. It is increasingly crucial that we guarantee adequate remuneration for authors. That would require platforms to be regulated. The chain must be considered as a whole, since there are countless individuals who depend on authors, as shown in the video by SCAM (French society of multimedia authors).

I represent the city of London, whose economy relies heavily on the creative industries. "*The immense value of creation is not only cultural; it is also economic*". We cannot allow ourselves to let

cultural industries decline and lose jobs. On the contrary, we have every reason to ensure that the rights of writers and creators in general are respected.

Regarding the issue of exceptions, I don't see any overt opposition between the safeguarding of creators' interests and the possibility of arrangements to disseminate knowledge. Certain areas require exceptions. Education, obviously, since we need teaching material, whether for distance learning or digital works. As for data mining, discussions on the subject need to be continued.

In my opinion, minimum standards should be adopted at the European level so that each Member State can then protect its own traditions. In the United Kingdom, for example, there is no levy on copies. We cannot force Member states to change their cultural approach.

Regarding future works, we will need to take into consideration the issue of language equality. All European languages, even minority ones, must be protected in terms of authors' rights. All creators and authors, regardless of their language, must be placed at the heart of the debates within the EU.

Pending the reports on exceptions, which should be finalised next Fall, we must continue these discussions while maintaining a pan-European approach.

- **Gerhard Pfennig, speaker for the Urheberrecht Initiative**

Everyone wants to place the creator at the centre of the debate. The Parliament last July; the Commission in December.

A study that we are currently conducting on the effects of German legislation on the income of creators shows that, since 2000, their remuneration has remained stable whereas related revenue (media, publishing, etc.) has increased substantially. Ultimately, legislators have the power to help creators make a decent living.

In terms of contracts, the German system enables creators' associations to enter into remuneration agreements with users' associations. However, the cultural industry still hinders projects that are beneficial to authors, whereas it should strive to improve the instruments allowing them to be better remunerated. Authors should be able to exercise their rights as they wish. Likewise, we must protect the author's right to be informed of the manner in which his/her work is used by the cultural industry and by publishers.

Accordingly, it is not merely a matter of placing the creator at the heart of the system. The creator must be guaranteed appropriate remuneration.

New services and value-sharing are very important topics. We now know that the revenue generated by online distribution ends up in the pockets of technical and platform administrators, not those of creators. Streaming makes it possible to prevent piracy and provides access to music, videos, and more. However, musicians earn only 2% of what they would normally make through conventional production. Of the €10 paid for a monthly streaming subscription, €5 goes to the streaming service, which belongs to the producer and publisher, and a tiny portion goes to the right-holder. As such, musicians suffer more than they gain from streaming. They lose income, but consumers are unaware of this.

Platform regulation is crucial. Youtube allows a very large number of users to add music on a video, but the artist is not paid and the law does nothing about it. Discussions are under way in Germany on creating an exception for the use of works on platforms for private purposes, on the sole condition that the platform pays the management company, which will then redistribute the earnings to the right-holder. It is a difficult procedure to implement since, at the same time, service providers like Google are trying to be considered as authors, which is unacceptable.

These issues are critical, and we should not waste time with portability or the panorama exception, which are problematic only to Julia Reda and Wikimedia.

Lastly, regarding exceptions, for most right-holders the private copy system is very important, since it guarantees real money for authors and the European copyright industry. In this regard, it is very difficult to understand the UK's position on private copying levies. There is an imbalance insofar as European authors are not remunerated when their work is copied in the United Kingdom. Similarly, it is important that students, academics and researchers have access to the works of authors, but the educational institutions must pay the creators.

All of these issues, which must be discussed at the international level, will be covered during a conference in Berlin in December.

## **PRESENTATION – Promoting fair conditions for authors: actions implemented by the International Authors Forum**

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(As Katie Webb, Executive Administrator of the International Authors Forum, is unable to be here, Cécile Deniard, Vice-President of the CPE, offers a brief presentation of the work of this international organisation of which the CPE recently became a member.)

Formally established in 2013, the International Authors Forum has experienced fast growth, since it fills a specific need: that of representing book authors and visual artists internationally. It currently comprises 56 member organisations across all continents.

In particular, the IAF represents authors to the World Intellectual Property Organisation (WIPO), where discussions on exceptions for libraries, archives and educational institutions supplement and shed light on those held at the same time in Brussels and several other countries. The issue is still that of balancing the protection of authors' rights with the widest possible access to culture. The equation is different depending on the country's economic situation, and developing countries are very sensitive to requests for new exceptions, but the IAF invariably defends the idea that author's rights is not an obstacle to accessing the works of authors; on the contrary, it is the prerequisite everywhere to their creation and to the maintenance and development of a publishing sector.

The IAF also works to promote better contractual arrangements and better remuneration for authors. Its document "10 principles for fair contracts", published at the beginning of the year, is consistent with the demands of European authors and shows the extent to which the demands of authors worldwide are similar (clearly defined and time-limited contracts, regular and transparent rendering of accounts, etc.).

Although the difference between authors' rights (and copyright "is not merely a theoretical difference" (authors in France are now presented with copyright-inspired contracts where they are requested to transfer their "copyright" and to waive their moral rights), there is no contradiction between authors working under one or the other system: authors working under a author's rights system also advocate the protection of their copyright and moral rights (see the campaigns of the American Authors Guild and the British Society of Authors). If the opposition between the two systems is to be overcome, it should be for the benefit of authors.



ROUND TABLE 2 – How can authors adapt to the new digital environment? (chaired by Virginie Rozière)

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- **Giuseppe Mazziotti, Trinity College Dublin, Centre for European Policy Studies (CEPS)**

There is no vision on what author's rights should be in the future. Several declarations have been made in the past, but were never implemented. Author's rights has been harmonised to a significant degree in Europe, in order to adapt to new uses, but there is inconsistency in how the rules have been defined within the EU.

The main problem today remains how platforms are using protected content. All the laws exist in theory, but the acknowledgment of these rights and their application are a huge issue with shocking effects on the payment of creators. As for licensing, there are still differences between the common law and continental law systems.

It is very disappointing to observe the delay of Member States in transposing the 2014 directive on collective rights management, which mainly concerns the musical industry, but remains very important to written works. How many Member States transposed the directive in time, before 10 April? Moreover, this directive could have been a regulation, given its level of detail. Nevertheless, the national authorities are reluctant to uphold the values that would make author's rights more credible and effective. Some national players want to maintain the status quo, and the worst enemies of author's rights seem to be the national authorities themselves. However, "with respect to author's rights, this directive should be considered invaluable".

I do not want to blame everything on Google, which is still a great company. Today, most authors are unaware of what they are doing when they post their work on social networks, despite the fact that they are able to read the platforms' conditions of use. They do not understand that they are sharing the very essence of their work. We need a clear vision within the EU of the exceptions in this age of e-commerce.

Unfortunately, the year 2000 was a notorious year for copyright, with the Napster case and the golden age of P2P, but especially the adoption of the directive on e-commerce which, following the example of the American Digital Millennium Copyright Act, created a wide exception for online intermediaries. This exception has become a privilege for platforms.

Of the CPE's twelve proposals, the most important ones concern the whole creative sector. It is surprising to see the extent to which the creative front is divided with respect to that of technologies and users. "Without any true unity or internal solution, the current problems will never be resolved". The example of standard contracts is a good illustration in this respect.

Lastly, regarding the clash between civil and common law: how can we still consider that the differences are not that important? The different approaches to remuneration should converge, despite national differences.

- **Anne Herold, Member of Commissioner Oettinger's cabinet**

Considering its jurisdiction over copyright, the European Union is still at the harmonisation stage. It is important to understand that our role in this area is limited. But we are determined to forge ahead, in particular via the Digital Single Market. Next Fall, we will be presenting several aspects of the author's rights reform, but significant steps have already been taken, such as the proposed portability regulation.

Our action is based on four pillars:

- How can we ensure easier access to content on the European market? Portability addresses an important aspect of this question.
- Better harmonising and/or better adaptation of certain exceptions to the digital reality.
- How can we improve the functioning of the European author's rights market? That is the most complex aspect of our work ("a major headache").
- Ensuring author's rights compliance. We are working in close collaboration with DG Grow and Commissioner Bienkowska to effectively fight piracy.

The Commission takes a holistic approach to the third point, which addresses the entire value chain: the author's work, intermediaries (publishers, investors) and new methods for accessing content, including digital content, and finally the end user, who has new expectations for the Internet. At the same time, we must not lose sight of the basic function of author's rights: paying authors and encouraging investment in the creative industry.

Special attention is given to two subjects:

- Fair remuneration for authors. A study on the musical sector was recently published, and we are finalising a study on written works. The central question is as follows: how can we ensure that authors receive fair contracts that allow them to make a profit from their work, including on the Internet? For now, we are working on transparency, legal certainty and the balance of the remuneration system.
- The issue of platforms, which extends beyond the framework of author's rights. We want to help right-holders to obtain better terms in their relationships with distributors. This is a sensitive aspect in the author's rights reform, since it overlaps with the exceptions provided in the e-commerce directive.

- **Frédéric Young, Delegate General of SCAM, Belgium**

We are talking here about individual creation, freedom of expression, the development of our cultural industries, the protection of cultural diversity, the working conditions of authors, and thus the subject addressed here is exceptionally important and justifies very lively debate.

It is important to highlight the work of the European Parliament and Commission in the nineties, when the first directives were more specific but aimed to improve the situation of creators. This intention seems to have disappeared since then, with exceptions and the technological industries becoming the focus.

We are talking here about a European cultural policy built first and foremost on the need to protect creation and creators, and to establish a vision of cultural policy that includes a modern and high-level author's rights. Unfortunately, DG Culture seems to have trouble making itself heard in the Commission's debates, or perhaps the other DGs are not interested in cultural policy.

Every cultural policy has a second pillar alongside the creative policy, namely the cultural democratisation policy, which extends beyond social and economic inequalities. However, the "modern interpretation of cultural democratisation" that does not factor in author's rights is wrong, as it creates a gap in the value chain, paid for by the most vulnerable, namely creators themselves.

The old methodology of ongoing dialogue has become scarce in the Commission's most recent work. The new methodology of widespread consultation does not encourage agreements, and makes them difficult to implement.

What do authors need?



- Authors need much more purposeful action to stop unlawful use. Piracy is a judicial matter. In legislative terms, there is a form of economic parasitism between the content industry and industries that have captured value thanks to the exemptions granted to them.
  - The certainty of remuneration, so that they can work in the long term. This is most likely achieved through a non-assignable right to remuneration.
  - The option of collective negotiations in areas where such negotiations are not yet possible.
  - Recognition of the entrepreneurial role of creators.
  - The need to set up research and investment funds.
  - Trans-European training tailored to new technologies.
  - The regulation of operators in a dominant position. What is DG Competition doing in response to oligopolies like Youtube and Amazon?
  - Promoting European cultural goods to the European public via distribution platforms.
  - European authors need a clear strategy that is easily understood by political leaders, and a more efficient European structure.
- **François Pernot, CEO of Dargaud Lombard publishing, CEO of the Comics & Animation Division of Media-Participations**

The debate gives the impression that we have authors on the one side of the argument, and the rest of the world on the other. However, the reality is different, since they work together: there is a true “relationship between author and publisher based on sincerity”.

The future is complicated due to technology, which is disrupting the landscape at a dizzying speed. But the publisher's convictions remain unchanged. Digitisation enables wider and more international distribution; as such, it is an opportunity. However, the monopolies enjoyed by certain American companies make things more complicated for publishers.

The problem today still concerns value and the distribution of value.

What does the future hold?

- Technological development is an ongoing investment that is only profitable in the short term for large-scale distributors. But the market is divided and multilingual, making it more complicated than a major English-language market.
- Transmedia: in the future, creation will factor in the opportunities for distribution. Copyright will be all the more complicated to manage.
- Legal uncertainty: authors in Europe will always find a way, through legal remedies, to recover their royalties. Publishers who are not at fault need to be sure that their investments are protected.

The imbalance between right-holders and publishers must be resolved.

### **Special contribution** – Pierre Sellal, Permanent Representative of France to the European Union

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The CPE's initiative is a positive one. These issues are very dear to France. We are seeing a profusion of initiatives, consultations, debates on the digital economy, author's rights and content portability, and we are expecting the author's rights package after the summer. It is one of this Commission's priority projects for political and legislative action. We must attend and participate in the discussions.

The Commission has made it a priority to adapt the European economy to the digital age. There are technological developments, changes in consumer behaviour and in access to creative works, and of course interests. We must determine which of these interests will best meet the general interest.

This day has a clear theme: the author and author's rights are perfectly relevant concepts in the 21<sup>st</sup> century. It is a deep reality in which France believes, and we must demonstrate this fact from a political, cultural, ethical and economic perspective.

The first struggle is to resist the premise that author's rights is a roadblock to economic development, research and innovation. On the contrary, without the protection of works, there will be no creation, no knowledge-based economy, no innovation, and no future for research. We must not abandon the economic perspective on the grounds that we are dealing with a cultural issue.

Author's rights concerns ownership, which means exclusivity and the possibility for authors to review who accesses their work. Accordingly, any departure from this principle must be restrictive, and the debate surrounding exceptions will be a challenging one. It is a different logic to that of "fair use", which must lead to a restrictive approach to exceptions. Our international commitments, signed in Marrakesh, compel us to be restrictive.

We must defend these principles, support the long-term viability of the concepts, and accept the need for modernisation, for example regarding the enforcement of these laws. Whenever steps towards modernisation are proposed, the Commission should have to prove that they are required and rely on very comprehensive impact studies. That requirement should be reiterated to the Commission.

Progress has been made over the last few months on the Commission's approach to copyright: the need to fight piracy, the regulation of platforms, value sharing, or the need to resist the capturing or theft of value, and we must build on these advances.

We must also demand a balance in legislative initiatives. When it comes to producing legislation on the organisation of the domestic market, access to content, and portability, we use regulations and directives: hard law. When it comes to platforms, value sharing, and piracy, however, the Commission tends to propose codes of conduct and voluntary commitments: soft law. We must argue against this legal discrepancy.

It is necessary to move ahead with effective European solutions, and to try and help Europe to rediscover a taste for exporting its ideas and values to the rest of the world.

### **ROUND TABLE 3 – Discussion with European authors** (coordinated by Frédéric Young and Hervé Rony)

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*How do authors approach their work in the light of developments in digital technology and the political environment? Are they optimistic?*

- **Juan Pedro Aparicio**

The circumstances are changing and we need to talk about globalisation. Many years ago, borders were temporal; writers unable to find a publisher in their country could be published elsewhere (that was the case with James Joyce). Nowadays, publishers are only seeking out the best-selling authors in other countries to sell their work in their own country. The publishing policy revolves around "entertainment", and that suggests a cultural decline.

- **Philippe Geluck**

Literature is being plundered, but comic books still have many fruitful years ahead of them, even if the website Izneo is growing. There is a “magical” side to author’s rights, which is a miracle in an author’s life: “It is the most noble money of all, the result from creation, takes nothing from anyone and is not the fruit of exploitation”. The author is part of a chain: authors who are more established, thanks to author’s rights and the support of publishers, must feel a sense of responsibility towards the next generation of authors. If the Hergés and Hugo Pratts of this world had not been published, Geluck may not have been able to grow as a creator. Major platforms like Amazon should reinvest a share of their earnings in creation and young authors.

- **Morten Visby**

The book market may be liberal, but it has not been liberalised. Denmark knows the effects of digitisation all too well. E-book sales account for 20% of the market. 200,000 digital loans are taken out from libraries every month, which is considerable for a small country like Denmark.

The problem is not digitisation, but liberalisation. Denmark went from operating a regulated market (standard contracts, minimum fees, fixed book prices and collective negotiation) to an extremely liberalised market, where market needs override creators’ needs. It was a disaster for authors and literature alike. Publishers began to focus on best-sellers. For example, the last Nobel prize winner was only published in Danish when an independent publisher made a real effort. 50% of Nobel prize-winning authors are not translated into Danish.

*What do you expect of the European Institutions in terms of initiatives that could have a positive effect on the capacity for creation?*

- **Juan Pedro Aparicio**

Few laws, but clear laws, and they need to be enforced. That is the key issue. In Spain, the Authors Association realised that their problems were not due to the laws: it turns out that Spanish law is excellent, but the necessary mechanisms to enforce them are not in place (for example, the obligation for publishers to certify sales, to provide authors with notice and certification of destructions, etc.). Good legislation is necessary, but not enough.

- **Philippe Geluck**

There are two things:

- They should give some thought to the pricing of images. That has been achieved in the world of music and films. Illustrators are plagiarised relentlessly, which means they never see a large part of the earnings from their work.
- Education: young people today are used to digital technology and are therefore completely unaware of the concept of author’s rights. Schools and educational curriculums should include an explanation of author’s rights as one of the fundamental cultural rights, and properly explain the concept of creative value.

- **Morten Visby**

The author's rights reform initiatives (consultations, communication, etc.) are made up of negative (even horrifying) elements, but also a positive element: the notion of fair remuneration for authors is invariably raised (who could claim to be against it?), but merely setting out these principles is not enough.

Europe must not produce legislation to solve every problem – that would be impossible, as the rules and particularities of each country are different. Instead, we must provide authors with the tools that enable them to organise themselves. To that end, the legislation should include a clause compelling fair remuneration for authors; the details could be determined by national legislation. This clause could be very important in a country like Denmark, where associations do not have the right to recommend fees or to pursue collective actions (if an author has a problem with his/her publisher, he/she must bring proceedings alone).

- **Juan Pedro Aparicio**

We must insist on the enforcement of contracts and laws. The fight against piracy is very important. In a country like Spain, 80% of cultural goods consumed are derived from piracy, which is absolutely horrendous, and on some occasions one might suspect complicity between governments and major companies. In Spain, there is also a specific problem involving retirement and author's rights.

## CONCLUSION

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- **Constance Le Grip, Member of the European Parliament (PPE, France)**

Many MEPs are deeply involved in defending author's rights, and are receptive to input from the industry. There is indeed a "magical" side to author's rights, connected to the very deep-seated nature of this struggle, which also involves the European identity, cultural and linguistic diversity, and respect for creation.

MEPs will build on the Commission's proposals once they have been made, in order to improve them, but they are already engaged in the dialogue. The fair remuneration principle is established, but it is important to give it substance. We must also consider the diversity of the Member States (legal and cultural; even the term "authors' rights" is not used everywhere), and subsidiarity. There is no doubt that it's a fair fight, and MEPs are listening to authors, their ideas and their initiatives.

- **Hervé Rony, Vice-President of the CPE**

Author's rights is supple and flexible. Agreements are always possible, but we need a legal and economic framework to support them. We must also bear in mind the sometimes troublesome confrontation between certain sectors that are more regulated than others within a Europe that is becoming more liberalised.