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## FEDERATION OF SCREENWRITERS' IN EUROPE FEDERATION EUROPEENE DES SCENARISTES

### POLICY PAPER

September 2007

**POLICY PAPER of the Federation of Screenwriters in Europe  
September 2007**

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## **1. Introduction**

The Federation of Screenwriters in Europe is an affiliation of national and regional unions, guilds and associations of writers for the screen in Europe. At the time of writing it comprises 24 guilds from 18 countries (listed in Annex B) representing about 9000 writers.

Writers are the core of the film and television production process. The stories being told, the language used by characters, the actions they take are conceived and imagined first by writers. The relationship of these stories to audiences and the impact they have on the cultural and social values of our societies have their origin in the day-to-day work of these members of writers' guilds. While the circumstances in which writers work varies significantly from country to country writers in general feel that their contribution is undervalued, culturally and economically, by the production processes and systems that we have evolved in Europe. They believe that the current procedures do not work to ensure the best possible scripts are brought to the production process. They look to their Guilds to assist them in trying to address these problems.

The aspirations and ambitions of these guilds vary depending on the particular circumstances of individual guilds and their members but the general intentions of all guilds are the same – the representation of writers in their problems with the process of film and television production in Europe.

The common concerns of all the guilds are reflected in two key documents agreed by the member organisations. The first of these is the founding charter of the organisation which dates from the foundation of the FSE in Athens in June 2001 (attached as annex A) and the second is the European Screenwriters Manifesto (attached as annex C) which was adopted by the participants of the first conference of European screenwriters in Thessaloniki in on the 22<sup>nd</sup> of November 2006.

The Board of the FSE is now concentrating on the process of developing a policy document for the implementation of the points raised by the two key documents and our knowledge of issues likely to be raised over the next years which will impact on European writers and writing in Europe as well as an associated budget and business plan.

The FSE is grateful to LIRA, the collecting society in the Netherlands, for its financial contribution to the preparation of this policy document.

## **2. The environment in Europe for screenwriting**

### **2.1 Feature film production and development**

Feature film production in Europe has a number of characteristics that differentiate it from American production. There is essentially no such thing as European production. Instead production is national and each of the twenty-seven member states of the Union, and other European countries and a number of the regions are determined that there should be feature films made in and about the culture of their region or nation. The emphasis or importance placed on this goal varies from nation to nation and region to region. In addition to varying degrees of interest there is also a variation in whether the goal is seen as industrial or cultural or whether the issue of audio-visual production comes high or low on the political agenda of the relevant nation or region. The provision of such support must, of course, comply with EU regulation.

This determination to represent all of the cultural diversity of Europe on the screen leads to the three other defining aspects of European feature films - firstly their small audiences; secondly their comparatively low production budget and thirdly their dependence on regional, Government or EU subsidy (and European co-productions). At the level of the European Union this requires a system of derogations from prohibitions on state aid, which are applied for by individual nations or regions under the terms of article 87 (3) (d) of the Treaty of Rome as amended by the Treaty of Nice. (Additionally the European Union itself as well as many of the individual member states of the Union have recently signed up to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression<sup>1</sup>. This convention asserts the right of states to “to formulate and implement their cultural policies and to adopt measures to protect and promote the diversity of cultural expressions”<sup>2</sup>.

The volume of feature film production which results from the system is recorded by the European Audiovisual Observatory. In tentative figures for 2005 the Observatory records 798 feature films made in the twenty-five member states of the EU compared with 699 in the United States<sup>3</sup>. The volume of production also supports a larger volume of projects in development. (Development is the process of writing initial drafts of the script of the film or programme, securing the necessary investment based on the script and related planning.) The relationship between the volume of projects in development and the volume in production varies across the EU. Northern countries and UK and Ireland may have ten projects in development for every one which goes into production, southern countries tend to put more of the projects which they have in development into production. On average it could be said that a conservative estimate would be that for every film produced in the European Union three to five projects are in development.

From the perspective of writers the volume of projects in development is an important consideration as some payment is usually made to the writer for projects in development even if they do not reach production. However it is often the case that writers write scripts ‘on spec’ (without a specific commission) and often accept low or non-existent payment for early stage development in order to try to assist projects into development. Fees paid for actual development or production rarely take in to account the level of high-risk investment by writers into projects which often do not even go into production. In effect writers often subsidise project development.

## **2.2 European television drama**

Similar concerns define the issues in TV production. The volume of drama production for television is not as well documented as is the volume of feature film production. However arguably (and varying considerably from country to country) television drama at the regional level is more successful than feature film production in terms of volume of production and the size of the audiences.

Possibilities to show drama have been growing as the number of broadcasters .has increased and their need to fill schedules has exploded. The deregulation of television and the explosion in the volume of channels has drawn a much disputed line between the provision of entertainment as a vehicle for advertising and the public service remit of many broadcasters. The role of drama has

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<sup>1</sup> On 20 October 2005 the General Conference of UNESCO, meeting in Paris, approved (148 votes for, 2 against, 4 abstentions) the Convention on the protection and promotion of the diversity of cultural expressions, an international normative instrument that will enter into force three months after its ratification by 30 States. The Convention entered into force on 18 March 2007.

<sup>2</sup> Convention - IV. Rights and obligations of Parties - Article 5 – General rule regarding rights and obligations.

<sup>3</sup> European Audio-visual Observatory – “World Market Trends / Tendances du marché du film” - Focus 2006, page 9. ([www.obs.coe.int/online\\_publication/reports/focus2006.pdf](http://www.obs.coe.int/online_publication/reports/focus2006.pdf)).

never been entirely clear in this dichotomy. What can be said is that there has not been as great an increase in the volume of new drama produced as the expansion in the number of broadcasters and channels would suggest.

A report published in 2002 recorded 5,883 hours of first run domestic fiction in the five largest TV markets in Europe of the time (UK, France, Germany, Italy and Spain) in 851 titles over 9,411 episodes<sup>4</sup>. Less projects are in development for television relative to the volume of production (varying considerably, of course, from country to country) than in feature film

Nonetheless the fact is that the substantial majority of drama made for the screen in Europe is made for television and therefore the majority of screenwriters in Europe are writing television drama and are dependent for their income on business deals they make with broadcasters and independent producers working for the broadcasters. Apart from the public broadcasters there are also commercial broadcasters and both broadcasters are in search of or already exploiting other platforms to reach the public such as the internet and broadband techniques (video on demand etc). Television drama is usually made for the domestic market, but also often sold to other European countries.

Apart from television drama there are of course many other areas of audio-visual media where writers play the core role – animation; documentary; entertainment shows such as so-called ‘reality’ television; and newer areas such as games and the increasing volume of material available first on the net. Thin though the volume of information is in respect of feature films and television drama, even less is available in these other areas of work from the perspective of writers.

Re-use of existing content has been more of a driving force behind the expansion of television channels in Europe than the commissioning of new material, and this experience is likely to repeat itself with the new forms of digital distribution. Nevertheless, there is and will always be a solid market for local drama, regardless the costs involved, as there is a need for local stories to be told. European drama or film can be seen as the epitome of cultural diversity – telling local stories which are then offered for sale in other markets.

### **2.3 Comparison with the United States**

The vast majority of the feature films shown on the big (and the small) screen in the EU member states have been made in the United States. Therefore it is logical to make a comparison with American film production and their procedures for the development of feature films and television drama – although there are, of course, many differences in the development, production, distribution and financing of US films and television programmes compared to European practice.

The volume of feature film production in Europe is sometimes thought to be too high. The need to maintain national or regional film production is thought to encourage production for its own sake at higher volumes than are appropriate. However a comparison with the level of feature film production in the United States suggests that this issue is overstated.

As a crude measure United States production is one film for 422,000 of the population whereas EU production is one film for 573,000 of population.(ref) Levels of projects in development are difficult to measure. In the United States films produced by the studios are apparently based on a

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<sup>4</sup> See, press release by the European Audio-visual Observatory : MipCom, Cannes, France, 7.10.2002 – “European TV Fiction: Highest production level in a turbulent environment” (<http://www.obs.coe.int/about/oea/pr/eurofiction2002.html>).

system of very high ratios of projects in development relative to those produced – somewhere between ten projects and twenty in development for every one which goes in to production.

Of course the primary difference between film production in the United States and in the European Union is in the areas of financing (no state aid, only private money) and distribution. The domination of the distribution and exhibition infrastructures throughout the world by the major studios is in large part responsible for the fact that, in addition to accessing in excess of 85% of its own marketplace Hollywood production also absorbs 60% of European Union audiences. European production levels struggle to achieve economic returns while limited to addressing 40% of their own marketplace. In rough terms the average audience achieved by each EU-originating film in 2005 in the EU and the US markets was 445,000 and the average audience for each US-originating films in the same two markets was 2,770,000 - a multiple of six.*(ref)*

This dominance of the market place by Hollywood production is of course not specific to Europe but extends world-wide. Of the twenty top world-wide box office films in 2005 all have US investment with 12 of them solely US films and the other eight with investment from the US and other countries.

Despite the investment of significant monies from the European Union's MEDIA programme and the Eurimages programme, feature films made in Europe do not generally travel across European borders.

Whether national or local films are prevented in large measure from being adequately distributed because of their cultural specificity is an issue not generally debated and probably beyond any simple analysis. It has been a truism of film production and distribution in Europe that local films with universal messages can achieve international distribution. While this is occasionally true, little research has been undertaken to analyse this pattern. One of the few areas where this happens consistently is where an individual film-maker – often writer/director – establishes an international reputation strong enough for them to put their own production structure in place (Almodovar, Von Trier, Wenders, Leigh, Loach; etc.) suggesting that the reputation of a filmmaker can be a sufficient reassurance to audiences that distributors can risk commitment to the next film of these film makers at a European and indeed international level.

Acknowledging, as always in this very general analysis, that there are radical differences from member state to member state, this dominance of the market place by US production is also growing in television. American television drama is of very high quality and is totally writer-driven. It is sometimes argued that feature films produced in Hollywood do not carry cultural values which are specifically American, but are rather produced by an international workforce for an international audience. Whatever the merits of this argument, it cannot be applied in respect of American television. It could be argued that the success of American television in European markets demonstrates that high-quality writer-driven production will find audiences outside its own market but regrettably the truth is more likely to be found in the comparative price for European broadcasters relative to the price of their own national drama production.

#### **2.4. The Lisbon agenda on Culture: state aid for film, new technology**

In 1988 Europe celebrated the Year of Film and Television. Cultural diversity was embraced and the concept of the independent producer as cultural entrepreneur was born. In Lisbon in the year 2000 the EU promoted culture in relation with new technologies as the new 'marketplace' for the future.

The cultural need to have national and regional film and television drama production, combined with the fact that the bulk of the audience for film and television drama is committed to Hollywood production has brought European film and television to the point where its production is dependent on state aid in various forms and volumes.

A widespread criticism of state aid for film production (this is particularly often said in relation to systems of tax-based support) is that the system of aid, combined with the unlikelihood of a film finding a profit in the marketplace, leads producers to rely on production fees (usually a percentage of the production cost) and to make films driven primarily by the capacity to raise funds for the production.

The policy goals at national, regional and EU levels which support the idea of financial support for the establishment and maintenance of audio-visual industries are many and various, and occasionally internally contradictory. This has led to some questioning of the need for state aid in the European film industry, including a recent investigation by the Commission of the issue of territorialisation of support (see ‘Review of State Aid’ page 16 of this document).

Initially the argument for funding film and television from state resources was similar to that for the funding of arts and culture in general and closely inter linked with the argument for state funded radio and television – the public service argument. Within the context of membership of the European Union the issue of cultural diversity, and the maintenance of the cultural character of member states or regions of those states (language for example) emphasised the need for those policies to be retained at the national level.

In recent years an increasing awareness of the importance of new technology in the area – the digital revolution and broadband in particular – has led to the related understanding of the central role which content has in the development of these new technologies. The European Union’s Lisbon agenda emphasises this so-called “knowledge economy” and places a very high emphasis on the creative industries and the effective use of systems to protect intellectual property. EU has high expectations of the financial and employment prospects which new technology might bring to the audio visual industry. It is not yet clear if these expectations will be justified.

In this complex and under-researched environment it is difficult to reach general conclusions. But none the less it seems apparent that, despite the cultural, strategic and industrial importance attached to audio-visual production, there is little evidence of any radical improvement in the volume of film or television production in Europe; in its profitability as industry; or in its appeal to audiences – in particular in its appeal to audiences outside the country of production.

The goal of state support for film and television culture and industry can appear inchoate. Is state aid intended to oppose dominance of the market by US product; establish a Europe-wide market for film and television produced in Europe; develop national film and television industries; serve the public service remit of national broadcasters; encourage commercial television; support film and television culture; or encourage cultural diversity? In this clamour of separate and occasionally conflicting agendas too little attention is paid to content, to cultural diversity, to the individuals who write the stories that draw the audiences to participate in the first place.

## **2.5. Writers’ perspective**

From the perspective of writers the impact of many of the existing approaches to the support of the film and television production is negative. In general we feel that the lack of evident success of

European film and television production support schemes is the result of excessive reliance in the design of those schemes on industrial rather than creative models.

A widespread rationale at national, regional and EU level has been to privilege the role of the independent producer. The basis of these schemes of support has been the idea that state investment will bring producers to the point where they can become profitable and state aid can be reduced or removed. However this policy of relying on the independent producer has now been in operation to varying degrees for fifteen to twenty years and cannot be said to have produced the results which its proponents promised.

A relatively common occurrence resulting from this emphasis on producers is the so-called deal-driven production, where films are produced based on the timing and availability of tax-based investment or state aid, regardless of the state of development of the script. This practice profoundly undermines the prospects for the production being based on the best script possible.

The emphasis on the producer has also meant, in many countries or regions which offer financial support for the development process, that funds are provided through the producer, who uses them to commission the writer. This severely disadvantages the writer in the negotiation of contracts (for example some countries provide financial assistance to the producer to pay lawyers bills for the production of writers contracts, but do not provide any equivalent support to writers), the retention of rights (producers look to acquire the maximum rights) and remuneration (producers often seek buy-outs of rights for initial payments reducing writers capacity to share in the economic life of the project). Collectively negotiated standard terms available in some countries can alleviate some of the worst instances of these practices, but these are not widely in place. The impact of these practices, the results of providing development funds through producers, is not just to disadvantage writers but also undermines the prospect of the best script being written.

The relegation of the writer to the development phase of production also tends to exclude the writer from the production process itself. Acknowledging, of course, the role of the director, the writer nonetheless often has a capacity to make significant contributions in casting, with rewriting during production and in the post production phase of editing picture and sound. This all too rarely happens, with subsequent damage to the quality of the transition of the script to the screen.

The exclusion of the writer from the production process also contributes to sustaining elements of the auteur theory of the sixties and seventies which leads to the ludicrous abuse of the so-called possessory credit which refuses the role of the writer, reducing their status and again impacting negatively on the prospects for the best possible writing.

The difficulties for producers to fund the development phase of production makes the negotiation of rates of payment for writing problematic. In some European countries writers have little opportunity to participate in the economic life of the film – reducing their interest in the success or otherwise of the project. Indeed the logic of low pay for writing is to encourage professional writers to write as much as possible as quickly as possible, again with negative implications for quality.

A comparison with the United States shows that the average annual income of writers working there is four to five times what we estimate it to be for European writers; that the respect accorded writers and the script is substantially higher in the US than it is in Europe; that American television in particular is entirely writer driven; and it is hard to avoid the conclusion that the economic success of American production is in significant part the achievement of writers.

From the perspective of writers the goal of state subsidy should be the support for the development of creativity which is the only route to true cultural diversity. From this perspective state aid will always be needed to sustain and maintain the essential human activity that is storytelling.

Our perspective is not limited to the idea that the state has a responsibility to support film and television production. Film and television are among the popular arts. They have every capacity to appeal to wide audiences and in consequence to generate considerable economic activity. This activity is the result of, and is dependent on, great stories and great scripts that audiences want to participate in. Economic viability will come from audiences – audiences come for great stories – told by great scripts.

Of course, as must be the case throughout this document, there are dramatic differences from country to country on this question and many examples of good and effective practice in some member-states but as a general statement it can be said that there is a major failure to trust talent and a reliance on structures of support for film and television production which are largely incapable of prioritising scripts.

There is an urgent need for state funding agencies and related government policies to put in place structures – legal and administrative as much as financial – which will support the development and expression of creative talent, which will promote writing and writers as the best, indeed the only, way to ensure that the films and television programmes that we make will attract and keep European audiences thereby encouraging cultural diversity, better communications between cultures and an economically healthy industry

### **3. FSE: The European organisation for screenwriters**

These issues have been extensively debated by writers' guilds throughout Europe culminating in a conference in Thessaloniki 21<sup>st</sup> – 23<sup>rd</sup> November 2006 when the European Screenwriters Manifesto (Annex C to this document) was drafted, discussed and agreed. This manifesto has clearly struck a note with writers, more than 4000 of whom have so far attached their names to it.

A significant percentage of the signatories of the Manifesto are from outside Europe. The Manifesto has been noticed and commented on by the LA Times, the Washington Times and Screen International among others. The Manifesto has been actively promoted by member guilds in Germany and France at the festivals of Berlin and Cannes.

Writers have agreed that in addition to their national Guilds a European screenwriters organisation can play an essential role in: a) representing the views of writers within the EU structures where the bulk of legislation which impacts on writers now originates, and b) in facilitating and encouraging communication between writers and their organisations across European borders. FSE can enable the voice of European writers and their organisations to be heard in economic and creative debates which impact on their working lives.

But for FSE itself to address these requirements it needs to establish an agenda of work, prioritising the urgent and the achievable but in the context of overall policy goals.

This examination of our overall policy ambitions and the categorisation of the work necessary is undertaken in this document under the following four headings:

-having a clear and comprehensive **set of particular issues and goals** to be addressed within a meaningful timescale (see *pages 10-22*),

-developing and implementing policies to support the strengthening of **individual guilds** in their respective countries or regions and **improving communication between them** (see *page 23*),

-strengthening the **administrative structure of the FSE itself** so that it can play an effective role in addressing the various issues faced by writers and also take a proactive role in setting and directing agendas and act as an effective means of communication with other players in the European culture and industry and with other writers organisations internationally (see *page 24*),

-establishing a consequent **list of priorities and plans** capable of being implemented within a reasonable period (see *page 25*).

#### 4. Issues and goals

This section outlines all of the policy ambitions and concerns of the FSE. It is impractical to imagine that the organisation can tackle all of these goals at the same time considered its limited means. See 'Structure of FSE', *page 24*.

Therefore a prioritisation is made, later in this document, of subjects which are urgent or on which progress can be immediately made. See 'Prioritisation of policy objectives' on *page 25*.

The FSE Charter (Annex A) outlines the organisations overall goals and objectives. The European Screenwriters Manifesto (Annex C), which was adopted by the organisations Annual General Meeting in Thessaloniki in November 2006 re-examined and updated these goals and objectives.

The policy structure described underneath follows closely the priorities established at the Thessaloniki meeting.

These are grouped into three headings. With every issue identified here we have also formulated the action we propose to undertake.

##### I.

Firstly there are **creative rights** (covered under 4.1 below) accorded, or, more usually, not accorded to writers. These include questions such as authorship; moral rights; credits; and involvement in the production and postproduction processes.

##### II

Secondly there are **issues of the promotion of the status of screenwriting** (detailed under 4.2 below). This includes such issues as the place of writers in film and television festivals; the role accorded them in film schools and training; the need for a strengthening of awards for writers; and financial and contractual issues. These include the inequitable negotiation

position of writers relative to producers and the complicity of national and regional development funding schemes in perpetuating this situation; the right to collective negotiation and the establishment of minimum rates and conditions; as well as the general inadequacy of development funding.

### III

Thirdly there are **technological and legislative issues** (considered under 4.3 below) issues in particular the developing legislative and regulatory framework being debated and decided at the European Union institutions in Brussels.

## 4.1 Creative rights

### Authorship

Most European countries, particularly those with “Droit d’auteur” systems opposed to the “copyright” system, acknowledge that the writer is an author of the audio-visual work. This is fundamental to the prospect that the writer can share in the economic life of the film he or she has written. In the UK, Ireland, Germany and Luxembourg writers are not acknowledged as authors. FSE thinks that writers, being the co-creators of the audiovisual work, should therefore have co-authorship on their work and/or should be acknowledged as authors of both the script and of the resulting audio-visual work.

#### Action

FSE will support campaigns to extend the right of authorship of audiovisual works to writers in all countries by campaigning at the EU level and by supporting national campaigns where they occur.

### Moral rights

Moral rights guarantee that the bond of the creator with his/her work cannot easily be broken. It is important for the screenwriter that s/he therefore is considered to be co-author of the audio-visual work for ‘without a script there is no film’. S/he should have the right to object to alterations to the script which may damage the reputation of the writer. Producers argue that moral rights provisions are impractical in that they undermine investors’ confidence in projects. These concerns are misplaced and are used by producers to give them the right to amend and rewrite scripts without the consent of the original writer.

#### Action

FSE will a) encourage individual guilds to seize every opportunity to protect, extend and implement moral rights. Moral rights should be unwaivable. Producers concerns at risks to funding should be addressed and resolved without resorting to waivable moral rights or moral rights ignored in practice. In negotiations with producers for national arrangements, in discussions with funding agencies and with national governments guilds should push to establish regimes for the implementation of effective non-waivable moral rights which address producers concerns. FSE should b) seek information from member guilds about the implementation in practice of legal provisions for moral rights and should c) support national guilds which mount campaigns to protect or extend moral rights. To assist in developing these arguments FSE should d) publish and distribute a **leaflet** outlining the

basis for the principles of moral rights in the UN Convention on Human Rights, the Berne Convention and so on and positions to address producers concerns.

### **Possessory credits**

The possessory credit ('a film by .. ') is becoming increasingly commonplace and in many ways increasingly inappropriate. Even the Directors Guild of America considers that the possessory credit is overused and in a side letter to its agreement with producers limits the possessory credit usually to directors with at least three credited films, a marketable name and a signature style.

#### **Action**

FSE will undertake research into the credit processes and provisions in each of the member states of the European Union (perhaps through the Observatory) and will compare European practice to American standards. FSE will publish a **leaflet** on best practice in credit provision. FSE should encourage Guilds to include best practice credit provisions in negotiations with funders and producers and directors organisations.

### **Involvement in production process**

The writer is usually evidenced in the production and post-production process by their absence. While acknowledging the role of the director, it should be standard practice that the writer is accorded, by contract, a range of involvement in the production and post production processes including, for example, an involvement in casting, a right to be on set (and on the call sheet for the production); a right to view rushes; a right to be in the editing suite; a right to view, comment on and have those comments taken in to account any preliminary cuts of the film and a right to be associated with the promotion of the film in the press and at premieres and so on. In all of this the writer should expect to be compensated for their contribution.

#### **Action**

FSE will publish a **leaflet** on creative rights and encourage member Guilds to seek ways to introduce these rights in to normal production practice in their country.

## **4.2 Issues of the promotion of the status of screenwriting**

### **Promoting the Screenwriters Manifesto**

The Manifesto (Annex C) was adopted by the participants of the first conference of European screenwriters in Thessaloniki in on the 22<sup>nd</sup> of November 2006

#### **Action**

FSE should actively promote the manifesto through its website, the websites of member guilds and by distributing the Manifesto as widely as possible. FSE should ensure that the manifesto is promoted in each of its member countries.

## **Festivals and screenings to acknowledge writing**

Abuse of the possessory credit ('a film by ... ') has reached ludicrous proportions encouraged by festivals and cinemas programmers who insist on describing films in their programmes, catalogues, listings and publicity by their title and the name of the director, often giving the possessory credit to films where that credit is not used, even by the original director.

### **Action**

FSE will a) establish a 'Who wrote it?' project exposing the more ludicrous abuse of the possessory credit by placing on the FSE websites examples of abuse of the possessory credit by programmers, festival organisers and funding agencies. FSE should b) encourage Guilds to make it a practice to object on every occasion where festivals, schools and publications accord the possessory credit to films. FSE should write to European festivals asking them to adopt the convention used by, for example, the Sundance Festival, which always describes films by reference to the writer and the director. We will ask festivals to consider promoting the work of individual writers by organising retrospective programs of the work of writers; inviting writers to participate in juries and in general to receive the kind of attention routinely paid to other categories of creative individuals in the film industry. FSE will ask sympathetic festivals to consider establishing facilities for writers at festivals, where writers can meet with colleagues.

## **Promote the position of the screenwriter in the production process**

Training, up to and including masters degrees exists in many, though not all, European states. However, the schools tend to mirror standard practice in their national industry and to consign writers to a usually minor role in the creative process of film and television production.

### **Action**

FSE will encourage film schools to emphasise the collaborative nature of film and television production and focus more on the role of the screenwriter in the triangle of screenwriter, director and producer

## **Writers awards**

Many writers' organisations organise writers' awards in their own countries. Subject to resources of time and funds FSE should examine the possibility of developing a European award for writing for the screen.

### **Action**

The FSE should examine the practicality of having an annual award for screenwriting at European level initially by consulting with members guilds about awards for writers and writing in their own countries.

## **Payment**

The negotiation between a producer and a writer to establish contract terms is often profoundly inequitable. Compensation to the author should be equitable and also allow renegotiations of contract terms in certain circumstances. Regimes for payment vary significantly from country to country. Issues of taxation, repeat payments, residual payments and so on create wide variances between what writers in one country can expect to be paid relative to writer in another member state.

### **Action**

The FSE should a) have comparable information available on rates of remuneration in each of the member states and compare these with rates in other non-EU countries and b) should publish this information in the members section of the website emphasising best practice where it occurs and c) should take every opportunity to support individual member guilds who campaign or negotiate for equitable remuneration for every use of writers work.

## **Collective negotiation**

Although most EU member states have writers' guilds, these are not always involved in collective negotiation of minimum rates and contract terms for writers. Key to a capacity to achieve equitable remuneration for writers is the right to collective negotiation. This exists all too rarely in practice in the member states of the European Union (but is fundamental to the Hollywood system). In a couple of the member states (Netherlands and Ireland for example) competition law is interpreted to prevent writers as independent contractors from collective negotiation. In others, Germany in particular, the copyright law requires collective negotiation of rates.

The right to collective negotiation is also particularly important when new uses for existing content are being developed. New and existing content is being distributed in a non-linear way on broadband and on mobile phones.

### **Action**

FSE should a) support Guilds seeking to establish the right to collective negotiation on rates. The FSE should b) seek to participate in sector specific negotiations resulting from the proposed European Union Green Paper on Labour law and should seek to make alliances with similarly minded groups to promote this agenda. FSE should c) support Guilds seeking to oppose competition law interpretation which would prevent them from collective bargaining. FSE should d) produce a **leaflet** on best practice in the approach to negotiating a collective agreement.

## **More funding for script development**

Some level of funding for the development of scripts is now usual in most, though not all, European countries. Funding is usually provided to producers. The logic of such funding is that producers are unlikely to be able to generate the significant funds for the development of new projects from profits on past projects. Investment of public funds at this point is meant to facilitate producers to develop better scripts, capable of attracting larger audiences and thereby generating profit. Key to the success of such a scheme is the acknowledgement that development does not guarantee the feasibility of a project, indeed that the purpose of the development process is to see whether a

project should go into production or not. In contradiction to this approach producers are often under pressure to push developed projects into production in pursuit of production fees, to recover development costs or because production funds are available, rather than because the project is ready.

### **Action**

FSE should produce a **leaflet** presenting the logic of the development process and the elements of importance to writers in that process.

### **Direct funding to writers**

The approach to subsidised development outlined above provides the funding to producers who in turn contract writers as part of the development process. This has not proved successful in particular that it often fails to emphasise the quality of scripts to the extent that it should. An important corrective to this tendency is the scheme adopted by an increasing number of funding agencies which provide funding directly to writers at least for the early stages of the development process.

### **Action**

Funding agencies should be encouraged by FSE and by local guilds to introduce systems of direct funding to writers. FSE should seek information from the various funds which have introduced schemes like this to assess their effectiveness and compare the efficacy of the various approaches.

## **4.3 Technological and Legislative evolution issues**

### **Introduction**

The priority task for the FSE is the work associated with legislative issues of the European Union, which literally have an impact on every aspect of the work of writers in each of the member states. That agenda will become more complex and more important over the next period. The conclusion of the review of the Television without Frontiers Directive will be followed by continuing debate about DG Internal Market's (DG Markt) approach to private copying, DG Markt's approach to Collective management of rights, the recent publication by the Commission of a report on territorialisation issues in the review of State Aid for the cinema, unexpectedly slow movement on the Commissions intention to have a directive in the area of distribution of film on-line and ongoing issues with the Commissions Media programme. The agenda of the European Union reflects in a way the growing importance of the issues dealt within (the context of) the Lisbon Agenda, which was recently renewed, but also reflect the continuing uncertainty about the role and function of new technology and television broadcasting which then again has an impact on copyright issues.

### **Private copying**

At the end of May 2006 DG Markt published a staff working document entitled: "Copyright in a converging world (19 May 2006)" which argued for the abolition of levies on private copying and their replacement with digital rights management systems (DRM).

The President of the Commission, Miguel Barroso, decided not to discuss the proposed recommendation at the College of Commissioners meeting in December 2006 largely as a result of lobbying activity by creators' organisations and collecting societies who came together and establishes the Culture First! Coalition<sup>5</sup> to campaign for the retention of the levy system on private copying. FSE joined the Culture first! pressure group.

## **Action**

This situation is almost certainly not finished, despite the President of the Commissions implicit criticism of the approach adopted by DG Markt. The matter is of fundamental importance to writers and FSE will therefore monitor the developments closely and keep on lobbying with Culture First!

## **Collective management of copyright**

In summer of 2005 DG Internal Market<sup>6</sup> of the European Commission published a "Study of a Community initiative on the cross-border collective management of copyright (07.07.2005)<sup>7</sup>". This led to a Commission Recommendation of 18 October 2005 on "collective cross-border management of copyright and related rights for legitimate online music services" (2005/737/EC). The impact of this recommendation was to encourage the largest of the European collecting societies in the music industry to offer their services at a Europe-wide level offering to represent the interests of any rights holder in Europe and to collect monies due to them from any country in Europe. The impact which this recommendation will have on the collection of funds due to rights holders, who are not well known outside their country/region, is probably negative. The change seems to benefit the largest owners of rights whose needs will then define the conditions under which collecting societies operate.

On instigation of the European Parliament, the Committee on Legal Affairs appointed its member Katalin Lévai to prepare a report which was adopted by the Parliament on March 5, 2007. This report was strongly critical of the Commission. It stated that the Commission had "*failed to consult interested parties sufficiently; omitted to involve Parliament*" *beforehand. And it described the "soft law" approach of the Commission as "unacceptable" because it was "circumventing the democratic process"*.

The Report also: "*Invites the Commission to make it clear that the 2005 Recommendation applies exclusively to online sales of music recordings, and to present as soon as possible – after consulting closely with interested parties – a proposal for a flexible framework directive to be adopted by Parliament and the Council in codecision with a view to regulating the collective management of*

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<sup>5</sup> FSE, Federation of Screenwriters in Europe. GIART, International Organisation of Performing Artists. AEPO-ARTIS, Association of European Performers' Organisations. AIDAA, International Association of Audiovisual Writers and Directors. BIEM, Bureau International des Sociétés gérant les Droits d'Enregistrement et de Reproduction Mécanique. CISAC, International Confederation of Societies of Authors and Composers. EFCA, European Film Companies Alliance. EUROKINEMA, Association de Producteurs. EUROCOPYA, European Federation of Joint Management Societies of Producers for Private Audiovisual Copying. EuroFIA, European group of the International Federation of Actors. FERA, Federation of European Film Directors. FIM, International Federation of Musicians. GESAC, European Grouping of Societies of Authors and Composers. ICMP/CIEM, International Confederation of Music Publishers. IMPALA, The Independent Music Companies Association. EFJ, European Federation of Journalists.

<sup>6</sup> The office with DG Market responsible for the drafting of laws relating to intellectual property rights is the Copyright and Knowledge-based Economy Unit, headed by Mr Tilman Lüder.

<sup>7</sup> The consultation period was just two weeks during the Summer holiday period. The document is only available in English.

*copyright and related rights as regards cross-border online music services, while taking account of the specificity of the digital era and safeguarding European cultural diversity, small stakeholders and local repertoires, on the basis of the principle of equal treatment;”.*

The Commission completed a consultation in 1 July 2007 on its Recommendation. The result will be due the beginning of 2008 after which the Commission will draw up its conclusions.

## **Action**

FSE considers this developing situation to be a very important issue although it is initially concerned with collective management in the music industry. It is highly likely though that the Commission will come up with proposals for all collecting societies which may have negative impacts for screenwriters. The changes proposed by the Commission would be complex and their likely impact is difficult to assess. FSE will therefore actively co-operate with like minded organisations and collecting societies to lobby for the interests of creators.

## **Review of the Copyright Directive 2001/29/EC**

Directive 2001/29/EC on “the harmonisation of certain aspects of copyright and related rights in the information society<sup>8</sup>” entered into force on June 22, 2001. It requires Member State governments to introduce new legislation on copyright and related rights.

At the end of 2006, the Commission commissioned a study to examine the application of the Directive in the light of the development of the digital market, now informally referred to as the Hugenholtz Study, which was published in mid March 2007<sup>9</sup>. The purpose of the study “...*is to consider how Member States have implemented the Directive into national law and to assist the Commission in evaluating whether the Directive, as currently formulated, remains the appropriate response to the continuing challenges faced by the stakeholders concerned, such as rights holders, commercial users, consumers, educational and scientific users. The impact of the Directive on the development of digital (chiefly online) business models, therefore, is a focal point of this study*”.

While accepting that the Directive is consistent with international treaties and has led to a satisfactory level of actual harmonisation, the study argues that the limitations and exceptions allowed by the Directive are so many and so general that the resulting patchwork of differing provision from county to country could constitute a serious limitation of the prospects for the establishment of cross border online services.

## **Action**

FSE must be engaged in the action following on the review of the Directive 2001/29/EC when the Commission has drawn its conclusions on Hugenholtz Report. Their opinion is

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<sup>8</sup> The Directive was published in the Official Journal of the European Communities: OJ 2001 L 167 of 22.6.2001, p. 10.

<sup>9</sup> Study on the implementation and effect in Member States’ laws of the Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society; February 2007.

Authors of the study: Lucie Guibault, IviR; Guido Westkamp, Queen Mary Intellectual Property Research Institute, London University; Thomas Rieber-Mohn, NRCCL; Bernt Hugenholtz, IviR; Mireille van Eechoud, IviR; Natali Helberger, IviR; Lennert Steijger, IviR; Mara Rossini, IviR; Nicole Dufft, Berlecon Research; Philipp Bohn, Berlecon Research.

due for January 2008. Preferably action will be taken in co-operation with other organisations.

## **Review of State Aid**

On April 30, 2005, DG Information Society and Media (DG INFOS) announced a tender for an independent study on “*the economic and cultural impact, notably on co-productions, of territorialisation clauses<sup>10</sup> of State aid schemes for films and audio-visual productions<sup>11</sup>*”. The specific objective of the study is “to provide the Commission with clear and reliable data on the consequences of 'territorialisation' requirements imposed by certain State aid schemes supporting cinema sector. The issue of state aid is of relevance to writers in that the impact of any action resulting from such a study may increase or decrease the volume of co-production, which obviously impacts on the volume of work available to writers.

The researchers were specifically asked to identify “whether there are economic inefficiencies in the sector that can be explained by the existence of territorialisation requirements (part C)”. This is to be the ‘core’ of the study. The researchers are also asked to examine the question from the perspective of culture (Part G)<sup>12</sup>.

Provisional results of this study have become available on 6 July 2007: all parties involved seem in favour of the existing territorialisation clauses which permit state aid. The final results are due in the beginning of 2008.

In parallel to this study the more substantial Action Plan on State Aid was launched by DG Competition of the European Commission in the summer of 2005 and is valid until the end of 2009.

The Plan intends to use the EC Treaty’s state aid rules “...to encourage Member States to contribute to the Lisbon Strategy by focusing aid on improving the competitiveness of EU industry and creating sustainable jobs (more aid for R & D, innovation and risk capital for small firms), on ensuring social and regional cohesion and improving public services”.

*Paragraph 62 of the Action Plan specifically relates to culture: “Media, audiovisual services, creative industries and the cultural sector as a whole have a high potential in terms of innovation, competitiveness, growth and job creation. They are also key in preserving and promoting the rich cultural and linguistic diversity in the EU. In examining state aid issues in these sectors, the Commission fully takes into account the relevant Treaty provisions (particularly art. 151.4 and 87.3.d) and the Protocol on the system of public broadcasting in the Member States annexed to the Treaty of Amsterdam, and reflects the specific public interests attached to these activities. In that respect, it will revisit its Communication on the application of state aid rules to public service broadcasting. Notably with the development of new digital technologies and of Internet-based services, new issues have arisen regarding the scope of public service broadcasting activities. It will also consider reviewing the Communication on certain legal aspects relating to cinematographic and other audiovisual works (cinema communication). In addition, and on the*

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<sup>10</sup> Territorial clauses are those clauses in funding contracts which require the recipient to spend money nationally or regionally..

<sup>11</sup> Study on “the economic and cultural impact, notably on co-productions, of territorialisation clauses of State aid schemes for films and audiovisual productions” - 2005/S 85-082039 (ref. no: DG INFOS 2005/A1/1).

<sup>12</sup> 30.04.2005, - 2005/S 85-082039 (ref. no: DG INFOS 2005/A1/1) call for tender for a “Study on the economic and cultural impact, notably on co-productions, of territorialisation clauses of State aid schemes for films and audio-visual productions”.

*basis of its experience in this field, the Commission could ask the Council to extend the scope of the Enabling Regulation, so that cinema can also benefit from a block exemption.”*

On 16 June 2007 the existing process and procedures on state aid to film were extended for three years.

### **Action**

FSE will continue to monitor this situation in the interests of those it represents and will actively co-operate with like minded groups or individuals in guarding the interests of the creative community.

### **Communication on Film Online**

DG Information Society and Media (DG INFOS) initiated a discussion on downloading of films in January of 2006 when it called a meeting of experts to discuss the issue. This welcome initiative was followed by a presentation in late 23 May 2006 at the Cannes film festival by Commissioner Viviane Reding of a Charter on downloading film online which presented the proposed good practices guidelines<sup>13</sup>.

Of interest to writers is effective distribution of their works but also protection of their economic and cultural rights in the use made of their intellectual property. The Commission has stated its intentions to publish a Communication on the issue. Date of publication is constantly put back and the Communication is now due in the Autumn of 2007.

### **Action**

FSE will continue to monitor this situation and lobby with other creators organisations when necessary.

### **The Audio-visual Media Service Directive (formerly: Television without Frontiers Directive 89/552/EC)**

The Television without Frontiers Directive (89/552/EC) sets the legal framework at European level for regulation of certain aspects of the provision of television services. This directive was revised first in 1997 and is now completing its second major revision including regulation in the non-linear environment.

Of critical importance to screenwriters and to the cultural professionals in Europe is the retention of the obligation enshrined in articles 4 and 5<sup>14</sup> on broadcasters to reserve for European audio-visual works more than 50% of their transmission time for European works (excluding the time allocated to news, sports, games, advertising, teletext and teleshopping services) and to reserve a minimum of 10% for programmes made by independent producers. Also FSE demands the inclusion of a sub-

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<sup>13</sup> For more information on the Charter, consult the European Commission website:  
[http://ec.europa.eu/avpolicy/other\\_actions/content\\_online/index\\_en.htm#charter](http://ec.europa.eu/avpolicy/other_actions/content_online/index_en.htm#charter)

<sup>14</sup> Article 4 calls on broadcasters to ensure “where practicable and by appropriate means” that more than 50% of their transmission time is devoted to the showing of European audio-visual works, and article 5 calls on broadcasters to allocate 10% of their purchasing budgets to programmes made by independent producers, or to make sure that 10% of programmes shown have been made by independent producers.

quota of new drama production within the existing quota. Important also are the limitations on advertising (in Article 11 of the original directive) particularly the prohibition of the mixing of content and advertising; and the extension of these principles into the non-linear (on-demand) environment.

As of the date of writing of this document the status of this revision process is the development of an amended directive now to be called the Audio-visual Media Services Directive. This has been formally accepted by the Council of Ministers on 24 May 2007 and is unlikely to undergo any further changes.

Key points of this final text are:

- in the recitals, the importance of culture and cultural diversity is stressed and strengthened (paragraphs 1, 3 and 3a<sup>15</sup>).
- the existing quotas are retained in the linear environment
- a new paragraph in the recitals (14b) states that a linear services provider that offers its linear services on a non linear service platform must be regulated according to the rules applicable to linear services. This means that an audio-visual media service provider which operates linear and non linear services will be regulated according to the rules applicable to linear services, meaning that the quotas in Articles 4 and 5 will apply to the non linear services provided by this operator.
- Article 3g (formerly Article 3d) which relates to “showing” European works on non linear services. The Council has inserted (paragraphs 3 & 4) that Member States must carry out independent studies after every four year to assess the application of this article regarding cultural diversity.
- On product placement; the key difference in Article 3f (formerly 3i) is:
  - Viewers will be informed before and after a programme that it has product placement. But Member State governments may waive this regulation, if the programmes have not been commissioned or produced by the Audio-visual Service Provider<sup>16</sup>.
  - Nonetheless, product placement is prohibited in principle and can only be shown when the product placements “...do not give undue prominence to the product in question”.
- Need to ensure media pluralism is highlighted (recitals 6 and the new recitals 19a and 46). This is new and is seen as a move to counter and resist media concentration.

## **Action**

FSE will continue to monitor the development and implementation of the amended directive. In particular it should inform individual guilds of the implications for national

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<sup>15</sup> Paragraph 3a is a new paragraph that refers to the UNESCO Convention on Cultural Diversity

<sup>16</sup> “As an exception, Member States may choose to waive the requirements set out in (c) above provided that the programme in question has neither been produced nor commissioned by the media service provider itself or a company affiliated to the media service provider”.

legislation of the amended directive and seek to ensure that the directive is implemented at national level to the best advantage of their members.

### **MEDIA Programme, Culture Programme, E-Content Plus Programme.**

The European Commission has several funding programs that fund the audiovisual and culture sector and cultural projects. These programs are usually based on Article 151 of the Treaty on the European Union and the criteria for selecting projects is outlined in specific actions and communications. Each programme targets a specific sector or field of activity.

#### 1. The Media Programme<sup>17</sup>.

This programme is budgeted with 750 million Euro for the 2007-2013 period and its objective is to support the European audio-visual industry. It is of interest to writers in that it funds project development (although funds are provided exclusively, in the first instance, to producers, who use the funds to employ writers).

#### 2. The Culture Programme<sup>18</sup>.

Like the Media Programme, the Culture programme will run for 2007-2013 period. It has a budget of 400 million Euros. It too builds on previous culture programmes dating back to the early 1990s<sup>19</sup>.

#### 3. The E-Content Plus Programme<sup>20</sup>.

Amongst other commercial activities, this programme is interested in funding cross-border projects that develop and enhance the European audio-visual digital library, and specifically make digital content in Europe more accessible, usable and exploitable. It runs for the 2005-2008 period and has a budget of 165 million Euro. The programme will fund projects that process and enable business models which enable access to copyrighted works through the European Digital Library and the creation of databases and testing clearance mechanisms for out of print and, or orphan audio-visual works.

### **Action**

FSE will work to ensure that the needs of writers are reflected in the structures and procedures of these funding programs. Issues such as the definition of orphan works; the monitoring of distribution of MEDIA funds to ensure that funds meant for writers are received by them; presentation of writers perspectives on the value of training programs and contribution to assessment procedures on the effectiveness of Commission funding programs should be addressed.

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<sup>17</sup> [http://ec.europa.eu/information\\_society/media/index\\_en.htm](http://ec.europa.eu/information_society/media/index_en.htm)

<sup>18</sup> [http://ec.europa.eu/culture/eac/culture2000/cult\\_2000\\_en.html](http://ec.europa.eu/culture/eac/culture2000/cult_2000_en.html)

<sup>19</sup> The first culture programme was 'Platform Europe' which began in 1992 and had a budget of 3.5 million Euro. This was followed up by the Kaliedoscope, Arian and Raphael programmes. These programmes themselves were replaced in 2000 by the Culture Framework Programme.

<sup>20</sup> [http://ec.europa.eu/information\\_society/activities/econtentplus/calls/proposals/index\\_en.htm](http://ec.europa.eu/information_society/activities/econtentplus/calls/proposals/index_en.htm)

## 5. Individual guilds

The organisation of guilds varies considerably from country to country. There are however certain common characteristics. Guilds are chronically under funded, most depending on the contributions made by members to fund their activities.

Some strong guilds do not need assistance from the FSE except on the lobby on a European level. In particular in many of the new member states of the EU guilds are not yet organised sufficiently, and also can do with some help on a national level by (other members of) FSE.

### **Action**

FSE should make a priority to recruit member organisations from each of the European states where guilds exist; to assist in the establishment of guilds in those countries where they do not exist and to help those which are weaker to strengthen their structures.

Substantially improving communications between guilds could assist in the process of strengthening individual guilds by making them familiar with practises in other countries and other guilds and creating a network and establishing a community of those writers who contribute to the work of their individual guilds, such that they may be able to exchange information and assist one another at a bi-lateral level. The FSE can contribute to this in a variety of ways but primarily by facilitating the flow of information to and between the guilds. To this end we propose, subject to availability of resources, to initiate an information strategy.

### **Action**

This will require a significant upgrading of the FSE website to include information available only to member guilds and forums on specific issues to allow for participation in debate for a wider selection of European writers.

As outlined in respect of each of these issues below (*refs.*) the FSE will also start b) a programme of the production of 'best practise leaflets' which will provide information to individual guilds as to how specific issues are addressed in other countries than their own. These leaflets will address, among other issues, moral rights; best practise in credits; creative rights; comparative rates of remuneration; and best practise in development funding. And FSE will also try to ensure that its future Annual General Meetings have the largest possible attendance of writers for the member guilds.

## 6. FSE Structure

If this complex and difficult agenda of policy objectives and goals is to be effectively tackled then the resources available to the FSE have to be significantly enhanced.

### 6.1 Recent and current organisation

For the FSE to have any prospect of making an agenda of this complexity work will require significant input of money and personnel.

The current organisation of the FSE relies on one part time staff member based in Brussels and the voluntary contribution of significant time and energy of individual board members. Office facilities are offered by the trade union organisation UNI\_MEI, free of charge. The sole source of income to the organisation at present is the membership fees paid by guilds – which generally have severe difficulties in raising funds even for their own activities. The organisation is overly dependent on the time donated by Board members spread across five countries, an arrangement which prevents the organisation from undertaking the work it knows it needs to do.

To start being able to address the policy issues raised in this document we will need to put into place effective systems to manage the office of the organisation on a day to day basis. More extensive involvement of the member organisations in the FSE would also be beneficial – not limited to the Annual General Meeting. Clearly the resources currently available are insufficient to tackle the agenda that we are required to address. Priority for FSE must be at this stage to ensure significant additional financial resources.

FSE also needs a more effective communication strategy with its own members as well as with the external organisations. A more effective website, better newsletter to member organisations, regular (at least once per annum) visits to individual Guild offices, and a better press strategy are all easy to devise but impossible to implement without resources.

To minimise unnecessary duplication of work and to maximise the impact which FSE can have, we should enter into effective alliances with other like minded organisations where possible or appropriate. In particular the FSE has a shared agenda with other organisations of creative persons; with unions representing actors, musicians and technicians; and with collecting societies. On certain issues this can be extended to include producers; consumers' representatives and so on.

In respect of the legal structure of the organisation the FSE is registered on 8th October 2002 in Belgium as an international organisation under the law of 25th October 1919 (amended 30th June 2000)<sup>21</sup>. FSE is advised that this status is adequate to its requirement and will allow the organisation to be compliant with Belgian law; to employ personnel; and to conduct the activities for which the organisation exists. Belgian legal advice to that effect is annexed as Annex number E.

A prospective budget for the organisation is attached as Annex D. The budget implies an annual cost of €160,000.

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<sup>21</sup> Loi accordant la personnalité civile aux associations internationales poursuivant un but philanthropique, religieux, scientifique, artistique ou pédagogique (L 06-12-1954, art.1). Loi modifiant da loi 25 octobre 1919 en 30 juin 2000; entrée en vigueur 19 août 2000.

## **7. Prioritisation of policy objectives**

Regardless of the limitations on the resources available to the FSE the agenda for action outlined here cannot all be tackled at once. A prioritisation of the goals is therefore necessary in order to effectively plan the work of the organisation.

The Board of the FSE would therefore propose to concentrate its energies over the next year on the following agenda:

- Raising the funds essential to any effective pursuit of the policy goals outlined and implementing the new structures with such funds would allow.
- Monitoring the legislative issues and debates within the European Union with a particular concentration on the questions of private copying and collective management of rights and campaigning, with other organisations, in defence of and for the improvement of creators rights.
- Improving communication with member organisations by upgrading the Guild website and by producing and distributing the series of information leaflets described in this document (On moral rights; on best practise in credits; on creative rights; on comparative rates of remuneration; and on best practise in development funding).
- Organising a follow up to the European conference of writers which took place in Thessaloniki in 2006.
- Promoting the screenwriters manifesto agreed at the Thessaloniki conference in particular by developing and launching the 'Who wrote it?' campaign (referred to at page 13 of this document)
- Addressing whatever new and unanticipated problems may arise.

## **8. Conclusion**

New methods of distribution of audio-visual content are rapidly developing as a result of the new technologies associated with digitalisation of images and sound. These changes will have an impact on content but will not reduce the need for such content, rather the reverse. Writers, members of the organisations which make up the FSE, create this content. The circumstance in which they create this content, the respect in which they are held, the conditions in which they work, the practicality or otherwise of a career as a writer for the screen all have a significant impact on the quality of the work created.

As the originators of the content on which the distribution systems are built, and on which they are dependent, writers have an essential contribution to make to any discussion about the ways in which use of their work can be maximised, in the interests of ensuring economic efficiency and promoting cultural diversity.

One essential tool for ensuring that the voice of writers is heard is an effective voice at a European level, where the new rules about broadcasting, copyright law and everything that is important are being made.

FSE can be that voice.

Christina Kallas, Sven Baldvinsson, David Kavanagh, Bernard Besserglik and Willemiek Seligmann elected members of the **Board of the FSE**,

(The Board of the Federation were elected by the members of the FSE at the Annual General Meeting in November 2006.

## CHAIR

**Christina Kallas** (Dr. phil.) is a screenwriter and producer and the President of the FSE, the Federation of Screenwriters in Europe. She is a member of the European Film Academy and of the German Film Academy and a member of the presidium of the Screenwriters' Guild of Germany. Christina Kallas is the artistic director of script development film fund for South-Eastern Europe "The Balkan Fund", which runs in the frame of the International Film Festival of Thessaloniki and forms part of the coordination scheme of the European Film Festival Funds, as well as a member of the German Federal Film Board FFA commissions for the financing of feature film development and production. She is teaching screenwriting since 1998 at the German Film and Television Academy in Berlin, and since 2004 at the Cinema Department of the Aristotle University in Thessaloniki.

She wrote and/or produced a number of awarded feature films. Among her credits are: "i.d." (Parallax/Polygram), "Love Lies", which won the First Film Award at the Munich Film Festival, as well as "The Commissioner", a political thriller starring John Hurt and Armin Mueller-Stahl, which was in official competition at the Berlin Film Festival in 1998. She has also written for television, and in 2001 and 2002 she was part of the writing team which delivered the Best German TV-awarded series "Edel & Starck". She is the writer of three books: "European Coproductions in Film and Television" (Nomos, Baden-Baden 1992), "Screenplay. The Art of Invention and Narration for the Cinema" (Nefeli, Athens 2006) and "Creative Screenwriting" (uvk, Konstanz 2007).

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## VICE CHAIR

**Sven (Sveinbjörn) Baldvinsson** is a screenwriter working in Denmark and the U.S as well as in Iceland, his home country. He has written three produced feature films and multiple episodes of TV drama. In the U.S. he has worked for and with such companies as Propaganda Films, Hawn/Sylbert and Spring Creek. In recent years he has taught screenwriting at several venues in Europe. He is the author of several books of poetry and prose as well as writing music and/or lyrics on a number of albums. He has been on the board of The Icelandic Federation of Artists, The Icelandic Writers Union and a member of the selection committee for the Nordic Prize for Literature. He is the vice

president of the Federation of Screenwriters in Europe, a boardmember of the Association of Icelandic Playwrights and Screenwriters and a member of the European Film Academy.

e-mail address: tundra@vortex.is

## MEMBERS

**Willemiek Seligmann**, formerly practising as an attorney at law, has been since 2001 director of the Dutch Guild of Screenwriters (Netwerk Scenariowriters).

Since 2002 she is co-director of the Association of Literary Writers and Translators (Vereniging van Schrijvers en Vertalers) of which the Guild of Dutch Screenwriters is a department. She has been one of the legal advisors of the FSE since the foundation in Athens, June 2001 and is since 2006 member of the FSE-board.

e-mail address: scenario@vsenv.nl

**David Kavanagh** is the Executive Officer of the Irish Playwrights and Screenwriters Guild. He has been Film Officer of the Irish Arts Council; Chief Executive of the Irish Film Institute; General Secretary of the European Script Fund. He is a board member of the Light House Cinema Exhibition and Distribution Company. He is a board member of the Federation of Scriptwriters in Europe and a member of the Policy Review Group of the International Affiliation of Writers Guilds. He is a member of the Irish Film and Television Academy and the European Film Academy.

e-mail address : david.kavanagh@script.ie

**Bernard Besserglik** is an English screenwriter living in Paris, working both in English and French. He combined screenwriting with a 20-year career as a news reporter with Agence France-Presse, which included a four-year posting in Moscow. He has been a member of the Union-Gilde des Scénaristes for the past 10 years, and its deputy treasurer for the past year. He was elected a member of the Federation of Screenwriters in Europe in November 2006 and appointed Treasurer by the Board. He is currently working on a stage musical featuring Joseph Stalin.

Email address: besserglik@wanadoo.fr

## MANAGER

**Pyrrhus Mercouris**

e-mail address: manager@scenaristes.org)

## **Annexes**

### Annex A

European screenwriters' charter:

Adopted by the founding meeting of the Federation of Screenwriters in Europe – Athens June 2001.

- In the beginning there is the script. The script is an artistic work in its own right which is capable of being published and directed.
- The scriptwriter is the only author of the script and therefore is a co-author of the audiovisual work.
- We will work for the harmonisation of scriptwriters' rights throughout Europe. We demand minimum contractual terms with no buy-outs and payment for every exploitation of each script.
- Scriptwriters, directors and producers are partners. They must join together as creative forces to establish the principle that every film is created by: a writer; a director; a producer.
- We will analyse the two systems of "droit d'auteur" and "copyright", establish a common approach and seek to enshrine it in national legislation.
- We will seek constructive dialogue with rights and royalty collection agencies.
- We will seek to agree an ethical code of conduct with directors.
- We will seek constructive dialogue with broadcasters and advertisers to strengthen the controls and rights that scriptwriters have over the work they have created.
- We seek to create a balance between artistic and economic forces to defend the integrity of writing.
- We will work together as scriptwriters to maintain cultural diversity throughout Europe and ensure that our national policies remain sovereign in the cultural sphere. We will protect our linguistic diversity.

## Annex B

### Members Organisations and Board

- Christina Kallas (FSE President)
- Sveinbjörn Baldvinsson (Vice President),
- Bernard Besserglik (Treasurer),
- David Kavanagh
- Willemiek Seligmann

### Member Guilds:

#### COUNTRY

#### GUILD

Belgium	Association des Scénaristes l'Audiovisuel ASA  Address 87 rue Prince Royal Bruxelles – 1050 BE
Belgium	Flemish Scriptwriting Guild Scenaristengilde vzw Vredestraat 24 2600 Antwerpen Ondernemingsnr 861 194 209 BE
Bulgaria	Bulgarian Association of Film, TV and Radio Scriptwriters – BAFTRS 108a Rakovsky str. – NATFA 1000 Sofia Bulgaria
Denmark	Danske Dramatikeres Forbund Klosterstraede 24 1157 Copenhagen K. Denmark
Finland	Suomen Näytelmäkirjailijaliitto – Finlands Dramatikerförbund ry The Finnish Dramatists' Union Vironkatu 12 B 13 00170 Helsinki Finland
France	Union-Gilde des Scénaristes UGS - le secrétariat de l'Union-Gilde des

Scénaristes – France  
Union-Gilde des Scénaristes  
17 rue de Jeûneurs, 75002 Paris, France

- Germany      Verband Deutscher Drehbuchautoren e.V. VDD  
Geschäftsführung  
Charlottenstraße 95  
D - 10969 Berlin
- Great Britain      Writers Guild of Great Britain  
15 Britannia Street, London WC1X 9JN  
Great Britain.
- Greece      Scriptwriters Guild of Greece  
16, Orminiou str.  
GR - 115 28 Athens
- Iceland      Icelandic Dramatists Union  
Félag Leikskálda og  
Handritshötunda  
Dyngjuvegur 8, 104 Reykjavik, Iceland  
Reykjavik, Iceland
- Ireland      Irish Playwrights and Screenwriters Guild  
Art House,  
Curved Street, Temple Bar, Dublin 2, Ireland
- Netherlands      Netwerk Scenarioschrijvers  
Van Deyssehuis  
De Lairessestraat 125; 1075 HH Amsterdam, NL
- Norway      Norske Dramatikeres Forbund  
Norwegian Playwrights' Association  
P.O. Box 579-sentrum  
NO - 0105 Oslo
- Portugal      Portuguese Screenwriters Guild  
Rua Raquel Rogne Gahieiro 12, 6 Esq  
1500-540 Lisboa
- Serbia      Branch Union of Arts and Culture - GS KiU  
NEZAVISNOST  
3 Francuska Street  
110000 Belgrade

- Sweden            Sveriges Dramatikerförbund  
Blå Tornet  
Drottninggatan 85  
SE-111 60 Stockholm
- Switzerland      SCENARIO – Swiss Guild  
Rosemont 8  
CH - 1820 Territet
- Turkey            SEN-DER -  
The Scriptwriters Association of Turkey  
TÜRSAV SINEMA EVI Gazeteci Erol Dernek Street No:12,  
Floor:2  
Beyoglu / ISTANBUL
- Spain             FAGA (Federación de Asociaciones de Guionistas del  
Audiovisual)  
Passeig Colom, 6 despatx 3  
08002 Barcelona
- FAGA comprises:
- Catalonia      GAC, Guionistes Associats de Catalunya  
Passeig Colom, 6, despatx 3  
(Pg.Colom number 6 (3<sup>rd</sup> door))  
08002 Barcelona
  - Madrid         ALMA, Asociacion de Autores Lit., Madrid  
Alcalá 20. 409.  
28914 Madrid
  - Basque         EHGPE, (Euskal Herriko Gidoigileen Elkarte Profesionala);  
Basque  
Euskal gidoigileak  
Gran Vía 29, 1º  
48009 Bilbao
  - Galicia         AGAG (Asociación Galega de Guionistas)
  - Valencia       E.V.A. (Esriptors Valencians de l'Audiovisual)  
C/Blanquerías, 6  
46003, Valencia, Spain

ANNEX C

# THE EUROPEAN SCREENWRITERS MANIFESTO

Stories are at the heart of humanity and are the repository of our diverse cultural heritage. They are told, retold and reinterpreted for new times by storytellers. Screenwriters are the storytellers of our time.

European writing talent should be trusted, encouraged and supported. The European film industries need to find ways to attract and keep its screenwriters in the cinema and in their craft.

**We assert that:**

1. The screenwriter is an author of the film, a primary creator of the audiovisual work.
2. The indiscriminate use of the possessory credit is unacceptable.
3. The moral rights of the screenwriter, especially the right to maintain the integrity of a work and to protect it from any distortion or misuse should be inalienable and should be fully honored in practice.
4. The screenwriter should receive fair payment for every form of exploitation of his work.
5. As author the screenwriter should be entitled to an involvement in the production process as well as in the promotion of the film and to be compensated for such work. As author he should be named in any publication accordingly, including festival catalogues, TV listing magazines and reviews.

**We call on:**

6. National governments and funding agencies to support screenwriters by focusing more energy and resources, whether in form of subsidy, tax breaks or investment schemes, on the development stage of film and television production and by funding writers directly.
7. Scholars and film critics to acknowledge the role of screenwriters, and universities, academies and training programmes to educate the next generations in accordance to the collaborative art of the medium and with respect towards the art and craft of screenwriting.
8. Festivals, film museums and other institutions to name the screenwriters in their programs and plan and screen film tributes to screenwriters just as they do to directors, actors and countries.
9. National and European law should acknowledge that the writer is an author of the film.
10. National and European law should ensure that screenwriters can organise, negotiate and contract collectively, in order to encourage and maintain the

distinct cultural identities of each country and to seek means to facilitate the free movement of writers in and between all nations.

**We will:**

- Distribute this manifesto to industry members and the press in our respective countries.
- Campaign for the implementation of the agenda defined by this manifesto.
- Seek the transition into national and European law of the legal changes demanded by this manifesto.

**The President and the Board of the FSE, representing 21 guilds and 9.000 screenwriters all over Europe**

Christina Kallas (President)

Sveinbjörn Baldvinsson (Vice President)

David Kavanagh

Willemiek Seligmann

Bernard Besserglik

**The Participants of the Thessaloniki Conference on European Screenwriting 2006**

## **ANNEX D**

### **DRAFT ANNUAL ADMINISTRATIVE BUDGET FOR THE FEDERATION OF SCREENWRITERS IN EUROPE**

#### **EXPENDITURE**

##### **Recurrent costs**

Manager	60,000
Assistant	40,000
Legal advice	10,000
Website (including information to members)	3,500
Board meetings (virtual and corporeal) and expenses	7,500
General Assembly costs	3,500
Support for new members	10,000
Travel to meet member guilds and attend meetings	7,500
General office expenses	8,500*
Contingency (5%)	6.200

(\*assumes continuing provision of free office space and facilities from uni-mei)

**TOTAL** **156,700**