

EN
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Answer given by Mr Breton
on behalf of the European Commission
(20.7.2022)

Article 18 of Directive (EU) 2019/790¹ aims at ensuring appropriate and proportionate remuneration for authors and performers when they license or transfer their exclusive rights for the exploitation of their works or other subject matter. Member States can implement this provision through different mechanisms, including collective bargaining and other mechanisms², provided they are in conformity with EU law. Therefore, the Commission has not promoted a specific way to implement this article. The Commission discussed the implementation of this article in the Copyright contact committee³ and bilaterally when approached by Member States.

The Commission considers that, in principle, Member States could transpose article 18 through an unwaivable remuneration right provided that this complies with relevant EU law, including the principle of contractual freedom, fair balance of rights and interests, and the exclusive rights in the copyright acquis. Any provision implementing article 18 should secure appropriate and proportionate remuneration to authors and performers and should not deprive them of their freedom to decide in the first place whether or not to license or transfer their rights.

The Commission has not yet carried out a final legal assessment of Member States' implementing measures, considering that the implementation is still ongoing and around half of the Member States have not yet transposed the Copyright Directive into national law. Therefore, the Commission is not yet in a position to issue any opinion on individual national implementations of the new Copyright Directive.

¹ Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC, OJ L 130, 17.5.2019, p. 92–125, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0790&qid=1624449921814&from=EN>

² Recital 73 of the Directive (EU) 2019/790.

³ <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?do=groupDetail.groupDetail&groupID=1419>