

Bulletin

ORGANIZATIONS OF FILM AUTHORS IN SERBIA



INTERVIEW

Laëtitia Kulyk

“The fight for copyright protection is a neverending one as new questions and dilemmas constantly arise”

CONVERSATION
WITH THE AUTHOR:

Đorđe Kadijević

UFUS | AFA

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EDITORIAL



Stefan Gelineo

Director of UFUS AFA

Editorial

The filmmaking process in Europe takes about three years on average, while in Serbia and the region that period is much longer – it takes five to seven years, from the initial idea to the movie premiere. Such a long period of time for a single project poses serious financial challenges for filmmakers who are thus forced to work on multiple projects simultaneously. While screenwriters develop stories for months or years, cinematographers can go from project to project, whereas directors go a long way from project development, preparation, through shooting, to post-production, applying for obtaining funds from various sources, as well as grappling with budget restrictions, changes in production and other challenges. In the process, their earnings are often irregular and the fees do not cover the years of effort they have invested.

This is precisely why it is extremely important for filmmakers to retain part of the property rights over their works in contracts they conclude with producers, which are protected through a collective organization,

because the royalties they receive based on past work should enable them to at least partially bridge the periods when they are not actively working. And not only that. Property rights last 70 years after the death of the last author, which is a long period for someone else to receive benefits for your efforts and work.

Recent research conducted by the Directors Guild of Great Britain has shown that TV and film directors in the country are facing financial instability due to irregular employment and reduced opportunities for work and income. The survey showed that British directors in 2023 worked an average of 27 weeks a year, that is, they were paid for their work during six months. Bearing in mind that Great Britain, in terms of film production, is among the leaders in Europe, it is clear that the position of directors and other film authors in cinematographically less developed countries is much worse.

In the modern film industry, dominated by producers and companies, authors are vulnerable, so their rights are often minimized during negotiations with producers. That is why it is important for screenwriters, directors and chief cinematographers to be aware of the value of their work, insisting on contracts that allow them long-term financial stability, but at the same time regulate their property rights. This type of negotiation, however, is much more difficult to achieve in countries where filmmakers are not organized in unions, where the minimum wage for filmmakers and their basic rights are not defined. To value creativity and professionalism in the film industry in the right way and introduce it into legal regulations, that struggle must be joint and organized through guild associations, collective and other film organizations.

INTERVIEW

Photo: Julien Ezanno

**Laëtitia Kulyk***the Regional Audiovisual Attaché
at the French Embassy in Serbia*

The fight for copyright protection is a neverending one as new questions and dilemmas constantly arise

In terms of the attitude towards national cinematography and culture in general, France has long been a model for cultural workers worldwide, and Europe in particular. Known for establishing the legal framework of “cultural exceptionalism,” France has been an example of how to preserve cinema art, but also how to protect copyright.

Our cinema sector is highly developed. The French National Center for Cinema and Moving Image (CNC) was founded immediately after the Second World War and has been in charge of the design and implementation of the national policy pertaining to cinema art, the entire operation of that sector, the integration of animation, video games, and other digital works, as well as finding new types of funding – says Laëtitia Kulyk, the regional audiovisual attaché at the French Embassy in Serbia.



She says that various types of funding are available to film artists.

In addition to allocations of funds for the sector at the level of the national budget, there are also quite active regional funds in France that support cinema art. Moreover, there are also some television stations that produce films for the purposes of their respective TV programs, a public service that also invests in film, and then there is StudioCanal, a major production house and a great investor in cinema art, within which Canal+ operates.

France has also been a role model in terms of the share of national, domestic films in the cinema repertoire, which, with the share of 44 percent, is among the largest in Europe.

That share also depends on the film offer in a particular year, so for example in 2023 we had a large viewership of the national film thanks to the blockbuster movie from the highly popular *Asterix and Obelix* movie franchise, which attracts large audiences. There were concerns as to whether movie theaters would recover after the impact of COVID-19 and the rise of streaming platforms, but the number of visitors in France has been growing steadily. There was no major movie production break during COVID-19. The state adopted a number of effective measures that helped the recovery of both film and cinemas, helping us return to the pre-pandemic level, and even surpass it in some parameters, which is good news, considering that France is a cinephile country. Between 200 and 250 films are made in France each year, resulting, among other things, in greater visibility of the national film in the overall repertoire. On the other hand, cinemas get incentives for showing French and European films, and then there is Europa Cinema, a cinema network showing European films as well. Naturally, like everywhere else in the world, there is a blockbuster audience. However, the French are also curious and receptive to other cultures. That especially applies to the residents of Paris, where the biggest share of cinema tickets is sold. There you can watch almost any movie you want, as there are plenty of movie theaters, including those where you can watch a movie up to few months after its release, making sure you don't miss it (so called *cinéma de continuation*). There are numerous movie premieres every week and if a film does poorly at the box office, it quickly gets taken off of the repertoire. That's why *cinéma de continuation* are important. I miss having them in Belgrade, because even though there are a lot of movie theaters here, their programs are very similar, as they include only a handful of arthouse and indie movies. Here you can watch such movies almost exclusively at festivals.

What is the average movie budget in France?

I can't say for sure, but the average budget seems to range between 6 and 7 million euros. Those figures are frequent topics of discussion because there is a big difference between a low-budget film, which is below a

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million euros, and large productions, costing above 10 or 15 million euros. Movie funding will always be a topic of discussion, but some things have changed lately in that regard, so today, for example, young authors start the production of their second or third movie more easily.

France has also set a blueprint for copyright protection. How long did it take to introduce laws that are among the best in the world in that regard?

It has been quite a long struggle. The SACD organization was formed more than 200 years ago. Initially, it was intended for writers, specifically playwrights, while the audiovisual arts became part of SACD after World War II. The organization is still developing, groing to include new media, so I can safely say that the fight for copyright is a neverending one. European directives are being adapted according to current innovations, such as the emergence of streaming platforms and other digital content that constantly raise new questions and new dilemmas. France is one of the first countries to introduce this novelty into its legal system to achieve better copyright protection. However, new technologies are constantly being developed. There has been a lot of talk lately about artificial intelligence, which is why laws are being updated, and new taxes introduced.

We also spoke with Laëticia Kulyk about the close ties between French and Serbian auteurs, as well as about the Cinematographic Co-production Agreement signed by the two countries for the purpose of strengthening cooperation in the field of cinematography.

My job at the embassy is focused precisely on the task on improving cooperation between France, Serbia, and the entire region. We have initiated a new co-production development program encouraging French producers,





We have initiated a new co-production development program encouraging French producers, financiers, and agents to get acquainted with Serbian producers and directors, and organizing pitch meetings at which domestic filmmakers can pitch their projects to French agents

financier to get acquainted with producers and directors from region, and organizing pitch meetings at which domestic filmmakers can pitch their projects to French professionals. We partake in film festivals throughout the year, and so last year, in cooperation with the French National Cinema Center, we set up a workshop in Paris attended by representatives of eight countries, a large number of producers, as well as representatives of important French film institutions. On the first day, we held a panel on “Balkan Film Aesthetics” and another one on co-productions with the region, while the next day 16 projects were pitched to French producers at individual meetings. The participants were quite satisfied and I believe that we will soon reach specific and concrete co-production agreements.

And when will we be able to see the first results of it, some new Serbian-French co-production?

Very soon, I believe. A few years ago, a similar workshop was organized in Belgrade for Serbian projects, and one of the film projects that were green-lit then is currently in production. It will likely be released this year already. The French producers were very pleased by the quality of the projects presented at the last workshop, so it is

possible that in two or three years’ time we will be able to watch some of the films pitched at that workshop.

Kulyk says that the topic of copyright protection is very important to her as well, but that it is difficult to design and launch a project related to that topic because as the copyright protection laws in the region are very varied.

As a candidate for membership in the European Union, Serbia should harmonize its laws, the copyright law included, with the EU laws. However, that is not an easy task, especially if certain novelties are to be introduced, as their implementation requires significant changes to be introduced in the system. The issue of copyright is very specific. When I was a member of the Screenwriters Association, before coming to Serbia, I participated, together with representatives of other film authors’ associations, in negotiations with film and TV producers, the French Film Center, and other relevant institutions. Some legal changes took us years to introduce, so it is very important that the draft law is prepared studiously and in consultation with all relevant associations and organizations.

Director Đorđe Kadijević / Archive RTS



CONVERSATION WITH THE AUTHOR



Photo: Stefan Vacić

Dorđe Kadijević

Movie Director, Screenwriter, Art Historian

The real truth resides in art rather than in reality

Director, screenwriter, art historian, art critic, and distinguished member of the UFUS AFA Dorđe Kadijević recently received the prestigious Dositej Obradović Lifetime Achievement Award, one of many domestic and international recognitions he has received for his work in several fields of art. The oeuvre of Dorđe Kadijević, as pointed out by the jury for the Dositej award, stands as a testament to a highly important creative mission and proof that even today there are people whose work extends to almost all areas of culture.

Kadijević is the author of several extraordinary works, including the masterpiece *The She-Butterfly* (1973) and

the TV series *Vuk Karadžić*, for which he received the Grand Prix of Europe. He also won a lot of recognition for his films *Praznik* (Holiday), *The March* (Pohod), *The Gifts of My Cousin Maria* (Darovi moje rođake Marije), TV movie *Karađorđeva Smrt* (The Death of Karađorđe) and others. The timeless value of his works has also been affirmed by Robert Eggers, the director of the recent and acclaimed film *Nosferatu*, who recently spoke about *The She-Butterfly*, pointing out how much influence it exerted on him and admitting that the scene with the horse searching for the vampire's grave was directly inspired by a scene from Kadijević's film.

My friends showed me that interview. Eggers included *The She-Butterfly* in the Lincoln Center Fantasy Film Review. That's not the only praise I received, especially abroad, where the film has been given a more sensible consideration than by our audience. At the time of the movie's first run, and also in the reruns, many people, including some highly educated ones, admitted to me that the sense of fear and horror when they watched the film is an indelible part of their reception and that they can never forget it. *The She-Butterfly* is an unforgettable film, which is the biggest compliment that an author can receive for his work. Strangers are particularly fascinated by the fact that I refrained from using any movie trickery or CGI in that film, as everything was shot with a classic camera and exclusively in a cinematic manner, without the help of current technological advancements. Today, when you shoot a scene, you can choose what kind of background you want to set, whereas in my films all the backgrounds are authentic. In the same way, all the actors' metamorphoses were achieved through the directing process, not by employing technical trickery – explains Dorđe Kadijević.

This exquisite filmmaker, however, immediately notes that what Eggers, as well as many others, got wrong was that his movie is not a horror story.

The She-Butterfly is not a horror movie, that's where he is wrong. Americans can hardly imagine a film that is not essentially commercial, and that was not the motive behind the making of *The She-Butterfly*, but a completely different one. Unlike Eggers, in addition to being a director, I am also a university professor of history, and my primary motivation was to show the sense of primal fear as a ubiquitous human attribute. A metaphysical sense of fear has been instilled in us from the beginning, an individual is a scared being. We live exerting a permanent effort to understand where we are, what we are and who we are, and that desire of ours is never completely fulfilled. I recently read the book by the philosopher Rüdiger Safranski *How Much Truth Do We Need?* which claims that we do not need





Pohod, photo: Kinoteka

the truth and that it should not be the main goal of human beings. What is more important for an individual is the state of tolerability of the world, another person, and oneself. If Safranski is right, and I am much more inclined to the thesis of Albert Camus, who in *The Myth of Sisyphus* discusses the absurdity of human existence, then in the film *She-Butterfly*, which is ostensibly based on folklore and horror in terms of effects, I attempted to trace the continuity of horror that an individual carries inside. That, and not horror, is the idea behind *The She-Butterfly*. Horror is a commercial, cultural and entertainment genre, people love that kind of fear, and such films can make a lot of money. I am far from that genre. I am interested in that other aspect, mystical and completely irrational.

In addition to the award named after the greatest Serbian educator, Dositej Obradović, Kadijević also won an award named after the Serbian language reformer, Vuk Karadžić, about whom he filmed the already mentioned, acclaimed TV series.

Vuk had his own goals in mind, namely to reform the language and spelling, to teach us to speak as our people do, and on the other hand to collect the wealth of folk tradition, poems and stories and integrate them all that into the Serbian language. We live inside Vuk's linguistic value system, we are aware of the treasure of our national language, and so are others. Let's remember that the great Goethe was captivated by the "Hasanaginica" poem. Unlike Vuk, Dositej had different goals in mind, sublimated in his famous rallying cry that still resonates with equal force today – "Vostani, Serbie" ("Arise, Serbia") – but those goals unfortunately failed to come true. Within the framework of Enlightenment, he called upon the Serbian people to arise spiritually, to emerge from the darkness of the past, primitivism and superstition any imposed dogma in general, and to catch



Praznik, photo: Kinoteka

up with the world and Europe in terms of the freedom of spirit, through spiritual, cultural and civilizational "upliftment." Dositej's slogan "Arise, Serbia" remains permanently relevant, especially today, when we are surrounded by such a political and social panorama that speaks of Serbia's renewed attempts to "arise." In this sense, Dositej's message is more current than any of Vuk's messages. Everything I did was out of love, all my movies, my books are the result of love. Now I understand that Dositej's cry is also an expression of deep love not only for one people but for the human race in general.

Through his works, Kadijević himself embarked on a kind of enlightening mission, reminding viewers of the great individuals from our past, such as Vuk Karadžić, Karađorđe, Nikola Pašić...

I am a historian by education and that sets me apart from other distinguished colleagues. Historically speaking, we freed ourselves from Turkish slavery "only yesterday," we reemerged only in 1918. What preceded that moment were great individuals. I feel embarrassed when someone does not know who Uzun-Mirko Apostolović was or the archpriest Mateja Nenadović, or knows nothing about the despot Stefan Lazarević. In the Vuk Karadžić TV series, I had the opportunity to portray those people whom my contemporaries do not know well, as amnesia is almost recommended in these areas. That's how heroes like Hajduk Veljko, Petar Moler, Đorđe Ćurčija appeared on the screen – as true heroes from our national fund. If I have done any kind of national service, it was the opportunity to show not only those people, but also foreigners, Goethe, the Brothers Grimm, Metternich, the Russian and German emperors, a panorama of the great people of world history in that series, which was being made over the period of four years all across Europe. When I was awarded the European Grand Prix in Rome in 1988, Umberto Eco, one of the 20th century greatest writers and intellectuals, said that "the series is not merely an excerpt from the history of the Yugoslav people,



*The She-Butterfly (Leptirica) is an unforgettable film,
which is the biggest compliment that an author can receive for his work*

but an excerpt from the history of the European people.” That series showed how contemporary the past was and how impermanent it is when it is so grand. Shooting the series taking place in the 19th century, I had a permanent impression that I was tackling a contemporary subject, and it is in many ways more contemporary than many subjects that are tackled today.

As his films, made half a century ago and with modest means, continue to inspire others, we asked him his opinion on the use of special effects and artificial intelligence in contemporary film.

Artificial intelligence in film is still used mainly for image. For the time being, screenwriters, writers, and directors still have to write a camera script in order for it to even begin filming. The power of artificial intelligence can be used for various film trickery, as to replace one person with another, to remove one person and introduce another, to grow or shrink them, to say something or not to say... It is a completely new, modern technology that even poses a kind of threat. We will reap the benefits from artificial intelligence as long as it's under our control, but if it is developed to the extent that it becomes independent and begins to compete with human intelligence, then anything is possible, and even our defeat. That would be a punishment for what we do so gladly, for thinking that the supposed future is our greatest treasure, while every present, and especially the past, is completely worthless.

Kadijević claims that this type of attitude towards the past, experience, and knowledge leads to the degradation of everything, including culture.

Let us suppose that you know nothing about Pythagoras. To learn something valuable about him, you have to read several books. Otherwise, you pick up your mobile phone and retrieve the first, most superficial information about him, his date of birth, how long he lived, what he did and what he invented. You are content with that and you think you know who Pythagoras was. That simplification of knowledge, that shortening of informative reporting and knowledge leads to superficiality and reduced intelligence that cannot be compared to the true emancipation of the mind. It is one of the syndromes of the global degradation of culture and intelligence, especially in recent times.

Our interlocutor says that he is also disappointed with the latest film production.

There have been no great films for a long time. Today you cannot go to the cinema and be fascinated by a film as when you watched the best works by Orson Welles or Tarkovsky or Bergman. Festivals are now competitions for producers rather than artists. However, the film shares the fate of a culture that historically does not have a continuous upward trend, but you have periods of degradation and depression, followed by periods of



Leptirica



Vuk Karadžić, photo: RTS



Karadžićeva smrt, photo: RTS



Photo: UFUS AFA

rise and renaissance, followed, in turn, by periods of decadence... Unfortunately, today we are in a period of decline, we have no works that can be compared to those from the near, let alone more distant past. This applies to all art, not just film. But that will change, it's just a matter of time. People's spirituality and general mood will awake, introducing a new rise. Today, we have a neo-capitalist and globalist contempt for the classical past, skepticism about modernity which is not satisfactory enough, and, of course, great utopian hopes for the future. And that leads into decadence.

Modern movie festivals are competitions for producers rather than artists

Art is a reality unto itself and it has its genesis, its unfathomable and endless future, while reality is official, normative, and generally trivial. Globalists criticize art as means to beautify the truth they supposedly long for, while in fact the real truth resides in art rather than in reality.

I am glad that the UFUS AFA exists

Đorđe Kadijević gave a brief account of the work of our organization.

I am happy that organizations like UFUS AFA PROTECTION appeared in our country at all. Due to our global backwardness, everything here arrives late. Let us trivialize the matter and say that having shot 20 films and 4 series that were acclaimed, I was supposed to live high on the hog somewhere abroad. You are fighting to help us retain some of the old glory, to be rewarded as much as possible for work that exceeds the regional boundaries, and sometimes even the European ones, to gain well-deserved recognition, social status, and even the money awarded to our colleagues in all civilized countries who do the same kind of work as us. I welcome every action you take – Kadijević spoke sincerely.

Photo: Aleksandar Carević

LEGAL ADVICE



Stevan Pajović

Lawyer at TS Legal

Tax Treatment of a Film Production Contract

A film production contract regulates the relationship between the filmmakers (such as directors, screenwriters, and cinematographers) and the film producer. This contract obligates authors to cooperate in making a film and to assign their property rights to that work to the producer, allowing the producer to use, distribute, and generate income from the film. The film production contract plays a key role in protecting the rights of the filmmakers and ensuring the legal use of their works by producers. In practice, however, filmmakers, wanting to get tax benefits, often conclude these contracts as entrepreneurs. This article explores the legal and tax aspects of such a practice and gives an insight into possible alternatives.

Even though the tax administration has not questioned over the years the practice of concluding copyright contracts as entrepreneurs, we deem it problematic. Namely, based on our interpretation, entrepreneurs

cannot be filmmakers, as a cultural (filmmaking) activity, according to the Law on Culture, can only be performed by (independent) artists, cultural institutions, cultural associations, collaborators, or cultural experts. In that context, an artist is defined as a natural person who creates copyright works, while an independent artist is one who performs artistic activity as their profession. Therefore, we believe that a natural person can create film works exclusively as an (independent) artist, while the entrepreneur status is reserved for performing economic activities. This additionally affects the transfer of property rights, because if the entrepreneur cannot be a film author, they cannot transfer the property rights to the producer. In that case, there is a missing link in the chain of transfer of rights: in order for the entrepreneur to transfer the rights to the producer, they would first have to obtain those rights from the author, which never happens in practice.

Of course, there are cases in which authors do not enter into contracts with producers as entrepreneurs, but as natural persons – directors, screenwriters or videographers. However, almost as a rule in such contracts, the authors agree on a single amount of compensation that the producer owes them, and it is on that amount that they calculate the income tax and related contributions. Therefore, it is not surprising that many authors, all potential issues aside, choose to enter into a film production contract as entrepreneurs. Instead of paying income tax and contributions, which often take more than half of their royalties, they opt for flat rate taxation, thereby reducing their tax burden to a much smaller amount.

In this article, we argue that filmmakers can avoid high taxes on copyright contracts, even if they do not enter into contracts through their entrepreneurial actions.

Namely, Article 88 of the Law on Copyright and Related Rights (Zakon o autorskim i srodnim pravima, hereinafter: ZASP) stipulates that within the film production contract the authors will oblige the producer of the film to 1) collaborate creatively on the production of the film, and 2) assign to him their property rights to that work. Assignment of property copyrights based on the contract is regulated by Section 6.2. of the ZASP, entitled “Transfer on the basis of a contract,” specifically in Article 61 of the ZASP, which prescribes that the author, that is, his legal successor, can assign some or all of the property rights to his work to another person. Article 92 of the ZASP expressly stipulates that the compensation for the film production does not include the compensation for other forms of exploitation of the film. Due to this, the film producers should pay two different fees to the



authors based on the film production contract. One is a compensation for their artistic involvement, and the other for the acquisition of property copyrights.

The conclusion based on the quoted provisions of the ZASP is that the author is entitled to two compensations under the film production contract. The first one is for “creative collaboration on the film production” and the second for the transfer of property copyrights. Creative cooperation is an engagement by which the author obliges to undertake actions such as: directing, shooting, creating scenography, costume design, and the like. Through that “engagement” the author’s intellectual property I created, such as: direction, shooting, scenography, costumes, and the like. Besides “creative cooperation,” it is necessary for the film producer to obtain the property rights of the author of the film and individual contributions to the film. Copyrights are acquired through transfer and/or assignment agreements, which is a form of legal transfer of intellectual property.

Interpreting the aforementioned provisions of the ZASP, one comes to the conclusion that the compensation for “creative collaboration” during the shooting of a film, representing an income obtained from copyrights, is subject to personal income tax (which is paid by deduction) and the corresponding contributions for mandatory social insurance. On the other hand, the fee for assigning copyrights is subject to the tax on the transfer of absolute rights, as it is an exclusive transfer of intellectual property rights that is unlimited in terms of time, space, and subject matter for a fee. In addition, any income that is realized as a positive difference between the sale and the purchase price of the property right that was traded is taxed with capital gains tax.

Given that authors in most cases assign all their property rights to the film without any restrictions, the fee for the transfer of rights paid by the producer to the author should be significantly higher than the fee paid for the process of creating the film itself. As a result, most of the amount that the author receives from the producer on the basis of the film work contract should be taxed at the rate of 2.5%, with a possible addition of 15% on the income generated by the transfer of rights. This tax treatment represents a drastic reduction compared to the combination of income tax and contributions, the total taxation effect of which can amount to more than 50% of royalties, depending on specific circumstances and possible reliefs.

To summarize, the film production contract is the basic instrument for regulating the relationship between authors and producers, ensuring the protection of authors’ rights and the legal use of their works. Although the practice of concluding contracts as entrepreneurs may be as a short-term solution for avoiding high tax obligations, in the long run, it creates more legal problems than it solves. According to current laws, authors cannot be entrepreneurs, and without proper transfer of property rights the key link in the chain of rights is lost, which can make contracts ineffective.

As we have already stated, given that authors most often assign property rights without restrictions, the fee for the transfer of rights paid by the producer significantly exceeds the fee for creating the film. This implies that the greater part of the total remuneration is taxed at a more favorable rate of 2.5%, with an additional taxation of 15% on any profit realized from the sale of rights. That kind of fee structure allows filmmakers significant tax savings and can be an effective strategy for optimizing income. Therefore, filmmakers have the possibility to avoid high taxes not only through entrepreneurial actions but also by properly drafting their contracts. With proper legal advice and an understanding of the legislative framework, filmmakers can secure their rights while preserving their creativity and artistic integrity.





Vuk Karadžić, photo: RTS

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