



Artists enrich our daily lives with works in public places – this must be cherished !

The Panorama Exception

Setting the record straight

- The European Commission is currently examining the need for a harmonised panorama exception in the copyright Directive review.
- On 9 July, the European Parliament adopted an initiative report on the review in which a harmonised panorama exception was deemed neither necessary nor desirable.
- Member States offer balanced solutions for creators and consumers.



Here are some facts to debunk the myths going around on this issue

Can people freely share their pictures and videos on social media?

Yes Today, everywhere in the EU, consumers photograph and film art works in public places, take selfies in front of monuments, whether there is a panorama exception or not. They can post these pictures and videos on their personal websites, blogs or on social media. **Collective management organisations (CMOs) do not request to take down such pictures.** In rare cases where a protected work is uploaded by a consumer, CMOs may ask for that image to be taken down. This only happens upon specific request from the author of that work (e.g. the photographer) and for instance when moral rights are at stake. However, this is an entirely separate issue and is not related to consumers being able to upload their own pictures online.



Can professionals use pictures and videos easily throughout the EU?

Yes Many exceptions listed in article 5 of Directive 2001/29 already apply to visual works such as architecture, street art and sculptures. This means that journalists, documentary photographers, film makers, etc., can count on exceptions like reporting current events, incidental inclusion, illustrations for teaching, and quoting. In countries without the panorama exception, solutions and mechanisms have been created that ensure licences can be acquired easily when the work is not concerned by one of the many exceptions already in place.



Is the panorama exception just about postcards?

No A panorama exception extends to far more than just printing postcards. **Many aspects of merchandising rely on works that include panorama use**: printed clothing, mugs, bags, backgrounds for advertisement campaigns, apps, online magazines, etc.

Is the current situation in Europe flexible enough?

Yes Appropriate and balanced solutions based on cultural and social characteristics of Member States have been put into place for the remuneration of authors. Where there is no panorama exception, remuneration from the usage of works in public spaces is substantial. Where this is a panorama exception, the legislation generally provides authors with other significant sources of revenues. A harmonisation of the panorama exception would therefore heavily disrupt this balance.



Are creators relying on royalties from panorama use?

Yes In countries where there is no panorama exception, royalties collected from such usage are significant. To give an example, a **harmonised panorama exception would mean a loss of 10 to 19 percent of royalties per year in France**.



Is there a need to further harmonise the panorama exception?

No There is no evidence of cross-border problems or obstacles to the Internal Market concerning the panorama exception that would justify an EU intervention.

So who is currently asking for a larger and more harmonised exception at EU level?

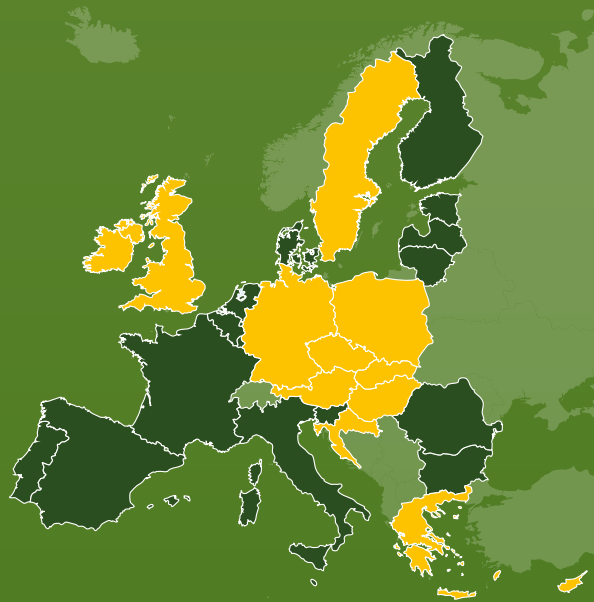
To the best of our knowledge and despite being a non-profit, **Wikimedia** is the main stakeholder of this political campaign. It is essentially attempting to single-handedly force a change in EU legislation that would align it with their user terms and conditions.

Wikimedia has refused to accept anything but an authorisation that includes supplying high definition files, commercial use of works, and the right to use them in any modification or context, without permission or remuneration. Such an authorisation would be unfair and unjustified for artists.

More on the Panorama exception

The Panorama exception is one of 20 optional exceptions provided for by Directive 2001/29 and applies to the “use of works, such as architecture or sculpture, made to be located permanently in public places.”

Today, some countries have transposed the exception for works in the public space, including commercial usage ● while in other countries, commercial usage requires prior authorisation ○.



29 October 2015

info@evartists.org

secretariatgeneral@gesac.org