

PREAMBLE

We, the representatives of composers, songwriters and authors of music from all over Europe wish to bring to the attention of the European Parliament, the European Commission and the European Economic and Social Committee the following

**RECOMMENDATION ON THE STATUS OF COMPOSERS, SONGWRITERS, AUTHORS
AND CREATORS OF EVERY FORM OF MUSIC REGARDING THE CURRENT LACK OF
RECOGNITION OF THEIR ROLE IN CULTURE AND SOCIETY AND THE
DISCRIMINATION, COERCION, LACK OF EQUAL OPPORTUNITIES AND TRANSPARENCY
IN DECISION MAKING PROCESSES TO WHICH THEY ARE SUBJECTED**

Recalling

- The Universal Declaration of Human Rights (1948)
 - Article 19 – “Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author”;
 - Article 22 - “Everyone, as a member of society ... is entitled to realization of the economic, social and cultural rights indispensable for his dignity and the free development of his personality”;
 - Article 27 – “Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits;”
- The Berne Convention for the Protection of Literary and Artistic Works as amended in 1976;
- The World Congress on the Implementation of the Recommendation Concerning the Status of the Artist, UNESCO, 16-20th June 1997, wherein States should reinforce the protection of the legitimate rights of authors enabling them to control the different forms types of exploitation of their works, particularly in the audio-visual field, and to receive fair remuneration for their creative effort;
- The European Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex - having regard to the Charter of Fundamental Rights of the European Union;
- The Background Document on “Our Creative Diversity”: Report of the World Commission on Culture and Development CLT/1998/PI/H/1, UNESCO, 1998;
- The Charter of Fundamental Rights of the European Union of the 7th December 2000;
- The Directive 2002/73/EC of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women regarding access to employment, vocational training, promotion and working conditions;
- Article 2 of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions: “Cultural diversity can be protected and promoted only if human rights and fundamental freedoms, such as freedom of expression, information and communication, as well as the ability of individuals to choose cultural expressions, are guaranteed”;
- The Conclusions of the 6th European Ministerial Conference on Equality between Women and Men, Stockholm, 8 - 9 June 2006;
- The World Conference on Arts Education: Building Creative Capacities for the 21st Century Lisbon, 6-9 March 2006 confirmation that for many people, cultural industries (publishing, music, film and television industries, and other media) and institutions serve as key gateways to access culture and the arts;
- The European Parliament Resolutions of the 7th June 2007 on the Social Status of Artists and of the 3rd September 2008 on Equality between women and men;

- The Proceedings, Strasbourg, Council of Europe Publ., 2007 where Social Partners (trade unions and employers associations) were invited to identify and prevent direct and indirect discrimination on the grounds of sex in collective bargaining agreements;
- The European Parliament Resolution of 10 March 2009 on the equality of treatment and access for men and women in the performing arts;
- The Resolution on the management of Authors' Right, Bilbao, 9th June 2010 stressing the vital role and importance of Authors' Rights Management Societies to creators;
- The Report of the Committee on Legal Affairs and Committee on Women's Rights and Gender Equality and opinions of the Committee on Economic and Monetary Affairs, the Committee on Employment and Social Affairs and the Committee on the Internal Market and Consumer Protection (A7-0000/2013),
- The UN report of the 14th March 2013 on "*The right to freedom of artistic expression and creativity*" underlining that the vitality of artistic creativity is necessary for the development of vibrant cultures and functioning of democratic societies; and that these artistic expressions and creations are an integral part of cultural life.

The Fondazione Adkins Chiti: Donne in Musica and the European Composer and Songwriter Alliance confirm that:

The arts are both the manifestation of culture and the transmission of cultural knowledge. Each culture has unique artistic expressions and cultural practices. Musical diversity represents contemporary and traditional forms of human creativity which uniquely contribute to the nobility, heritage, beauty, vibrancy and integrity of human beings;

The significant economic contribution made by European music to the overall European GDP and cultural diversity in general should be recognized, promoted and safeguarded;

Contemporary Society must be encouraged to develop educational and cultural strategies and policies that transmit and sustain cultural and aesthetic values, identify, promote and enhance cultural diversity while developing peaceful, prosperous, vibrant and sustainable communities.

CULTURE DEFINES US AND MUSIC BINDS US

Lack of recognition of the author in today's society

- A. The author of music (in all fields with or without formal, informal or traditional training) is the source of the entire creative industry value chain¹;
- B. A musical work, irrespective of its length, maturity and completeness, is the result of talent, years of dedication, intellectual reflection, apprenticeship and inspiration; the result of a process necessitating time, labour and judgment;
- C. Composers and songwriters are under threat of discrimination, coercion and violation of their right to artistic freedom, while facing increasingly difficult working conditions to sustain their livelihoods;
- D. EU policy-makers must address the difficult working conditions of today's music authors in order to

¹ Musicians, singers, conductors, dancers, choreographers, technicians, producers, record labels, sound engineers, concert halls and opera houses, performance venues, theatres, discos, clubs, music festivals, schools of music, music teachers, students, conservatories, universities and academies, musicologists, instrument makers, all media (printed, radio, television, internet, cinema), musicians', artists' and booking agencies, internet service providers, streaming platforms, platforms to download content, software developers, printers, publishers, broadcasters, sound equipment industry, studios, cinema/video industry, software/games industry, promotion/advertising, journalists, musicologists, publishers, printers, recorded music in public spaces.

- promote a genuinely competitive sector;
- E. Strong authors' rights are vital, as are the protection and enforcement of authors' copyright, economic and moral rights in all environments, on and offline. Better indicators must be designed to protect authors;
 - F. Authors of music and their participation in arts education are insufficiently recognized. It is essential to encourage and to develop skills essential to communicate and interact with students on common projects between artists and teachers-in-training.

Discrimination and Lack of Transparency in decision making

- A. Existing inequalities leave skills and talents unexploited and damage artistic dynamism, influence and the economic development of the sector.
- B. Specific action must be taken to analyse the mechanisms and behaviour that produce discrimination in the music sector by insisting on change and greater transparency in the sector.
- C. The effects of discrimination, (gender imbalance and harassment) constitute unjustified restrictions of the right to freedom of artistic expression and creativity and are devastating. Discrimination generates cultural, social and economic losses and deprives authors and artists of their means of expression and livelihood;
- D. There is a need for stable and transparent European legislation that promotes rather than hinders the creative process and its exploitation, for the benefit of all authors;
- E. Music stakeholders and practitioners must be involved in the EU decision-making process, but should be included in the EU transparency register. European institutions should include cultural SME's in specific consultations during legislative processes;
- F. The use of NDAs (Non-Disclosure Agreements) by MSPs (Music Service Providers) in respect of their licensing agreements for the exploitation of musical works must be challenged.

Lack of equal opportunities

- A. Talent alone is not sufficient for the artistic quality of a performance or the success of a professional career; taking better account of the representation of men and women in the music sector would reinvigorate it.
- B. Worldwide, women face additional barriers to the enjoyment of their human rights and are disadvantaged by general lack of knowledge of their contribution to society. Persistent prejudices lead to discriminatory behaviour towards them in selection, appointment procedures and work relations;
- C. Respecting and safeguarding culture is a matter of Human Rights. Promoting creativity and allowing it to flower in a spirit of freedom and intercultural dialogue is one of the best ways of maintaining cultural vitality.
- D. Women receive lower remuneration than men and phenomenally less space in programming funded by public money. They are rarely represented on the boards or within the governance of organisations responsible for the disbursement of funding or the awarding of opportunities in the creative sector;
- E. The scale and persistence of the inequalities and difficulties and the impact that the way in which the music sector is organised can have on society as a whole, given the vital need to promote and encourage access for women composers, songwriters, creators and authors of music, should be seriously underlined.

Unfair contracts

- A. The attention of EU policy-makers is drawn to provisions on unfair terms included in the EU framework for consumer protection;²
- B. By analogy to consumer protection, there is a significant imbalance in the parties' rights and obligations arising under contracts for commissioning, and specifically in detriment to the author;
- C. There is often no contractual provision for authors to renegotiate, particularly in the case of change of degree of commercial success of a work;
- D. There is often no contractual provision for the right of reversion to the author where exploitation by the commissioning party has not taken place;
- E. Greater protection is needed to prohibit the assignment or the transfer of the author's entire copyright in a musical work, and greater efforts are needed to combat coercive practices;
- F. Particularly in the TV/media sector, there is an absence of consistency and best practice in the contractual terms for commissioning new music; terms are too often imposed on authors;
- G. Internet Service Providers, Telecommunications Operators and Search Engines do not adequately play their part in helping to ensure fair remuneration of authors of musical works; more support is needed to gain co-operation from digital service providers in resolving illegal use of musical works;
- H. There is a lack of transparency and accurate reporting of financial streams and revenues; authors should be contractually provided with clear information to demonstrate the financial flows related to their work;
- I. The right to equitable remuneration and fair compensation is implemented inconsistently across member states; some authors are set at a disadvantage by the absence of harmonisation.

It is essential that Member States take appropriate measures and are encouraged to:

1. Improve the social status of freelance composers, songwriters, authors and creators of music taking into account the various employment relationships involved;
2. Critically review legislation and practices imposing restrictions on the freedom of artistic expression and creativity, bearing in mind the relevant international human rights law provisions;
3. Encourage and include freelance composers, songwriters, authors and creators of music and their organisations in discussions, decision-making processes and subsequent implementation of measures aimed at enhancing their status in society;
4. Promote contemporary music and culture within all communities, for the protection and effective representation of musical heritage, including that of traditional artists;
5. Call on practitioners, stakeholders and decision-makers to increase the presence of music by contemporary authors in all publicly-funded programming, collections and consultations;
6. Ensure that the history and practice of contemporary (today's) music, with information about the composers, together with the performance practice of every genre of music by both women and men is included in the curricula and books of all teaching establishments;
7. Stress that discrimination, harassment, coercion, unfair contracts and lack of transparency in decision-making hold back the development of the cultural sector by depriving it of talent;
8. Guarantee that nominations or appointments of administrators or directors of music institutions are transparent and that applications sent to reading commissions are anonymous;

² in particular Directive 93/13/EEC on unfair terms in consumer contracts

9. Support the establishment of not-for-profit Collective Management Organisations with a majority of authors, both men and women, serving on their boards and encourage upward harmonisation of licensing tariffs between CMOs in all member states;
10. Take concrete steps to achieve fairer and better contractual conditions for the protection and fairer remuneration of authors of musical works;
11. Protect authors from the imbalance and disadvantage of contractual situations between the individual and the corporation;
12. Combat coercive practices to the detriment of authors;
13. Encourage initiatives to provide affordable and accessible legal aid for authors.
14. Forward this motion for a resolution to the Council, the Commission, and the European Parliament and to the Parliaments of the Member States.



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