



IAA EUROPE conference

22 November 2019 in Bratislava



LEGAL AND SOCIAL STATUTES
OF ARTISTS IN EUROPE

30 years after the Velvet Revolution

Focus on the Directive (EU) 2019/790
on Copyright in the digital Single Market

PRÁVNE A SOCIÁLNE POSTAVENIE
UMELCOV V EURÓPE

30 rokov po Nežnej revolúcii

s dôrazom na Smernicu EU 2019/790
o autorskom práve na digitálnom
jednotnom trhu



23 November 2019

The 15th General Assembly
of IAA Europe

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On 23 November 2019 the International Association of Art (IAA) Europe gathered for its 15th General Assembly in Bratislava/ Slovakia in the Gallery UMEĽKA, building of the Slovak Union of Visual Artists. This gathering was accompanied by the conference “Legal and social statutes of artists in Europe - 30 years after the Velvet Revolution: Focus on the Directive (EU) 2019/790 on Copyright in the Digital Single Market” on 22 November 2019. The conference was organized by IAA Europe, Slovak Union of Visual Arts (SUVA), Internationale Gesellschaft der Bildenden Künste (IGBK) and Norske Billedkunstnere (NBK) and kindly co-funded by Kopinor. (Please find the program of the conference attached).

More than 40 participants, conference speakers and delegates from artists associations from 20 European countries, all members of the IAA Europe, gathered to discuss the legal and social statutes of artists today in Europe, 30 years after what is called the “Velvet Revolution” in 1989, and proceeded to focus their attention on the current implementation process of the “Directive (EU) 2019/790 on Copyright in the Digital Single Market” (often also called the 2019 EU copyright directive) in the EU member states.

Pavol Král, president of SUVA and vice president of International Association of Art/Association Internationale des Arts Plastiques (IAA/AIAP), welcomed the participants with an introduction to the history of SUVA and to the conference venue Gallery UMEĽKA: It is in this same building that first gatherings took place amongst artists and their peers in Bratislava in 1989, that eventually led to the system-change in Slovakia and that helped to restore freedom and democracy in the region. 2019 has thus been a very busy year for SUVA as many events in the Gallery celebrated and reminded the 30-year anniversary of the “Velvet Revolution” and the interest in the expertise and perspective of the artists association SUVA is immense. The gallery does not receive any regular state support until today, and it is with exhibitions, events from 3rd parties and applications for different project funding that the SUVA team manages to propose the high-quality program that the city of Bratislava benefits from.

In 2018, SUVA published a book titled “The Black Sheep of Art - art and society: myths and facts”, which gathers texts – also from many IAA delegates – on the situation of visual artists in Slovakia, Europe and worldwide today. The publication depicts, on the one hand, the hurdles and sometimes very difficult income situations that visual artists experience all across the continents today. On the other hand, it presents facts arguing for the positive impact of the arts on all sectors of European economies and the high added value of the creative sector and the educational potential of culture workers to societies in general. Between the years 2004 – 2013 total global exports of the cultural goods have almost doubled and the cultural economy today makes of 6,5% of the total EU workforce. Facts that lead directly to the focus of this conference, to questions of copyright in 2019 and facts that truly mock the often-implied question whether it makes any sense at all to protect intellectual property - for artists and for authors? But also, for economies and societies in general? Is it true that copyright protection is only in the interest of the authors?

Andrea Křístek Kozárová, also from SUVA and ready to take over her position as presidency of IAA Europe at this year’s General Assembly, thanked Král for his good introduction to the conference and presented the participants IAA Europe’s activities in 2018 and 2019 with its very strong focus on fair remuneration of visual artists via all possible channels, also through an appropriate copyright regime (view also www.iaa-europe.eu and the campaign “Exhibition Remuneration in Europe”). It is here that all participating delegates of IAA Europe briefly answered four questions that had been sent to them previously on the current state of implementation of the “Directive on Copyright in the Digital Single Market” in their countries¹. The answers clearly showed where the priorities of the artists

¹ The four questions: 1. How has your National Committee been involved since the adoption of the so-called copyright directive in April 2019 to implement the directive in your country now? - 2. Are there other actors

associations lies: most members prioritized their answers on the “Fair remuneration in exploitation contracts of authors and performers” (Article 18-23 of the European directive), on the potential application of an extended collective licensing (Article 12) and with it on questions of collective bargaining and on the much-discussed “Use of protected content by online content-sharing service providers” (Article 17).

Katharina Uppenbrink then stepped up as the first invited speaker of the conference to present the work of the “Initiative Urheberrecht” in Germany, a network in which as much as 35 guilds are active at the moment, representing up to 140.000 authors in Germany. At the beginning of her presentation Uppenbrink stressed: The directive has been adopted. It can't be changed anymore. Today, the focus has to be on the implementation of the previously much-discussed directive. Some parts have to be implemented; others are optional. Article 17 has to be implemented – and everybody would like this to be harmonized. In the perspective of the “Initiative Urheberrecht”, for which Uppenbrink acts as a general manager, the directive very much improves the legal situation of artists, but also of institutions. And it also improves the situation of the platforms, as it structures their responsibility. To name some of the goals achieved for artists by the directive: improving the overall situation of creators by stressing the importance of a proportionate and appropriate remuneration, by facilitating rights management, by generally enforcing the status of collecting societies for instance through introducing the concept of an extended collective licensing, and all this also in more areas than music. And last but not least the directive improves the authors' contractual situation, stressing transparency, the right of revocation and a contract adjustment mechanism.

Ms Uppenbrink then went on to introduce the lobby campaign of the “Initiative Urheberrecht” in 2018 and early 2019, which was especially helpful to the associations present, as the Initiative used a broad social media strategy and did not shy up from frankly proclaiming that its main goal was and is to influence the government: a straight forward but also very transparent and responsible lobbying structure. She reported that the engagement for the directive, often defamed as a “censorship-law”, pushed everybody quite to its limits in her network and it took a lot of energy when encountered with a strong opposition in public and in media. Today, after the adoption of the directive, the Initiative is still active in accompanying the implementation process in Germany, with meetings 4-5 times a year, several working groups and a yearly international conference.

Next, Jana Vozárová, director of LITA, the Slovak Society of Authors, explained her perspective on the debate and on the current implementation process of the directive in Slovakia. LITA represents a very broad range of creators: authors of literary works, of dramatic, music-dramatic and choreographic works, of audiovisual works, of visual arts and of architecture. It is an association with classical associational structures: the general assembly approves the internal rules, and the board of LITA consists of nine members, of which two board members represent the visual arts and photography. Firstly, LITA deals with so called compulsory collective management, for instance in the domain of private copying, reprographic reproduction, cable transmission and resale right. Secondly, LITA administers extended collective licencing in Slovakia for what concerns publish lending rights, rental, broadcasting, making available and the use of works in hotels and restaurants. And thirdly, LITA administers by ways of voluntary collective management, for instance in the fields of reproduction, distribution, public exhibition and of public performance. Ms Vozárová took the time to briefly explain the most crucial articles and details of the directive once again to everybody. Which was very

you have worked with on this issue or who are generally active on this issue in your country lately (EU copyright directive and/or its implementation) that you would like to highlight to us (i.e. collecting societies, other artists associations, ...)? - 3. What is the current state of implementation of the directive in your country at the moment? - 4. Which article or articles of the copyright directive are most important to you as visual artists and artist associations? Why?

welcomed, because it is also a simple reality that the debate on copyright is a very juridical one, and not always easy to follow for artists - even not for those that engage in artists associations, as is the case for all the delegates of IAA Europe. Ms Vozárová's input was furthermore very helpful because, next to matters of a better remuneration for artists, also the general structure of collecting societies was debated amongst the participants at the conference. And LITA provides to be a very exemplary collecting society, concerning the tasks and the internal and external regulations for transparency and decision processes in such organizations. Ms Vozárová reported that in December 2019 a 1st working group in the directive implementation process has been installed in Slovakia, yet the parliamentary elections coming up in Slovakia in February 2020 may slow down the work of this group until next summer. For LITA, challenges lie ahead in negotiating the conditions for so-called exceptions in the copyright regime, for instance in the domain of education, whether those shall apply with or without a compensation.

Helge Sønneland, former Director General in the Norwegian Ministry of Culture and Director General and Special adviser in copyright matters in the Norwegian delegation to the EU in Brussels and presently adviser to the Norwegian rightholders' organizations in international affairs, was the last speaker to give his input to the conference debate. Sønneland looks back on an immensely rich experience in matters of copyright on the international level and was able to report much on the history of the copyright regulation amendments since the WIPO copyright treaty in the 1990s and the first EU copyright directive in 2001. As part of the internal market, Norway also implements all EU copyright directives. Priorities lie for Sønneland in improving licensing to ensure wider access to content, but also in presenting exceptions without remuneration as options. It is a great benefit from his perspective that the concept of an extended collective licensing has now been recognized on the European level with the new directive. And now is also the time that collecting societies work on the developing a tool that could allow visual artists to license directly to service providers - but that is all still very much in the preparatory phase. Mr Sønneland also referenced on the German intervention in the Council of Europe in April 2019 - after the adoption of the directive in the European Parliament – in which the importance of a dialogue with all interest groups in the implementation process is stressed again. The intervention asks for a “dialogue [...] based on a spirit of guaranteeing appropriate remuneration for creatives, preventing ‘upload filters’ wherever possible, ensuring freedom of expression and safeguarding user rights.”

In the following fish bowl discussion with all participants many points of the speakers' inputs were taken up again and especially the goals of reaching a younger audience on the question of copyright and an appropriate remuneration for artists were discussed. It was reported that also within some of the artists associations present, there had been an internal outcry on the content and the voting on the 2019 copyright directive. Yet the importance of a better remuneration for artists and the chances coming up with the new directive were in the foreground in the end and it is clear that the goal must be to convince the younger and to unite the own group. The possibility of collective bargaining must be put forward again and again, the right of artists and artists representatives to assemble and to negotiate the best conditions for their interest group – this right would seem obvious these days in Europe, but in fact it is tried again and again to doubt or to prevent this privilege.

On the day after the conference the delegates of IAA Europe amongst others discussed Friday's inputs and results and unanimously voted for the “IAA Europe resolution on the implementation of the EU Copyright Directive 2019 for an appropriate and proportionate remuneration of Visual Artists in Europe”, see the resolution on the following page.



IAA Europe resolution on the implementation of the EU Copyright Directive 2019 for an appropriate and proportionate remuneration of Visual Artists in Europe

IAA Europe will seek to strengthen the collaboration with collecting societies, artist associations from different fields and other relevant copyright organizations in order to protect and strengthen visual artists' copyright.

Through this cooperation, we aim to ensure a strong protection of the artists' copyrights in connection with national legislative changes and the incorporation of EU copyright directives.

It is important that the EU copyright directives are fully implemented on national level, with no local exceptions or limitations to the rights - with no weakening of the directives' guidelines and ethos.

We want to make sure that visual artists are entitled to and actually receive remuneration when their works are used, and that the remuneration they receive is fair, adequate and in proportion to the use of their works.

It is also important that the decisions on what is 'appropriate and proportionate remuneration' are made in negotiations, where the artists' voice is powerfully present through artists' associations and copyright collecting societies. In the negotiations collective bargaining should be allowed and preferred, so that artists' best interest is safeguarded.

Collecting societies must follow the rules of good governance, transparency, reporting and distribute accurately the royalties they collect. To guarantee this, artists' associations must have representatives on the boards of collecting societies.

Digital platforms through which artworks or their reproductions are distributed should also keep record of the online use of artworks/reproductions and inform the artists about it - as the directive clearly demands.

Unanimously signed by the delegates of the National Committees at the General Assembly of IAA Europe 23 November 2019 in Bratislava

Austria / IG Bildende Kunst, Croatia / HDLU, Denmark / Billedkunstneres Forbund, Estonia / Eesti Kunstnike Liit, Finland / Suomen Taiteilijaseura, France / Conseil National Francais des Arts Plastiques, Germany / IGBK, Greece / Chamber of Fine Arts of Greece, Iceland / Samband Islenskra Myndlistarmanna, Israel / JAVA, Latvia / Latvijas Makslinieku Savieniba, Luxembourg / AAPL, Lithuania / Lietuvos dailininku sajunga, Netherlands / Beroepsvereniging van Beeldende Kunstenaars (BBK), Norway / Norske Billedkunstnere, Poland / Zwiasek Polskich Artystow Plastykow, Slovakia / Slovenska Vytvarna Unia, Spain / Unión de Artistas Contemporáneos de España (UNIÓN A.C.), Sweden / Konstnärernas Riksorganisation, Switzerland / Visarte, Turkey / Uluslararası Plastik Sanatlar Dernegi, United Kingdom / a-n The Artists Information Company

List of participants of conference and GA

Austria	Sheri Avraham
Croatia	Josip Zanki
Denmark	Anders Werdelin
Estonia	Vano Allsalu Elin Kard
Finland	Teemu Mäki
France	Ana Sartori
Germany	Constanze Brockmann Thomas Weis Katharina Uppenbrink
Iceland	Anna Eyjólfsdóttir Ingibjörg Gunnlaugsdóttir
Latvia	Igors Dobičins
Lithuania	Edita Utarienė Lina Kalinauskaitė Austeja Mikuckytė-Mateikienė
Luxembourg	Catherine Lorent
Netherlands	Sofia Kapnissi
Norway	Gyrid Garshol Hilde Tørdal Helge Sønneland Ruben Steinum
Poland	Maria Moroz
Slovakia	Pavol Král' Andrea Křístek Kozárová Dušan Křístek Veronika Jelenčíková Zuzana Jezerská Valéria Zacharová Vladimír Tupta Olga Ruppeldtová Dáša Zvončeková Dagmar Srnenská Jana Vozárová Lucia Miklasová
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Sweden	Pontus Raud Katarina Joensson Norling
Switzerland	Sabine Zaalene
Turkey	Bedri Baykam Oyku Eras
UK	Julie Lomax Jerome Ince Mitchell



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