

ELEMENTS OF THE PRESENTATION OF YSOLDE GENDREAU AT SCCR 38

As you can see, there are a number of points in our program, with the first one being the issues that need to be clarified in order for us to proceed with a realistic and credible report.

The first point we need to examine, it is that of the relationship between theater directors and other theater directors. Other theater directors may be inspired by what a previous colleague has done. In reference to other theater directors, one of the questions that we are looking to examine is how they see the functioning of the relationship between their productions. Following that, we are going to look at the relationship between theater directors and other theater directors or director of producers. Now, these theater directors, production directors, they work with theater directors, with some of them already having a relationship with specific theater directors. What is going to be highlighted here is the nature of the contribution that each makes to the production.

Theater directors do not work in a vacuum as they work together with other cultural artists that are involved in putting on creations. First and foremost, who they work with are authors of theater productions, those that write the scripts, those that are involved in operas for instance. There may be for example specific works created by contemporary authors or musicians, or something for a new performance or the relaunching of a performance in a different fashion. Theater directors work on these together with a number of other creative artists, and they may work on older works that are in the public domain which are not protected by copyright. I have spoken with theater directors about their relationship with musical directors, where we have also talked about the relationship with the choreographers. If we are talking about ballet, and the choreographer, for instance, it is separately identified from the theater director as such giving us a clearer separation of the work between the two.

Many work in close collaboration with those who create the scenery, the costume creators, and they work very closely with the other creative professionals. The theater writers may also have to deal with other theater directors that may be distributing productions, for instance, through the federation of broadcasting companies and through classical means such as satellite and cable. There is a relationship here, which is interesting for the examination for our study.

We have to look into these relationships so that we can better serve the rights of the theater directors. Through cross-cutting and through all of these relationships that we are looking at, we have to look at the relationship, the degree of interest in clarifying each of these relationships to see to what extent the theater directors need the clarification of those relationships with the nature of the relationship specified. Something else that we are interested in is to through archive research to see to what extent each of these persons are actually aware of the legal environment and the rules already existing.

In addition to legal research, we are going to consult people. Those consultations in the field are necessary because we want to do work based on the text which can be identified and which is evidence-based in terms of consultation with individuals. Therefore, we will be meeting with theater directors and we know that those meetings will enable us to clarify the concerns of the theater directors themselves. Theater directors are important and we want to know their point of view and the extent to which we have shared concerns. We will be identifying some of those theater directors and will be talking to their representatives through professional associations, those that work with them and who represent them and their interests. We also may have the opportunity to speak to authors, and I mean that as broadly as possible, the authors and the

performers who interact with the theater directors. We will also talk to theater directors who may also be interested in giving us their points of view and, of course, we must not forget the theater directors and the representatives of the distribution of the theater core productions who certainly will be involved.

We are also going to identify people in different countries with whom we can have this conversation and we believe that we'll be able to count on the help of WIPO to identify suitable persons to interview. The Delegations Member States who are present at the SCCR could also give us the contacts of persons who they consider important for us to interview. We very interested in receiving those comments.

Because WIPO represents so many countries, a certain selection has to be made, a selection of countries that may be considered representative of the various options that may exist in the protection for theater directors' rights. So, of course, the purpose here, it is certainly not to make countries feel excluded from this research, but rather to help Delegations see that some countries have been identified as representative, but this does not prevent some other countries from making themselves known.

First, I suppose the representative countries from the confederation of independent states will include Russia, of course, but also Armenia, others as mentioned by my colleague, there is a specific legislation on this matter, and Kazakhstan. We will look at the countries from the European Union, of course and we have identified France, Germany, Italy, the United Kingdom. The United Kingdom may be part of the E.U. countries or not during the course of our studies, but this should not deter us from considering them from part of our study.

From North America we will include research from Canada, of course, since I'm part of this study, as well as from the United States, Latin American countries are certainly not to be forgotten. We value be looking at both Argentina and Brazil as representative countries of that region.

From Africa, Senegal has been pointed out to us as an interesting country to include because it has provided a specific right to theater directors and also because it is an African country of the author's right and tradition which explains why Kenya has been the other African country to be identified as a country from the copyright tradition.

We have also identified one country from the Arab world, Algeria, and from Asia, there will be also China, India as well as Japan.

The work, the interrogations with respect to what we have with our study, it will hat least for the moment touch upon research from these countries with the help of WIPO as well as other institutions or persons in the countries who will be willing to cooperate with us. This fact-finding mission should lead to the preparation of possible case studies that will be designed to make everyone aware of the possible issues that arises in the protection of theater directors.

We will want to draw -- we would like to create national examples as well as international ones from a national perspective, for the moment, of course, we have not started to create case studies but an approach that we may take is to identify for instance situations where theater directors are protected as authors and where this is specifically recognized in the law so we would like to have a case study under that kind of system. We would also like to see perhaps to identify a case study where the theater directors are recognized as authors but not because they're directly named at such but rather because their work is considered a protected work. So we're looking at

an interpretation of the status of author or of the status of work.

A similar exercise will be conducted with respect to their protection under a related right or neighboring right to the same regime and for that case study there are countries where the theater director is protected as performer and it is recognized as such and there are countries where the protection as theater performers is a performer right protection because of the interpretation of the notion of performance.

Last but not least, we have to be conscience that there are countries where their protection is and should through contractual relationships and this is also a kind of case study that we would like to look at with a possibility that the case -- that the contract that we may be referred to specify that they're protected as authors or as performers or may say nothing at all with respect to that particular status.

As cross-border examples, for the moment, we may have to draw up a situation where theater productions actually go on international tours and we may think for instance about a production of the Cirque du Soleil, the productions of those they go through various countries and it will be interesting to have an idea of the kind of problems they may have. I'm also pretty lucky that they're based in Montreal. I may be in direct contact with their lawyers. There are, of course, other productions, not just them, and this is as an example, but there will be other productions that raise cross-border issues because they are communicated through various cross-border media activities and I'm thinking here of the various productions of theaters that are shown on screen performances around the world opera productions, also similar modes of communication, and this is a contemporary phenomenon where we see an increasing number of productions that are seen worldwide thanks to our modern technology.

To conclude this preliminary report, we do not have, of course, immediate conclusions, and I would say that our conclusions for the moment are rather questions that we may want to raise. One set of questions, of course, it is that there may be other persons, institutions, situations that would be worth including in our research and if we receive more information in this respect, we are sure that this will improve our insight into this issue and it will only make our report better and more in touch with reality.

Another question that we may have, it is something that will be able to observe from our fact-finding mission, it is that what is the overall importance of the various case scenarios? Are we in an environment where an author's right or copyright approach is more prevalent, on the other hand, is it a performer's right, a related right protection that seems to be the biggest industrial trend? What's the biggest trend? What are the merits, and are they firmly entrenched in these positions or not? Is there an interest in the protection that could be more formal in terms of recognition as author or performer? This may lead to the observation that perhaps further investigation is required and perhaps we would be able to identify on what particular issues these further investigations may have to focus.

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