



Belgique/Belgium: Association des Scénaristes de l'Audiovisuel and Scenaristengilde vzw **Bulgaria:** Bulgarian Association of Film, TV and Radio Scriptwriters – BAFTRS **Danmark:** Danske Dramatikeres Forbund...
Deutschland: Verband Deutscher Drehbuchautoren e.V. **Ελλάς:** Ένωση Σεναριογράφων Ελλάδος **España:** Federación de Asociaciones de Guionistas del Audio-visual (FAGA), includes: Asociación Galega de Guionistas; Autores Literarios de Medios Audiovisuales; Escritors Valencians de l'Audiovisual; Euskal Herriko Gidoigile Profesionalen Elkarte; Guionistes Associats de Catalunya **Finland:** Suomen Näytelmäkirjailijaliitto - Finlands Dramatikerförbund ry **France:** Union-Gilde des Scénaristes **Island:** Félag leikskálda og handritshöfundu **Ireland:** Irish Playwrights and Screenwriters Guild **Nederland:** Netwerk Scenarioschrijvers **Norge:** Norske Dramatikeres Forbund **Portugal:** Associação Portuguesa de Argumentistas e Dramaturgos **Sweden:** Sveriges Dramatikerförbund **Serbia & Montenegro:** Nezavisnost **Suisse:** Scénario **Turkey:** SEN-DER, The Scriptwriters Association of Turkey **United Kingdom:** Writers' Guild of Great Britain

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1. Introduction

Six weeks have passed since the FSE General Assembly in Thessaloniki at the end of November 2006. Three important activities have taken place, the Conference on European Screenwriting in Thessaloniki which resulted to the presentation and signing of the Manifesto of European Screenwriters, the voting at the European Parliament of the Ruth Hieronymi report on the Audiovisual Media Services Directive and thirdly the drama on private copying and the proposal to abolish levies.

2. FSE General Assembly, November 23rd, 2006.

The General Assembly took place immediately after the Screenwriters' Conference. Representatives from nearly all the guilds were able to attend, exceptions being Portugal, Switzerland, Serbia and Denmark. The guilds discussed diverse issues, including the latest developments taking place at European level relating to:

- Audiovisual Media Services Directive,
- Content Online,
- Private copying and abolition of levies,
- European competition law and its impact on collective agreements.

Each guild gave a brief description of its organisation, its activities and made mention of the pressing issues that it wanted to address. The General Assembly discussed in some detail how to write the LIRA policy paper, the areas it should cover and how it will fulfil the long-term aims and objectives of FSE. The policy paper will be a strategic document, the drafting is to be undertaken by the FSE board and manager. Finally the Assembly unanimously re-elected the existing board:

- Christina Kallas, President
- Sveinbjörn Baldvinsson, Vice President
- Bernard Besserglik, Treasurer
- Willemiek Seligmann
- David Kavanagh

3. Thessaloniki Screenwriters' Conference and Manifesto, 21st - 22nd November 2006.

The first ever Conference on European Screenwriting was a two-day event with over hundred participants including screenwriters and audiovisual professionals from all over Europe and the world covering artistic topics relating to

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Christina Kallas (President), Sveinbjörn Baldvinsson (Vice President), Bernard Besserglik (Treasurer), David Kavanagh, Willemiek Seligmann,....
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story telling and to legal issues relating to authors' rights and to the funding of film and television programmes. The issues were divided into three round tables – **the stories, the rights and the money**. Speakers considered the relationship between writers and subsidies, writers and producers, the role of collecting societies and the new problems and opportunities of online content. They also addressed questions related to authorship, the gap between theory and practice in moral rights, the problems of shared writers' credits. The conference climaxed with the signing of a Screenwriters' Manifesto by the conference participants.

The Manifesto compliments the FSE Charter. Unlike the Charter which focuses on legal issues, the manifesto is more political and demands a much more favourable working environment for screenwriters especially regarding state aid schemes for funding film productions, the equitable remuneration of screenwriters and political demand to European Union to harmonise authors' rights at best practice and not at minimum standards. It has been signed by the FSE board members, who in themselves represent 9.000 writers all over Europe, and it has now entered its Act II, having so far also collected several hundred personal signatures, not only from screenwriters but from colleague writers and filmmakers all over the world. It will be presented to the press at the Berlin Film Festival on 9th February 2007 and/or at the Cannes Film Festival.

4. FSE and the Audiovisual Media Services Directive

The proposed Audiovisual Media Services Directive, which is to replace the existing Television without Frontiers Directive, is getting closer to adoption. On December 13th 2006, the Parliament voted on the Ruth Hieronymi report that submitted about 200 amendments to the initial text of the European Commission. This Directive, when it is finally adopted by the member states, will be the principal law on which all member state laws governing audiovisual will be based.

The FSE has been lobbying hard for the last four years to influence this law and to ensure that it serves the interests of screenwriters, viewers and the cultural creation.

At this point it is important to ask, what has been the result of the lobbying efforts of the FSE and what is the consequence of the vote at the European Parliament?

FSE along with other cultural organisations and unions has fought to retain the 50% quota to show European works on existing television services and to even extend the quota to video-on-demand services (i.e., non-linear services) and to include sub-quota on drama. FSE has succeeded in retaining the quota; this is in spite of ferocious lobbying by industry and multinationals for their removal. And, if and when the opportunity arises FSE will again demand to have a sub quota. However, thanks to the Parliament vote, amendment 108 has been adopted into the text, this amendment does at least call on member states to ensure that video-on-demand services that are targeted to their national markets include a minimum amount of European audiovisual works and gives examples of what measures can be taken, but no specific quota is mentioned.

The resistance to extend the quotas on existing TV services to video-on-demand services by industry unfortunately even included the European Commission itself. That the Parliament lists measures for member states to have European audiovisual works shown on video-on-demand services is a small victory.

We succeeded in banning product integration and preventing unrestricted product placement in all programmes. However, product placement will be allowed on film and drama where product placement can be shown so long as the placement is not prominent (i.e., "undue prominence").

FSE had lobbied hard to retain the existing rules on advertising. But unfortunately, the Parliament voted to liberalise the rules, and in this FSE and the other cultural organisations are disappointed.

Just before the vote of the December 13, FSE carried out at one final lobbying campaign whereby all the guilds were asked to write to MEPs from their countries to vote in favour of specific amendments relating to culture, the quotas and rules on advertising. Unfortunately, the campaign had to be done at the very last minute; this is because the information from the European Parliament regarding the final text of the Ruth Hieronymi Report was not made available until a few days before the plenary vote. Nonetheless, the guilds did succeed in sending letters to MEPs calling on them to support specific amendments: Amendments 60, 108, 126, 134, 137 and 141.

- Amendments 126 and 141 relate to advertising.

- Amendment 108 relates to extending some measures to oblige video-on-demand services to have European audiovisual works.
- Amendments 60 and 134 relate to product placements and product integration.
- Amendment 137 defines independent producers.

All these amendments were supported in Plenary, with the exception of amendment 141. Amendment 141 simply proposed to retain in essence the existing rules on advertising, but instead the Parliament voted to reduce the time a film can be interrupted for advertising from 45 minutes to 30 minutes and to allow advertising on children's programmes. 324 MEPS voted against amendment 141 and 323 voted for, which means we lost by one vote.

Many guilds received some replies from the MEPS to whom they wrote. Some of the replies were eccentric and negative, but most of the replies were favourable stating that they would vote in favour of the amendments we suggested. Unfortunately, in spite of their initial intentions, on amendment 141, some of these MEPs voted against.

So what happens next?

Now that the Ruth Hieronymi report is adopted by the Parliament it will be submitted for discussion to the European Council of Ministers. A problem that has arisen is that the Council decide on 13 November 2006 a "common position" on the AMS Directive which includes a derogation on advertising meaning that if they chose member states need not apply any of the rules on advertising including product placement. This very premature act is worrying because Council is not supposed to have any position until the European Parliament has a position. The European Council of Minister will be chaired by the German Presidency. Germany will therefore set the agenda of discussion. So the German Presidency will have a lot of power regarding which topics to discuss and the context in which they are discussed. For example will the German Presidency discuss the Directive within the context of industry policy or within the context of culture policy? The German Presidency will last for 6 months (January – June 2007). During this period it will discuss the text of the directive and modify it.

5. Private Copying and Levies

The attempt by the Directorate General for Internal Market and Services (DG Markt) of the European Commission to abolish levies on private copying has been defeated for the moment.

It is very disappointing that the DG Markt of the European Commission responsible for promoting the rights of authors is actually working against the rights of authors. It is upsetting to report that this Commission Directorate has tried through surreptitious means to abolish the levy on private copying. However, this has been prevented from happening. Since the summer DG Markt has been working hard writing a "Recommendation" that would recommend the abolition of levies on electronic equipment that allows private copying. Levies on electronic equipment like blank CD, blank tapes, hard-disks, photocopy machines, etc, are, in the opinion of DG Markt obsolete and should be replaced by Digital Rights Management Systems which are a technology controlled by industry, and are not all that reliable.

The Recommendation is not "law" in the same way as a Directive. In fact it does not even need the approval of the European Council of Ministers which is deciding body of the European Union. Nor does the Commission have to submit a Recommendation to the Parliament for discussion. Nonetheless, a Recommendation would have been a dangerous document as the electronic industry could withhold the levy by arguing that no less a body than the European Commission calls for levy abolition.

The DG Markt Recommendation has never been made public, but everyone knew of its existence. FSE joined a new coalition to combat this Recommendation, the *Culture First! Coalition*, which consists of organisations representing film directors, actors, musicians, journalists and collecting societies.

Culture First! Coalition has written to Commissioners and to President Miguel Barroso of the European Commission to stop the Recommendation.

It seemed that DG Markt had wanted President Barroso to submit the Recommendation for approval by the rest of the Commissioners at the next meeting of the Commissioners on December 20, 2006. After lobbying by various organisations like Culture First! Coalition, MEPs and even a powerful letter by French Prime Minister Dominique De Villepin, President Barroso relented and stopped the proposed Recommendation from being discussed and

adopted at the next meeting of the Commissioners. His decision was greeted with howls of fury and vitriol from the electronics industry which feels the Commission has betrayed it, but with joy and praise from the culture community.

Does this mean the Recommendation is dead? Perhaps it is dead. It seems that the member states and especially the Parliament are angry that the Commission wanted to push through a Recommendation like this without any consultation. Nonetheless, in 2007 the Copyright Directive of 2001 is to be reviewed and debate on levies on private copying will probably be discussed within the context of this review.

On request, the FSE office can send copies of the letters sent to the Commissioners and to President Barroso.

6. What next for the FSE?

2007 will be the year to defend the rights of authors. The Review of the Copyright Directive (2001) will become a battle to defend the levies on private copying and the need to ensure that the European civil law on the rights of authors. FSE also needs to get involved in the discussions with the European Commission's consultation on modernising labour law and later in the summer on state aid to the film industry.

FSE Board and Manager