



**Federation of European
Screen Directors**

Fédération Européenne des
Réalisateur·e·s de l'Audiovisuel

Brussels, 8 July 2022

Implementation of EU Directive 2019/790 on Copyright in the Digital Single Market

Dear Ms Zvokelj,
Dear Ms Pinter,
Dear Mr Židan,
Dear Ms Pečar,

Founded in 1980, the Federation of European Screen Directors (FERA – Fédération Européenne des Réalisateur·e·s de l'Audiovisuel) represents the independent voice of European film and TV directors in Brussels. We speak for more than 20,000 European filmmakers, representing their cultural, creative and economic interests at national and EU level.

We understand that Slovenia is currently considering a draft legislative text to implement Directive 2019/790 on Copyright in the Digital Single Market in national law, and that provisions touching to the fair remuneration in exploitation contracts of authors and performers (articles 18 to 23) would be transposed while applying only for audiovisual works created after the implementation.

This interpretation of article 26 is in contradiction with the European Commission approach, which considers that the term “acts concluded” refers to the **acts of exploitation and not agreements concluded**. In this matter we would refer to the 2001 Copyright Directive article 10(2) and the Opinion of Advocate General Sharpston in the VG Wort case¹ which took the view that “acts concluded” referred to acts of reproduction.

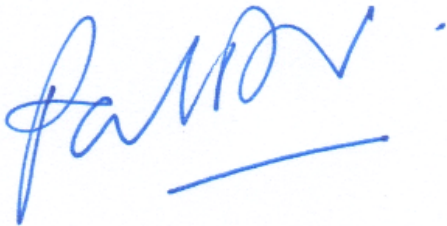
It also defeats the general purpose of these provisions in the Directive, which seek to redress the systemic weak bargaining position of authors and performers and subsequent unfairness of contractual terms, which is particularly acute in the European audiovisual sector – and is actually worsening today in a fast-changing production and distribution market both offline and online.

1. See Opinion of Advocate General Sharpston in VG Wort (C-457/11 to C-460/11) EU:C:2013:426; [2013] E.C.D.R. 4, in particular [130]–[136]

By choosing to ignore the retroactive nature of the new provisions set out by the Directive, Slovenia would stand out from other Member States, create an unlevel playing field for its authors and performers compared to their colleagues across Europe, generate legal uncertainty detrimental to the entire industry on the long run – and expose its implementation to a negative assessment by the European Commission during its upcoming conformity check to ensure compliance of national transpositions with the terms of the Directive.

We urge you to reconsider this approach to deliver on an effective implementation of provisions on fair remuneration in exploitation contracts, essential to the economic survival of freelance authors and performers in the audiovisual sector and to the sustainability of their professional activity.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Pauline Durand-Vialle', with a horizontal line underneath.

Pauline Durand-Vialle
CEO

About Us

Founded in 1980, FERA represents the independent voice of European film and TV directors in Brussels. With 49 organizations as members from 35 countries, it speaks for more than 20,000 European film and TV directors, representing their cultural, creative and economic interests at national and EU level.

Honorary President: Jasmila ŽBANIĆ (Bosnia and Herzegovina)

Ambassadors: Marco BELLOCCHIO (Italy), Isabel COIXET (Spain), Agnieszka HOLLAND (Poland), Michaël R. ROSKAM (Belgium), Charles STURRIDGE (UK), István SZABÓ (Hungary)

Executive Committee: Bill ANDERSON (United Kingdom), Chair; Elisabet GUSTAFSSON (Sweden), Honorary Treasurer; Eugenia ARSENIS (Greece), Ida GRØN (Denmark), Lou JEUNET (France), Salvador SIMÓ BUSOM (Spain), Martijn WINKLER (Netherlands)

EU Transparency Register Id No. 29280842236-21

screendirectors.eu

FERA AISBL

Fédération Européenne des Réalisateur·euses de l'Audiovisuel /

Federation of European Screen Directors

Rue du Prince Royal 85-87 - 1050 Bruxelles, Belgique

+32 (0)2 551 08 94 - office@filmdirectors.eu