

Knowledge is a powerful tool:

Keeping abreast of European legal matters

Rafał Lisowski

When members of translators' associations in different countries learn about CEATL, one of the first things that comes to their mind is that an umbrella organisation representing translators from all over the continent is probably able to do what national associations often lack the clout and resources to achieve: to lobby for translators' rights at a European level. In fact, CEATL does much more than this, but the fight for authors' rights does play a central role in our efforts. This is why CEATL's Authors' Rights Working Group (WG) is always busy.

Monitoring European copyright legislation

Long-time readers of *Counterpoint* may remember that the WG was featured in the very [first issue](#) of the magazine in 2019. Back then, the European Parliament had just approved the [Directive on Copyright in the Digital Single Market](#) (DSM), the first major piece of European legislation concerning

authors' rights in years. Among its many provisions, the directive included a crucial chapter on proportionate and appropriate remuneration, transparency obligation, and contract adjustment mechanisms which had been the main focus of CEATL's and the WG's lobbying efforts. With the European stage over, the battle continued at national level, where it was up to lawmakers in every individual country to come up with the local implementation of the directive. In CEATL, we turned from lobbying to advising, aiming to assist translators' associations in their push for fair legislation. The WG wasted no time and drafted a detailed document focusing on provisions which could help advance the situation of authors in general, and of translators in particular. CEATL member associations received this in late 2019 so that they could arm themselves for the struggle ahead.

And a struggle it has been. More than three years later, with the European

deadline for implementation long gone, many countries still lag behind. Others have implemented the directive in a less than satisfactory manner, either not giving it due attention, yielding to pressure from more powerful parties such as publishers and producers, or allowing existing laws to compromise the intended aims of the directive.

The CEATL Authors' Rights Working Group

Just like CEATL in general, the Authors' Rights WG is representative of the varied European landscape of literary translation. Its current coordinator is Cécile Deniard (France), with long-time members Elisa Comito (Italy) and Rafał Lisowski (Poland), and the newer members Hilde Lyng (Norway), Andreas Jandl (Germany), Jaakko Kankaanpää (Finland) and Tinna Ásgeirsdóttir (Iceland). When the world stopped during the Covid-19 pandemic, the WG made good use of the newly available technology and now collaborate on a much more regular basis: Instead of meeting only once a year at the AGM, the WG now meets on Zoom every month or two.



The Authors' Rights WG has continued to monitor the situation, raising awareness and conducting surveys on the progress of local legislation. Thanks to our efforts, our member associations have remained well-informed about the DSM directive. Unfortunately, however, many have reported that they haven't been able to fully participate in consultations as rightful stakeholders. We have sent letters of concern to national lawmakers (e.g. Austria) and gathered information on the most significant obstacles and loopholes in individual EU countries in order to draft a dossier for the Copyright Unit of the European Commission. Although the DSM directive is proving to be the first step towards more balanced copyright legislation rather than the cure-all some hoped it would be, we remain both vigilant and optimistic about its effects.

Taking stock of the legal landscape

The Authors' Rights WG believes that knowledge is a powerful tool. Although authors and translators are the weaker party in the publishing market, we can try to tip the scales in our favour by becoming more aware of our circumstances and comparing them to those of our colleagues in other countries. CEATL aims to facilitate such exchanges of information. This is why the Authors' Rights WG has undertaken the task of conducting a large-scale legal survey and disseminating its results. The survey was conducted in 2021-2022 among the representatives of translators' associations from 27 countries and has enabled us to map the legal situation of literary translators in Europe in terms of the overall legal framework, the scope and duration of

licensing, remuneration, transparency, and respecting translators' moral rights.

Among the most interesting finds was the fact that time-limited licences (usually 5–10 years) are the predominant form of translators' contracts in more than a half of all European countries. Crucially, however, most translators in those countries never receive royalties, which is of particular concern in large language markets. On the other hand, in countries where rights are usually licensed by translators for the duration of intellectual property (i.e. 70 years after the death of the author) royalty clauses are the norm. The survey has also shown that publishers in nearly all European countries expect translators to license away rights in their contracts in as many fields as possible. Yet, in half of these countries no extra remuneration is offered for secondary uses such as e-books, audio books and streaming services. Surprisingly, no advance is given on signing the contract in most European countries. Among other things, we have found that while the main aim of translators' negotiations is the basic fee and royalties, they tend to be more successful when it comes to modifying the schedule of their work. The survey also included a section on a variety of emerging issues. Back in 2021 our members reported no significant use of machine translation in the publishing industry, but these are obviously fast-evolving issues, and we know the temptation is there, so we are monitoring the situation with the help of our members.

Overall, the [final report](#) paints a mixed picture. On the one hand, it highlights

the universal respect for translators' rights as authors and the good job local associations are doing in providing model contracts, codes of good practice and negotiating standard contracts whenever possible. On the other hand, it shows the relatively weak legal framework of the translation contract and emphasises the unique opportunity to rebalance contractual relationships offered by the DSM directive.

“We can try to tip the scales in our favour by becoming more aware of our circumstances”

A broad reach

Useful knowledge needs to be widely disseminated, so in February 2023 the WG held its first [online webinar](#) on the findings of the legal survey, open to translators, legal advisors and other publishing professionals from all over Europe. We plan further, more targeted online events centred around the report in the future. CEATL is a European organisation, but the issues of translators' copyright clearly aren't restricted to this side of the Atlantic. The Authors' Rights WG has initiated valuable exchanges of information with our American colleagues, meeting with



Rafał Lisowski is a freelance translator from English into Polish. He graduated from the Institute of English Studies at the University of Warsaw. He has translated over 80 books of fiction and non-fiction, including works by Kurt Vonnegut, Truman Capote, Stephen King, Colson Whitehead, Jon Krakauer, Akwaeke Emezi and Rebecca Makkai. He is the current chair of the Polish Literary Translators' Association (STL).

Rafał Lisowski

Photo: Ewa Getter-Lisowska

representatives of [The Authors Guild](#) in 2022 to discuss model contracts, legal guidelines, surveys, and our efforts toward collective bargaining in both United States and Europe. In 2023 we extended our transatlantic network of contacts, talking with both The Authors Guild and the [American Literary Translators Association](#), the [American Translators Association](#), and the [PEN America Translation Committee](#).

The legal landscape is always going to present challenges for translators, making it ever necessary for CEATL to play an active part on this front. The Authors' Rights WG is there for European associations to provide support and information on what can and should be done, and to receive their feedback on the most alarming matters.