

# Bulletin

ORGANIZATIONS OF FILM AUTHORS IN SERBIA



INTERVIEW :

**Elin Urkedal**

Director of Norwegian collective management organization Norwaco



**Audiovisual authors, as well as performers and producers, are under strong pressure to sign contracts with total buyout of all or at least most of their copyrights**

CONVERSATION WITH THE AUTHOR

**Goran Marković**

Director, screenwriter, professor and member of the Board of Directors of UFUS AFA

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Shooting the movie "All That Jack's", photo: Kinoteka

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## EDITORIAL

Photo: Vojislav Gelevski



## Stefan Gelineo

Director of UFUS AFA

# Editorial

In smaller film industries, such as Serbia's, royalty income for authors is of exceptional importance and can often be crucial for the continuation of their work. For this reason, laws should be aligned with the modern market and should enable authors to receive remuneration for every form of exploitation of their works.

In Serbia, a new Copyright and Related Rights Law is currently in the process of being adopted. Although this law represents a step forward compared to the one adopted in 2009, it unfortunately does not sufficiently address the challenges of the modern digital age and their impact on the position of authors and the protection of their rights.

Since the adoption of the last copyright law, the European and global audiovisual markets have undergone dramatic changes. Streaming platforms have become the primary way of consuming films and series, a trend confirmed last year by financial data showing that streaming services' revenues surpassed those of television channels in Europe for the first time in history. At the same time, the efforts of collective management organizations and guild associations across Europe to secure fair remuneration

for film authors from streaming remain ongoing and exhausting. Financial and technological giants, whose success is based precisely on the exploitation of film and television works, often find more understanding among lawmakers, who tend to prioritize the interests of capital over those of authors.

A similar attitude exists toward large technology companies that use copyrighted works in the development of artificial intelligence without permission and without remuneration. By disregarding the principles on which intellectual property protection has been based for decades, these companies develop their models by relying on the creative work of others.

The new Copyright Law, long awaited by Serbian authors, should address precisely these challenges and offer solutions that both protect authors and enable technological development. However, despite repeated objections submitted by UFUS AFA and other film and professional associations, the draft law has not incorporated Directives 789 and 790 adopted by the European Parliament in 2019, which regulate key issues of the modern digital market.

With the adoption of EU Directive 2019/790, Serbian authors would be entitled to fair remuneration. UFUS AFA proposed that the draft law include a provision guaranteeing film authors the right to fair remuneration for all forms of public communication of their works, but this proposal was not accepted. The competent Ministry of Economy responded that the new law is being aligned with the EU directives from 2012 and 2014, while the more recent directives are expected to be addressed in some future amendments to the law.

While waiting for a new law that is already outdated at the moment of its adoption, Serbian film authors continue to lose both income and rights that their colleagues across Europe are gradually securing. Serbian authors have already been deprived of remuneration once, when a major cable operator refused to pay the legally prescribed fee for the retransmission of their works. Although UFUS AFA won the case in court and the authors will receive the funds they are entitled to, this only comes after years of waiting.

The way Serbia regulates copyright in the digital age will not only determine the position of today's authors, but also the future of domestic cinematography. Without effective protection and fair remuneration, authors are left without the possibility to live from their work and continue creating. That is why it is important for the new law to clearly demonstrate that the state stands behind its authors and their creativity.

## INTERVIEW

Photo: Caroline Roka



### Elin Urkedal

*Director of Norwegian collective management organization Norwaco*

## Audiovisual authors, as well as performers and producers, are under strong pressure to sign contracts with total buyout of all or at least most of their copyrights

At a time when the European audiovisual sector is facing the strong impact of global streaming platforms, the rapid development of artificial intelligence, and increasingly pressing questions of fair revenue distribution, the experiences of the Nordic countries are becoming particularly valuable.

The Norwegian collective management organization Norwaco administers copyright for television, film, and music content on behalf of more than 65,000 Norwegian authors, performers, and producers, as well as a large number of foreign rights holders. Its distinctive feature is that it operates as an umbrella organization whose members are not individual rights holders, but rather 35 member organizations.

In an interview for our Bulletin, director Elin Urkedal discusses the challenges facing audiovisual authors, relations with digital platforms, upcoming European Union regulations, as well as the importance of international cooperation among collective management organizations.

**How would you describe the current level of copyright protection for audiovisual authors in Norway? What are the key features of the Norwegian system compared to those in other European countries?**

The Norwegian collective management system is mainly based on mandates to represent exclusive rights. As a supplement, we have provisions in the law for ECLs (Extended Collective License), which is a strong tradition



*“The fact is that there is a strong market for audiovisual productions and that the big players earn huge revenues. We also know that very little of this money reaches audiovisual authors and other right holders. If there is money somewhere in the value chain, one can argue that it might be possible to reach a fairer share.”*

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in the Nordic countries. In practice, our ECL approvals entitle Norwaco to cover all right holders in our licenses, included non-members. Furthermore, we differ from many European organisations by being an umbrella organisation, which for us means that we have 37 right holder-organisations as members, not individual right holders. Finally, we have both authors, performing artist and producers’ organisations as members.

#### **How has Norwaco adapted to the rapid development of digital media and streaming platforms?**

The Norwegian copyright law is intended to be technologically neutral. Digital services such as start-over and catch-up services, has been introduced in our licenses without big debates. When it comes to the individual streaming platforms, however, Norwaco has no mandates to negotiate with them directly. These negotiations are followed up by unions or individual right holders. Our experience is that audiovisual authors, as well as performers and producers, experience strong pressure for signing contracts with total buyout of all - or at least most of - their copyright.

#### **The rise of global streaming platforms and artificial intelligence is reshaping the position of audiovisual authors. In your opinion, when can we expect stronger regulation at the European or national level?**

The market in these fields is indeed global. For most countries, and small countries particularly, it is probably

pointless to try to develop any regulation on its own. Norway will have to rely on EU. I do not at all feel sure, but I have a strong hope that the whole creative sector, together with the regulators, will find solutions to maintain and encourage further human creativity and cultural development before it is too late.

#### **Many reports point to a gap between the value of the audiovisual market and authors’ income. How do you see the future of authors’ income?**

The fact is that there is a strong market for audiovisual productions and that the big players earn huge revenues. We also know that very little of this money reach audiovisual authors and other right holders. If there is money somewhere in the value chain, one can argue that it might be possible to reach a fairer share. However, there is no quick fix. Either the authors bargaining power needs to be strengthened, or we need some sort of regulations in Europe or globally about the audiovisual authors share of the revenue.

*“Although our traditional markets are declining, particularly retransmission of TV channels, we will continue working hard to maintain revenue for as long as possible.”*

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*“I strongly hope that the entire creative sector, together with the regulators, will find solutions to maintain and encourage further human creativity and cultural development before it is too late”*

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**What are the key “battles” that Norwaco expects to face in the next 5–10 years?**

Although our traditional markets are declining, particularly retransmission of TV-channels, we will be working hard on maintaining the revenue for as long as possible. Besides we will explore the possibilities to get mandates from our members to collect revenues from online content sharing platforms (ref. art. 17 in the DSM-directive) as well as from AI service providers. We are also planning to look into possibilities for an unwaivable right of remuneration in the Norwegian copyright law, but we know that this will be heavily opposed, so this will most likely need to be more of a long term project.

**UFUS AFA and Norwaco have recently signed a cooperation agreement. Do you see regional alliances (or those within Europe) becoming more important in the future?**

European collaboration has been important for Norwaco for many years, particularly since most of the EU-directives and regulations have been implemented here, however rather late, since Norway is not EU-member (only an EEA member). In times of uncertainty, I am convinced that the cooperation will be even more crucial.

**What advice would you give to collective management organizations in smaller markets?**

It depends of course on the legal basis. If based on exclusive rights, the rights need to be retained, either by contract or by law. My advice is therefore to encourage strong unions or other bodies that can advise or even negotiate contracts on behalf of the authors (and other right holders). If you manage to create an environment and a contractual practice that allows right holders to retain their rights, licensing should be more straightforward, although it still requires hard work.

*“We are planning to look into possibilities for an unwaivable right of remuneration in the Norwegian copyright law, but we know that this will be heavily opposed, so this will most likely need to be more of a long term project.”*

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## CONVERSATION WITH THE AUTHOR

Photo: Nikola Skenderija



### Goran Marković

Director, screenwriter, professor and member of the Board of Directors of UFUS AFA

## Throughout my life, I have been a very good audience for actors; they trusted my taste.

One of the most significant authors of Yugoslav and Serbian cinema, film director, screenwriter, writer, and retired professor, Goran Marković has left a profound mark on film art over a decades-long career, as well as on theatre and literature. The son of the famous actors Olivera Marković and Rade Marković, he seemed destined for the world of art, and his versatility has proven exactly that.

During a career spanning more than half a century, he has made some of the most important works of domestic cinema, such as *All That Jack's*, *Nacionalna klasa (National Class Category Up to 785 Ccm)*, *Variola Vera*, *Sabirni centar (The Meeting Point)*, *Tito i ja (Tito and Me)*, and many others. Through his rich body of work, Marković has documented

social changes, human weaknesses, and the absurdities of an era. However, his first professional experience in film was as an actor. While still a student at the renowned FAMU academy in Prague, he played the lead role in *Sunday*, a film by his fellow student Lordan Zafranović. Yet already with his directorial debut, *Special Education (1977)*, it became clear that Serbian and world cinema had gained a major author, a fact later confirmed by numerous awards in the country and abroad.

In an honest and inspiring conversation for the UFUS AFA Bulletin, Goran Marković – who is also a long-standing member of our organization's Board of Directors – recalled the making of his most important films, his collaboration with actors, and the reasons why the idea is always more important than technology.

**Film as an art form has changed throughout history, and in more recent times we have witnessed major transformations, especially in technological terms. But what always remains the same? What does not change?**

Regardless of the evolution of film technology, what has always prevailed is the idea. Any story or narrative that is not driven by an intention or an idea is completely meaningless. You cannot simply present a sequence of events without some underlying plan or direction leading toward something. Whatever the case may be – whether it is a feature film, a short film, or even a television commercial – there must always be a strong idea. It determines everything, while the way the work is ultimately realized is entirely secondary.

**When we talk about digital technology, can artificial intelligence generate an idea?**

It cannot. Its advantage lies in the fact that it can provide a great deal of information, that is, it enables access to data that may be important to you. It is also useful for basic things, such as explaining concepts, meanings of words, or phenomena. But it cannot generate an idea itself, because an idea is a personal matter and belongs to a single individual. Another person has a different idea. For example, the well-known director Gus Van Sant made



*“It is only with the establishment of UFUS AFA Zaštita that authors’ rights have, in a sense, been protected. I have great respect for the idea behind it, which is why I am glad to take part in the work of its governing bodies. Many of my colleagues are unable to exercise their rights or even to work, which puts their livelihood at risk, and our organization is, in that respect, both humane and socially responsible.”*

a modern, color version of Hitchcock’s *Psycho*. He copied absolutely everything – credits, framing, music... So he made *Psycho* in color, with different actors, as a copy of the original, and it simply didn’t work. Why? Because behind the first film there was someone who had a feeling, that is, an idea of what they wanted to achieve with the work. Gus Van Sant did not want anything – he simply wanted to make a color remake, and it did not work at all. In fact, no one even felt scared in the cinema.

**Which of your films do fans most often mention when they meet you?**

Those “small” films I made practically without money, such as *All That Jack’s*, *Taiwan Canasta*, and *Special Education*. These are the ones I shot on a 16mm film, with the complete



*Variola vera, print screen*



*Tito and Me, print screen*

involvement of the crew. All those films made “with string and wire,” for free, on “non-professional film,” have actually left the strongest impression on audiences. I spent a long time thinking about why that is, because in my career I have also made films with solid production, such as *Već Videno* (Reflections) or *National Class*. These were the “rich” films. But these small ones, made against all odds and without any payment, have had the greatest impact. To return to what I was saying, audiences probably liked the idea behind those projects. That same idea previously gave actors, the cinematographer, the set designer, and the costume designer the motivation to give their very best without asking for money. Today, these films are in fact the most frequently broadcast, and they now generate income through royalties. Interestingly, these films did not achieve particularly strong box office results at the time of their release.

*All That Jack’s* is one such small film that I shot in eighteen days – more precisely, eighteen nights, because it was filmed in a school that worked normally during the day. We would gather in the afternoon and start working once the children had left, continuing until the next morning. It was an intimate, personal film, and the actors experienced it that way as well, which is something you can feel – or rather see – on screen. There is a sense of ease, improvisation, and other details that create that feeling of intimacy.

**Which film was the most difficult for you to shoot?**

The most difficult for me was *Variola Vera*, because from the very beginning there were major problems. In order to make the film, we needed an entire hospital at our disposal. At that time, the Military Medical Academy was being relocated, so we were given a building of the former VMA (Military Medical Academy) to shoot in. I worked for months in preparation, made floor plans of the building, and storyboarded almost everything in advance with near perfection, only for them to tell us two days before filming that we could not shoot in that building. They gave us another location that looked completely different. The day





Taiwan Canasta, photo Kinoteka

before shooting, I also lost my set designer, so together with Jasna Dragović, a scenographer who helped me a great deal, I entered an entirely unfamiliar space. But that is what filmmaking is. You adapt to circumstances and unforeseen situations; there isn't much philosophy in it. You either shoot where you can, or you do not shoot at all.

**Do the scenes of patients in *Variola Vera*, or the shots where you wait to see whether someone will grab a door handle or touch an infected surface, resemble moments from the best horror or suspense films?**

I would say it is more of a disaster film and less of a horror film. In my opinion, *Reflections* is closer to horror, while *Variola Vera* was a faithful reconstruction of real events. Interestingly, it took me almost ten years to find out exactly what had happened. The epidemic occurred in 1972, while the film was shot in 1982. Everything had been very carefully concealed, like a major catastrophe – though not a medical one, but a social one. In my view, it was the first major crack in the country called Yugoslavia, the fact that a virus of an eradicated tropical disease had been introduced into a European country. It was a sign that something was not right with that country, that there were



Shooting the movie *Reflections*, photo: Private archive

*“In film, the best actors should play the roles, not those who merely resemble the character. Because everything is acted – beauty, love, passion, hatred. It all has to be performed, not genuinely felt.”*

underlying problems, which is why everything was kept hidden. For a long time, I could not access any information until two doctors from the dermatology clinic, where the first infected patient had been treated, told me what had happened. That became the basis for the film.

There were also other interesting things related to *Variola Vera*. For example, we needed a complex make-up effect for the film, because the disease manifests itself externally – sores, scabs, and so on – but we simply could not manage to portray it convincingly. Everything the make-up artists initially tried looked fine, but after the first hour of shooting it would turn into something like dried peanuts on the face. Then we found a woman from the Faculty of Medicine who created realistic models of various injuries and diseases to show to students. She managed to find a mixture from which we could make wounds that would remain “fresh” throughout the entire shooting day. However, the make-up process was complicated and very time-consuming. I remember that for some scenes Rade Šerbedžija would come at five in the morning for make-up, so that filming could only begin at nine or ten.

An additional difficulty was that the replacement hospital we moved into before filming was abandoned, so we did not have any medical equipment; instead, we had to bring it from other hospitals, set it up, and then return it after filming. The shooting itself was long and exhausting. We worked 13 to 14 hours a day, enclosed in that hospital space – an extremely depressing atmosphere.

*The Meeting Point*, photo: Private archive



Your film and literary works are often, in a way, a tribute to actors and the craft of acting, which is not surprising given your background. You have also appeared in both your own works and those of others in small roles. What is crucial for good collaboration in the director–actor relationship?

My first professional experiences in film were as an actor. My most recent acting engagement was in Dragan Bjelogrić's sequel of the series *Senke nad Balkanom* (*Black Sun*), but even as a student I played the lead role in the first film by my Prague FAMU colleague Lordan Zafranović, *Sunday*. I was in my second or third year of studies, and Lordan persuaded me to take the role. I remember that the shooting lasted a long time, more than two months, so I already “learned the craft” at that point.

*“Cinematography means adapting to circumstances and unforeseen situations; there isn't much philosophy in it. You either shoot where you can, or you do not shoot at all.”*

When we talk about the director–actor relationship, it has to be “intimate.” Without that, there is no real work. You should not show an actor how to act so that they imitate you – that is completely pointless. There has to be a tacit agreement, which is in turn preceded by a long discussion about the text. The best situation is when the actor receives the script much earlier and, together with the director, goes through all its aspects. Not only their own character, but also the idea, the story, the context, and the style and genre of the film. Once you have considered all of that properly, and once you know what is expected of you, there is no need for much work on set. Often, a single look between the director and the actor is enough for them to know whether something is good or not.

I recently read a monograph on Kurosawa, with a foreword written by Toshiro Mifune, the famous Japanese actor who appeared in sixteen of Kurosawa's films. Mifune wrote that,

throughout all that time, Kurosawa never told him what to do, but rather what he should not do. I think that is a very good method, because you do not impose your own or general solutions; instead, the actor arrives at their own solutions. By limiting the solutions that you consider to be outside the context or the idea, you are in fact guiding and directing. So, in a way, I have spent my entire life being a very good audience for actors; they trusted my taste, and when they saw my reaction, they immediately knew whether something was good or not.

**Did you always get the actors you wanted, or were there compromises?**

In most cases, everyone agreed to take part; they were always top-class actors. My theory is that in film, the best actors should play the roles, not those who merely resemble the character. That is pointless, because everything is acted. I'll give you an example.

I once travelled by plane to the United States for a French film festival in Florida. The film *Tito and Me* was partly a French co-production, so I was invited to go to Florida

*Delirijum tremens, photo RTS, Gordan Jović*



*Special Education, photo Kinoteka*



National Class, photo Centar film

with a delegation of French actors. At that time, airports in our country were not operating, so the lead actor Dimitrije Vojnov and I travelled by van to Budapest, from there by plane to Paris, where we were met by a jumbo jet reserved for French stars. In the last row of the plane, a small, unremarkable woman was sitting curled up. She seemed familiar to me, and it was only towards the end of the flight that I realized it was Isabelle Huppert. She is a brilliant actress who can play anything, including beauty. Because beauty is something that is performed. It is not enough to be beautiful – otherwise all beauty queens would be leading actresses. No. You have to have a sense of being beautiful, an inner beauty and a certain superiority of a woman who knows she has value – that is beauty. If that's not present, nothing else matters. In film, everything is acted. Beauty, love, passion, hatred – it all has to be performed, not genuinely felt.

Besides actors, another important theme in your work is psychiatry and cases of “madness.” What attracts you to these topics?

I have been interested in psychology for a very long time, especially psychoanalysis. I even opened a congress of world psychoanalysts that was once held in Belgrade. Their custom was for a public figure who was not from the profession, not a doctor, to open the congress, so that year I gave the opening speech. I still keep that presentation; I am very proud of it. It was a view of psychological problems from the perspective of dramatic art. Several of my films take place in that milieu – *Urnebesna tragedija* (*The Tragic Burlesque*), *Reflections...* and even my latest book, *Hamlet in Pavilion No. 6*. I can no longer make films, they don't let me, but if I could, I would have adapted *Hamlet in Pavilion No. 6* for the screen. And how did I come to that story?

I was in France, preparing a film that I never made, which was set in a psychiatric hospital. At that time, I visited a psychiatric hospital outside Paris with a French doctor. He told me that, in that hospital, as a form of therapy, they engage young actors or directors to work with patients and stage a play. I went to a rehearsal led by a young director, with psychiatric patients on stage. I was impressed. In a conversation with that young man, I learned that there would be no public performance of the play. “The process is what matters,” he said. The idea of the therapy is that, just as actors step out of themselves and become different characters, the patients also step out of their illness in order to enter the role they are playing. That is extremely interesting. When I asked whether this form of therapy produces results, I was told that it does. “One patient no longer stutters, and he could barely speak before.” So therapy through so-called “art” – because this is not art, but rather a procedure – does produce results. I am not

*“I have been interested in psychology for a very long time, especially psychoanalysis. I even opened a congress of world psychoanalysts that was once held in Belgrade. My presentation offered a view of psychological issues from the perspective of dramatic art.”*

saying that actors are mentally ill people who are treated through acting, but there is something to it. (laughs)

Since we are talking about the arts, music is also very important to you, and that is something that can be felt in your films.

Throughout my whole life, I worked with one composer, Zoran Simjanović, who passed away during the COVID pandemic. When the anniversary of the tragic event in Novi Sad – the collapse of the canopy – was marked, one hundred thousand people gathered in front of that station. When the choir came out and began singing “*Cveta trešnja u planini*” (“*Cherry Blossoms Bloom in the Mountains*”) from my film *The Meeting Point*, I was deeply moved. I clearly remember how that song was created. We asked the film’s screenwriter, Duško Kovačević, to write the lyrics for a choral piece. Then Zoran Simjanović and I sat down; he put the lyrics on the piano, started reading them, and his hands simply began moving across the keys. The song was created in ten minutes. Those important things often come about suddenly like that. More than three decades later, that song became an anthem of student freedom and a lament for those who tragically lost their lives.

But Zoran Simjanović was special because he adapted himself to every text. Just as I worked with actors, I would also spend a long time discussing with him the meaning of the film we were making. And once we had gone through the entire process and clarified everything about the idea, the genre, and the type of film, he would take over and

*The Cordon, photo Viktorija film*



*“My first professional experiences in film were as an actor. Even as a student, I played the lead role in the first film of my Prague Academy colleague Lordan Zafranović, Nedjelja (Sunday).”*

bring me finished melodies. He was like a chameleon, capable of creating completely different kinds of music. For Srđan Karanović, for example, he wrote a theme for *Petrijin venac (Petria’s Wreath)* that is even more beautiful than *Nizamski rastanak*, while remaining in the same style. For me, he composed schlager songs for *National Class*, horror music for horror films, and cheerful melodies for comedies.

Music is very important, especially when it is not literal. Sometimes, while I am working at the computer and my wife is watching television series, I can tell the quality of a show just from the kind of music I hear – whether it is genuine or fake. I do not even have to watch it.

**What attracts your attention today on television, in cinemas, or on streaming platforms?**

Apart from sport, which I follow, I sometimes watch television series, if they are good. Because series are a kind of magnet; the tension is constantly extended. Hitchcock spoke about this tension: “All my life I have been doing only one thing. I stretch a rope between two pulleys and start tightening it. My job is to make sure the rope breaks



*“All those ‘small’ films I made practically without money, on ‘non-professional’ 16mm film, with the absolute involvement of the crew – such as *Majstori, majstori* (All That Jack’s), *Tajvanska kanasta* (Taiwan Canasta), *Specijalno vaspitanje* (Special Education) – actually left the strongest impression on audiences.”*

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as late as possible.” What a phenomenal explanation! Hitchcock was a genius. And his definition of drama – that it is life from which the boring parts have been removed – is anthological, even better than Aristotle’s. In series, I particularly enjoy that tightening of the rope between two pulleys – the postponement of resolution. That is the true definition of suspense. You know something will happen, you know what will happen, but it is constantly delayed, and that is what creates tension for the viewer. I liked the first season of *True Detective*, the series *Breaking Bad*... In general, sometimes my daughter points things out to me; she watches more than I do and has excellent taste.

**You have been involved with UFUS AFA since its founding, and you are also a member of its Board of Directors. In your opinion, what is the most important aspect of the organization’s work?**

I believe that the establishment of this organization is of great importance, especially for us authors. For decades, my films were broadcast without anyone paying any form of copyright remuneration. It is only with the establishment of UFUS AFA Zaštita that these rights have, in a sense, been protected. I have great respect for the idea behind it, which is why I am happy to take part in the work of its governing bodies. Not out of any personal interest, but

because I deeply believe this is our right, something that no one can take away from us. Many of my colleagues are unable to exercise their rights or even to work, which puts their livelihood at risk, and in that respect our organization is both humane and socially responsible. I am extremely proud of it, and I believe it is very important that this organization helps authors who are out of work to have some income, or supports them in paying for treatment, buying medication, and so on...

**Do you have any plans for a new project?**

I have one film in preparation at the moment. Some wonderful young women are currently trying to raise a small budget through crowdfunding. If I could make *All That Jack’s* and *Taiwan Canasta* for free, I can do this as well. My wish is to make a film based on the novel *Fric i Dobrila* (*Fric and Dobrila*) by my friend, the writer Srđan Valjarević. It is an extremely humorous story, set entirely in an apartment, so once again it is a modest production.

*Break during filming*



## LEGAL ADVICE

Photo: Aleksandar Carević



## Stevan Pajović

Lawyer at TS Legal

# Reform of Copyright Contracts: Why Rights Subject to Mandatory Collective Management Must Remain With Authors

## Introduction: The Intention of the Law Versus Market Reality

In the complex ecosystem of audiovisual production, the relationship between authors and producers has for decades been defined by regulations which, at first glance, appear to have a clear and economically justified purpose: to enable the producer to acquire, in one place, the rights necessary for the uninterrupted commercial exploitation of the work. An audiovisual work is an expensive and high-risk investment, and producers require legal mechanisms that allow them to recover the invested capital through distribution, theatrical exhibition, and the licensing of rights to streaming platforms.

However, decades of practice in Serbia and the wider region have revealed a profound structural imbalance. The existing legal framework and common contractual

practice, which allow for the broad transfer of all rights to the producer, have transformed what was originally intended as a “working tool” into a mechanism for the complete and permanent dispossession of authors. The current situation allows authors to assign all rights in advance at the moment of signing a contract for a film whose future remains uncertain, including those that producers do not actually need for the sale and distribution of the film itself. Such practice leads to the contractual impoverishment of creators, compelling us to reconsider the existing solutions and introduce a clear distinction between rights that serve business interests and rights that ensure the survival of artists.

## Collective Management of Rights: A Fundamental Distinction the Law Must Recognize

In order to understand the necessity of reforming the current model, it is essential to clearly define the legal nature of rights subject to mandatory collective management (such as the right to remuneration for cable retransmission or private copying). These rights fundamentally differ from the rights commercially exploited by producers, and the arguments in favor of keeping them under the ownership of authors are manifold:

1. **No Impact on the Commercial Distribution of the Work:** Retaining rights subject to mandatory collective management in the hands of authors does not constitute any obstacle for producers. Producers may freely sign contracts with global platforms or distributors regardless of who holds the entitlement to remuneration through collective management organizations. These rights are not a prerequisite for the distribution of the film; rather, they represent passive income generated only after the film has already been distributed. Producers do not need these rights in order to “close the construction” of a film, whereas authors need them in order to survive.
2. **The Impossibility of Individual Management:** Since the law mandates an exclusively collective system for the exercise of these rights, they hold no operational value for producers in terms of direct management. Producers cannot independently negotiate with hundreds of cable operators across Europe for each individual work. If contractual practice nevertheless insists on the transfer of these rights, this is done not to facilitate the distribution of the film, but solely to appropriate remuneration which, by its very nature, belongs to the creator.
3. **Preserving a Fair Economic Balance:** The logic of a fair system is that producers obtain the rights



necessary to recoup their investment. Remuneration derived from the collective management of rights, on the other hand, is by its nature a subsequent reward for the success of the work (so-called residuals). Since these rights do not affect the producer's ability to market and distribute the film, it is only fair that they remain with the author, serving as a legal safeguard against the complete loss of control over their own creative work.

## Socio-economic protection: Defense Against Existential Uncertainty

Film as an art form is characterized by its project-based nature. Unlike permanently employed professionals, film authors (directors, screenwriters, cinematographers) live from one project to the next. In practice, the period between two major projects for an author often lasts four to five years. During this extended interval, authors face serious existential uncertainty.

Here, collectively managed rights play a crucial social role. The royalties collected by organizations such as UFUS AFA Zaštita are not merely "additional income," but often the only stable and predictable source of revenue that enables authors to cover basic living expenses while developing their next project. If these rights are taken away from authors through a model of full transfer, they are not only deprived of income, but also of the possibility to continue practicing their profession in the future.

Our law already recognizes examples of inalienable rights, such as the right to special remuneration from the import and sale of technical equipment. The primary reason for such regulation was to protect authors by ensuring a stable source of income that cannot be waived by contract. The legal framework governing audiovisual contracts should follow the same logic. If we protect authors in the area of private copying, it is equally essential to protect them in the areas of cable retransmission and other similar forms of use.

## European context: The DSM Directive and the Imperative of "Fair Remuneration"

When discussing amendments to the law, it is essential to take European standards into account as well. The Directive on Copyright in the Digital Single Market (DSM

Directive) has brought about a significant shift in authors' protection by explicitly recognising the imbalance of power we are referring to.

Article 18 of the Directive introduces the principle of "appropriate and proportionate remuneration." European experience shows that in countries where the full transfer of rights is permitted, authors often receive only symbolic one-off payments, while all profits from new forms of exploitation remain exclusively with distributors and producers. In order for remuneration to be truly "fair," it must not be subject to contractual pressure.

A shift in our legislation that would declare rights subject to mandatory collective management as inseparable from the author would represent an alignment with the most modern EU solutions. This would ensure that authors retain an economic connection to their work for as long as it continues to be used. It is the only way to prevent the practice in which an author transfers rights to a work for a negligible amount, only for it to be retransmitted for decades without them ever receiving any further benefit.

## Conclusion: Towards a Fairer Creative Ecosystem

The initiative to amend the legal framework, which currently favours the full transfer of all rights, is not an attack on producers nor an attempt to restrict business. On the contrary, it is an effort to establish a healthy creative ecosystem in which both sides can thrive. Producers retain all the rights necessary to sell and profit from the film, while authors retain minimal, legally guaranteed rights that ensure their social security.

Without this change, we will continue a practice in which authors are reduced to "hired labour," permanently excluded from the economic life of their own work once filming is completed. Fairness requires that those who have brought a work to life have the right to benefit from its fruits for as long as it remains present on the market. This is a matter of respect for authorship and for the future of our culture. Only an economically independent author is a free author, capable of creating works that are competitive and recognized.





# Bulletin

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