



SERVING AUTHORS WORLDWIDE
AU SERVICE DES AUTEURS DANS LE MONDE
AL SERVICIO DE LOS AUTORES EN EL MUNDO

COU15-0546

Mr. Martin Schulz
President of the European Parliament
Rue Wiertz 60
1047 Brussels
Belgium

Neuilly sur Seine, 01/07/2015

Dear Mr. Schulz,

We are writing to you in our roles as President and Vice-Presidents of CISAC, the International Confederation of Societies of Authors and Composers, to express our concern with respect to discussions concerning the use of works of art located in public places.

CISAC is a non-profit, non-governmental organization, composed of 230 authors' societies from more than 120 countries. Through its membership, CISAC represents some 4 million creators including composers, screenwriters, directors, sculptors, painters, designers, photographers, choreographers and publishers. These creators are drawn from a wide variety of artistic fields, including music, drama, and literature, artistic and audiovisual.

CISAC is following closely the ongoing debates on the EU copyright reform within the European Parliament. Although not all CISAC members come from Europe, the process taking place now in the EU will no doubt affect all of us and will certainly impact our rights and protection in European countries.

We are writing to express our concern with respect to the initiative of MEP Julia Reda to allow the use of photographs, video footage and other images of works which are permanently located in public places, without the prior authorisation of the right holders and regardless of the commercial nature of such uses.

This proposal was included in the original version of the EU copyright evaluation report (“the Report”) that MEP Reda presented to the Legal Affairs Committee on 14 January. During the debate within the Committee, members adopted an amended version of the Report, under which the commercial use of such works should be subject to prior authorisation from the authors (or any proxy acting for them). Since then, an aggressive public campaign was launched to overturn the amendment.

In view of the upcoming vote on the Report by the plenary session of the European Parliament on 9 July, we would like to point out the consequences that the Parliament’s decision could have on the authors of the works concerned.

Currently, the use of works located in public places is regulated under the Information Society Directive (Article 5(3)(h) of Directive 2001/29). It is one of the 22 optional exceptions that member countries may transpose into national law at their own discretion. This means that Member States are free to introduce into their own national laws an exception to the rights of reproduction, communication to the public and distribution, to allow use of works, such as works of architecture or sculpture, made to be located permanently in public places. This framework has proven to work efficiently. Some EU countries have transposed the exception dealing with works in public places, including commercial usage, while in other countries commercial usage requires prior authorisation. Countries that have not transposed the exception have implemented practical mechanisms and solutions to facilitate authorisations for users.

Also, in a number of EU countries, authors have a remuneration right for commercial uses of their works in public spaces. Such remuneration is an important source of revenue for visual artists such as sculptors, authors of street-arts and architects. Besides, this right prevents large and powerful companies from unfairly making profit at the expenses of creators. If a provision such as the one promoted by MEP Reda is approved, artists would be deprived of such revenues, as a consequence of the disappearance of their moral and remuneration rights on the works concerned.

Furthermore, there is no evidence that the issue of usage of works in public places needs further harmonisation at the EU level. Since the implementation of the Directive 2001/29, no cross-border difficulties or obstacles to the internal market were reported as a result of the application of article 5(3)(h) of the Information Society directive.

We would therefore urge you to consider all the above, and call for a decision that safeguards the rights of authors against what appears to us to be the relentless erosion of the value of the works permanently located in public spaces in favour of a limited number of big commercial stakeholders, who insist on building global businesses, and amassing big profits, on the back of the authors’ community.

We do hope that the above information will assist you and the institution you represent in adopting the most appropriate decision in view of the interests at stake at the plenary session of the European Parliament on 9 July.

We remain at your disposal for any question or clarification you may have on the above-mentioned considerations. We would very much appreciate the opportunity to continue a dialogue with you and the relevant competent authorities in the coming weeks, in order to exchange further views and work towards a valuable, effective regulatory framework for the usage of the works located permanently in public spaces in the EU.



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