

Windfall payments add up

ONE OF THE biggest problems that freelancers face are the unfair contracts imposed on us. To try to fix this, Germany passed a law – the *Urhebervertragsrecht* – that allows German freelancers to go to court to review such contracts. Even if the original wasn't terrible at the time, under the so-called "windfall clause" they can ask for more if the work was an unexpected success.

The film *Das Boot* was certainly one of those. Released in 1981, it tells the story of a submarine and its crew.

A full 16 years later, on 21 December 2017, a Munich court has awarded Jost Vacano, its director of photography, about €438,000 euros as fair remuneration with €150,000 on top for interest. He is also entitled to 2.25 per cent of future net

proceeds. For future TV broadcasts, he may demand reimbursement of fees in accordance with the collective bargaining agreement of the public broadcaster WDR.

The European Federation of Journalists continues to push for a similarly sensible proposal to be included in European Union law. This would at the least set a new standard against which UK law would be judged.

A year in DC?

Are you a young journalist who wants to work at one of the world's premier newspapers? Do you want to follow in the footsteps of James Naughtie, Cathy Newman, Mary Ann Sieghart, Gary Younge and Lionel Barber? Every year, a young British journalist gets the chance to spend three months (paid) at the *Washington Post* and write for the paper as part of the Laurence Stern fellowship. The deadline is **Friday 9 March**. For more information and how to apply see www.city.ac.uk/arts-social-sciences/journalism/stern-fellowship

Freelancers at *Nautilus* magazine Tweet for pay

FREELANCES in the US have even poorer provision for enforcing their rights than elsewhere. There is, at last, a move to set up relatively affordable Small Claims procedures – in the shape of a Bill before the House of Representatives, the would-be Copyright Alternative in Small-Claims Enforcement Act (CASE Act). The Electronic Frontier Foundation is opposing it in case, you know, people have to pay for copyright infringements.

In the meantime, nineteen contributors to *Nautilus* magazine have resorted to publishing an open letter to its publisher: "As of December 13, we are writers and editors awaiting payment from *Nautilus* magazine for a collective debt totalling \$50,000. Some of us have been waiting to be paid for more than a year."

They asked supporters to Tweet out **#paynautiluswriters** – saying "Hopes were high when *Nautilus*

magazine was founded four years ago as 'a *New Yorker* version of *Scientific American*' featuring well-researched and thoughtful articles on science and philosophy." *Nautilus* was "created with a grant from the John Templeton Foundation... [the publisher] promised to pay upon completion of a pending merger with the American Association for the Advancement of Science, or AAAS," they write. The grant was not renewed and that merger never came about.

On 1 February, Shannon Stirone Tweeted: "the National Writer's Union has reached a payment agreement with... *Nautilus*. Never doubt the power of a group fighting for what is right. Thanks to everyone for their continued support!" At the same time Evelyn Lamb noted that "Several writers have been paid in full already."

It would of course be better for freelancers in the US to have a prop-

er legal recourse. But it took several years to get a small claims court capable of hearing cases involving copyright in the UK, after the existing courts were accidentally stopped from hearing these cases. In this case at least, a social media campaign seems to be working.

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onwards. This raises the prospect of new uncertainty for EU nationals in the UK and vice versa from that year.

The *Joint Report* prohibits "discrimination on grounds of nationality" for EU or UK nationals. Cases in the British courts involving EU citizens' rights will until March 2027 "be interpreted in line with the case law of the Court of Justice of the European Union".

This deal doesn't offer much to UK nationals in the EU and is more vague about their fate. Also missing is a credible assurance that the

proposed deal on citizens' rights still stands if the UK crashes out of the EU with "no deal". The European Parliament still threatens to veto the final EU-UK withdrawal deal over citizen's rights.

Subsequent noises have not been encouraging. Speaking to journalists during her visit to China, Prime Minister Theresa May said that EU nationals arriving during the two-year post-March 2019 transitional period will be "registered" at the border, an issue over which a clash with EU negotiators is expected. Figures released in January showed

a sharp rise in EU nationals in UK immigration detention. *Der Spiegel* in December documented recent cases of discrimination and harassment against EU nationals in the UK. These include a professional driver having the validity of his German driving licence questioned, loans and tenancies refused and unlawful requests to check passports. France 24 TV reported on a French sculptor advised by a Post Office clerk checking her PR application to "give up" as she was "without regular, full-time paid employment." Watch this space.

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know what could happen then: "it's one of the questions we need the answers to," he said.

The Union is collecting questions to put to the lawyers it has on standby with expertise on data protection. Quite separate UK laws deal with the authorities' power to look into our phones or computers.

Or, why should people have the right to know what information we

hold on them and what we were thinking of doing with it? On this Mike said: "They don't have that right, but there is the danger is that people will make 'requests' as a form of harassment, not least because of GDPR publicity." When all the questions have been answered, he intends that the Union will produce guidance for members to use in response to such requests.

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• Members at the meeting raised interesting questions, which we will put to lawyers. See the guidance at www.londonfreelance.org/fl/dataprot.html which will be updated as we get answers to these. For some, including the precise effect of the Subject Access Request rules on photographers who are doing documentary or PR work rather than news, the answer may be "we have to wait for the court cases".

Branch annual reports are here

Look for annual reports from London Freelance Branch officers online at www.londonfreelance.org/lfb/reports2018.html