Society of Audiovisual Authors

Takeaways from the SAA expert seminar on Article 18 DSM Directive

What works, what's contested, and what's next for the remuneration of audiovisual authors?

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Summary

On 30 September 2026, the SAA brought together experts to take stock of Art 18 of the 2019 DSM Directive. The speakers were: Prof. Séverine Dusollier (Sciences Po Law School, Paris), Ricardo Gómez Cabaleiro (DAMA, Spain), Dr. Tomasz Targosz (Partner Traple Konarski Podrecki & Wspólnicy) and MEP Axel Voss (EPP, Germany). Moderator was Cécile Despringre (SAA Secretary General). Speakers' biographies.

Art 18 entitles authors and performers to appropriate and proportionate remuneration when they license or transfer their rights. The timing matters. The Commission is reviewing the Directive, and the Court of Justice is considering the Streamz case. There, Google, Spotify, Meta, Streamz and Sony are challenging Belgium's residual remuneration rights for authors, performers and press publishers.

The experience of Belgium, Spain and Poland shows that unwaivable remuneration rights managed by CMOs work. Spanish authors have relied on such a right since 1967, and Polish authors since 1994. Both countries have extended it to streaming, with no evidence of harm to investment in production, quite the contrary as Spanish production figures demonstrate. The experts explained that Art 18 sets a binding principle while leaving Member States free to choose the mechanism. Among the options, they saw residual remuneration rights as the most effective way to give the principle real meaning. By contrast, individual contract adjustment has delivered little in seven years, because few authors can afford to take on a producer alone and does not provide a systemic solution. Collective bargaining fits in a few legal traditions only, is slow and not designed to deal with copyright revenues.

The panel rejected the platforms' main arguments against the Belgian remuneration rights in the Streamz case. A remuneration right does not mean double payment, and it does not weaken the exclusive right. EU law has long separated authorising a use from being paid for it. The Advocate General's opinion is due on 19 November 2026, with a judgment expected in summer 2027. Speakers agreed that whatever the outcome, the goal of Art 18 remains the same: fair pay for the people whose creativity the audiovisual sector depends on.

Takeaways

- **Remuneration rights work in practice.** Spain has had a statutory remuneration right for audiovisual authors since 1967, and Poland since 1994. Both have extended it to streaming. In 2024, DAMA and SGAE together collected close to €60 million for Spanish screenwriters and directors. Neither country has seen any evidence that this harmed investment in production, quite the contrary with Spain among the country leaders in film production in Europe.
- **Art 18 sets a principle, not a single method.** As MEP Axel Voss recalled, the European Parliament added the principle of appropriate and proportionate remuneration to the EU Commission's 2016 proposal. It was adopted deliberately without a fixed rate or mechanism, so Member States can choose, with statutory remuneration rights being proven to work.
- **'Proportionate' is not the same as 'proportional'.** Prof. Séverine Dusollier pointed out that a tiny percentage of revenues can be proportional without being fair, while a lump sum can be proportionate to a small contribution. DSM Recital 73 also calls for a dynamic assessment, because a work's value can change over time.
- **Residual remuneration rights are the reading that gives Art 18 real effect.** Dr Tomasz Targosz argued that treating Art 18 as a mere declaration, or validating unfair contracts, both lead to unworkable results. An unwaivable right to remuneration collected through collective management organisations meets the obligation while keeping Member States' flexibility.
- **The platforms' arguments in the Streamz case don't hold up on their own.** The experts rejected the claims that remuneration rights mean 'double payment' or weaken exclusive rights. Authorising a use and being paid for it have long been separable in EU law, as the 1992 Rental and Lending Directive shows. Prof. Dusollier added that platforms, not producers, now capture most of the value of exploitation, so remuneration based only on the transfer to the producer misses part of it.
- **The individual remedies are not enough.** Since 2019, the contract adjustment and dispute resolution mechanisms (DSM Art 20-22) have produced few meaningful cases. Using them requires an individual author to challenge a producer and risk their career. Collective bargaining can help, but it is slow, depends on union traditions that many countries lack, and is not designed to deal with copyright revenues.
- **Decisive months ahead.** The Advocate General's opinion in the Streamz case is due on 19 November 2026, with a judgment expected in 2027. Meanwhile, the EU Commission's review of the DSM Directive is examining the implementation of Art 18 and the mechanisms put in place by Member States. Speakers urged that residual remuneration rights be recognised in that review. They agreed that if the ruling departs from the Directive's wording and purpose, the law should be clarified.

Key points during the expert seminar

Part 1. Audiovisual authors' remuneration rights

The 2019 DSM Directive is under review, two years after Poland, the last Member State, transposed it. A Verian-led consortium is doing the supporting study for the European Commission and consulted stakeholders in June. The Commission has no legal deadline for its report and so far, hasn't signalled any plan to amend the directive. Separately, the challenge that Google, Spotify, Meta, Streamz and Sony brought in Belgium in January 2023 (the Streamz case) against the implementation of Articles 15, 17 and 18 has reached the CJEU, after the Belgian Constitutional Court asked for a preliminary ruling in October 2024.

Prof. Séverine Dusollier (Sciences Po Law School, Paris)

- **Unwaivable right to remuneration (residual rights) are those that authors keep even after they transfer the exclusive right.** Such rights guarantee that they can collect a remuneration directly from the operators that exploit their works, outside the contract that they have with the film producer to whom they have transferred their right. **This right exists at the EU level since 1992**, as it was a part of the Directive for Lending and Rental Rights.

Belgium

- **In Belgium residual remuneration rights have been used also for cable retransmission and direct injection**. In those cases, the remuneration is directly collected by CMOs from cable distributors, whatever the contract concluded between authors and producers and between producers and those service providers. This mechanism has been challenged, but the constitutional court has validated the right to remedy the disbalance of negotiation power of authors. Furthermore, when implementing the DSM Directive, the Belgian Parliament extended the residual rights of remuneration to apply to **streaming services and content sharing service providers**. For the latter, it complements Article 17 of the DSM Directive.

Ricardo Gómez Cabaleiro (DAMA, Spain)

- **It's a fact that the introduction of Art 18 came from the power imbalance between parties.** Today, we're asked to pretend as we did not know this fact, for authors to give their works for free. Authors are not publishers nor companies. We are protecting authors from negotiating by themselves with huge companies.

Spain

- **Spain has decades of experience on remuneration rights;** from cinemas to television and VOD platforms. Has it created any problem for the industry and its authors? No. In the mid-60s, there was a pushback against authors' rights when the American cinema entered the market. This resulted in the first Spanish IP law in 1967, with Art 90 covering all forms of communication to the public, including making available. This right was kept despite all amendments to the law over time. It is working and enables many authors to make a living, who otherwise would have been left behind. In 2024, DAMA and SGAE, jointly collected close to 60 million for scriptwriters and directors (excluding music composers). In March 2026, a study[1] showed that the average annual income for these rights is around EUR 5000 per year, representing approximately 13% of their total average annual income.
- **Data shows there is no ground for arguments against remuneration rights**. There is no founded threat against the audiovisual industry. As examples, the Spanish Ministry of Culture recorded 376 Spanish produced feature films, including co-productions, in 2025, the highest figure in history. Netflix

[1] The Spanish study: '*La Importancia Económica Del Derecho De Remuneración En El Mercado Audiovisual Español*', March 2026

opened a European production hub in Madrid in 2019 and announced an investment of more than 1 billion in June 2025.

Dr. Tomasz Targosz (Partner Traple Konarski Podrecki & Wspólnicy)

Poland

- **Already in the Polish Copyright Act from 1994, there were remuneration rights for audiovisual authors.** First, for cinema and rental, later, when implementing the DSM Directive, the remuneration rights have been extended to uses by streaming and online content sharing platforms. Indeed, the logic behind Art 70 of the law, that is the main Polish provision concerning remuneration of authors, has been applied to such new uses: the law presumes a transfer of rights from the authors to the producer, and the authors need to be remunerated in response to this loss. These residual rights are unwaivable and are mandatorily managed by CMOs.
- **Polish authors mobilised for their rights online, and against argument that remuneration would have negative implications**, such as diminished investment and revenues from contractual relations. Ever since the remuneration rights were introduced, agreements have been concluded by CMOs and there has been no evidence whatsoever of any negative effects on investment on new production on streaming platforms.

Part 2. Article 18 DSM

Back in 2016, the European Commission presented a proposal for a copyright directive with a chapter on fair remuneration for authors and performers that included three provisions: a transparency obligation, a contract adjustment mechanism and a dispute resolution mechanism.

MEP Axel Voss (EPP, Germany)

- **Art 18 of the 2019 DSM Directive** establishes the principle that authors and performers are entitled to receive **appropriate and proportionate remuneration** when they license or transfer their exclusive rights.
- **This principle was not part of the European Commission original proposal for the DSM Directive (Sep 2016)**. However, the Commission did recognise that authors and performers could be in a weaker contractual position than the companies exploiting their works. The Commission therefore proposed three corrective mechanisms:

  1) *Transparency*: authors and performers should be informed about how their works were exploited,

  2) *Contract adjustment mechanism*: when the remuneration initially agreed has become disproportionately low compared with the revenues generated by exploitation, the creators could seek additional remuneration;

  3) *Dispute resolution*: to help creators enforce these rights.
- **The European Parliament proposed a new principle of remuneration (Sep 2018),** to not only provide for correction, but for creators to receive appropriate remuneration in the first place, based on the recognition of their weaker bargaining power when negotiating with publishers, producers or intermediaries. The Parliament wanted flexibility to secure remuneration through different mechanisms, including individual contracts, collective bargaining and statutory arrangements.
- **The final adopted Art 18 established an EU-level principle and did not impose one specific method for calculating or guaranteeing that remuneration.** Member States are free to use different mechanisms while taking into account contractual freedom and a fair balance of rights and interests.
- **Recital 73** gives further guidance that remuneration should be based on factors such as creator's contribution, market practice and the actual exploitation of the work, but the directive does not establish a fixed percentage or rate. A lump sum payment could also constitute proportionate remuneration.

- Article 18 should be understood together with Chapter 3 of the DSM Directive.

Prof. Dusollier

- **'Proportionate' remuneration has been translated differently.** In some languages it has been translated into 'proportional' and not 'proportionate', which is different. For an author that receive 0.05% of the revenues of the exploitation of a film, it's proportional without being proportionate to the economic value of the work. At the same time, for an author that contributed to a small part of the work and receives a lump sum, it is not proportional, but it may be proportionate in relation to what they brought to the whole work.
- **Recital 73 is about the economic value of the work, actual or potential**. It's about evolution of the relationship of proportion and fairness; A work or mode of exploitation that right now doesn't seem to be important, may become so in the future. There should therefore be a dynamic assessment in the contract and beyond.
- Art 19-22 give efficiency to the remuneration principle, but the principle as such is also important. It has been reaffirmed by the Court of Justice recently in the ONB case C-575/23 about performers. The decision clarifies that Art 18 applies also to contracts concluded before the entry into force of the DSM Directive, for the performances made after.
- The principle of appropriate and proportionate remuneration applies also when the transfer of rights comes from a legal presumption. Even if there's no contract and there has been no mode of calculation of remuneration, the Art 18 principle still applies.

Dr. Targosz

- **There are three different ways of interpreting Art 18.**
- One way is as a declaration of good intentions, as an introduction to the other instruments available in Art 19-22. However, these other provisions do not deal with the issues addressed in Art 18, except in part for the contractual adjustment mechanism in Art 20. But using this latter provision as the main one would bring uncertainty and any contract could be subject to litigation.
- Another one is to say that it should be implemented as it is, without adding any further tools. This means that a contract that doesn't provide for fair and proportionate remuneration is contrary to law and therefore invalid.
- Thirdly, the reading that obligates Member States and gives them flexibility at the same time would be residual right, which already exists in European law. **The real meaning of Art 18 should not be purely formal measures; it should be to make sure that the actual remuneration right is fair.**

Gómez Cabaleiro

- Art 46 in Spanish law establishes that when writers give their rights to a book publisher, the payment should be proportional. The first payment is a lump sum, so called proportional 'payment in advance', a very low percentage, that ends up being the only payment and it is valid because it respects the 'proportional' requirement. However, it remains very low and it is not proportionate. This illustrates that both proportional and proportionate remuneration is needed.
- The directive provides guidance of the actual and potential value of the rights; the Court of Justice has already shown in the SENA case (C-245/00, on equitable remuneration) that an open-ended concept of European law can also require uniform interpretation.
- In good faith, appropriate means that the remuneration must fairly reflect what rights are transferred, for which uses, for how long, and with what scope. Proportionate requires a reasonable relationship between the remuneration and the value of the rights and their exploitation. The problem arises when the author receives an initial payment and is disconnected from the subsequent success of the work.

- In the seven years that the DSM has been in force, there are rare examples of court proceedings that have solved real problems under the Art. 20-22 mechanisms. This can be understood as the market is balanced and authors are happy, or that it's not the way for authors to solve things against very big market players. What truly helps authors to make a reasonable living is the intended meaning of Art 18.

Part 3. What's contested?

At the CJEU hearing of the Streamz case in July in Luxembourg (the web stream is not available anymore), we heard the arguments of Google, Spotify, Meta, Streamz and Sony against the Belgian residual remuneration rights per se, and in relation to Art 18. Here are 7 of their arguments that are relevant for this discussion:

1. *Art 18 only deals with contractual relationships between authors and performers, and producers on the other hand. It's therefore not a possible legal basis for remuneration rights, that go beyond the contractual sphere and establish an obligation to pay by a third party.*
2. *The refusal by the European legislator to include a remuneration right in the directive at the time of the negotiation precludes a Member State to implement one at national level.*
3. *Remuneration rights result in a double payment for the transfer of the exclusive right on one hand and for the residual right paid to the CMO on the other hand, that creates legal insecurity for platforms who face additional claims for payment while they already acquired a licence.*
4. *Authorisation and remuneration cannot be dissociated.*
5. *Art 19-21 are there to establish the appropriate and proportionate remuneration of authors. Implementing Art 18 does not require additional mechanisms at national level.*
6. *A residual remuneration right is contrary to the full harmonisation of Art 3 2001 InfoSoc Directive.*
7. *Remuneration rights weaken the exclusive rights.*

The lawyers of the Belgian state and their supporters, including the authors and performers' organisations, as well as Germany, Spain, France, Italy, Hungary and Poland counteracted these arguments, but what's the take from our experts:

MEP Voss

- It is good that we have achieved the general principle of appropriate and proportionate remuneration, with flexibility including collective and unwaivable right to remuneration. The disadvantage is the flexibility that leads to legal uncertainty and uneven practical national implementation. Art 18 has provided Member States with an opportunity to establish effective remuneration mechanism but do the courts have the same interpretation?

Dr. Targosz

- Arguments such as **double payment,** can mean that the author received two payments. In general, receiving multiple payments is not the problem. Arguing against the fact that authors get more money means arguing against the very purpose of Art 18, which is aimed at securing more remuneration to authors via the principle of appropriate and proportionate remuneration.
- Concerning the separation of remuneration and authorisation, it is a dogmatic issue, and EU law already provides such separation in other directives. Therefore, from a practical perspective, the separation already exists and it becomes more of a discussion on whether the legislator wanted this separation with regard to Art 3. Thus, this argument does not stand on its own and it needs to be combined with other arguments to be substantiated.

Prof. Dusollier

- **Art 18 is not only about contracts**; it is important to mention that this article is under title '*IV. Measures to achieve a well-functioning marketplace for copyright*'. Before the online platforms, authors transferred their rights to the producers, who were the economic actors primarily responsible for the exploitation. Today, you still have the first contract, but the exploitation is primarily done by the very big platforms, and the producer is the negotiator, who might negotiate lower royalties in exchange for more promotion of the work – if we take inspiration of an old practice in the music sector. So, calculating remuneration based only on the transfer to the producers, may not capture the full economic value, which could be collected directly from those platforms.
- **Residual right doesn't amputate exclusive rights**; this view confuses different types of remuneration rights. There are some that exist because the IP owner does not have control over the exclusive rights, such as broadcasting; and also, remuneration rights that are in the form of compensation, such is the case for private copying, which again are related to a lack of control over the exploitation. In the case of the residual remuneration right, this is triggered by the transfer of the exclusive rights without delimiting them.

Gómez Cabaleiro

- **Exclusive right and remuneration right shouldn't be confused**: it's about the author transferring their right to the producer, who authorises the platform and at the same time, the law reserves a remuneration right for the author. The platform needs both to acquire permission to use work and pay the remuneration. There has never been a confusion in other cases in Europe, e.g., the Lending and Rental Directive, so we shouldn't allow for it now.

Part 4. What's next?

The Advocate General will deliver its opinion on the Streamz case on the 19 November, and a decision can be expected in the summer of 2027.

In the context of the DSM Directive review, the consultants are focusing on contract adjustment mechanism and collective bargaining agreements as the main ways to implement Art 18.

Dr. Targosz

- In Poland there is no tradition of collective bargaining, if it would be introduced, it would replace an already very effective system, and what does it mean? Bringing rightsholders together so they have more bargaining power and a representative - then that is basically what a CMOs is, with a similar mechanism.

MEP Voss

- Art 18 is a good starting point, it gives flexibility, including collective or unwaivable remuneration right. It is an opportunity for Member States to establish an effective remuneration mechanism. Not sure if more legal certainty should be given on EU level.

Prof. Dusollier

- Belgium e.g., doesn't have a lot of collective bargaining, while France does. Collective bargaining can work, but it's slow. It's mostly carried out by unions and can be about practices in the sector that aren't related to copyright revenues. It's not to be confused with intervention by CMOs that only have the mandate to look at copyright exploitation. Collective bargaining might touch upon the contract regarding labour conditions, but it won't be comprehensive. It would take years to take root and become efficient in countries without it.

- Contract adjustment mechanism according to Art 20, requires the individual author to be bold and courageous to complain about disproportionately low remuneration, risking being blacklisted in their future career. It won't change the fairness of copyright contract overall.
- Residual right does not solve everything. For AI, it would mean that authors would be compensated, while the AI providers could continue to extract value of all creative works. However, it is a complement to what contracts should achieve in the first place.

Gómez Cabaleiro

- Bargaining alone wouldn't work if they started from scratch today. The unbalance between the parties is so big that a stronger intervention, meaning unwaivable rights should be enforced. This is the case for Spain.
- Trust that the forthcoming Streamz decision will be consistent with the principle and the drafting and actual wording of the legislation.
- There is no one theoretical way to achieve what the law is trying to achieve with Art 18. If the court ruling goes against the wording, then we should change it, because our remuneration goal with Art 18 remains the same, which is to protect human creativity.

Additional sources

- Prof. Dusollier was the main author of the Opinion of the European Copyright Society in the Streamz case (C-663/24): The validity of the residual right of remuneration under Articles 17 and 18 CDSMD
- Mr Voss was the Rapporteur for the EU Parliament's report: *'Copyright and Generative AI – opportunities and challenges'* (2025/2058(INI)), adopted 10 March 2026
- **EU**: The SAA overview of the main EU legislation for audiovisual authors
- **Belgium**: Copyright Act: Art XI.228/11 (Art 62 Law of 16 June 2022): streaming; Art XI.228/4 (Art 54 Law of 16 June 2022)
- **Spain**: Art 90 of the Intellectual Property Law: Remuneration of authors. BOE-A-1996-8930 *Real Decreto Legislativo 1/1996, de 12 de abril, por el que se aprueba el texto refundido de la Ley de Propiedad Intelectual, regularizando, aclarando y armonizando las disposiciones legales vigentes sobre la materia.*
- **Poland**: Art 70 of the Polish Copyright Act (transposing law)