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When Copyright appears in the library

PUBLIC ASSETS (THE CASE OF PUBLIC LIBRARIES) ARE CURRENTLY UNDER INTENSE ENEMY FIRE. UNDER THE BANNER OF COPYRIGHT, REGULATIONS ARE BEING DRAWN UP THAT, FOR EXAMPLE, PRACTICALLY ABOLISH THE RIGHT TO MAKE COPIES FOR PERSONAL USE OR, AS FAR AS LIBRARIES ARE CONCERNED, FOR KEEPING DIGITAL DOCUMENTS. THIS ARTICLE DEALS WITH ANOTHER HIGHLY SYMBOLIC REGULATION THAT AIMS TO ENSURE THAT LIBRARIES PAY A SUM FOR THE DOCUMENTS THAT THEY LEND OUT.

In November 1992 the European Directive was published on rights regarding hiring and lending, and other rights regarding royalties as far as copyright is concerned. The directive aimed to harmonise the legislation that existed in various European countries at that time. Its first article establishes that the owners of these rights have exclusive power to forbid or authorise their work being lent out and that this right is not restricted to the first time that it is distributed or sold.

The legal concept of Public Lending Rights is one that some countries have used to compensate authors, and in some cases, and only in some, publishers as well, for the use of their work in public libraries, although in some places this measure also affects university, school and even national libraries. Public Lending Rights were created and developed in countries with well-established library systems and high levels of borrowing. They now aim to extend this to all European countries, regardless of whether they have good libraries in which a high number of books are borrowed or not, (as is the case in Spain, where school libraries are practically inexistent and public libraries are many years away from reaching the average level in Europe). Another factor is that the first laws were passed with the aim of protecting and encouraging writing in languages that we could consider to be minority ones judging by their number of speakers: Denmark (1946), Norway (1947), Sweden (1955), Finland (1961), and Iceland (1963). These laws didn't advocate paying any author for books borrowed from libraries but only those authors who wrote in the language of the country concerned.

A crucial aspect of this was that agreement to establish the aforementioned European Directive was only achieved by including the exceptions listed in article 5, which allow, among others, member states to be able to exempt certain kinds of establishments from making this payment. The Spanish State had recourse to this third possibility that regulated this matter in the law currently in force regarding Copyright that established a series of exceptions including the one that exempts all public libraries and those used by the public that are dependent on non-profit-making organisations from this payment.

Poor libraries

Perhaps there is not need to provide a lengthy description of the Spanish library system as its numerous shortcomings and the long decades during which citizens were denied the right to have access to libraries are well known. It is probably more interesting to show various indicators and compare them with those in European countries that they want to put us on a level with, although this is only as far as paying is concerned.

In 2005 primary and secondary pupils still study without having recourse to a library or documentation centre, as there are still no libraries in most schools and institutes. On the other hand, university libraries have fortunately gone in the opposite direction to

school libraries. Between 1981 and 2002 library staff per student tripled, the number of square metres of library per student doubled, the amount spent on libraries per student increased ten times over and the number of books per student increased from 9.9 in 1981 to 21.8 in 2002.

However, let's just focus on public libraries, which are the ones that are responsible for more than two thirds of the items that are lent out (68%). In the last fifteen years, the number of these libraries has increased by 62%, their collections have increased by 85% and users have increased by 141%. Nevertheless, the number of citizens that use a public library still barely reaches 20%, as against the European average of 50%. The investment by central, autonomous and especially, municipal administrative bodies hardly reaches a third of the average amount invested in the European Union. In the year 2000 public libraries in Spain spent 0.67 euro per person to purchase new documents; two years before this the estimated average for the European Union was three times this: 1.88 euro. Whereas one book for every two citizens is purchased for Danish public libraries and in Finland one book for every three citizens, in Spain they purchase one book for each twenty citizens.

Let's take a look at the number of items borrowed. Although public libraries in Spain lent out 0.77 items in the year 2000 (items borrowed/citizen/year) which, although was almost twice as many as ten years previously, this was still light years away from what was the estimated average for the European Union in 1998, which was 4.93, which is six times higher. To put it another way: if the number of items borrowed from public libraries in Spain increased at the current rate, it would reach the European average of 1998 some time around 2030. The latest data: in 1996 public libraries in Holland lent out 11.10 items/citizen/year, in the UK, 9.20 and in Spain 0.62.

Protest

At the beginning of 2004, the European Union held an inquiry about several countries (Spain, Italy, Portugal...) to ask for explanations about the way the Directive was being applied. This managed to provoke the largest-ever protest on behalf of libraries. In a few months professional congresses were organised to debate the matter; more than 400 authors of all ages and styles, (Delibes, Gopegui, Regàs, Marsé, Erice, Lindo, Puertolas, Saramago, Savater, Lledó, Lóriga, Trapiello, Carme Riera...) signed a manifesto against the introduction of a charge for borrowing books, as did more than 500 university lecturers and, most importantly, more than 200,000 library users.

In September the Spanish Government presented its submission to the European Commission, which was not satisfied with its arguments and took Spain to the European Court of Justice. The long list of lawyers that the very powerful companies that handle royalties have on their payroll is getting ready to attack.

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