

# **IMAGO'S QUESTIONNAIRE ON NATIONAL EXPERIENCE WITH THE LEGAL PROTECTION OF CINEMATOGRAPHERS AUTHORS' RIGHTS**

The European Federation of Cinematographers (IMAGO) represents **over 2,500** cinematographers in 37 countries. Its objectives include the recognition, consolidation and strengthening of author's rights for cinematographers throughout Europe and the world. The present questionnaire should provide an overview of the current situation of cinematographers and has to be considered as an important step to achieve Imago's goal to launch an international campaign in favour of cinematographers author's rights.

## **CONTACT DETAILS**

**Name:**  
**Position or title:**  
**Society, Association, Organization:**  
**Country:**  
**Telephone:**  
**Facsimile:**  
**E-mail:**

## **A.- ON THE LEGAL LANDSCAPE**

- 1. What are currently the most important pieces of author's rights (and copyright)<sup>1</sup> in your country concerning legal protection of cinematographic and/or audiovisual works?** (Please provide information on the relevant laws and regulations, such as their full titles, the relevant sections or paragraphs, dates of coming into force, etc. The questionnaire concerns national experiences with the legal protection of cinematographers author's rights. It is not concerned with the preservation, promotion and dissemination of cinematography, save to the extent that these may be relevant to the legal protection of cinematography as intellectual property.)

**Response:**

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<sup>1</sup> Just for information: Despite the considerable differences between the Continental European model of author's rights and the Anglo-American system of copyright (for example, the almost lack of protection of moral rights in Anglo-American Copyright system, the work-for hire regulation, the almost lack of (non-) compulsory rules on collective licensing, etc.) both systems co-exist under the auspices of the Berne Convention, WIPO treaties and the UN Declaration of Human Rights. Those differences are causing difficulties for global harmonisation within the European Union and are the cause for mayor concern for IMAGO and all Author's Rights' Expert Groups.

2. **Does your country offer legal protection to cinematographic and/or audiovisual works and photographic works?** (Please provide, if possible, further information, for example, specification of article, transcription of legal definition, etc.)
3. **Does your country offer also legal protection to photography which is not considered as “work”, the so called simple or mere photography?** (Please provide, if possible, further information, for example, specification of article, transcription of legal definition, etc.)
4. **Does your country recognize by IP-law or in other ways or means that in a cinematographic and/or audiovisual work may be fixed individual photographic works (and perhaps individual simple photography), or does your country expressly exclude this possibility?**

**If your response is YES to A4:**

- 4.1. **Does your IP law or other law contain a forced legal transfer of rights of cinematographers as authors of those individual photographic works (and simple photographs) fixed in the audiovisual or cinematographic work to the producer?** (Please provide, if possible, further information, for example, specification of article and kind of transferred exploitations rights, transcription of articles, etc.)
5. **Does your country recognize by IP-law or in other ways or means co-authorship of cinematographers of the cinematographic and/or audiovisual works?** (Please provide, if possible, further information, for example, (a) if your law expresses in concrete terms the creative professionals involved in the production of an audiovisual and/or cinematographic work that have to be considered (co-) authors, (b) if your country ONLY recognizes (co-) authorship of the mentioned professionals or leave the door open for other creatives to archive the status of co-author, or (c) if your law doesn't provide a concrete specific regulation and the general principles of author's rights has to be applied in each case of cinematographer's work and (d) if consequently co-authorship is determined “de facto” by the impact of collective administration of audiovisual rights by Collecting Rights Societies or by case-law)

**If your response is YES to A5:**

- 5.1. **Are cinematographers in your country (together with the other co-authors) the original owners of the rights of use (economic exploitation rights) of audiovisual and/or cinematographic work?** (Please provide further information, if possible, for example, specification of article, transcription of legal definition, etc.)
- 5.2. **Are cinematographers in your country (together with the other co-authors) according to IP law or other law, owners of moral rights (for example the right to be named as (co-)authors, the**

**right of integrity of your work, etc)?** (Please provide further information)

- 5.3. Do cinematographers transfer in your country the rights of use (rights of exploitation) to the producer by contract or through statutory transfer or exemptions and to what extent can those rules undermine free negotiation?** (Please provide further information, for example for what kind of uses your country have a forced legal transfer of (co-)author's rights)
- 5.4. How do you appraise the status of cinematographer as (co-) author of the cinematographic or audiovisual work in the day to day practice of audiovisual production? (For example, are moral rights respected, do you have guaranteed to receive equitable remuneration, etc.?)**
- 5.5. Has your association launched lawsuits over author's rights infringements of cinematographers?** (Please provide, if possible, further information)

## **B.- COLLECTING SYSTEM**

- 1. Does a fee-collecting system of (co-) author's rights in audiovisual media through collecting rights society exist in your country? What's the name and address of this Collective Rights Society?**

**If your response is YES to number B.1:**

- 1.1. Are cinematographer beneficiaries of this collecting system?**
- 1.2. What type of use does this Collective Rights Society cover (for example: cable retransmission, retransmission by satellite, retransmission through digital network, copying for educational purposes, copying for research and archives, compensation for private copy, etc.)?** (Please provide, if possible, specific information)
- 1.3. How is the money distributed? For example, what are the percentages of distribution of the amount of money collected by the Collective Rights Society for each beneficiary, including cinematographer?**
- 1.4. Does the Collective Rights Society take into account while establishing the percentages the type of audiovisual or cinematographic work (for example, documentary, TV-series, movie, etc.)?**

- 1.5. Do you consider the collecting-system in your country regarding author's rights in audiovisual media transparent, efficient and democratic?
- 1.6. Does "your" Collecting Rights Society promote cinematographers author's rights, for example does the Society try to give protection to cinematographers against undue pressure to enter into unfair contracts? (Please provide, if possible, more information)

**If your response is NO to number B.1:**

2. Do national cinematographers receive by any other means or ways money from re-use of author's rights in audiovisual media made in foreign countries? (Please provide, if possible, further information)
3. Can you stipulate any current campaign to found a national Collecting Rights Society for (co)authors of the audiovisual and/or cinematographic work or to force an existing Collecting Rights Society to accept cinematographers as new members?
4. Would you support an EU-wide collecting system? In this case one single Collecting Rights Society would be enabled to manage cinematographers author's rights across border?

#### **C.- COLLECTIVE AGREEMENTS AND MODEL CONTRACT FOR CINEMATOGRAHERS**

1. Has your country made collective agreements concerning cinematographer's author's rights (and or copyright)?

**If your response is YES to number C.1:**

- 1.1. Can you please specify the title of the collective agreement and the name of the national Association or Federation which negotiated this collective agreement? (Please provide copy of this collective agreement)
- 1.2. What are the most important items of the collective agreement?
2. Has your Association issued a Model contract for cinematographers? (Please provide copy of the model contract)
3. Does your Association have a database related to court decisions?

**D. FINALLY**

- 1. Can you stipulate any current action, campaign, etc. in your country regarding the recognition of cinematographers' author's rights?**
- 2. Do you think that your country has effective laws that provide support for cinematographers with the potential to push for more protection, for example stronger contractual protection?**
- 3. Is there any other relevant information about cinematographers author's rights in your country?**

**Thank you for taking the time to participate in this global survey**

If you have any questions or comments regarding the questionnaire or IMAGO's project you may visit IMAGO'S web site at [http:// www.imago.org/](http://www.imago.org/) or contact the President of IMAGO, Nigel Walters by the following E-mail [WaltatBush@aol.com](mailto:WaltatBush@aol.com)

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