



Rethinking digital copyright law for a culturally diverse, accessible, creative Europe

Grant Agreement No. 870626

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Milestone Lead:	SSSA
Partner(s) involved:	NUIM, SZG
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Related Task/Subtask:	T2.6. Best practices and policy recommendations
Main Author(s):	Caterina Sganga (SSSA), Magali Contardi (SSSA), Pelin Turan (SSSA)
Other Author(s):	-
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Version history table			
Version	Date	Modification reason	Modifier(s)
v.01	28.06.2022	First Draft	Caterina Sganga (SSSA) Magali Contardi (SSSA) Pelin Turan (SSSA)
v.02	30.09.2022	Second Draft	Pelin Turan (SSSA)
v.03	1.10.2022	Final Draft	Caterina Sganga (SSSA)



1. Role and description of the Milestone

WP2 focuses on end users of copyright content, including those of selected vulnerable groups, such as new and old minorities and people with disabilities. It aspires to comprehend and to demonstrate the impact of the EU copyright acquis, especially the Directive on Copyright in Digital Single Market (hereinafter “CDSM Directive”), national copyright laws of the EU Member States, and private ordering mechanisms (such as end user license agreements, or hereinafter “EULAs”, and general terms of use, hereinafter “ToU”, identified by online content sharing service platforms) on end users’ digital access to culture; whilst taking into consideration the rights, interests, expectation, and behaviours of end users vis-à-vis copyright rules.

In this context, and as a prerequisite to its normative objectives, WP2 has provided a comparative EU and cross-national mapping of public and private sources concerning copyright flexibilities. A vast amount of data has been extracted from 13 EU Directives, one EU regulation, more than 40 CJEU judgments on copyright flexibilities. Additionally, national copyright laws and other relevant laws (e.g. constitution, media law, tax law) of 27 EU Member States have been carefully investigated to identify legal tools that facilitate end-users engagement with cultural content. Finally, the research team based at the University of Szeged has complemented this research, by assessing the EULAs and ToU of major online content sharing service platforms in order to identify the flexibility bestowed upon end-users via contractual provisions set by private actors. The findings of this research were consolidated into ***D2.3 Final report on the copyright flexibilities: mapping and comparative assessment of EU and national sources***. Additional information on the methods of data collection and analysis can be found in the report documenting the completion of ***MS10 Dataset of EU and national regulatory responses and private ordering trends on barriers to access to culture available to the Consortium***.

The dataset and related analysis constituted the basis for the completion of **Task 2.6**, which aimed at drafting a set of policy recommendations on the future of copyright flexibilities and a code of best practices, included in ***D2.9 Policy Recommendations and code of best practices***., submitted to the EC on 30 September 2022. Policy recommendations are addressed to EU and national policy makers, and advance proposals directed to unleash the full potential of digitization and build copyright laws and policies that can achieve a thriving, diverse cultural and creative production, make EU cultural and creative industries competitive, while ensuring universal access to culture, fostering cultural diversity and democratisation, and protecting the fundamental rights of all. Guidance and best practices target copyright users, and aim at explaining in the easiest and handiest way possible the key copyright flexibilities provided by the current regulatory framework, in order to facilitate their broadest adoption and use.

Before their issuance within D2.9, best practices have been tested and discussed at an expert and stakeholders workshop, held at the Institute of Information Law (IViR), University of Amsterdam on 21 September 2022, and entitled “Copyright Flexibilities: mapping, explaining, empowering”. The workshop also marked the achievement of MS14, as illustrated in this report.

1.1 Deviations to Annex 1

- No changes needed - project is on track
- Reorganisation of the project



2. Means of verification

In line with the plans envisioned under Task 2.6, the draft best practices on copyright flexibilities prepared by the WP2 researchers based at Scuola Superiore Sant’Anna have been discussed with scholars, experts and a variety of relevant stakeholders at a workshop organized together with Communia and held in a hybrid format (also on Zoom) at the Institute for Information Law (IViR), University of Amsterdam, on 21 September 2022, from 9 am to 5 pm CEST.

The event, open to the public and broadly advertised with more than a month in advance on all reCreating Europe’s and Communia’s channels, was entitled “**Copyright Flexibilities: mapping, explaining, empowering**”. It brought together the core research teams which have developed three websites/databases devoted to users’ rights and copyright flexibilities (www.copyrightexceptions.eu, www.copyrightflexibilities.eu and www.copyrightuser.eu), national copyright experts who contributed to the mapping, and stakeholders representing various groups of beneficiaries. The workshop had three aims, i.e. (i) to launch the three platforms, gather feedback on their functionalities and plan their future; (ii) to discuss the state of copyright flexibilities and necessary policy actions at the EU and national level, with three expert panels on (a) teaching and research; (b) freedom of expression and (c) cultural uses and preservation; (iii) to present and test reCreating Europe’s best practices on copyright flexibilities with interested stakeholders. Best practices were circulated among registered participants via a Dropbox Transfer link, sent via email a few days in advance of the event.

For the online invitation and registration page and the program of the event, see <https://www.recreating.eu/2022/08/04/workshop-copyright-flexibilities-mapping-explaining-empowering/> (or the page printing in Annex II).

For the best practices discussed at the event, see ***D2.9 Policy Recommendations and code of best practices***.

For the list of speakers and attendees, see **Annex II**.

This Milestone report provides a brief overview of the discussion that took place during the event.

3. Highlights and conclusions

The workshop “Copyright Flexibilities: Mapping, Explaining, Empowering” brought together the core research teams of both reCreating Europe (Bartolomeo Meletti and Caterina Sganga as speakers, Magali Contardi, Pelin Turan and Peter Mezei in the audience) and COMMUNIA (Paul Keller and Ana Lazarova as speakers, Teresa Nobre as a panel chair), and on the other hand, extended this conversation to an audience comprised of a diverse group of participants, including but not limited to national experts who have contributed to the legal mapping activities of WP2, researchers from other reCreating’s WPs, academics and scholars across Europe, as well as several representatives of the GLAM sector.

The workshop initiated with the welcome remarks of the co-moderators, Caterina Sganga (Coordinator of reCreating Europe) and Paul Keller (President of COMMUNIA), followed by an overview and explanation of the workshop programme, which consisted of three main parts.

The first part was dedicated to the launch and/or testing of three online platforms aimed at making copyright law more accessible to the public at large - *copyrightexceptions.eu* by COMMUNIA, *copyrightflexibilities.eu* by reCreating Europe, and *copyrightuser.eu* by reCreating Europe and CREATE.



In this sense, the workshop represented yet another milestone for the research activities of WP2, since it marked the first public presentation of the database linked to the mapping conducted under T2.1 (*copyrightflexibilities.eu*) has been introduced to the public for the first time, before its official launch in the next weeks. Caterina Sganga explained the overarching aims and objectives as well as the methods employed by the SSSA research team to collect and analyse the data available on this platform. The features of the platform (i.e. description of the reCreating Europe project, visualisations, analysis and comparative reports, glossary, editorial board and contributors) were also illustrated, and the various ways to conduct research on the database (i.e. country-specific research, search per category or by sub-category of flexibilities) were explained in detail.

Copyrightuser.eu was presented by Bartolomeo Meletti (CREATe), who offered a short synopsis of the model on which the new website will be based (*copyrightuser.org*, directed to the UK market and based on UK copyright law), and explained how the new platform will be developed in the following months. Paul Keller (COMMUNIA) illustrated the new features of "*copyrightexceptions.eu*", which now goes beyond the InfoSoc Directive to map the implementation of all EU exceptions and limitations by Member States, offering details on the key features of national provisions.

After the online platform presentations, it was the turn of three substantive roundtable, featuring Paul Keller, Caterina Sganga and Teresa Nobre as chairs, and selected national experts for reCreating Europe's mapping as speakers. Each roundtable focused on a specific category of copyright flexibilities, namely teaching and research, cultural uses and preservation, and flexibilities for freedom of expression. Speakers shared their insights from their own national jurisdictions and commented on the level of harmonization reached in the past years, adding hints on shortcomings and flaws to be tackled.

The workshop continued with a panel devoted to the testing and discussion of reCreating Europe's Best Practices on copyright flexibilities, which were circulated among registered participants in advance of the event via Dropbox Transfer. This allowed to directly open the floor for discussion without the need to present the draft text beforehand.

The drafts were well received by the audience, and their content was not subject to substantive criticisms. Yet, several issues were raised by experts and stakeholders with regard to technical, structural and terminological details. First and foremost, it was suggested that the target audience shall be clearly defined, as this is crucial for setting the tone, the use of terminology, classification of copyright flexibilities, and for the facilitation of the navigation within the text. Then, several participants of the workshop advised to simplify the language, and to eliminate certain technical terminology. It was also highlighted that the general categories used to group flexibilities may not be easily understandable for most non-technical stakeholders, even if they have been selected in light of the human rights discourse and the fundamental human rights and liberties. The audience suggested to replace categories with sub-categories covering single provisions, which are easier to be grasped and understood.

Another point was addressed by GLAM representatives, who proposed to adopt use cases instead of theoretical sub-categories of flexibilities, for the former would better resonate to the needs and difficulties faced by end user and GLAM in accessing to and reusing cultural content available online and offline. After an articulated discussion, it became evident that a complete shift and a focus on sector-specific obstacles would require too much time and effort in collecting data, testing the results etc to be adequately developed under the umbrella of reCreating Europe, which is coming to an end in February 2023.

As to the substantive content of the best practices, three minor points have been raised. First, the WP2 research team was invited to reconsider whether the content as such shall be better called "guidance" rather



than “best practices”. Second, the detailed explanations of the implementation of copyright flexibilities across Europe have been deemed irrelevant to the overall aims and objectives of the best practices. Last but not least, it was highlighted, as a general comment, that the examples demonstrating the best practices shall be carefully chosen, as the fast pace of technological developments may easily render them outdated in a short timeframe.

The last panel was devoted to a discussion on the “way ahead” with regard to data collection and maintenance of the platforms. The workshop ended with some food for further thoughts, both for COMMUNIA and reCreating Europe, particularly on the visualisation of data analysis and on the scoring system employed to assess the level of harmonisation and/or user-friendliness of copyright flexibilities.

This debate triggered further discussion within the members of the SSSA team, which is currently leading to changes in the visualisation and scoring system used for “*copyrightflexibilities.eu*”. With regard to best practices, while their drafts have been initially revised and consolidated in **D2.9 Policy recommendations and code of best practices**, submitted to the EC by the deadline of 30 September 2022, in the next months the SSSA team will partner with the CREATE team to take stock of the suggestions received during the workshop and to join forces with copyrightuser.eu in order to develop and disseminate more user-friendly guidance.

4. Annexes

- Annex I** - List of Speakers and Attendees
- Annex II** - Page prints of website containing program, invitation and registration link for the workshop “Copyright flexibilities: mapping, explaining, empowering”



Annex I

List of Speakers
Ana Lazarova (COMMUNIA)
Bartolomeo Meletti (reCreating Europe, CREATE)
Caterina Sganga (Coordinator, reCreating Europe)
Conception Saiz Garcia
Francisco Duque Lima
Julien Cabay
Justin Jutte
Leo Pascault
Marta Arisi (WP5, University of Trento)
Matej Myska
Paul Keller (President, COMMUNIA)
Philipp Homar
Tatiana-Eleni Synodinou
Teresa Nobre (COMMUNIA)

List of Attendees
Abigail Rekas
Airi-Ulrike Lillevälja
Alea López de San Román
Alex Fenlon
Ana Ramalho
Anna Fidler
Anna Luniewski
Annabelle Shaw
Anne Bergman
Anusha Jayadeva Narayanan
Ariadna Matas Casadevall
Benedict Curio
Brigitte Vézina
Collin Mashile
Dionysia Kallinikou
Hande Özkayagan Prändl
Huwan Peng
Ilarina Zerilli
Ingrida Radovic
Iuliana Gaman



Jonathan Poritz
Jozefien Vanherpe
Jude Mbonu
Kaleigh Hunter
Karolina Andersdotter
Kristiana Korshunova
Kristina Petrasova
Lia Ollandezou
Magali Contardi (WP2, Scuola Superiore Sant'Anna)
Manuela Jesenk
Maria Mastrodimou
Martina Febra
Michalina Kowala
Nensi Seferi
Nicole Schulze
Nino Eloshvili
Pelin Turan (WP2, Scuola Superiore Sant'Anna)
Peter Mezei (WP2, University of Szeged)
Peter Munkacsi
Peter Routhier
Purity Kavuri-Mutuku
Quentin Deschandelliers
Renata Petrušić
Richard Misek
Rosie Allison (WP7, Liber)
Sonia Florea
Susanna Brozzu
Vito Aprile
Yalkum Modestus
Yannos Paramythiotis
Marina Markellou





WORKSHOP: Copyright flexibilities: mapping, explaining, empowering

August 4, 2022 / in Activities, News, Stakeholders /

reCreating Europe and COMMUNIA [<https://communia-association.org/>] invite you to the expert workshop – “**Copyright Flexibilities: mapping, explaining, empowering**”, which will be held in a hybrid format at the **Institute for Information Law (IViR) – University of Amsterdam** and **online (Zoom)** on **21 September 2022**, from 9 to 5 pm CEST.

The workshop will bring together the core research teams which have developed three websites/databases devoted to users’ rights and copyright flexibilities (www.copyrightexceptions.eu [<http://www.copyrightexceptions.eu>], www.copyrightflexibilities.eu [<http://www.copyrightflexibilities.eu>] and www.copyrightuser.eu [<http://www.copyrightuser.eu>]), national copyright experts who contributed to the mapping, and stakeholders representing various groups of beneficiaries.

Workshop aims



The aims of the workshop are (i) to launch the three platforms, (ii) to discuss the state of copyright flexibilities and necessary policy

actions at the EU and national level, with three expert panels on (a) teaching and research; (b) freedom of expression and (c) cultural uses and preservation; (iii) to present and test reCreating Europe's best practices on copyright flexibilities with interested stakeholders.

Programme

9:00 – 9:15 Introduction and greetings (Paul Keller, Caterina Sganga)

9:15 – 10:15 Three platforms to explain, engage, empower

- copyrightexceptions.eu (Paul Keller, Communia/IViR)
- copyrightflexibilities.eu (Caterina Sganga, reCreating/Sant'Anna Pisa)
- copyrightuser.eu (Bartolomeo Meletti, reCreating/CREATE Glasgow)

10:15 – 11:15 Flexibilities for teaching and research

Chair: Teresa Nobre (Communia)

Speakers: Ana Lazarova (Communia/Sofia University "St. Kliment Ohridski"); Justin Jutte (University College Dublin); Matej Myska (Masaryk University Brno)

11.15 – 11.30 – Coffee break

11:30 – 12:30 Flexibilities for cultural uses and preservations

Chair: Caterina Sganga (reCreating/Sant'Anna Pisa)

Speakers: Francisco Duque Lima (KU Leuven); Rita Matulionyte (Macquarie University Sidney); Leo Pascault (Science Po Paris)

12:30 – 13:45 Flexibilities for freedom of expression (quotation,



parody, informative purposes)
ReCreating Europe (VIR)

Speakers: Tatiana-Eleni Synodinou (University of Cyprus), Philipp

Homar (Donau-Universität Krems); Julien Cabay (Université Libre de Bruxelles (ULB) and University of Liege); Conception Saiz Garcia (University of Valencia)

13.30 – 14.30 Lunch break

14:30 – 15:30 Roundtable on best practices on Copyright flexibilities

- Presentation of best practices and moderation (Caterina Sganga)
- Open debate

15:30 – 16:30 Roundtable on the way ahead: data collection, editorial boards, platforms maintenance

Moderator: Paul Keller

16:30 Wrap up, closing and drinks

Registration

Please save the date and confirm your interest and availability to join us in person or online by **registering at your earliest convenience here.** [https://us06web.zoom.us/meeting/register/tZwvcO2orj8rGNPIbjBwVWwtUK-R_E4DkoEU]

For any questions, please contact rosie.allison@libereuroiope.org

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The Coordinator

Scuola Superiore Sant'Anna
Piazza Martiri della Libertà, 33
56127 Pisa
Italy

Social



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