The Panorama Exception

Why you should confirm the JURI report

Point 46 of the report: *"Considers that the commercial use of photographs, video footage or other images of works which are permanently located in physical public places should always be subject to prior authorisation from the authors or any proxy acting from them"*

Before confirming the JURI vote at the 9 July plenary, you may be asking yourself the following questions.

Will I still be able to share my photos/videos on social media (Facebook, Instagram, Twitter etc.)?

Yes, you will still be free to post your photos/videos on your social media account and share them with your friends. The provision does not mean that individuals will have to take down images posted online. It only says that using these photos/videos commercially (e.g selling them as postcards or embedding them in advertisement video clips), should require the authorisation of the authors (sculptors, architects, street artists). **This will enable authors to be fairly remunerated when their work is used commercially**.

Will documentary photographers/film makers still be able to use photos/videos easily?

Yes, photos/videos will still be easy to use. In fact, the laws in place in the various EU Member States already provide exceptions or authorisation schemes to facilitate the use of photos/videos. **This will not change**.

Will the provision adopted by the JURI Committee rule out the exceptions that are in place in some Member States?

No, the intention of the report is not to ask Member States to modify their traditional laws (some have implemented the optional exception provided in Directive 2001/29, others not). In fact, it is merely an initiative report, and as said by the rapporteur MEP Reda, "it's not legally binding so it's only as important as people think it is". **The report simply raises attention on the fact that commercial use of images/pictures requires authorisation from the authors/artists**.

Is there a need to further harmonise the panorama exception?

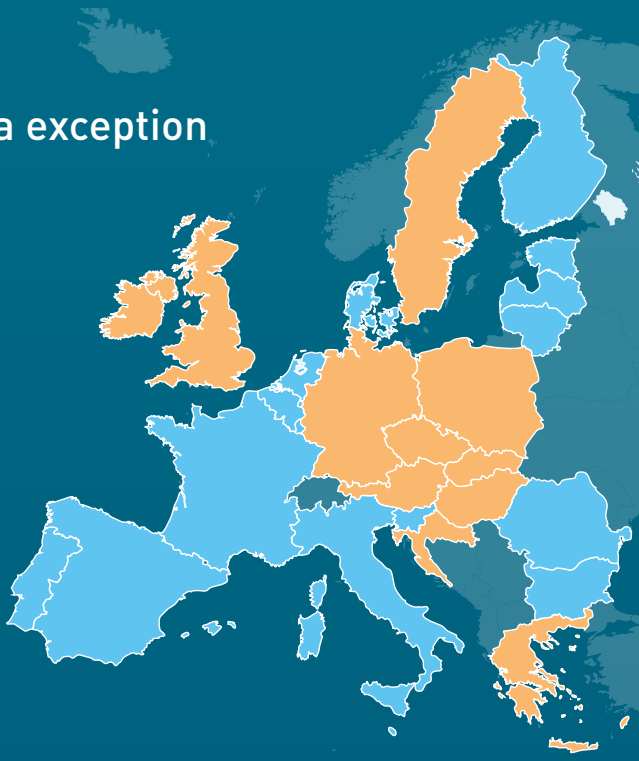
No, there is no evidence of cross-border problems or obstacles to the internal market. Each country has its own traditions and appreciation of the issue. **Solutions already exist in every country to facilitate the use of works**, be it through an exception or by authorisation mechanisms.

So who is currently asking for a larger and more harmonised exception for commercial use at EU level?

To the best of our knowledge, and despite being a non-profit, **only Wikimedia is asking for an EU-level exception that includes commercial use**. Wikimedia knows perfectly well that the use of works in Wikipedia pages is not questioned by authors, even in countries where there is no panorama exception.

This also means that if point 46 of the JURI report were to become law, it wouldn't actually change anything for them. In fact, Wikimedia has refused, time and again, to accept anything but an authorisation that includes supplying high definition files, commercial use of works and the right to use them in any modification or context, without permission or remuneration. **If Wikimedia's combat is to deprive authors of their rights in order to allow large companies to make easy money off their works, this is clearly unfair and economically unjustified**.

More on the Panorama exception



The Panorama exception is one of 20 optional exceptions provided for by Directive 2001/29, and applies to the «use of works, such as architecture or sculpture, made to be located permanently in public places.»

Today, some countries have transposed the exception for works in the public space, including commercial usage ● while in other countries, commercial usage requires prior authorisation ●.

In the countries where there is no Panorama exception, **practical mechanisms and solutions are in place to facilitate granting authorisations**. For example, if you want to photograph the Eiffel tower by night for your private use, there's no need for an authorisation. If you want to print out these pictures and sell them as postcards or use them for advertisements, you are required to contact SETE (the company that manages the image of the Eiffel Tower on behalf of the City of Paris) to find out more about the authorisation you may need.

In some countries, the remuneration for commercial use of photos/images of protected works is substantial for the artist. There is no reason to abolish this source of income. **In France for example, the introduction of this exception would entail a loss of 3 to 6 million euros, or 10 to 19 percent of revenues per year**. This would mean a major loss in revenues for sculptors, authors of street art, architects, etc.

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info@evartists.org
secretariatgeneral@gesac.org