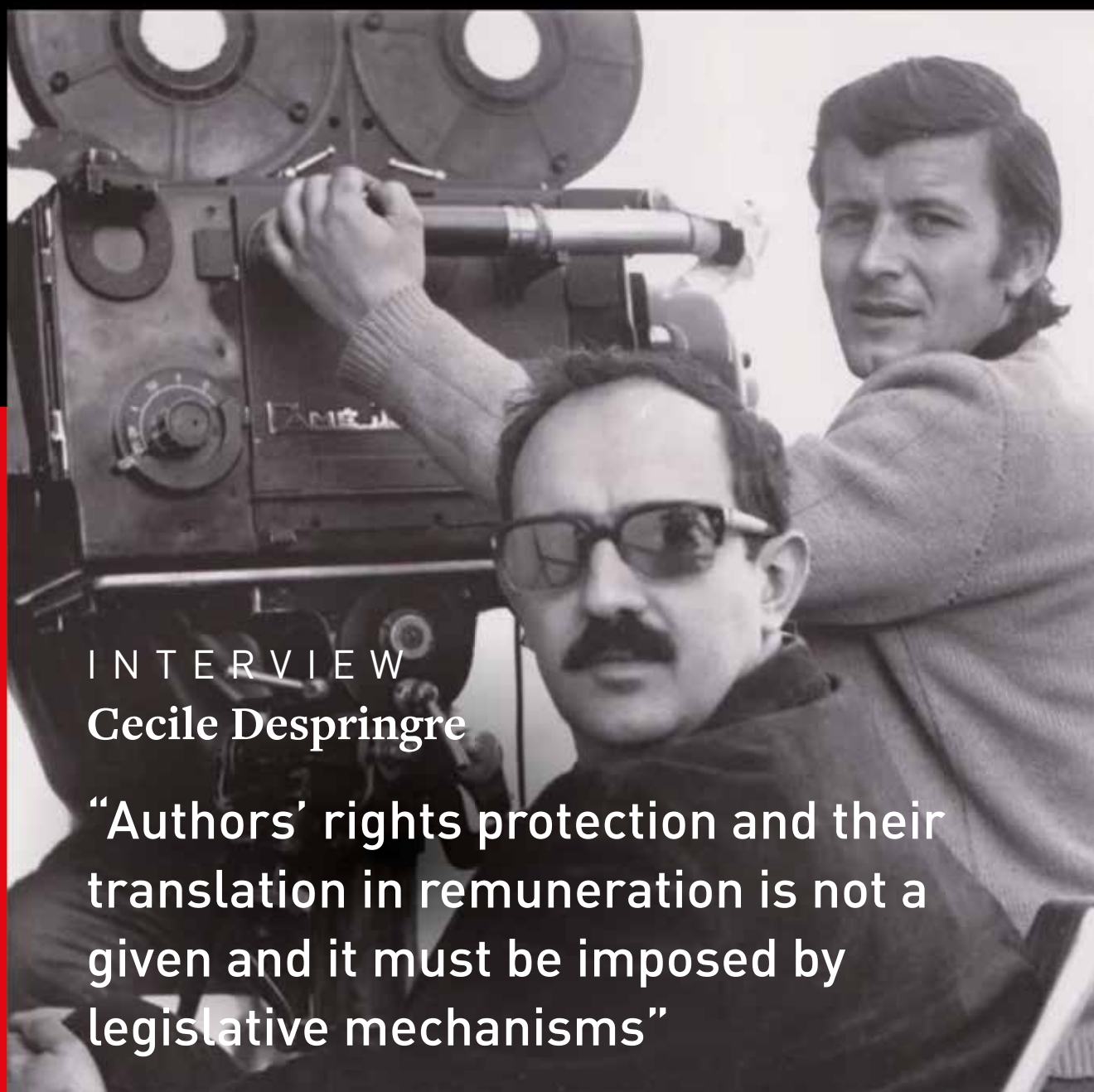


# Bulletin

ORGANIZATIONS OF FILM AUTHORS IN SERBIA



INTERVIEW  
Cecile Despringre

“Authors’ rights protection and their translation in remuneration is not a given and it must be imposed by legislative mechanisms”

CONVERSATION WITH THE AUTHOR:

**Milorad Jakšić Fando**

**UFUS | AFA**

ORGANIZATION OF FILM AUTHORS IN SERBIA

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Digital issue

Front cover photo: Milorad Jakšić sa Živojinom Pavlovićem / arhiv Jugoslovenske kinoteke

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Photo: Cash Macanaya, Unsplash.com

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## EDITORIAL

**Stefan Gelineo***director of UFUS AFA PROTECTION***Editorial**

The work of collective organizations in both our country and worldwide is defined by the Law on Copyright and Related Rights. This law contains provisions which define the concept of the author, the copyrighted work, their rights, sources of royalty collection and other foundations of collective protection. In Serbia, the procedure of drafting a new Law on Copyright and Related Rights has been ongoing for more than two years. Our organization, UFUS AFA, has been sending comments to the legislator on the Draft of this law, pointing out numerous shortcomings related to the rights of film authors and requesting that the Draft be returned for harmonization with organizations that protect the rights of film authors so that the new law can be better and fairer.

Three collective organizations that deal with the protection of music authors have participated in the workgroup that drew up the Draft Law, but no collective film organization or association has been invited, even though a large part of the Law is devoted to moviemaking and audiovisual creativity. The rights of filmmakers have therefore been decided without their participation, therefore certain parts of this law are in contradiction with professional and international practice.

The Draft Law is not aligned with European Union Directives from 2019, so the Draft does not provide for the authors' right to "fair compensation" regardless of unfavourable contracts they may have previously signed with producers. This is a common problem for all European film authors, but thanks to the implementation of this Directive, authors in many European countries have managed to fight for appropriate and proportionate compensation for the exploitation of their work, even if they previously signed over their rights to a producer. From the beginning, UFUS AFA has advocated for the implementation of the aforementioned directives, because they would enable Serbian filmmakers to receive the same level of protection as their colleagues in Europe.

How important it is for laws regulating copyright to be harmonized at the level of all European countries was seen at the annual SAA (Society of Audiovisual Authors) meeting in Brussels and at the recent meeting of regional collective organizations – DHFR from Croatia, AIPA from Slovenia, AZAS from Macedonia and our UFUS AFA. Representatives of regional organizations have demonstrated a lot of goodwill as well as a desire to connect and network in order to work together for the benefit of film authors in the entire region, to act together in negotiations on tariffs, but this is impossible because of different laws and the scope of collective protection of authors from the region.

The Law on Copyright should not only be harmonized with contemporary European practice, but it also needs to envision some future forms of exploitation of copyrighted work, such as generative artificial intelligence, due to which, according to various estimates, the authors of cinematographic and audiovisual works could lose more than 10 billion euros in worldwide royalties in the following period.



## INTERVIEW



Foto: Sophie Degroote

### Cecile Despringre

*Secretary General of the SAA - Society of Audiovisual Authors*

# Authors' rights protection and their translation in remuneration is not a given and it must be imposed by legislative mechanisms

The Society of Audiovisual Authors (SAA), the umbrella association of European collective management organisations representing audiovisual authors from 25 countries, and of which UFUS AFA is also a member, is celebrating its 15th anniversary this year. During that time, in addition to efforts to ensure that authors are fairly paid for the exploitation of their works, SAA actively participated in the preparation and drafting of new laws concerning copyright.

In an interview for our Bulletin Cecile Despringre, SAA's Secretary General, talks about the common problems of filmmakers in Europe, today's challenges in terms of copyright protection, attempts by AI companies and streaming services to avoid paying authors' fees and other important topics.

At the SAA General Assembly, the strategic plan for the period 2025-2027 was presented. Can you summarize the most important details from this plan?

Indeed, the SAA Board of Directors has begun to discuss the next pluriannual strategic plan for the SAA, but the plan is still a work in progress. What I can say, however, is that we are in a very different place today than we were back in 2022. Some of the new challenges of today are, firstly, the exponential development and application of Generative AI and, secondly, the changing political and regulatory environment. Politically we have seen the rise of far-right political parties in a number of European countries and in the June elections to the European Parliament, which changes the political dynamic and threatens our values of cultural diversity and artistic freedom. The perception of technology has also changed. Politicians deplore that Europe is lagging behind in terms of innovation and competitiveness and some blame our regulatory environment. Industry argues that regulation stifles innovation and that Europe must cut red tape. Copyright is seen as a burdensome legal requirement to comply with rather than a support to authors and cultural diversity that contributes to creativity and innovation. In the same vein, dominant Big Tech operators are openly challenging our cultural diversity regulations, such as Netflix who is taking Belgium to court over the financial contribution imposed on all operators as part of the implementation of the EU Audiovisual Media Services directive.

This is the new reality that we need to consider carefully as we try to anticipate and prepare for both challenges and opportunities in the next coming years. More than ever, SAA members feel the need for such an organisation that gathers together their knowledge and expertise to defend and improve the situation of audiovisual authors in the European region.

SAA today brings together 33 collective organizations from 25 European countries, so you have an insight into the extent of collective protection in most European countries. What are the common problems of filmmakers in Europe?



From a copyright perspective, the main problems of audiovisual authors derive from contractual freedom that allows buy-out contracts to be imposed on them in the absence of proper legislative protection. In many countries, audiovisual authors are forced to transfer to producers all their rights for a lump-sum payment and do not receive on-going payments for the exploitation of their works on the different media. The solution for that is well known since the 1990s when the first unwaivable right to remuneration with mandatory collective management was recognised with the directives on rental and lending rights and on cable retransmission. 30 years later one would think that all European authors would be fairly remunerated for when their works are shown on TV channels, copies are made for personal use on storing devices and when films are watched on streaming platforms, right? No, unfortunately not.

The problem remains. Audiovisual authors do not enjoy the same rights as music authors in all EU countries. EU directives are implemented differently, and the market is fragmented. Whether filmmakers receive collectively managed royalties depends on which media and in which country the audiovisual work is exploited. That is why, since its establishment in 2010, the SAA has been working towards the harmonization of legislation and market to ensure that audiovisual authors have equal rights to fair and proportionate remuneration in all EU countries.

We achieved a milestone with the adoption of the 2019 European directives on copyright in the digital single market on one hand and on retransmission on the other hand, that respectively provided a general principle of proportionate and appropriate remuneration for authors and harmonized the concept of retransmission in a technological neutral way to cover cable, satellite and other means of retransmission. Unfortunately, the implementation of the directive on copyright in the digital single market did not translate in securing remuneration rights to audiovisual authors everywhere.

**Whether and to what extent authors copyright can be legally protected, if we keep in mind the progress of digital technologies, the flourishing of AI companies, the increasing number of streaming platforms and online services...?**

I know, we are in a race against time. AI models are being trained on massive copyright protected material as we speak, without the permission and remuneration of the

creators nor with the transparency and information necessary for them to take legal action. While we are very much focusing on AI today, there are still many countries where authors are not paid any royalty when their works are screened in cinemas, broadcasted and made available on streaming and online platforms. This is terrible when we know that these are the main means of access to audiovisual works for the audience. Our experience shows that authors' rights protection and their translation in remuneration is not a given in the audiovisual market and that it must be imposed by legislative mechanisms, whether at national or European level.

At the EU level, we are waiting for the Commission to make an official assessment of the implementation of the 2019 Copyright directives in 2026 and we will do our own assessment in the meantime to identify the gaps to fill with new legislation. In parallel, the SAA is participating in the drafting process of the General-Purpose AI Code of Practice to implement the AI Act on its copyright aspects. The SAA set up a new internal working group to support the team in the process, where members meet regularly to share their expertise and information about development in their countries. I bring our collective, unique insight and knowledge to the EU Commission's drafting process. Our aim is to ensure that AI companies fully respect EU copyright laws and that collective management organisations are considered partners to get licences.

**There is more and more talk about the misuse of artificial intelligence and copyright infringement. When it comes to the audiovisual sector, actors and screenwriters are the first to be hit. And what happens to the directors? How can AI companies abuse a director's copyright?**

Some AI companies would argue that they are not abusing authors' rights, because they believe that the training of their models falls under the text and data mining (TDM) exception of the 2019 directive on copyright in the digital single market. The SAA argues that this was never the intention of the legislators when the directive was negotiated (as generative AI was not even considered back then). Moreover, it is not the role of an exception to legitimise the development of an entire new industry on the backs of creators without their consent and remuneration. Training generative AI is not TDM, a view shared by several scholars too (such

*It is a shame that the Serbian politicians did not involve UFUS AFA in the consultation process of new copyright legislation.*



as Tim W. Dornis). For now, unfortunately, the EU Commission shares the view that the TDM exception applies and that creators can opt out if they want. But that's easier said than done, so that's where collective management organisations come in. They have extensive experience in licensing works and can play a key role in facilitating the authorisation of the use of works in exchange for remuneration. This is an important point that we are currently making in our contribution to the EU General-Purpose AI Code of Practice. Some of our members have approached AI companies on this very issue and none of them have received a response. At the very least, we expect AI companies to be open to a dialogue with CMOs. CISAC recent study evaluating the economic impact of Generative AI in the audiovisual and music sectors shows in concrete figures the profit made by these providers and the loss of revenues for creators. This is not a level playing field!

**In Serbia, the drafting of a new Law on copyright and related rights is underway, which was done without the participation of UFUS AFA, the only collective organization for the protection of the rights of film authors, but also without the representatives of film guild associations. The proposal of the new law did not even prescribe a "fair remuneration", so, if it is adopted, Serbian film authors will be deprived of what their colleagues in Europe have had for a long time. Does and how much does SAA work with the European Commission to protect and improve the rights of film authors (can you give us some examples...)?**

The SAA was created in 2010 for this very exact reason: to be the collective voice of CMOs to the European institutions, to influence and advocate for better legislation and policies affecting authors in the audiovisual sector.

Some of our achievements can be measured in terms of EU legislation, not least the 2019 Copyright Directive, which we called for from the start. In fact, Article 18, which is now the principle of fair remuneration in the law, was not in the EU Commission's original proposal. It took a lot of work and numerous meetings with MEPs

and representatives of EU countries, the co-legislators of EU law, to introduce it. In the end, creators were heard, and the principle of fair remuneration was adopted. It wasn't as ambitious as we would have liked, but it was still a win. However, some of our successes go unnoticed from the outside of Brussels, and this is how we protect authors' rights from further erosion.

Industry such as private broadcasters, streamers and Big Tech companies (often US companies) are actively lobbying in Brussels, pushing their market interests, often at the expense of creators. In fact, this is not only happening in Brussels, but of course also at national level. For example, Netflix put a stop to the Polish draft law on authors' remuneration for streaming after a meeting with the Prime Minister. However, thanks to the fantastic work of our Polish member ZAPA and the entire film community they managed to win this tough battle this last summer. Similarly, the French AI start-up Mistral managed to get the French government, who is usually a defender of culture, to oppose the AI Act regulating tech companies. Again, the mobilisation of the cultural and creative sectors was crucial to overturning their opposition.

It is a shame that the Serbian politicians did not involve UFUS AFA in the consultation process of new copyright legislation. Compared to many companies, CMOs are regulated by EU law. The 2014 Collective Rights Management Directive sets out detailed rules on the establishment, functioning and accountability of CMOs to ensure high standards. This should reassure and encourage national policymakers to consult with these organisations when drafting legislation and policies that affect the rightsholders they represent.

The SAA is working with its members at national level every time there is a demand. During the implementation process of the 2019 Copyright directives, we wrote letters to the authorities in Bulgaria, Finland, Poland, Portugal to name just a few examples. These letters had some impact on the governments and parliaments by showing that our local member was part of a European network of CMOs who were looking at them and expecting action to the highest standards.

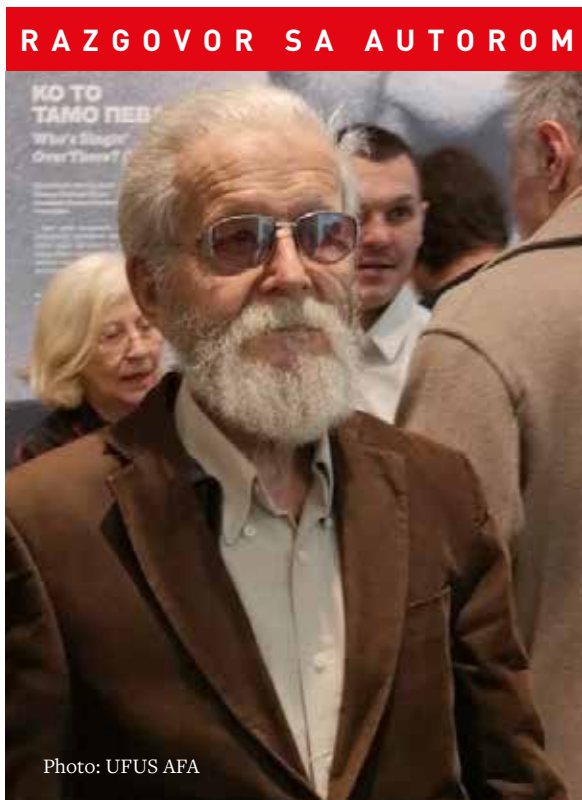


*Artificial intelligence models are created on a huge number of copyrighted works that are used without permission and compensation to the authors.*



Stefan Gelineo and Cecile Despringre, Brussels, November 2024.





**Milorad Jakšić Fandjo**

*director of photography*

## Dušan Makavejev and "Ford" are responsible for my introduction into the world of film...

Milorad Jakšić Fandjo (1936) in many ways represents a unique character in Serbian and Yugoslav cinematography. Although he is a graduated director he became famous as a cinematographer whose signature now stands on anthology films, such as "The Rats Woke Up", "When I'm Dead and Gone", "The Ambush", "Hot Years", "Smeker", but also on some very popular series such as "The Musicians" or "Love in the Countryside".

At the beginning of the conversation, our interlocutor says, "I don't want to anger the directors, but the cinematographer was the one who first made the film; directors were invented much later."

An unintended mechanical engineer, in his youth he was fascinated by technical devices, machines, engines and cars. During his high school days, he assembled a usable motorcycle from scrap parts, and a few years later, by combining the correct parts from various cars, he completed a functioning driving car. Because of that car, with which, by his admission, he "cruised around the streets of Belgrade" he got the nickname Fandjo, after the Argentine Formula 1 driver. Another car and the famous director Dušan Makavejev are the main "culprits" for his film career.

I returned from Germany, from a student exchange to Belgrade with a "Ford Taunus" car. Not far from the Faculty of Mechanical Engineering was the "Kino-klub Belgrade" at the time. To pass the time between lectures and exercises, I began stopping by that club where I quickly became famous, mostly because of the car that few people in Belgrade had at the time, especially not one student. One day I was driving Dušan Makavejev, who was still unknown at the time, who told me that he would soon start shooting a documentary in Grdelica and asked me if he would like me to drive the film crew to the film set for a small fee and they would buy gas for me. I agreed and therefore attended the first serious movie set. This was also Makavejev's first successful film "Smile 61" - reveals Milorad Jakšić Fandjo.

He began filming his first movies as a reserve or "involuntary cameraman".

On my first professional film, a documentary, "The Mourners" directed by Dragoslav Lazić, I began working as a chauffeur and ended up as an involuntary cameraman. And the first feature film "Hot Years", again with Lazić, I worked as an "involuntary" because the pay was "peanuts" not enough for others - recalls Jakšić and adds that as a replacement he also came to the filming of the cult movie "The Rats Woke Up" which he began his multi-decade collaboration with Živojin Pavlović with.

According to him, almost all feature films of that time were made in black and white, which was good for the Serbian and Yugoslav films of that era, and to some extent decisive. "Imagine if the 'Black Wave' was in full colour, what would that look like, it would be a 'Color Wave' and there would be none of the glory or anthology films", our interlocutor observes wryly.



The film "Hot Years" was shot with a small camera, without sound, with a modest amount of tape, in black and white technique and, as Jakšić says, without the intention of being a "black example of the wave". From that film and the scene of the half-black, emaciated worker from Smederevo Ironworks played by Bekim Fehmiu, according to the testimony of our interlocutor, "White Bora", the famous character from the film "Feather Collectors" by Alexander Saša Petrović, was born.

In the movie "Hot Years", Bekim got his first movie role, and that was the main part, quite by accident. We all worked without pressure and with no money, it was the same as for the previous short film "Zadušnice" which I also made with Lazić - if you make a film there will be money, if not, there is nothing for anyone. The screenplay written by Gordan Mihić and Ljubiša Kozomara won 50,000 of something in a competition for funds. The money was transferred to the account of "Avala Film" for the cost of tape and equipment, and the artistic director Aleksandar Saša Petrović was placed in charge of reviewing our recorded material at screenings and deciding whether to continue filming or if we should part ways. When he saw Bekim, he was speechless and immediately demanded to know who he was. "It's great, just keep going," Petrović told us. We parted ways and didn't even meet up again until the end of filming. The film did not go the black wave way, but Bekim went into "White Bora", and Lazić and I went for the "Kodak colour" of the film "Poor Maria". So I was lucky enough to try both black and white and color techniques.

Later, when Živojin Pavlović was fired by the cinematographer Aleksandar Petković, Jakšić, he said, returned to "black and white".

Žika had an agreement with a former cinematographer of his to make the movie "The Rats Woke Up", everything was ready, the filmmaking plan had already been made. A little earlier, Dušan Makavejev prepared the film "Love Affair, Or The Case Of The Missing Switchboard Operator", the filming was scheduled to begin with the same cinematographer, Aleksandar Petković. Žika was angry that the cinematographer from his two previous films had let him down, so he called me in anger, mostly out of revenge. While we were preparing the film "When I'm Dead and Gone", I, as a cinematographer with "experience" in the colour technique, suggested to Žika that we make the film in colour, but he refused, he was stunned. "What would Jimmy Barka look like painted with crayons", he told me. He was relentless, only black and white would do, and the "black wave" was already in full swing, it had excellent reviews at European festivals, "The Rats Woke Up" had already been awarded the "Silver Bear" for directing at the

Berlin Festival, followed by "The Ambush" in black-white, also "blacker than black". Only later, when Slovenians got involved in Žika's film ("Red Wheat"), there was a chance for colour. The film "The Red Wheat" was very significant for me and for almost everyone else. We received the "Golden Arena" award in Pula for the film and the direction, "gold" for me as a cinematographer, and an award for the producer, and that was a springboard for Rade Šerbedžija as well.

Jakšić says that the memory of Pavlović's two-day escape from filming also reminds him of that film.

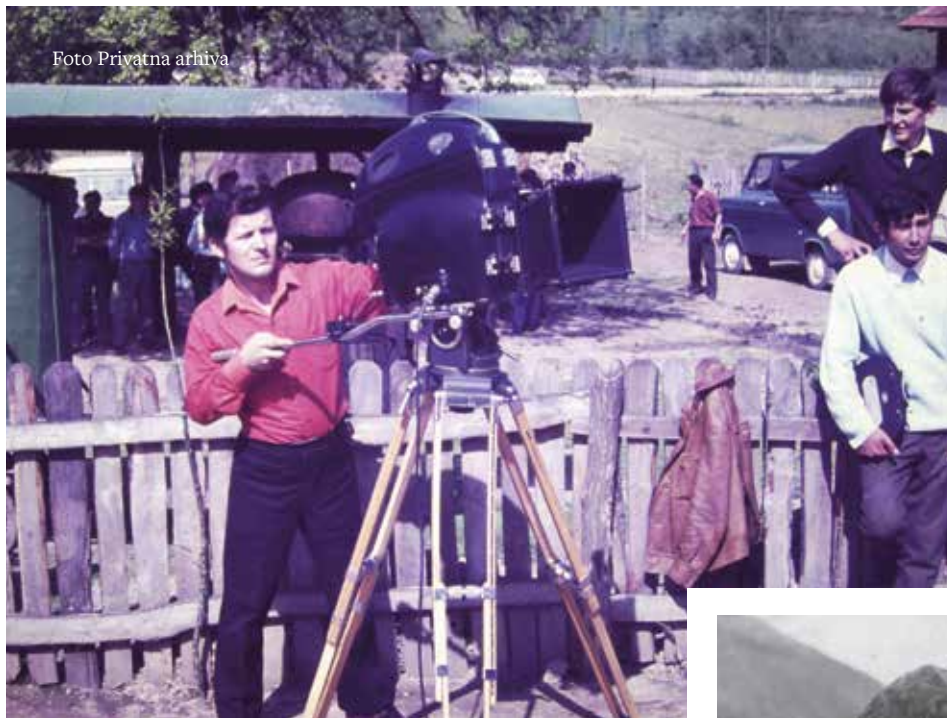
Žika had escaped from filming before in our first film "The Rats Woke Up", something bothered him, he threw the production script out and said "I'm done". He picked himself up and left. Filming was going on the roof terrace of the "Park" hotel, it was, I think, the only romantic scene in the entire film, when the main actors Dušica Žegarac and Slobodan Perović meet on that terrace, hang out, drink, talk and dance. Since a day of filming costs a lot in terms of production, Dušan Perković, the main organizer of "Centar Film" production, asked if I could and would like to continue and finish the filming planned for that day. Zdravko Randić, assistant director, was reserved for a reason, he had respect for all the members of the film crew, of course, especially for Žika. It was an ethical dilemma for him, but the producer had no dilemma, so I turned on the lights and said "Let's go". The next day, when the next scene was set, everyone was afraid of the director's reaction, Žika came, sat down next to the camera, a new scene started, and so on until the end of the film. Pavlović never mentioned or commented on his absence from filming. His departure from the filming of the film "Red Wheat" was, however, more complicated, because the film was shot in Slovenia, and Žika abruptly left everything and went to Belgrade. Again, the command



Foto: Private archive







came from the "Film Center" to continue filming, but I refused. The team got a day off, and I went to bring Žika back. We sat like that for a while in his apartment without talking, and then Žika suggested that we go to Perković's house, he said that the lab had informed him that the material we recorded until then was fantastic, that we should rest and go back in tomorrow. That's how it was: filming continued as normal, and the movie won awards in Pula. He disappeared once again from the filming of the movie "Hajka" in Zlatibor, we continued without him and finished filming for that day, and tomorrow everything continued with him as normal.

**"Hajka" was their last film together, and in that film, Jakšić used the new camera "ARRI BL" (Arriflex 35BL) for the first time.**

It was the latest technical advancement for a small film camera for sound recordings. I took a lot of footage with that "handheld" camera, and if Žika wanted to look through the camera, this was difficult. On that same camera, for the needs of the Kosovar film "Where Spring Comes Late", in which Bekim Fehmiu was supposed to act

and direct, and I was to do the filming, I installed a control video camera that also had a recorder so after the filming was done, Bekim could also look over the scene and react. Unfortunately, Bekim gave up right before filming began, so I continued to work with the Kosovar TV director Ekrem Krujeziu. Živojin Pavlović never looked through the camera after filming or during the editing of all the seven or eight films we made together and said that some scenes or frames could have been different and he could have been done better. It was the same with the other directors.

**Along with his cinematography career, the popular Fandjo continued to live up to his nickname and drive rally races.**

Whenever the question was asked whether I should drive a car rally or film a movie, I would choose the car. Because of this, I lost many jobs and angered some very famous directors - Jaksic is honest.

**As a witness to the rise and development of Yugoslav and Serbian cinematography, Jakšić recalled how in**





**the mid-1970s only state production for feature films and for films in general existed.**

Serbian TV was only in its initial development, electronics were worked on only in the studio at the Town Fair, where there was also a small film laboratory for the processing of recorded materials in a 16 mm format, mostly "Umker", a format where during recording and processing it immediately obtained a positive picture and it could go on air. With "Umker 16" daily political events were recorded, which had to be broadcast the same evening, due to topicality, even other TV formats. The well-known series of Radivoj Lola Đukić, although they took place in the television studio at the Fair (the only one), were not recorded on videotape, but were played and broadcast live. From one or two rolls of "umker film" stolen from the TV lab, I shot and directed my first amateur film, "Romance", which immediately won the main camera award at the first Yugoslavian amateur film festival. At that time, anyone who privately owned a camera and had the means to acquire film tape - 8 or 16 mm format - could make a film in their own production and send it to amateur film festivals throughout Yugoslavia. The second film "Zadušnice" that I filmed, which was directed by Dragoslav Lazić in the production of "Dunav film", was also made in an amateur way at our expense, until the producers accepted it and paid for it. In this way, the authors of future anthology feature films, primarily from the "black wave" era, began their journey to fame.

**In order for those future celebrated authors to be able to make their "black films", a new form of production had to be found because the state film companies, even if there was no social censorship, did not agree to make such films, although they were enthusiastically accepted abroad and necessarily awarded.**

With a lot of effort and political connections, the Parliament of Serbia then adopted the Law On The Independent Performance Of Artistic And Other Activities In The Field Of Culture, which the so-called film working community came from. All the films that were later considered to be "anthology" were shot through them. All those films were shot with very modest means. In order to make a film with less financial resources, they initially relied on the partially free, or conditional, work of the entire film crew. This meant only a partial payment of the agreed fees was handed out until the film was shot and finished and went to one of the prestigious festivals in the country or abroad, receiving an award or at least significant critical acclaim. Then it went to cinema distribution with a pre-agreed dinar percentage of the ticket. This is how the arrears of fees for the authors and other team members were paid. Everyone was subsequently paid in full, many of them even received double the contracted fee. That's how I also had the highest income in my account in the year when I didn't make any films, which is going on even now after so many years of inactivity with the payment of royalties through UFUS AFA. If there were no film communities and the emergence of talented trained directors, the question is what our organization UFUS AFA would look like today. I'm not saying that there wouldn't have been any, but I'm saying that there almost wouldn't have been (at least not at that time) anthology films that today collect the highest royalties and contribute to the organization's funds. All other activities of our organization are financed from these funds, of which support for members who were not lucky enough to find a paid job is significant. For me personally, the most important thing in the organization is the distribution of New Year's packages for children because I intend to get married soon - our interlocutor ends the conversation in a joking tone.

### *An unexpected collaboration with Elia Kazan*

**When the famous Romanian director Lucian Pintilje made an arrangement with Belgrade Television for the filming of the feature film "Pavilion 6" (based on Chekhov), he wanted to hire a cinematographer, who is not only a cinematographer but also "something more", so Milorad Jakšić Fandjo was called upon.**

That film was later seen at the Cannes festival by the world-famous director Elia Kazan, who came to Belgrade and offered me to participate in the filming of his next movie as a director of photography, which was being prepared and was supposed to be filmed in Kosovo and Metohija, primarily because of the architecture and ambience. Unfortunately, the military junta that had been in power "fell" in Greece, the "friendly general" who was supposed to provide the money also fell out, and that film was never made - Jaksic tells us.

**LEGAL ADVICE**



**Stevan Pajović**

*Lawyer at TS Legal*

# Can artificial intelligence be the author of a film work?

Artificial intelligence has experienced significant developments in the past decade, thanks to the massive amount of available data, improved computer performance, and the development of new architecture based on deep learning. In contrast to a classic computer program which represents a simple tool for work in the hands of a person and older artificial intelligence systems based on behaviour prediction, new forms of artificial intelligence which are based on the principles of deep learning or artificial neural networks are capable of autonomously generating completely new content (hence the name generative artificial intelligence).

We all feel the consequences of the so-called 'fourth revolution', whether we are excited about the new possibilities of applying artificial intelligence or anxious about the potential job loss. Artificial intelligence arrives in many forms and with different purposes, along with the potential to replace human work in any industry. The creative industry has proven itself to be particularly

fertile ground for the "proliferation" of various forms of artificial intelligence. Artificial intelligence composes music, writes songs, novels, newspaper articles, creates pictures and photographs, and recently began to "film" movies!

Currently, the most famous artificial intelligence model for creating audiovisual works is SORA. Developed by the company Open AI, this model generates short video clips based on user prompts (text-to-video model). Several other models for generating audiovisual content from prompts were created before SORA, including Make-A-Video by Meta and Google's Lumiere. That artificial intelligence can also be a good screenwriter was demonstrated by the 2016 Sci-Fi film "Sunspring", which made it to the top 10 at the annual Sci-Fi Film Festival in London. The complete script was written by Benjamin AI which is based on an artificial neural network and trained on the scripts of sci-fi movies from the 1980's and 90's.

Given that generative artificial intelligence creates completely new content which is difficult to relate to the intellectual work of a specific natural person, whether it is the developer of the artificial intelligence system, the author of the work that was used for its training, or the user who initiated the creation process with his instructions, the question of the position of such content within the current system of copyright protection has arisen, or specifically for us in this text the question of whether artificial intelligence can be considered the author of a film.

The answer to this question can be found in the Law on Copyright and Related Rights, specifically in Article 2, which defines the concept of copyrighted work, and Article 9, which prescribes who is the author of the work. In other words, we must first answer the question of whether the content created by artificial intelligence is subject to copyright, and only if the answer is affirmative, who is the author of that work.

Article 2, paragraph 1 of the Law on Copyright and Related Rights defines copyrighted work as the original intellectual creation of the author, expressed in a certain form, regardless of its artistic, scientific or other value, its purpose, size, content and manner of expression, as well as the permissibility of publicly communicating its content.

Therefore, in order for a work to be copyrighted, it must represent the original spiritual expression of the author, an expression of their personality, creation, state of mind, i.e. intellect. Originality and spirituality are two sides of the same coin since originality is defined by the



representation of the author's personality. And already at this first step, artificial intelligence has failed the test, given that the content it generates cannot represent an expression of its personality (because this is a quality it does not possess), and it does not represent their spiritual creation, at least until the moment when artificial intelligence becomes "real" intelligence, or until it becomes a self-aware being capable of representing "itself" through its work.

The legislator is also aware of this, therefore Article 9 of the Law on Copyright and Related Rights stipulates that an author is a natural person who created the copyrighted work. Therefore, only a natural person can express the state of their spirit in a certain form, i.e., only they can create a copyrighted work. Artificial intelligence is not a natural person, and in accordance with current regulations, it will not be considered the author of the content it has generated. Considering that artificial intelligence is not even a legal entity and that the question of responsibility for the damage caused by it acting autonomously in accordance with its own programming and purpose could potentially be raised, the European Parliament is considering the possibility of introducing a third category of persons, so-called "electronic persons", which would include robots and artificial intelligence.

To conclude, in accordance with domestic positive legal regulations, content generated by artificial intelligence does not represent work that can be attributed to the authorship of artificial intelligence by itself.

And, even if it would seem logical at first glance, we did not quote Article 11 of the Law on Copyright and Related Rights which states that the authors of a film work are the screenwriter, the director and the chief cinematographer for pushing our case, because the question whether artificial intelligence can be a director or screenwriter is actually already contained in the primary question of whether artificial intelligence can be an author. If it can be an author, then it can also be a screenwriter, so Benjamin would be considered the author of the award-winning film work "Sunspring", which is certainly not the case.

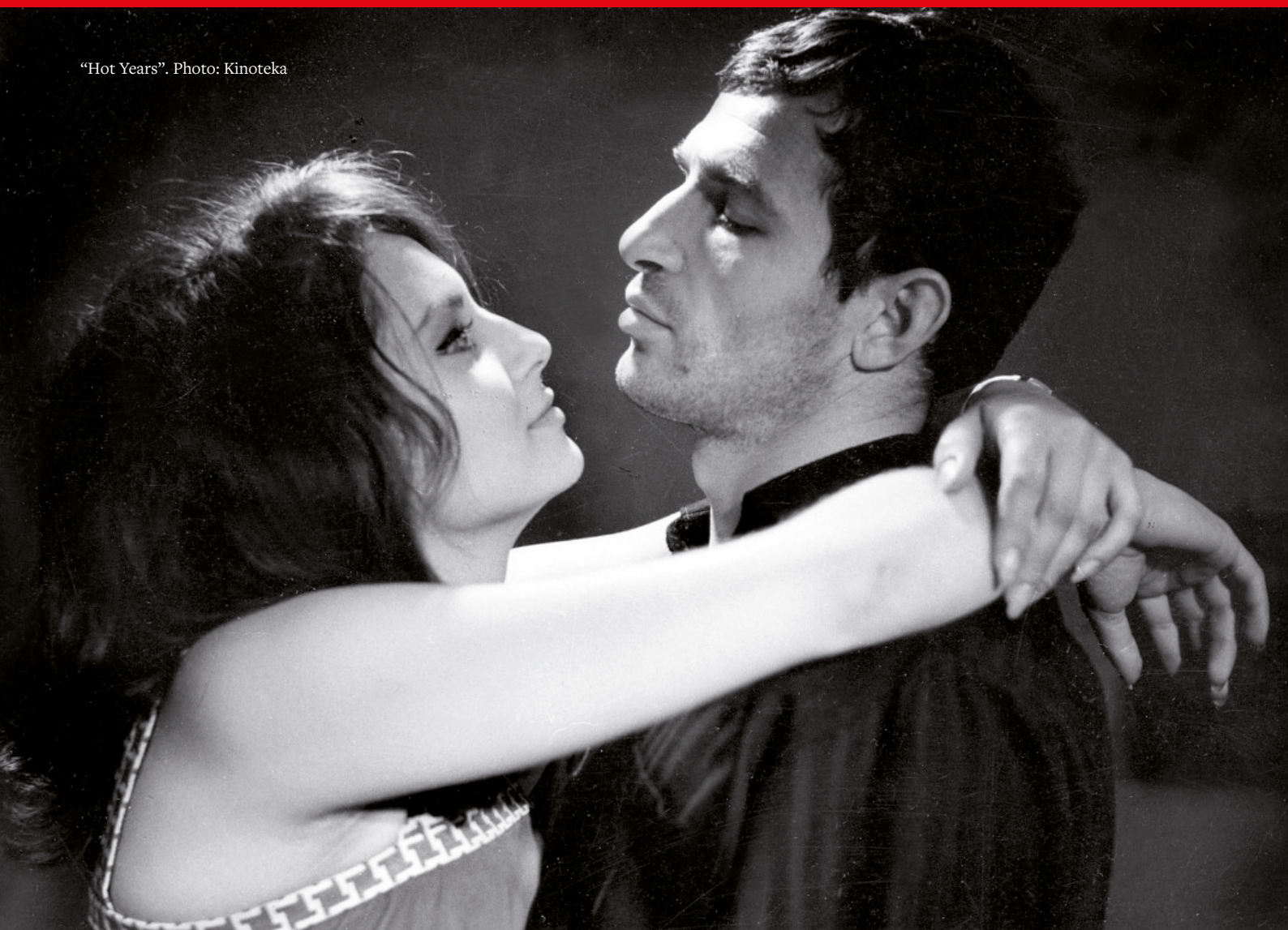
Bearing in mind that artificial intelligence cannot be the author of the content it has generated, the question arises whether the author of that content could be another person and whether the creation of artificial intelligence is protected by copyright. Due to space limitations, we will try to answer these questions in the next edition of the Bulletin.

Foto: Nataša Grahovac, Unsplash.com





"Hot Years". Photo: Kinoteka



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