



**ANNUAL ACTIVITY
REPORT 2015**



Special tribute to Jean-Loup Tournier, founder of GESAC

Jean-Loup Tournier, founder and honorary president of GESAC, passed away on 24 March 2015. Jean-Loup Tournier was a charismatic man of conviction who headed SACEM for 40 years. He was a highly cultured man with a passion for music, being a musician himself, and throughout his life he strove to defend the right of authors to live from their creations.

He was a visionary; the first to understand the importance of ensuring that authors' societies should be united and speak with a single voice. Faced with the upheavals that he perceived were a result of European integration and the emergence of the Internet, he was able to convince a small core of societies to create GESAC, a European organisation for the defence and promotion of copyright and collective management, in 1990. His unfailing commitment led him to take on the presidency of our group for 10 years. He was actively involved in all aspects and issues, always ready to take a stand. In his own words: « *You can't win them all* » is a concept that remains alien to me, because it means already having accepted defeat. It is possible to lose, but losing is only bearable if one can see victory ahead, further even than the horizon ».

His expertise and his knowledge of copyright and the world of the arts and music in particular were widely acknowledged by his peers who entrusted him, a unique occurrence, with the presidency and subsequently honorary presidency of the three organisations representing authors' rights in Europe and throughout the world: CISAC, BIEM and GESAC.



ANNUAL ACTIVITY REPORT 2015

2015 was the start of a new phase for authors' rights, with the launch at the end of the year of the EU Commission programme on the copyright review, preceded by large political debates in the European Parliament (EP).

GESAC's global objectives in 2015 stayed in line with the previous year and were an integral part of our policy line:

- ▶ ensuring fair revenues for creators thanks to a strong legal copyright framework;
- ▶ addressing the online transfer of value issue;
- ▶ recognising the essential role of authors' societies for the development of the market;
- ▶ presenting the economic importance of the cultural and creative sectors (CCI) in terms of growth and jobs in the EU.

To achieve these general objectives, lobbying and advocacy was intense all year round. In addition to face-to-face meetings, and in light of the forthcoming copyright reform, GESAC concentrated mainly on:

- ▶ developing a positive narrative on the role and importance of authors and creative works for the EU digital economy's growth and jobs.
- ▶ developing a positive narrative on the collective management of rights;
- ▶ backing messages and requests with facts and figures: several tools and actions were developed to enhance lobbying efforts: infographics, flyers, independent studies, figures related to GESAC members, etc.;
- ▶ transfer of value, to be considered a key priority in the copyright reform;
- ▶ damage control actions to counter campaigns like the one on the panorama exception;
- ▶ using the network of authors' societies and the voices of authors and artists to gain support among public authorities and decision makers;
- ▶ showing, where possible, a common front with other rights holders.

GESAC OUTPUT – main results

- ▶ Transfer of value was included in EP and EC documents.
- ▶ The Reda report on the InfoSoc Directive evaluation went from hostile to balanced.
- ▶ The European Parliament indicated that it did not want panorama exception matters to be included in the copyright review.
- ▶ The EY study became the main cultural statistics reference point for stakeholders and policy makers.

I. MAIN PRIORITIES AND RESULTS

■ Ensuring a balanced political debate surrounding the reform of copyright

GESAC's work in 2015 was heavily influenced by the EU Commission's (EC) ambition to reform copyright «in light of the digital revolution, new consumer behaviour and Europe's cultural diversity». High on the GESAC agenda were aspects like developing awareness among MEPs, EC officials, and Member States on the content of the forthcoming legislative initiative; preparing the debate by bringing hard facts, evidence, arguments, and positions to the EU institutions; and ensuring support on our views from other stakeholders.

The work kicked off in high gear as Pirate Party MEP Julia Reda was chosen on behalf of the Greens as rapporteur for the **European Parliament's own initiative report on the evaluation of the Directive 2001/29/EC**. Although the draft report by MEP Reda was extremely negative and biased, the direction taken in July in the EP Plenary can be described as more balanced and rather positive. This initiative report with no binding effect rightly underlined the need for high-level copyright protection in order to foster investment and growth in CCI. It also asked for a clarification of the legal status and liability of service providers and intermediaries as regards copyright.

Lobbying efforts also helped achieving a balanced and relatively targeted approach regarding copyright in the **Digital Single Market strategy** adopted in May 2015. These efforts also revealed the EC strategy to embrace the digital revolution and open up digital opportunities for people and businesses. However, this targeted approach was not fully retained and EC took the option of a more general but rather balanced approach.






Delivering on its Digital Single Market Strategy on 9 December, the EU Commission presented the Communication "**Towards a modern, more European Copyright framework**" that detailed its proposals planned for 2016 and its long term vision.

EC ambitions on exceptions were apparent and raised concerns, especially considering that there was no mention of accompanying compensation schemes and that the European Parliament's ambitions were even stronger in this respect. A positive point was the EC ambition to rebalance the harmful transfer of value that currently defines the digital market for cultural content.

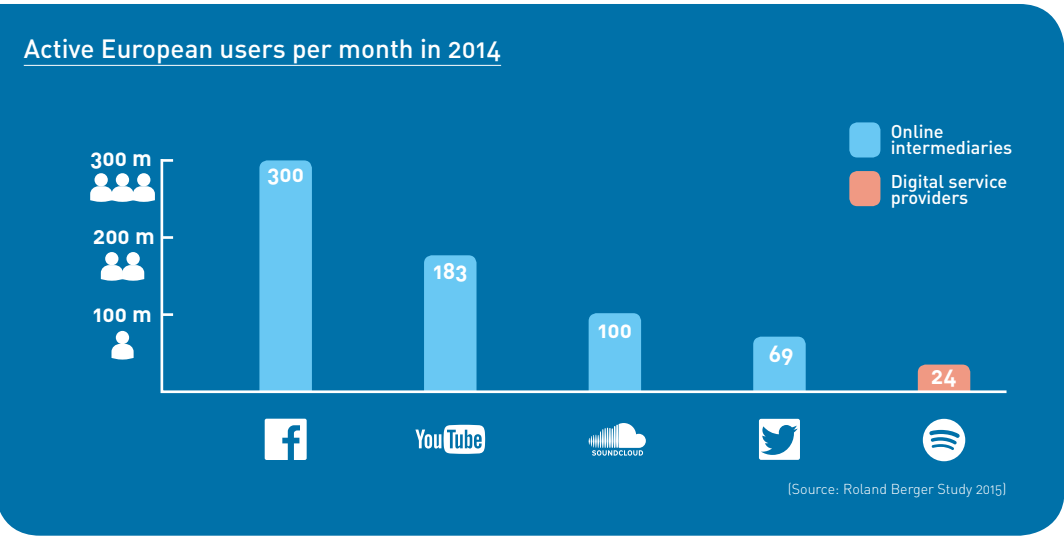
As a first step, the EU Commission adopted a **legislative proposal on cross-border portability** and launched several important public consultations to assess the need for a review of the **Satellite/Cable Directive** and to gather opinions on specific topics such as the **role of platforms** in the economy and society in general.

The first debates on the copyright review confirmed the influential power of public opinion in the work of the European institutions. Some issues, which in GESAC's view do not need to be addressed at European level—the panorama exception for example—generated a lot of debate. This clearly highlights the importance to reconcile the needs of creators and consumers and connect more with the public in view of the future debates on very sensitive and complex issues such as hyperlinking or the notion of new public.

■ Ensuring that the transfer of value (ToV) in the digital economy is a part of the copyright reform

	Global revenues	Increase	Enterprise value
	\$ 12.5 bn	x17.2	\$ 214 bn
	\$ 1.4 bn	x16	\$ 22 bn
	\$ 0.01 bn	x5.6	\$ 0.08 bn
	\$ 66 bn	x4.7	\$ 308 bn
	\$ 0.08 bn	x3.9	\$ 0.3 bn

* Source: Cultural Content in the Online Environment: Analyzing the Value Transfer in Europe, Roland Berger 2015



Being able to license online platforms and aggregators is central to allowing creators to be remunerated for the use of their works online and for the creative online ecosystem to develop in a sustainable manner. A constructive and pro-active narrative was developed by GESAC, supported with facts and figures and voiced by a large rights holders' community.

One of GESAC's main ambitions was to convince decision makers to address the transfer of value online, which is one of the major hardships faced by creators and the creative sector. In this regard, the inclusion of the issue in the above-mentioned texts adopted by EP and the EU Commission is a success and a tangible sign of GESAC's influence. In fact, until the beginning of 2015, ToV was not on the European institutions' radar at all, but it was first mentioned in May in the EC Digital Single Market Strategy. It was then widely

addressed in the EP Reda Report in June, and finally described in the EC Communication in December as a copyright problem relating to the communication to the public right and its application to certain platform services.

In 2015, GESAC was in close contact with MEPs and most of the European Commission services, including the Cabinets of President Juncker, Vice-President Ansip, Commissioners Oettinger, Navracsics and Moscovici. To explain the ToV issue, GESAC adopted a pragmatic approach focused on addressing the matter through the clarification of the InfoSoc Directive. GESAC also worked on providing the EU Commission with evidence and numbers by commissioning a study from the consultancy firm Roland Berger entitled "Cultural Content in the Online Environment: Analyzing the Value Transfer in Europe".

Meetings with EC resulted in a better general understanding of ToV and in an awareness of the need to review the rules applicable to certain intermediaries. The 9 December Communication showed that a copyright solution is preferred by the Commission, despite the previous discussions and disagreements on the direction to take (e.g. E-Commerce, Enforcement, new rules for platforms, etc.).

GESAC's determination on ToV was also picked up by IFPI, IMPALA and ICMP who quickly made the issue their main priority. Other organisations understood

the issue but gave rather passive support. The Madrid Group also worked closely with other rights holders' organisations and EC representatives on possible formulations to alter the InfoSoc directive.

As mobilisation at national level is important, all GESAC members received **toolkits for national lobbying** that explained the current situation in detail.

GESAC actions proved successful as **the transfer of value was put high on the agenda of the EU** for the forthcoming copyright reform.

■ Allowing a smooth transposition of the CRM Directive in the Member States

The dialogue with the European Commission (Copyright Unit DG Connect) regarding the transposition of the Directive on collective management into national law continued throughout the year.

Some important issues like electronic voting, proxy voting, granularity of categories and tariff-setting cri-

teria for example required clarifications. This matter continues to be a priority for GESAC and the Madrid Group is gathering knowledge and evidence from Member States to see towards where issues are developing. This information is available to help members where needed.

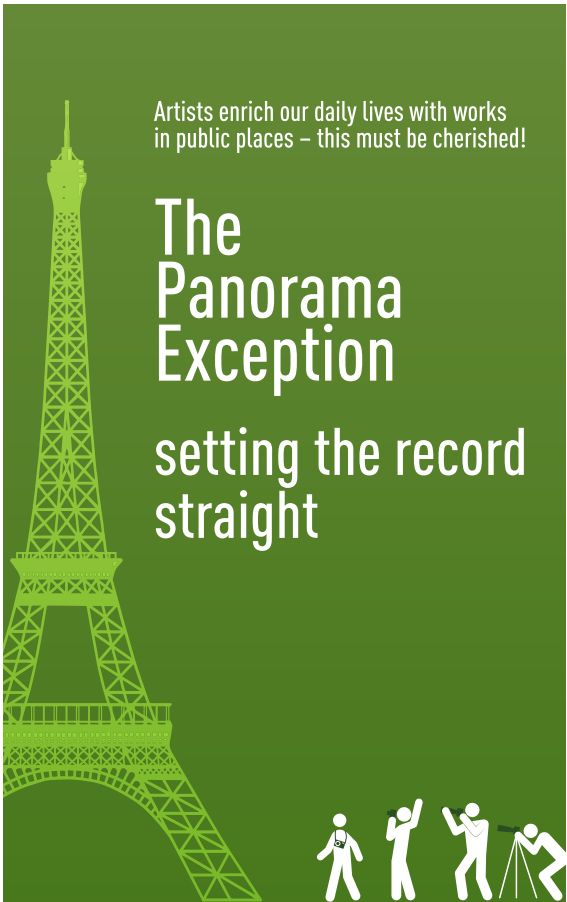
Some other issues

■ Limiting the risk of a broad compulsory EU-wide Panorama exception

After a particularly difficult battle in EP and a fight against widely spread misleading information, the vast lobbying campaign orchestrated by Pirate Party MEP Julia Reda in favour of a broad compulsory "panorama exception" at EU level finally failed, both at Committee level and in Plenary. GESAC, EVA, and ADAGP worked together closely, which was instrumental in this victory and demonstrated the efficiency of such "damage control" lobbying actions. Nevertheless, the harsh debate and the broad public and media interest drew more than just a large number of MEPs, as EC started to work on the issue despite it being abandoned by EP.

GESAC worked with other rights holders' organisations next to EVA and ADAGP on this issue: alliances were forged with CEPIC (which represents picture agencies and stock archives) and EFJ (the European Federation of Journalists).

Ahead of the vote on the report in JURI Committee and in Plenary, a call from visual artists and a flyer "The panorama exception – why you should confirm the JURI report" was widely distributed in EP. These actions to dissuade MEPs to support the harmonisation of this optional exception were successful and



MEPs confirmed their preference for the status quo (the panorama exception being among the list of non-binding exceptions).

Nevertheless, despite the clear message by EP, and GESAC/EVA's joint efforts to inform the Commission and to demonstrate the absence of need to further

harmonise the panorama exception, the issue—which is more dangerous than it may seem, as it could be a first step towards a UGC exception—is mentioned as a priority issue for 2016 in the EU Commission Communication “Towards a modern, more European Copyright framework”.

■ Private copying

Private copying continued to be under attack in many EU countries, in particular in Spain. A coalition of rights holders' organisations wrote to the Commission to give support to Spanish rights holders.

In Brussels, the opponents of private copying (ICT companies) were active, asking for a reform of the system and strongly attacking the idea of levy-based compensations. The reference to private copying in

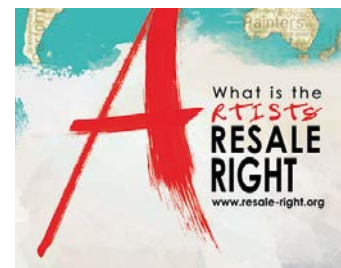
the EU Commission Communication “towards a modern, more European Copyright framework” continued to be worrying, despite the addition of a short sentence on the important source of revenues that levies constitute.

Several cases with results that could have a detrimental impact were referred to CJEU in 2015.

■ Author's right/Copyright in third countries

As was the case in 2014, GESAC kept in touch with DG Trade in 2015 to continue pushing for the repeal of section 110(5) b) of the US Copyright Act (bars and grills exemption) and the implementation of the resale right in US law. GESAC advocated for these two points to stay among the topics that DG Trade will propose to the United States for discussions during the TTIP negotiations.

At this stage, there is no willingness on the US side to discuss copyright issues. To help revive the question within the TTIP negotiations, the GESAC Board agreed on commissioning an economic study aimed at updating the existing ten year old figures on the losses resulting from the US exemption for EU rights holders. This study will be conducted in 2016.



Concerning resale right, the EVA/CISAC/GESAC lobbying campaign conducted at international level continues to run its course.

GESAC was also in contact with DG Trade regarding the European Commission's IPR dialogue with third countries (China, Turkey, Ukraine, Moldova and Macedonia) and provided information from CISAC on those countries to the EU Commission.

GESAC hosted the collective management part of the Chinese Legal Affairs Commission's (LAC) European study visit.



The meeting was organised following a request from IPKey, a Commission initiative to facilitate the development of an IPR framework in China that embraces the principles of effectiveness, fairness and transparency.

When necessary, GESAC joined CISAC and other rights holders' organisations to alert the European Commission concerning certain worrying copyright or copyright management issues. This was the case for Macedonia, Moldova and Ukraine in 2015.

II. ACHIEVING OBJECTIVES

■ Providing constant and updated information

GESAC members were regularly informed about EU policy and debates conducted on the various topics of interest such as:

- the digital single market strategy;
- portability;
- the implementation of the CRM directive into national laws;
- private copy;
- the reform of copyright;
- transfer of value;
- the panorama exception;
- CJEU cases;
- TTIP;
- enforcement;
- IP rights in third countries;
- the role of platforms in the online economy (including guidelines for authors to answer the consultation);
- the satellite and cable retransmission directive;
- rights data integration;
- EU support for the music sector;
- geo-blocking;
- the audiovisual and media services Directive;
- ongoing GESAC projects;
- etc.

GESAC OUTPUT – analyses, updates

- ▶ Hundreds of emails, memos, questionnaires and documents on current affairs.
- ▶ 56 position papers, letters or common letters, and answers to consultations.

■ Consensus building and voicing GESAC's positions



Andras Szingar, CEO of Artisjus and member of the Board of GESAC, interviewing Maria Martin-Prat, Head of Copyright Unit, DG CNECT, European Commission



Veronique Desbrosses, GESAC General manager, and Christophe Depreter, CEO of SABAM and President of GESAC, interviewing Maria Martin-Prat, Head of Copyright Unit, DG CNECT, European Commission

In 2015, GESAC attended **over 310 meetings** including:

- **Internal meetings** aimed at finding common views between GESAC member societies: MG meetings (Madrid Group) that gather legal experts, PAC meetings (Public Affairs Committee) that gather Brussels-focused public affairs and communications experts, a ComCom meeting (Local Communications Committee) that gathered GESAC communications managers, as well as Board meetings, General meetings, Steering Committees set up for specific issues, etc.
- **Meetings with EU Commission officials, Permanent Representation officials and MEPs** to present and explain our positions.
- **Meetings with stakeholder organisations** to share information and develop common positions on certain issues, including a monthly meeting of the alliance of performers and authors umbrella organisations, at the initiative of GESAC
- **EU meetings, hearings, conferences** and various other events to collect information and present our positions
- In addition, more than **80 MEPS, assistants or administrators, EU Commission and Permanent Representations** were reached out to during the various **gatherings organised** by GESAC in the European parliament, in March, July, November and December.

GESAC OUTPUT – more than 310 meetings

- ▶ 112 face-to-face meetings with policy-makers
- ▶ 80 policy-maker attendance to GESAC events
- ▶ 79 meetings with stakeholders
- ▶ 75 attendances to events, hearings, conferences, etc.
- ▶ 44 internal meetings

■ The key involvement and contribution of GESAC members

Lobbying has to take place at both EU and national levels, whether it be speaking to policy makers or strengthening alliances with other right holders' organisations. The involvement and contribution of all GESAC members in actions led by GESAC is to be underlined, not only vis-à-vis EU Commission officials and MEPs but also as regards national authorities in Brussels (Permanent Representations) and in the various capitals. GESAC was able to be successful in several aspects thanks to its effective network of experts and influential lobbyists all over the EU.

The input of GESAC members, and in particular of experts from the Madrid Group and lobbyists from PAC proved to be key for GESAC actions on the copyright review and for the success on the transfer of value issue.

The presentations made at the General meetings on the situation in the different countries were also a new formula to share experiences and best practice within GESAC.

■ Advocacy tools



GESAC developed and used a number of tools for the purpose of explaining complex issues and avoiding far-reaching legal initiatives that would lower the level of protection for creators.

In fact, GESAC partially or wholly funded 3 studies.

GESAC OUTPUT – studies

- ▶ The Roland Berger study on the use of cultural content in the online environment.
- ▶ The PMP study (data on CMOs that are members of GESAC).
- ▶ The Rickertson study on the resale right.

Based on these studies, a number of brochures/infographics/toolkits were developed.

GESAC OUTPUT – brochures, toolkits

- ▶ "GESAC in 2013 figures" infographic
- ▶ "GESAC in 2014 figures" brochure/infographic
- ▶ Lobby toolkit on the panorama exception (2 flyers, briefing)
- ▶ Lobby toolkit on transfer of value (briefing, key messages, study)
- ▶ Briefing on the Reda report

All these elements that showed the clear practical and economic importance of CCI were considered very useful by our contacts in the EU Commission and EP, and in particular DG Connect for its drafting of the impact assessment study.

■ Communication actions

The EY study on CCI, “**Creating Growth: Measuring Cultural and Creative Markets in the EU**” published in December 2014, was widely used in 2015—far beyond GESAC and the rights holder organisations that participated in this study—to draw the attention of EU policy makers on the importance of the sector.

In particular, the need to ensure a fair and sustainable digital economy was discussed as a priority at the Intergroup of the European Parliament on Cultural and Creative Industries. The meeting organised by GESAC in cooperation with the Intergroup was attended by the French and German Ministers for Culture and by a large number of MEPs and Commission officials.



MEP **Christian Ehler** (Germany), Chair of the CCI Intergroup of the European Parliament, **Fleur Pellerin**, French Minister of Culture **Monika Grütters** German Minister of Culture, MEP **Pervenche Berès** (France), Vice-Chair of the CCI Intergroup of the European Parliament

To put creators on the frontline, GESAC organised three **Meet the Authors (MTA)** events. The GESAC Public Affairs Committee and GESAC members were very involved in the organisation of these events which enabled direct exchanges between authors and MEPs.



On the one hand, the Strasbourg MTAs were organised as informal meetings with MEPs chatting with authors and our member societies while enjoying a drink. On the other hand, the more formal Brussels



Intervention of **Harald Hecker**, CEO of GEMA and member of the Board of GESAC

MTA enabled direct on-stage exchanges between authors and MEPs on two issues that are at the heart of authors' concerns: transfer of value and the common needs of consumers and creators.

The Brussels debates in November were followed by a live concert by Belgian singer songwriter Alice on the Roof and a drinks reception. The event was the opportunity to film short interviews in which authors and MEPs gave their views on copyright. This proved to be a success and will be used in subsequent events to create communications material for social media.

In total, the various editions of “Meet the Authors” gathered more than 80 guests from the European Parliament, the Commission and the Member States.

GESAC also supported the ECSA Creators conference which was an opportunity for creators to express their concerns on the reform of copyright and to voice their expectations.

GESAC OUTPUT – events

- ▶ Co-organisation of the Intergroup of the European Parliament on Cultural and Creative Industries (March)
- ▶ 2 Meet the Authors in Strasbourg (July and December)
- ▶ 5 authors
- ▶ 18 MEPs
- ▶ 22 MEP Assistants
- ▶ 6 policy officers
- ▶ 1 VP of EC
- ▶ 1 Ambassador
- ▶ 1 Meet the Authors in Brussels (November)
- ▶ 28 authors
- ▶ 11 GESAC members
- ▶ 9 MEPs

Brussels event - 18 November



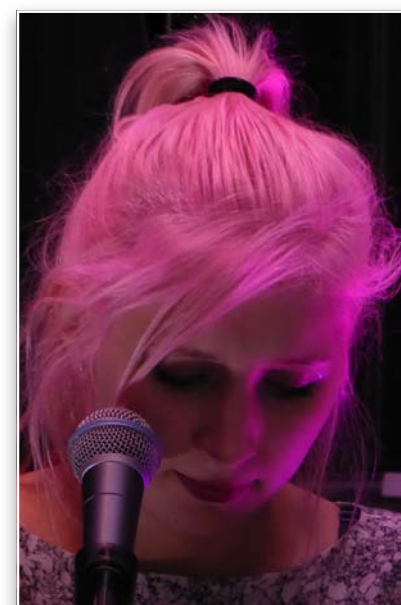
Authors present at the Brussels event



Prof. Dr. **Enjott Schneider**, composer, chairperson of GEMA Supervisory Board
 MEP **José Blanco Lopez** (Spain)
 MEP **Heidi Hautala** (Finland)
Katri Sipilä, CEO of TEOSTO
Crispin Hunt, Elected Writer, Performer Director of PRS for Music
 MEP **Christian Ehler** (Germany)



Francisco Nixon, singer and composer, Member of SGAE
Marek Hojda, composer, Vice-President of ZAIKS
 MEP **Pervenche Berès** (France)
Jean-Noël Tronc, CEO of SACEM and Vice-President of GESAC
 MEP **Mary Honeyball** (UK)
 MEP **Therese Comodini Cacha** (Malta)



Performance by **Alice on the Roof**, singer and songwriter, member of SABAM



Dr **Gernot Graninger**, CEO of AKM and Vice-President of GESAC
Peter Vieweger, musician and composer, Board member of AKM



MEP **Mary Honeyball** (UK)
Crispin Hunt, Elected Writer, Performer Director of PRS for Music



Enrique Gómez Piñero, former CEO of SGAE
Francisco Nixon, singer and composer, Member of SGAE
Janine Lorente, CEO of SGAE



MEP **Mary Honeyball** (UK)
Alice on the Roof, artist
 MEP **Heidi Hautala** (Finland)



Marek Hojda, composer, Vice-President of ZAIKS
 MEP **Bogdan Wenta** (Poland)
Urszula Dudziak, composer and singer, member of ZAIKS
Tomasz Lipinski, musician, singer and composer, member of ZAIKS,
Bogusław Tłominski

Strasbourg events - 7 July & 15 December



MEP **Bogdan Wenta** (Poland), + **Izabela Trojanowska**, actress, singer and composer, member of ZAiKS



Performance by **Rita Zipora**, electro-pop artist, member of BUMA



Members of GESAC Public Affairs Committee together with **Crispin Hunt**, Elected Writer, Performer Director of PRS for Music

■ Dialogue and cooperation with rights holder/stakeholder organisations

For the purpose of finding allies, developing synergies, exchanging views and making joint actions when appropriate, GESAC had contacts with other cultural and creative sector organisations in the context of various informal structures and alliances.

In 2015, several meetings and contacts with other organisations on two specific issues—the transfer of value and the panorama exception—led to a significant number of joint actions. During the process of adopting the EP own initiative report on the evaluation of the Directive 2001/29/EC, a group of varied rights holders cooperated in order to raise their common views on Reda proposals and to shape the report as a more balanced document. In parallel, up to ten rights holder organisations joined forces to promote creators’ remuneration online and rebut negative proposals regarding the phasing out of private copy.



GESAC became an associated member of the **European Movement International (EMI)**

in July 2015. EMI is a network of organisations that has mobilised citizens and advocated for a democratic, federal and enlarged union since 1948. EMI works as an information group and a pressure group. Being a member is a way to get in touch with 39 national councils and 33 international associations. Several trade unions, political parties (EPP, S&D, ALDE), and European umbrella organisations (like the European Federation of Journalists—EFJ) are also members, as well as NGOs in the social and environmental sectors.

From time to time, EMI organises meetings with EU decision makers, which offers good opportunities for GESAC to raise its views.

EMI also tables position papers to the attention of EU lawmakers. At GESAC’s request, an EMI position paper related to Jobs and Growth in the Digital Economic Model made reference to the positive impact of cultural and creative industries on growth and made positive reference to copyright, while addressing the issue of transfer of value in the Digital Single Market.

GESAC OUTPUT – alliances

- ▶ New membership: European Movement International
- ▶ New topical alliances (on transfer of value and the panorama exception)

■ Support to GESAC members

GESAC provided support to its members whenever requested for actions at national level relating to specific issues (for writing letters to European or national authorities, or collecting information for example).

In 2015, GESAC gave its support to members faced with difficult situations. This was in particular the case for

the Spanish private copying system, the new Slovakian Copyright Act, the proposed article on the freedom of panorama in the online consultation on the French “Digital Republic bill”, and the intention of the Croatian Ministry of Finance to include authors’ and related rights royalties in the para-fiscal charges registry.

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