

Spontaneous contribution of CEATL to the Special Rapporteur's consultation on the impact of intellectual property regimes on the enjoyment of right to science and culture

* Firstly, it should be pointed out that, though the call for contribution refers to article 15 of the International Covenant on Economic, Social and Cultural Rights, this article can be paralleled with article 27 of the Universal Declaration of Human Rights, which states that :

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Yet the seemingly inherent tension between the two paragraphs is diminished when one considers that the word « freely » should not be understood as meaning « without paying », as some proponents of the Pirate party would have us believe. It is about moral and political freedom, and this appears clearly in the French version of the Declaration : « Toute personne a le droit de prendre part librement à la vie culturelle de la communauté, de jouir des arts et de participer au progrès scientifique et aux bienfaits qui en résultent. »

Apart from political issues, technical issues can also prevent people from accessing works, which is why all initiatives aimed at reinforcing accessibility (such as the creation of the Accessible Book Consortium within OMPI) and the interoperability of e-readers are welcome.

* Secondly, as a council with 35 member associations from 29 countries representing more than 10 000 individual authors, the CEATL would like to point to the Special Rapporteur the specific impediments suffered by literary translators in the enjoyment of their material and moral rights :

Although the Berne Convention grants protection to translations (article 2 : « Translations [...] shall be protected as original works without prejudice to the copyright in the original work”), literary translators are frequently not recognized as authors (in fact if not in law) and therefore denied the moral rights that go with this status (“the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation”). Indeed, their name is sometimes omitted in the book or, very frequently, on the websites and catalogues of publishers, on promotional material, etc., and their right to the respect of their work is considered of secondary importance. As a result of this lack of recognition, literary translators are in a poor negotiating position and are offered very low basic fees for their work and ridiculously low royalties (often nothing, mostly less than 1% of the net retail price). Since they are not protected as salaried employees can be (there is no legal minimum

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rate), and not recognized enough as authors to get a fair share in the revenues resulting from their works, they lose on both counts and scrape a living with miserable earnings, as was amply demonstrated by the [CEATL's survey on literary translators' comparative income](#): « Looking at gross income we can see that [European] literary translators earn much less than workers in the manufacturing and services sector. Those working for the lowest rates earn at best two thirds (and in nine countries not even 40%) of what an industrial worker earns; and in six countries, even those working for the maximum rate do not earn more than two thirds of the average gross income in the manufacturing and services sector.” For a presentation of the “economic and social situation of literary translators” and propositions to help them to better benefit from the material interests resulting from their work, please refer to p. 29-31 of the [Petra Report](#) published in 2012.

What's more, while literary translators already suffer from catastrophic working conditions, they also share other authors' misgivings about the ways and means by which they are going to receive fair payment for new and developing uses and modes of dissemination of their works. E-lending, in particular, raises a host of issues and the mechanisms to grant authors fair payment, probably through collective management, are not yet operational. Furthermore, provisions concerning the commercialization of our works via “bouquets”, subscription platforms, and the participation to all profits stemming from the use of our works are currently absent from translation contracts or insufficiently precise.

The least we can say today is that the objectives outlined by UNESCO in its [1976 Nairobi Recommendation](#) on the Legal Protection of Translators and Translations and the Practical Means to improve the Status of Translators are far from being realized, though it noted their extremely important role in promoting understanding between peoples and co-operation among nations by facilitating the dissemination of literary and scientific works, including technical works, across linguistic frontiers and the interchange of ideas.

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