



INTERNATIONAL  
FEDERATION OF  
CINEMATOGRAPHERS

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FOR THE ART OF CINEMATOGRAPHY

**Brussels, February, 2022**

**STATEMENT ON GUIDELINES ON THE APPLICATION OF EU  
COMPETITION LAW TO COLLECTIVE AGREEMENTS ON WORKING  
CONDITIONS OF SOLO SELF-EMPLOYED PEOPLE**

**Basic Comment**

IMAGO very much welcomes the fact that the EU wants to enable competition and antitrust law collective bargaining for solo self-employed people in the arts, culture, and creative industries to ensure decent and appropriate working conditions for everyone in Europe. The EU-Commission therefore acts in accordance with Art. 3 Paragraph 3 TEU, 28 Charter of Fundamental Rights of the EU, Principle 8 of the European Pillar of Social Rights and the ECJ case law on bogus self-employment and collective agreements.

The guidelines for collective agreements on the working conditions of solo self-employed are therefore another important step to ensure their employment law protection. In this regard, it must not be forgotten that the EU, in its Directive 2019/790 on copyright and related rights in the digital single market, repeatedly points out that collective agreements play an important role in achieving the level of protection set out in the directive. In this respect, it is to be expressly welcomed that the EU Commission will not act against collective agreements that are concluded according to this directive by self-employed authors and performing artists.

**Situation of cinematographers and creative people in the film sector**

According to the IMAGO Commissions for Working Conditions survey of its members, which was launched years ago (currently being revised for a

new edition), many cinematographers are freelancers who are confronted with precarious working conditions and low and insecure incomes. They also have a systemic weak negotiating position vis-à-vis their contractual partner. Unlike entrepreneurs, these self-employed people are usually dependent on one or a few clients and have their employment contracts dictated by them. It is a professional group that is increasingly slipping into the precariat and, due to incomplete insurance periods, ends up in pre-programmed old age poverty. In this respect, their situation is comparable to the working and living conditions of the large number of creative people in the film sector and in many other sectors in the art and culture industry. It has gone so far that the film and audiovisual industry has long been seen as a blueprint for the future world of work.

### **IMAGO Claims**

From IMAGO's point of view, the initiative described should be pursued further. Enabling collective negotiation of minimum fees is a crucial step in the right direction. The Commission's consideration of suspending the competition regulation for the group of solo self-employed corresponds perfectly to everyday reality, because minimum fee catalogs are far removed from price agreements/cartels, since the latter can only be used by economically strong players such as corporations and platforms to keep their profits up.

However, the initiative must be extended and expanded and sufficiently consider the necessities/particularities of the national law of the member states. In some EU Member States (Spain, Netherlands, Ireland) national competition laws prevent professionals in the film sector from bargaining, while in other EU Member States (e.g., Germany) collective bargaining is expressly permitted.

It must not be overlooked that the solo self-employed have no lobby due to a lack of functioning professional representation. The Commission paper misses a clarification of the role of the social partners. So, it seems possible that solo self-employed people should conduct wage or collective bargaining either alone or with other solo self-employed people. It is also not fundamentally clarified whether trade unions can organize and tariff self-employed individuals.

This responsibility is in the vital interest of the trade union movement, which would otherwise lose its political influence due to the changes in the world of work. On the other hand, however, it should be noted that the legislative competence of the European Union is limited to antitrust law within the meaning of Art. 101 TFEU. According to Article 153 (5) TFEU, regulations relating to the law on coalitions, collective bargaining and industrial action are expressly excluded from the legislative competence under European law and are reserved for the Member States. Nevertheless, the Commission must try to overcome the national differences mentioned to achieve legal certainty and not to discriminate against the solo self-

employed. In this respect, clarification is required on the part of the Commission to solve the many problems in practical implementation.

Overall, the Commission's initiative is fully in line with the idea that the future of the EU is inseparably linked to the further development of social standards that benefit all Europeans, in whatever form they work.

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**About IMAGO**

Founded in 1992 IMAGO is the International Federation of Cinematographers. With 56 national cinematography societies, representing more than 4.000 professional cinematographers across all the continents of the work, IMAGO is an active global network created to bring cinematographers together to discuss solutions to common challenges, promote the art of cinematography globally, and share experience and knowledge.

IMAGO champions the high artistic and technological standards of the cinematography profession and supports the culture of cinematography which is at the heart of the artistic and technological quality of the filmmaking industry.

IMAGO champions working conditions for cinematographers and ensures their voice is heard throughout the filmmaking process, with consultation rights in the presentation of their work through the media.

IMAGO provides guidance and assistance to its members in many diverse environments worldwide, explaining and defending the role of cinematographers where necessary. IMAGO has successfully acted to reverse legislation intended to limit the rights of cinematographers in its members' home nations.

IMAGO leads initiatives against unsafe conditions on film sets. Its Working Conditions Committee (WCC) takes an active responsibility for ensuring a safer future for all cinematographers worldwide.

IMAGO has a duty to educate and encourage the developing cinematography societies among its membership. The IMAGO Technical Committee (ITC) closely follows technology developments and liaises with manufacturers and research institutes. Other IMAGO committees include Education, Authorship, Diversity and Green Initiatives.

### **IMAGO AISBL**

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