

1. Rationale

The new EU Directive on Copyright in the Digital Single Market¹ (hereafter “Copyright Directive”) is now in the process of implementation at national level and offers prospects for the strengthening of contract terms and for fair remuneration for authors, co-authors and performers across for the use of their works and performances online. The Directive addresses negotiation imbalances and explicitly encourage **collective bargaining** by authors and performers with independent producers, broadcasters and SVOD suppliers. FERA, FSE and the Media, Entertainment & Arts Sector of UNI Europa (EURO-MEI) together with performer’s organisations have contributed to the legislative process and obtained stronger provisions on fair remuneration beyond the original proposal of the European Commission.²

During the project VS/2017/0329 “Promoting Fair Remuneration and Collective Bargaining for Creators in the EU Digital Single Market”, the three organisations have been successful in initiating a first round of a constructive EU-level dialogue on the implementation of the Copyright Directive with all relevant European employers’ associations of the audio-visual sector. Since then, national member organisations in Germany and Sweden have negotiated agreements on fair remuneration for authors, co-authors and performers with Netflix³, the most important multinational player in the SVOD⁴ market implementing the key provisions of the Copyright Directive by collective agreement. Negotiations with other companies and in several countries have started. At the same time other employers continue to label the provisions on fair remuneration as “red tape” and have been trying to weaken those provisions in the national implementation processes. Since the adoption of the Directive, the three organisations have been working together to support each other and assist their member organisations in preparation of national implementation processes as well as dialogue with employers.

The Pandemic COVID-19 has shut down all audiovisual productions in the EU in March 2020 and the focus of work nationally and international had to shift from pursuing this dialogue and negotiations to support financial and social relief to members and return to work policies.

The audio-visual industry in Europe prior to the impact of the Covid pandemic, employed more than one million people and turns over more than €110 billion and was considered to be growing rapidly. The impact of the Covid19 pandemic on prospects for our industry is clear only in the short term, where production has entirely ceased world-wide. The audio-visual industry will clearly be deeply altered by the crisis with production volumes slow to recover.

An important element of the resurgence of production of audio-visual content will be an increased emphasis on co-production. The capacity to **manage change and restructuring**, which was driven by new technology especially digitisation will now be exacerbated by the restructuring of the industry necessitated by the impact of the pandemic.

¹ [Directive \(EU\) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC](#). Title IV, Chapter III of the Directive addresses fair remuneration in exploitation contracts of authors and performers and the role of collective bargaining. Recital 73 states that “Member States should be free to implement the principle of appropriate and proportionate remuneration through different existing or newly introduced mechanisms, which could include collective bargaining and other mechanisms, provided that such mechanisms are in conformity with applicable Union law.”

² For example, the organisations reached out to Members to ensure that the European Parliament safeguards the meaningful improvements to the benefit of authors and performers obtained in Chapter III, articles 14-16 during the first reading and that had been supported by the Legal Affairs Committee: [2018_06.29 FIA_FIM_UNI_MEI_FERA_FSE call to safeguard articles 14 to 16](#).

³ UNI Europa affiliate ver.di and BFS conclude [agreement on fair remuneration with Netflix in March 2020 in Germany](#). FERA and UNI Europa affiliate Teaterförbundet conclude [agreement on fair remuneration with Netflix in March 2020 in Sweden](#).

⁴ SVOD refers to subscription video on demand services such as Netflix, Amazon Prime.

Within this context the availability of investment, public and private, will put the industry under exceptional, probably unprecedented pressure. This will certainly lead to substantive restructuring, possible concentration and contraction of investments. Against this complex background both the volume of available work and the rates of pay for freelance creatives will come under pressure.

While the outcomes and follow-up to the project VS/2017/0329 “*Promoting Fair Remuneration and Collective Bargaining for Creators in the EU Digital Single Market*” including the work in connection with the adoption and implementation of the EU Directive on Copyright in the Digital Single Market have created an important stepping stone for achieving fair remuneration for audio-visual creators in the EU Single Market, the economic and social impact of COVID-19 and structural changes of the industry are threatening the livelihood of many creatives in the sector. The growing importance of multinational SVOD players such as Netflix will continue to transform the industry and social dialogue structures and accentuate the imbalance of power between multinational corporations and national unions and guilds. The uneven strength of collective bargaining and social dialogue with respect to fair remuneration in the EU needs to be addressed to achieve a more inclusive and fair labour market for audio-visual creators across the EU Single Market.

Therefore, increased capacity **to collectively bargain** and to **co-ordinate this bargaining at EU level** becomes even more the cornerstone for sustaining the employment opportunities of audio-visual creators and for securing decent working condition and fair remuneration. Collective agreements on fair remuneration provide ongoing payments that represent a stable pillar of income to freelance creators during periods when they are not employed or during a crisis like COVID-19. Unions and guilds in smaller audiovisual markets and with a lower level of social dialogue have less capacity to bargain with multinational employers. They depend - and will depend even more so as the importance of multinational players is rising - to a large extent on the strength of and networking with stronger unions and guilds and a coordinated approach at EU level.

The joint assessment of FERA, FSE and UNI Europa is that the priorities for response to these **changes in employment and social dialogue of audio-visual creators** are to strengthen the capacity of unions and guilds in collective bargaining, to multiply the opportunities for achieving collective agreements on fair remuneration based on the implementation of the Copyright Directive in EU member states and to set-up a coordinated approach at EU level.

This proposal builds on the outcomes of the successful project VS/2017/0329. It undertakes to deepen and broaden each of the resources, tools and outcomes, to build on and further develop the dialogue with national and European employers organisations on the implementation of the provision on fair remuneration of the on Copyright Directive and to raise the standards of collective bargaining agreements on fair remuneration within the EU Single Market.

FERA, FSE and UNI Europa, have agreed to work together as Project Partners, with UNI Europa as *lead applicant* and FERA and FSE as *associated organisations* taking into account their different structural and financial capacities.

2. Objectives

The general objective of this project is to build capacity among authors guilds and unions representing audio-visual creators to enable them to bring the volume of collective agreements with employers to a level where social dialogue and collective bargaining become the industry norm and to facilitate transparency among and raising of standards of terms and conditions of employment including remuneration across the EU member states taking into account the structural change in audiovisual production that are caused by the impact of COVID-19 on the industry.

Within the framework of the overall project objective, the project activities will seek to reach the following four objectives:

- 1. Strengthening the transnational collective bargaining networking capacity of unions and guilds:**
 - a. to engage in a coordinated collective bargaining approach towards supra- and multinational producers and broadcasters.
 - b. to develop joint responses to the changed environment of audio-visual production post-COVID-19.
- 2. Exchange of good practise on collective bargaining with multinational employers in the SVOD market regarding:**
 - a. national collectively bargained agreements.
 - b. new remuneration models in response to new production processes and procedures.
- 3. Extending the development of training and information tools on fair remuneration:**
 - a. a new database module on the provisions on fair remuneration of of the Copyright Directive at national level.
 - b. a new database module on collective agreements on fair remuneration bases on the Copyright Directive.
- 4. Expanding social dialogue with new and traditional players on the implementation of the EU provisions on fair remuneration across EU member states:**
 - a. Working towards negotiated guidelines on the implementation of the provisions on fair remuneration.

3. Project Activities

The four project objectives will be pursued by implementing the following project activities clustered in five work packages:

Work Package #1: transnational collective bargaining network

This work package will consist of three blocks of activities.

- The first block of activities will consist of the setting-up of an expert working group composed of up to 8 leaders and legal experts of the member union and guilds. The working group will meet regularly online and correspond via email to advise the Project Partners on the issues and implementation of topical online workshops.
- The second block of activities a series of six topical online workshops. Each workshop will be 4 hours long and bring together up to 40 leaders and staff responsible for representation and collective bargaining of member unions and guilds. The agenda of the six workshops will focus on the following topics, one topic per workshop:
 - from representation to bargaining: engaging the members' base
 - building a collective bargaining campaign
 - strategic planning of negotiations
 - common priorities for transnational aspects of collective bargaining
 - anticipating and managing change I: writing and pre-production
 - anticipating and managing change II: directing production
- The third block of activities will provide documentation and advise to member unions and guilds: The Project Partners will transform the outcomes of workshops into a report with recommendations in form of toolkits on each topic. The documentation will be shared with member unions and guilds via email and website.

Work Package #2: collective bargaining with multinational employers

This work package will consist of two activities:

- The first block of activities a series of three online webinars. Each webinar will be 4 hours long and bring together up 100 leaders, members and staff responsible for representation and collective bargaining of unions and guilds. The first two webinars will allow to present and to assess national collective agreements with SVOD players and share the experience of the negotiating process. The format of the webinars will structure the agenda in such a way that after a detailed presentation from unions/guilds that have negotiated agreements of the a) content and b) process participants can engage via Q&A session with the presenters. The third workshop will provide a platform for exchange on the impact of new production processes and procedures on new remuneration models. The agenda for this webinar will be drafted by the Project Partners in consultation with the Project Steering Committee.
- The second block of activities will consist of establishing reports on the each of the three webinars that will be elaborated by the Project Secretariat and Secretariats of FERA and FSE to be shared with member unions and guilds via email and website.

Work Package #3: training and information tools on fair remuneration

This work package consists of the development two new database modules within the existing wiki database on contracts:

- The first module will provide an overview in English of on the provisions on fair remuneration of the Copyright Directive in 10 EU member states⁵. The overview will compare the provisions on transparency obligation, contractual readjustment mechanism and dispute resolution. Further, it will provide assessment of the weight of collective bargaining.
- The second module will provide English version of collective agreements on fair remuneration from the same 10 EU member states and compare the key elements of the provisions. The Project Steering Committee will develop a list of criteria to be compared.

Work Package #4: social dialogue : EU guidelines on fair remuneration in member states

This work package contains a series of 4 social dialogue meetings between a delegation of up to 10 representatives of form the Project Partners and up to 10 representative of the European employers' organisation of the audio-visual sector that have engaged so far, notably ACT, CEPI, FIAPF and EBU as well as representative organisations of the SVOD industry such as EUROVOD.

The meetings will be organised in Brussels and each meeting will last for 4 hours. During the first meeting, the Project Partners will propose to discuss the prospects of a EU level dialogue and to exchange view on the implementation process of the Copyright Directive. The Project Partners will also present a draft *feuille de route* for the 3 subsequent meetings to break down discussion on guidelines to the different articles and key elements. In between the meetings, the Secretariats of the Project Partners will liaise, multilaterally and bilaterally, with the Secretariats of the European employer's association to prepare the dialogue meetings and to deal with any obstacles of progress. The aim is to reach an agreement on guidelines or guiding principles by the end of the fourth social dialogue meeting.

Work Package #5: Dissemination of results and way forward

This last work package consists of editing and dissemination of the reports and all other documents and the organisation of a dissemination seminar.

- All reports, recommendations, and documents as well as a guide for the use of the new database modules will be edited and disseminated among member unions and guilds and made available via a specific project website.
- The dissemination seminar will last for 2 days and will bring together up to 50 participants from the member unions and guilds. The agenda of the seminar will be structured in such a way that the first day will focus on the presentation and exchange on the results of the first and second work packages. The agenda of the second day will focus on the results of the third and fourth work packages. The last half-day session will be reserved to discuss action points for joint actions between the Project Partners and with European employer's organisations.

⁵ Czech Republic, Denmark, Finland, France, Germany, Poland, Portugal and Spain, Sweden and The Netherlands. This draft list is subject to validation/changes by the Project Steering Committee.

4. Methodology

Organisation

The project will be implemented through

- **Project Steering Committee**

The project activities will be planned, monitored and assessed by the Project Steering Committee, composed of eight representatives from UNI Europa, FERA and FSE. Each organisation will nominate representatives at the start of the project. The Committee will meet three times during the project period in order to facilitate a timely preparation and follow-up of all project activities and to ensure the coordination between the project partners. In between the four meetings, the Project Secretariat will organise exchanges via email and telephone conferences to allow for continuity of the work of the committee.

- **Project Secretariat and Project Partners**

The Secretariat of the Media, Entertainment & Arts Sector of UNI Europa will serve as the Project Secretariat. The Project Secretariat will carry out the implementation of the project activities and support the work of the Project Steering Committee. It will advertise the external expertise, contract the external experts and supervise their work on the two databases. It will prepare, implement and follow-up on all workshops, webinars and meetings. UNI Europa will carry out these tasks while coordinating closely with the Secretariats of its Project Partners, FERA and FSE.

- **External expertise**

The members of Project Secretariat do not have the required technical and legal expertise skills to develop the two wiki database modules. Therefore, we propose to contract the technical management and legal content design of the new modules to external experts. For the technical expertise, we would use either to the same service provider who build the database on contracts (as the services provided were very good) or a service provider of similar quality. The expertise required is a) database technical management and b) experience with Wiki tools. Further, we propose to subcontract content design to a junior legal expert, who will be responsible to process the information on the provisions of fair remuneration in national laws and collective agreements according to the criteria decided by the Project Steering Committee. The required expertise is a) knowledge of the provisions of the EU Copyright Directive and concept of fair remuneration and b) an ability to assess the provisions of collectively bargained agreements. The two subcontracts will be assigned following a public tender process.

Implementation

The project will be implemented in four different phases:

- A preparation phase, which will be dedicated to plan all project activities, set-up the Project Steering Committee and the Expert Working Group and to contract the external expertise.
- An implementation phase to realise the actions of work package 1 to 4
- A dissemination phase to edit and disseminate the project documents, results, and guide for the use of the new database modules (work package #5).
- An evaluation and reporting phase during which the Project Steering Committee will evaluate the project and the Project Secretariat will prepare the draft report on the implementation of the project.

5. Work Plan: Implementation of activities

The project will last for 24 months and will be implemented as follows:

Phase #1 - Preparation: Months 1-4

The first six months of the project will be dedicated to the setting-up of the Project Steering Committee, planning of project activities and the contracting of the external expertise.

Month 1

At the start of the preparatory phase, the secretariats of the Project Partners meet to plan for the implementation of all activities. They discuss and adopt the agenda for the first Project Steering Committee meeting, the call for proposals for the two Wiki database modules and launch the setting up of the Expert Working Group.

Month 2

The Project Secretariat prepares and disseminates a project fact sheet to member organisations of the Project Partners. The factsheet will present the project objectives, summarise the project activities and contain a timeline. Further, the Project Secretariat advertises online and via its mailing list two separate open calls for application for the external expertise.

The Project Steering Committee meets via online meeting platform to discuss and further define the actions of all work packages.

Month 3

Following the first Project Steering Committee meeting, the Project Secretariat will send out invitations and support documents to the members of the Expert Working Group. The call for external expertise closed at the end of month 3.

Project Partners invite European employers' organisations in the audio-visual sector to series of Social Dialogue meetings on fair remuneration and propose schedule of meetings

Months 4

The Project Secretariat liaises with the Project Partners to finalise the selection of external experts and finalise the contracting.

The Expert Working Group meets online to review the content and format of the online workshops. It will finalise the draft agenda for the first workshop. The Project Secretariat sends out the invitations to member unions and guilds for the first online workshop.

Phase #2 - Implementation: Months 5-18

Months 5-15

Collection and translation of national legal provision on fair remuneration (national transposition of Title IV, Chapter III of EU Copyright Directive) and collective agreements on fair remuneration in ten selected EU member states.

Month 5

Workshop #1 "*from representation to bargaining: engaging the members' base*" is held online and will be attended by up to 40 leaders and staff of national member organisations of the Project Partners.

Technical expert starts design of Wiki database modules.

The 1st Social Dialogue on fair remuneration takes place to exchange of views on the implementation process of the Copyright Directive and consider draft *feuille de route* for the dialogue process.

Month 6

Report of first workshop is drafted. The Expert Working group meets online to finalise the agenda and formation of 2nd workshop. Invitations to second workshop are sent by Project Secretariat.

Project Secretariat sends out invitations for the first webinar.

Month 7

Workshop #2 "*building a collective bargaining campaign*" is held online and will be attended by up to 40 leaders and staff of national member organisations of the Project Partners.

Technical expert submits draft design of Wiki database modules. Secretariats of Project Partners review module with expert.

Project Partners prepare first Social Dialogue meeting on fair remuneration with European employers' organisations.

Month 8

Report of 2nd workshop is drafted. The Expert Working group meets online to finalise the agenda and formation of 3rd workshop. Invitations to second workshop are sent by Project Secretariat.

The 1st webinar is implemented for up 100 participants, leaders, members, and staff of member organisations of the Project Partners.

The 2nd Social Dialogue on fair remuneration takes place. First draft of guidelines on fair remuneration are discussed.

Technical expert reviews draft Wiki database modules.

Month 9

Workshop #3 "*strategic planning of negotiations*" is held online and will be attended by up to 40 leaders and staff of national member organisations of the Project Partners.

Report on 1st webinar is drafted.

Technical expert reviews draft Wiki database modules.

Project Partners follow-up on 2nd Social Dialogue on fair remuneration and liaise with secretariats of European employers' organisations.

Month 10

Report of 3rd workshop is drafted. The Expert Working group meets online to finalise the agenda and formation of 4th workshop. Invitations to second workshop are sent by Project Secretariat.

Project Secretariat sends out invitations for the 2nd webinar. Draft report on 1st webinar is reviewed.

Technical expert reviews draft Wiki database modules.

Month 11

Workshop #4 is held online and will be attended by up to 40 leaders and staff of national member organisations of the Project Partners.

Technical expert submits reviewed draft Wiki database modules.

Project Partners prepare 3rd Social Dialogue meeting on fair remuneration.

Month 12

Report of 4th workshop is drafted. The Expert Working group meets online to finalise the agenda and formation of 5th workshop. Invitations to second workshop are sent by Project Secretariat.

2nd meeting of the Project Steering Committee takes place. Technical expert present reviewed draft Wiki database modules. Committee validates structure and agrees on criteria for processing legal provision on fair remuneration (national transposition of Title IV, Chapter III of EU Copyright Directive) and collective agreements on fair remuneration information into the Wiki database modules.

The 3rd Social Dialogue on fair remuneration takes place. Reviewed draft guidelines are considered.

The 2nd webinar is implemented for up 100 participants, leaders, members, and staff of member organisations of the Project Partners.

Months 12-18

English versions of legal provision on fair remuneration (national transposition of Title IV, Chapter III of EU Copyright Directive) and collective agreements on fair remuneration in ten selected EU member states are processed into Wiki database modules by Junior Legal Expert according to the criteria decided by the Project Steering Committee.

Month 13

Workshop #5 is held online and will be attended by up to 40 leaders and staff of national member organisations of the Project Partners.

Report on 2nd webinar is drafted.

Month 14

Report of 5th workshop is drafted. The Expert Working group meets online to finalise the agenda and formation of 6th workshop. Invitations to second workshop are sent by Project Secretariat. Draft report on 2nd webinar is reviewed.

Project Partners follow-up on 3rd Social Dialogue on fair remuneration and liaise with secretariats of European employers' organisations.

Month 15

Workshop #6 is held online and will be attended by up to 40 leaders and staff of national member organisations of the Project Partners.

Month 16

Report of 6th workshop is drafted.

The 3rd webinar is implemented for up 100 participants, leaders, members, and staff of member organisations of the Project Partners.

The 4th Social Dialogue on fair remuneration takes place. Consideration of final draft on guiding principles are discussed and endorsed.

Wiki database modules are tested by member organisations of Project Partners from the ten selected EU member states.

Months 17 and 18

Report on 2nd webinar is drafted. Reports of all webinars and workshops are reviewed and finalised.

Project Partners follow-up on 4th Social Dialogue on fair remuneration and liaise with secretariats of European employers' organisations. The Secretariats wrap a joint text and confirm its publication.

Wiki database modules are made accessible to all member organisations of the Project Partners.

Phase #3 - Dissemination: Months 18-24

Months 18-19

All reports, recommendations, and joint guidelines on fair remuneration as well as a guide for the use of the new database modules are be edited and made ready with layout for dissemination.

Month 20

The Project Secretariat disseminates the reports, recommendations, documents as well as a guide for the use of the new database to member unions and guilds via email and project website.

Month 21 or 22

The two-day dissemination seminar with up to 50 participants from the member unions and guilds is implemented.

Months 23-24

The Project Secretariat drafts and disseminate after endorsement by Project Steering Committee follow-up action points.

Phase #4 - Evaluation and Reporting: Months 23-24

Month 23

The Project Steering Committee meets online to evaluate the project action and outcomes and to validate the draft action points for follow-up.

Month 24

The Project Secretariat will draft the technical project implementation report and the final financial statement.

6. Deliverables

The project will produce the following deliverables:

- Capacity building for leaders of trade unions and guild with respect to collective bargaining at national and transnationally by implementation of 6 online workshops and 2 webinars
- Report and Recommendation on representation and Collective Bargaining
- Wiki database on collective agreements on fair remuneration in 10 EU member states
- Wiki database on the transposition of the provision on fair remuneration of the Copyright Directive in 10 EU member states
- A series of social dialogue meetings with EU employers' associations of the audio-visual sector to negotiate and adopt guiding principles on the implementation of the EU provisions on fair remuneration across EU member states

7. Risk assessment

As this project will build on the project VS/2017/0362 we can be confident that the construction of additional module of the wiki database is not a risk factor anymore thanks to the experience of the last project. As there are many white spots in terms of collective bargaining agreements, we are limiting the scope of data collection to 10 EU member states, where we know that agreements are in place or are under negotiations. This will limit the risk. Due to the uncertainty due to the impact of COVID-19 we privilege online forms of workshops. We limit the number of physical meetings and place them in the second half of the project cycle. In terms of the risk of failing to deliver an output, we are conscious that the social dialogue meetings with EU employers' associations of the audio-visual sector may well not allow to adopt common guidelines or guiding principles. Whereas the first dialogue during the last project has been constructive and first good results at national level have been achieved, we cannot exclude that negotiations will fail. However, we strongly believe it is in the interest of both, employers and unions/guilds to find common ground. Our strategy will be to design proposals that focus on the areas of common interest (for example legal certainty, confidentiality and protection of data) to mitigate the risks and to achieve a positive outcome of this dialogue.

8. Role of the Project Partners and Cooperation

UNI Europa, FERA and FSE have agreed to work together as Project Partners, with UNI Europa as *lead applicant* and FERA and FSE as *associated organisations* taking into account their different structural and financial capacities.

The staff of UNI Europa will serve as the Project Secretariat and will be responsible for the project management, administration, secretariat, communications and accounting. The staff members will carry out the activities described above as allocated in the Budget Explanation.

The Secretariats of FERA and FSE will participate in the work of the Project Steering Committee and liaise with the Project Secretariat to ensure the participation of their member organisations in the work of the Project Steering Committee and all project activities. They will support the Project Secretariat in the implementation of the project activities. They will participate in the dissemination of outcomes, products and results of the project activities to their member organisations and social partners as well as the public. Finally, they will participate in the evaluation of the project activities. The Secretariats of the Project Partners will meet face to face and over video conference regularly to ensure the coordination among the Project Partners.