



Conseil Européen des Associations de Traducteurs Littéraires
www.ceatl.eu

Survey on digital publishing rights for literary translators in Europe

(c) Holger Fock, Martin de Haan, CEATL, Brussels 2010

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1. Basis of the survey

Period of time:	February / March 2010
Participants:	26 literary translators' associations (national or regional) from 23 countries:
AUSTRIA	Uebersetzungsgemeinschaft - Austrian Literary Translators' Association
BELGIUM	CETL/SCAM (French-speaking Belgium) VAV Vlaamse Auteursvereniging (Flanders Author's Guild)
CROATIA	DHKP
CZECH REPUBLIC	Czech Literary Translators's Guild
DENMARK	Danish Writers' Association
FINLAND	The Finnish Association of Translators and Interpreters
FRANCE	ATLF Association of French Literary Translators
GERMANY	VdÜ – Association of German Literary Translators
HUNGARY	MEGY - Hungarian Association of Literary Translators
IRELAND	Irish Translators' and Interpreters' Association
ITALY	SNS Traduttori
LITHUANIA	Lithuanian Association of Literary Translators
NETHERLANDS	Vereniging van Letterkundigen / Vereniging van Schrijvers en Vertalers
NORWAY	Norsk oversetterforening, The Norwegian Association of Literary Translators
PORTUGAL	Association of Portuguese Translators
ROMANIA	Writers Union of Romania
SLOVAK REPUBLIC	Slovak Literary Translators' Society - Slovenská spoločnosť prekladateľov
SLOVENIA	Association of Slovene Literary Translators
SWEDEN	The Swedish Writers' Union
SWITZERLAND	AdS Autrices et auteurs de Suisse
SPAIN	EIZIE (Basque Country) ACEC (Catalonia) AELC (Catalonia)
TURKEY	Cevbir
UNITED KINGDOM	Translators Association

2. Preliminaries

Serious concerns about legal and illegal distribution of digitized literary translations have led us to hold this survey.

The main goal was to make a sort of “snapshot” of literary translators’ copyright situation in the new and quickly changing market of digital rights in Europe.

Due to rapid developments, reality may have changed since spring 2010 towards even more digital publishing.

We wanted to find out

- which digital publication forms are already being used
- if literary translators usually cede their digital rights or not
- what kind of remuneration literary translators receive for the use of their work for digital publications
- what is the status of digital rights

3. Digital publication forms already being used in the country

	total	number of countries/regions	percentage
		23	100 %
Download for e-book readers		17	74 %
Download for PC read only and print		16	70 %
Download for smart phones		10	43 %
Download as audio book		15	65 %
Print-on-demand (PoD)		16	70 %
No information was available in:		Hungary, Ireland	
No digital publishing in:		Lithuania, Slovenia (only DoP), Turkey	
No e-books in:		Lithuania, Slovakia, Slovenia, Turkey	
No downloads for PC in:		Lithuania, Slovenia, Turkey	
No downloads for smart phones in:		Austria, Basque Country, Denmark, Finland, France, Lithuania, Norway, Romania, Slovakia, Slovenia, Sweden, Turkey	
No downloads as audio books in:		Basque Country, Denmark, Finland, France, Lithuania, Slovenia, Turkey	
No print-on-demand in:		Austria, France, Lithuania, Norway, Turkey	

4. Cession of rights for digital publications

In 16 countries incl. 1 region (**70 %**) literary translators normally **cede the rights** for the digital publication of their works:

Austria, Belgium, Denmark, Finland, France, Germany, Italy, Lithuania, Netherlands, Norway, Portugal, Romania, Spain (Catalonia), Switzerland, United Kingdom, Turkey

In 7 countries and 1 region (**30 %**) literary translators normally **don't cede the rights** for the digital publication of their works:

Basque Country, Croatia, Czech Republic, Hungary, Ireland, Slovakia, Slovenia, Sweden

5. Contractual distinction between different forms of digital publication

In 7 countries incl. 2 regions (**26 %**) translator contracts normally **distinguish between different forms** of digital publication:

Belgium (Wallonia), Germany, Netherlands, Slovenia, Spain (Catalonia), Sweden, Switzerland,

In 16 countries and 2 regions (**74 %**) translator contracts normally make **no distinction between different forms** of digital publication:

Austria, Belgium (Wallonia), Croatia, Czech Rep., Denmark, Finland, France, Hungary, Ireland, Italy, Lithuania, Norway, Portugal, Romania, Slovakia, Basque Country, Turkey, United Kingdom

6. To what kind of rights does the digital publication of literary translations belong?

The cession of rights for digital publications is normally a part of

	number of countries/regions	percentage
– the primary licence	12	53 %
– secondary rights	1	4 %
– a new kind of rights/licences	3	13 %
– not clear / under discussion	8	35 %

Digital rights are a part of the **primary licence** in:

Austria, Belgium, Denmark, Germany (partly), Italy, Lithuania, Norway, Portugal, Romania, Spain (Catalonia), Turkey, United Kingdom

Digital rights are a part of the **secondary rights** in:

Switzerland (as a matter of principle, but not always in practice)

Digital rights constitute a **new kind of rights/licences** in:

Germany (partly), Netherlands, Sweden

Digital rights are **not clearly defined** or **still under discussion** in:

Basque Country, Croatia, Czech Rep., Finland, France, Hungary, Ireland, Slovakia, Slovenia

At least the **nature of digital rights is still under discussion in all countries**, the survey reports only on the real contractual situation in spring 2010.

This is the most rapidly changing aspect of digital publishing rights. The question is: **where does the download come from**, is it the server of the publishing house or a server of a library, an internet store etc.?

Does any licence exist (for instance in the case of audiobooks for mp3 downloads) or not? Or would it be best to establish a **third category of rights** for digital exploitation of books and literary translations?

7. Fees and royalties for the digital use or exploitation of literary translations

	number of countries/regions	percentage
– No extra fees, no royalties	3	13 %
– Recommendations from the association	8	35 %
– Standard fees used by most publishers	2	9 %
– Different fees, depending on the publisher	9	39 %
– Fees agreed with the publishers	4	17 %
– No further information available	4	17 %

There are **no fees** and **no royalties** at all in **3 countries**:

Italy, Portugal, Slovakia

Recommendations for fees or royalties given by our associations exist in **8 countries**:

Belgium, Denmark, France, Germany, Norway, Slovenia, Spain (Catalonia), United Kingdom

Standard fees or royalties used by most of the publishers exist in **2 countries**:

Germany, Norway

Different fees or royalties depending on the publisher exist in **10 countries**:

Belgium, Czech Rep., Finland, Hungary, Slovenia, Spain (Basque Country and Catalonia), Sweden, Switzerland, Turkey

Agreements about fees (or royalties) with publishers exist in **4 countries**:

Belgium (only Flanders), Croatia, Netherlands, Switzerland

We have **no information** about fees or royalties in **4 countries**:

Austria, Ireland, Lithuania, Romania

8. Forms of remuneration for the cession of digital rights

	number of countries/regions	percentage
– Paid as a one-off fee	5	22 %
– Paid as a share in the profit (percentage of net cover price or net returns)	11	48 %
– Paid as another kind of remuneration	3	13 %
– No information	5	22 %

There is **a one-off fee in 5 countries:**

Denmark, Finland, Norway, Slovenia, Sweden

There is **a share in the profit** (percentage of net cover price or net returns) **in 11 countries:**

Belgium, Croatia, France, Germany, Hungary, Italy, Netherlands, Spain (Catalonia),
Switzerland, Turkey, United Kingdom

There is **another kind of remuneration in 3 countries:**

Czech Rep., Germany, Portugal

No information can be given **for 5 countries** and 1 region:

Austria, Basque Country, Ireland, Lithuania, Romania, Slovakia

9. Current fees and royalties (Spring 2010)

One-off fees are paid as

- **6,25 % of the minimum fee** (agreed between translators and publishers; this is 25 % of the 25 % of the minimum fee agreed for physical audio books) for any additional download right in **Sweden**
- **15 % of the first payment** (basic fee) in **Norway**
- **17 % of the first payment** (basic fee) recommended in **Denmark**

Shares in profit (royalties) are paid as

1) a proportion of the net turnover (based on the net cover price):

- **about 1 %** (varying) in **Croatia**
- **4 %** (recommended by the association) in **France**
- **0,25 - 1 %** (double percentage of printed books) in **Catalonia**
- **0,5 - 1 %** above the threshold of 250, 500 or 1000 copies sold (which is what publishers mostly offer, the association recommends **2 - 4 %** for every download) in **Germany**

2) a proportion of the publisher's net returns:

- **1,25 - 2 %** above the threshold of 250 or 500 copies sold (which is what publishers mostly offer, the association recommends **4 - 10 %**) in **Germany**
- **2 %** above the threshold of 2500 (paper books included), **4 %** above the threshold of 5000 copies sold in **the Netherlands**
- **30 %** (recommended by the association) and **60%** if rights are in the public domain in **Switzerland**
- **30 %** (in some cases) in **Catalonia**
- **50 %** (very seldom) in **Italy**

3) a share of the royalties going to the author:

- **25 %** in **the United Kingdom**

10. Conclusions and outlook

Due to a developing and rapidly changing market the current situation of digital rights for literary translators in Europe is very unclear and confusing.

In some countries digital or electronical publishing is still in its very early stages, in other countries many differentiated forms have already been developed and are being used.

Huge differences exist between European countries not only with regard to the nature and volume of digital/electronic publishing, but also in terms of remuneration. Some countries don't have any e-books or printing-on-demand yet, while others are nervously experimenting with the new media.

In some countries digital publications are (for the time being) considered as by-products of traditional publishing that do not need any special agreement, while in others serious negotiations between publishers and translators have started, sometimes leading to interesting results like the creation of a third category beside primary and secondary rights.

Concerning remuneration there is the same difference as for printed books: only in large countries with many of potential readers will royalties give some extra income to literary translators. But shares in profits of secondary rights could be helpful even in small markets, if there are no one-off fees for the cession of rights to a third partner.

Except in two or three countries there are – up to this moment – no agreements between literary translators and publishers about the remuneration of digital publications. Even the copyright character of the different forms of electronic publishing is unclear: which of them belong to primary rights, which to secondary rights – or do they constitute a new category of rights?

In several countries (for ex. Finland, France, Netherlands, Spain, Sweden) negotiations about digital rights have started. In four countries agreements about fees in the print sector seem to be adapted to the digital sector – but these agreements still need a real adjustment to the new markets. Model contracts or type contracts will also need to be adjusted.

11. Recommendations

In view of these differences, general recommendations cannot be given. It is clear, however, that literary translators will have to guard against buy-out contracts and any kind of agreements taking away their e-rights for a song. This is why CEATL insists on three basic rules to be applied in the translator's contract:

- The cession of rights should be limited to the rights the publisher has acquired from the original author or publisher.
- The cession of rights should be limited in time (a reasonable period would be between two and five years).
- Every single exploitation and every use of the digital book, in whatever form, should be remunerated. This remuneration should ideally take one of the following forms:
 - 1) a lump sum for a fixed number of downloads or a fixed period of time;
 - 2) a share in the profits as part of the secondary rights;
 - 3) a royalty on either the net turnover or the publisher's net returns.

Nevertheless literary translators must have the same rights in the digital world as authors, and an appropriate percentage of the royalties or fees paid to the original authors. Normally this should be a matter of course, but reality shows the opposite.

Therefore we need common rules for authors and literary translators for their participation in the electronic/digital exploitation of their works, and it should be an aim to adapt national copyright laws in this direction.