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Three Appeals for Strong Protection of Authors' Rights

PEN

A World Association of Writers

German PEN Center

I. Authors' rights and the basic right to freedom of expression are interrelated and deserve protection

Authors' rights and the basic right to freedom of expression in spoken, written and visual media, as guaranteed by Article 5 of the German Constitution, are inseparable. In the context of basic law, authors' rights and moral rights form a set of laws that protect freedom of speech and preserve the integrity of an authors' literary as well as journalistic work. This includes making sure that we receive suitable remuneration for the use of our creative output. It also means protecting our work against misuse by guaranteeing that it remains unaltered and undistorted for a statutory period of 70 years after the author's death. Upholding authors' moral rights is an essential requirement for the basic right to freedom of expression as well as the right to artistic and scientific, research and academic freedom.

II. Authors' rights are not the same as copyright:

In the ongoing international debate on authors' rights, we need to be particularly careful not to translate this concept as "copyright" or to use the two terms synonymously. In the interest of objective correctness and linguistic clarity, the systematic approach on which the discussion is based must always be apparent in the different languages: either the exploitation-oriented Anglo-American copyright system as the right to duplicate works, or the Continental European system of authors' rights or "droit d'auteur."

The transferrable, economically oriented copyright serves the interests of the holders of the right to use a work. Authors' rights, on the other hand, are non-transferrable and protect the authors and our works. These systems of rights should complement each other instead of being played off against each other.

III. The interests of the creators and not those of politicians, companies or users should be the standard against which any new developments in authors' rights protection are measured:

While existing laws can be expanded, they should not be limited in scope. When we talk about reform, harmonizing European legal concepts or furthering authors' rights in the digital age, we authors must continue to enjoy the protection that these rights guarantee, and such protection should not primarily benefit the economy or consumers. This also applies to the current efforts on the part of libraries to impose a new e-lending limit on authors' rights that goes beyond the lending of scientific literature, and to pass on the financial burden of library materials and equipment to the authors. We must—and we can—find other solutions in these cases, for example through licenses and remuneration negotiations.

Specific appeals to German legislators currently are:

- Strengthening and preserving the solidary, authors' rights-oriented collecting societies.
- Enforcing the rights of authors and their partners in fighting Internet piracy and adapting the German Telemedia Act accordingly.
- Adopting the coalition resolution in the latest amendment to the German Unfair Competition Act (UWG), which prevents Internet pirates from generating advertising revenue with business models based on the violation of authors' rights.
- Enforcing the obligation of mobile phone and tablet manufacturers to pay device levies on personal copies of electronic works, which has been in place since 2008.
- Ensuring that authors and practicing artists throughout Europe are paid a suitable remuneration, particularly when it comes to the digital use of their work.
- Financial support on the part of municipalities and libraries in funding e-lending programs instead of imposing a new limit on authors' rights that shifts the financial burden onto authors and their partners.
- An overarching, general clause in the TTIP that expressly protects culture and media.

The harmonization of authors' rights in Europe has already taken place for the most part. A uniform European system of authors rights is not necessary—nor should it default to the lowest possible level. Instead, we need to protect and preserve the functioning systems of the many different European cultures.

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These appeals are based on the 10-point manifesto titled “A right which isn’t enforced isn’t a right,” adopted on May 17, 2014 in Schwäbisch Hall, Germany.

<http://www.pen-deutschland.de/wp-content/uploads/2014/09/Das-Manifest-des-PEN-Zentrums-Deutschland-fuer-das-Urheberrecht-Deutsch-Englisch.pdf>