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**Summary of country reports**

**Copyright – new legislation:**

*Copyright –protection:* In *UK* and other *EU member states*,EU Directive 2011/77/EU extending the copyright term for performers from 50 years to 70 years, was implemented. Also in *UK*, The Copyright and Rights in Performances (Disability) Regulations 2014 implements in full the disability exception in the InfoSoc Directive 2001/29/. Additionally it introduces protection from contract override with respect to specific permitted acts.

*Collective Payment:* In *Spain*, A Royal Decree to regulate the library lending payment system has been approved by the Government. In *Croatia* and other *EU Member States*, the Directive 2014/26/EU on collective management of copyright and related rights was implemented into national law. In *Croatia*, two new collective management organizations were authorized by the State Institute for Intellectual Property, one for newspaper works and the other for droit de suite for art works. In *Latvia,*2014 an amendment to the Rules of the Cabinet of Ministers Nr. 565 of 21.08.2007 on the procedure of calculation, payment and distribution of compensation for public lending was implemented, increasing the amount of compensation to authors for public lending to 10 % of the total acquisition budget of all the libraries of *Latvia .* In *UK*, additional obligations regulating Copyright Management Organisations (CMOs), including adoption of Codes of Conduct and a review system, were introduced.

*Exceptions:* In *Russia*, from January 1, 2015,library users can make digital copies of nationally published scientific and educational books for their personal use in case 10 years passed after the original publication with no further editions or reprints during the whole period. Besides, a kind of *Fair Use* principle is introduced for articles, book fragments, and preprints of scientific educational literature which permits making digital copies for the needs of library users. In *UK*, *The Copyright and Rights in Performances (Research, Education, Libraries and Archives) Regulations 2014* updates the copyright legislation. It makes a number of major changes bringing copyright exceptions in these areas up to date with the digital age and implementing all the optional exceptions in the InfoSoc Directive 2001/29/EC hitherto not adopted by the UK. Additionally it introduces a new exception for Text and Data Mining (TDM) for non-commercial purposes (under the provisions of the Directive) and protection from contract override with respect to specific permitted acts. In *Germany,* the laws on the digitization of orphan and out of print works came into force. Both have to be registered at the national patent authority. The use of out-of-print-works (only printed works published before 1966) additionally requires licencing by the collective society VG Wort. The law on orphan works is based on EU directive 2012/28/EU.

*Enforcement: In Canada*, "Notice and Notice" enforcement regime was introduced. It significantly diverges from its "Notice and Takedown" equivalent. Under the Canadian approach, when copyright holders allege that their copyright has been infringed, they can contact the internet service provider (“ISP”) who, in turn, notifies the allegedly infringing party.

**Proposed and pending legislation**

In *Spain*, the Ministry of Culture launched a proposal regulation concerning the copyright reform. Regarding private and educational uses, it will be the most restricted proposal existing until now; it proposes the enforcement of supervision of the collecting societies activity.

In Croatia, the Act on Amendments to the Copyright and Related Rights Act was sent to public hearing. Apart from harmonizing the Copyright Act with the Directive 2012/28/EU (orphan works) it concerns the mass digitalization of out-of-print works. The State Institute for IP is suggesting to try to achieve an agreement among stakeholders.

In *Poland*, the Ministry of Culture and National Heritage is about to implement provisions in order to cover orphan works within the framework of the Directive and permit its use for public interest purposes as a statutory exception to copyright. Moreover, the Ministry plans to allow the use for other – either commercial or non-commercial- purposes under specific licenses. It is also proposed that each work is presumed to be out of commerce after a certain time limit (25 years) unless otherwise proven. Moreover, it is planned to implement the public lending right. The proposals refer to last year`s submissions that the public lending right is to be approached as a right to remuneration for loans from public libraries and based on a statistic sample of actual library loans. It is not supposed to apply to on-site reference use. The funding will be distributed on a pro rata basis by the relevant copyright collecting society. In the context of pending legislation in Poland, a consultation paper concerning the implementation of Directive 2013/37/EU on the re-use of public sector information was issued. There were discussions about which libraries should be integrated into the prospective new law and comments about exempted documents; a new provisional proposal will be drafted.

In *Latvia*, the working group for modernizing the copyright legislation introduced a proposal with several provisions; they concern the widening of the range of institutions that can access digital reproductions of works (to any memory or educational institution), the introduction of a new provision for compensation for access to digitalized works, a new exception for promotional use of works, an exception for text and data mining for research purposes and the inclusion of publishers in certain compensation schemes.

In *Russia*, a law which aim it is to create prejudicial procedure for copyright infringement on the internet was introduced; it is now covering musical products and books.

In the field on pending legislation, it is planned to create a new federal agency in order to improve intellectual labor protections and to develop a unified national policy in the area of intellectual property.

The *Australian* Government issued a discussion paper with the aim to curb online copyright infringement. It contains three main proposals: the extension of authorization liability, blocking overseas websites whose purpose is copyright-infringement and the extension of safe harbours (including libraries). Additionally, it is intended to simplify and modify the Copyright Act possibly considering recommendations from the Australian Law Reform commission inquiry. The recommendations include “fair use” exceptions or extended fair dealing – for purposes of libraries and archives-, reforms to statutory licenses for university libraries, limits for remedies in the area of orphan works, exceptions for libraries and archives for technology and formal neutral preservation use and the simplification of document supply provisions. Also, the work on a digital legal deposit for state and national libraries continues.

In *South Africa*, a draft concerning Intellectual Property Policy was published for public comment in August 2013; the report has not been submitted yet. It was also announced that a Copyright Act Amendment Bill will be tabled in Parliament this year.

In the *U.S.,* four Acts concerning audio transmissions, songwriter and visual artist compensation were introduced. At the same time, the U.S. is working on a copyright reform and thereby undertaking a comprehensive review of copyright law.

**Law Cases**

*Public lending right:*

In *Latvia,* two law cases – one criminal, one civil – were started in 2011 against a private company which set up a digital library in 2010. The legal justification for the library was that they are lending works online rather than making works available, and compensating authors according to the rules of Minister of Cabinet on public lending. Digitising of works accordingly was performed on the assumption that public lending applies also to digital copies therefore it is allowed to produce such copies in order to provide a lending service, thus sidestepping the library exception. On June 2013 they were acquitted in the civil case and the case apparently is not appealed; however they have been found guilty in the first instance of the criminal case

*Digitization:*

In USA, in June 2014, the U.S. Court of Appeals for the Second Circuit issued its ruling on the case Authors Guild v. HathiTrust, largely affirming the lower court decision of 2012 in favor of the HathiTrust Digital Library. The case concerns the digitization of copyrighted works in the Google Print Library Project that commenced in 2004. The appeals court held that the activity of the HathiTrust in creating a full-text search database and providing access to the print disabled constitutes fair use and is protected under the Copyright Act. However, the Second Circuit declined to rule on the issue of the HathiTrust’s preservation activities. Also in USA, in the case Authors Guild v. Google, in November 2013, Judge Denny Chin  [dismissed](http://blogs.findlaw.com/courtside/2013/11/google-books-lawsuit-defeated-book-scanning-deemed-fair-use.html) the Authors Guild’s eight-year-old lawsuit against Google over, ruling that Google’s scanning of more than 20 million books and making “snippets” of text available online constituted fair use. In April 2014, [the Authors Guild filed an appeal in the case](http://www.infodocket.com/2014/04/11/authors-guild-files-brief-in-google-books-appeal-says-congress-should-create-a-national-digital-library/). Also in *USA*, in the case *Cambridge University Press et al. v. Georgia State University,* Oral arguments were held in November 2013 in the Circuit Court of Appeals. A ruling on the appeal is pending. The case concerns Georgia State’s electronic reserves system. The decision issued on May 2012 by the U.S. District Court for the Northern District of Georgia found 5 infringements out of 74 claims and overwhelmingly favored GSU. It is the first U.S. federal court decision specifically addressing fair use and electronic reserves.

*Making available of materials for seminar groups:*

In Germany, in November 2013, the Federal Superior Court (Bundesgerichtshof) decided on making available works for seminar participants (§ 52a UrhG): Only up to 12 % and a maximum of 100 pages of a work can be used, under the condition that access is restricted only to the participants.

*Internet Service Providers / Search engines:*

In Canada, In the ruling on Equustek Solutions inc. et al. v. Morgan Jack et al., the British Columbia Supreme Court ordered Google to omit some web-sites from its world-wide search results and did not limit its ruling to the Canada-specific search results.

Privacy / Facebook-fanpages::

In Germany, in September 2014, the Superior Administrative Court (Oberverwaltungsgericht) of the state of Schleswig-Holstein ruled that public authorities (thus, also libraries) and companies are allowed to install facebook-fanpages. The court decided that they were not responsible for privacy infringements committed by facebook. However, the privacy officer of Schleswig-Holstein filed appeal against the judgement.

***Short overview: A selection of decisions of the European Court of Justice (ECJ)***

* Making available in the lecture room: Technische Universität Darmstadt v.Eugen Ulmer KG: On request for preliminary ruling of the German Federal Superior Court (Bundesgerichtshof), the ECJ decided that European Union governments may allow libraries to digitise books in their collection without rights owners’ consent in order to make them available at electronic reading posts. If library users want to print works out on paper or store them on a USB stick, however, rights holders must be fairly compensated. Member states may provide such an exception or limitation, allowing library users to print the works or store them on a USB stick, as long as compensation is paid to the rightsholder. <http://curia.europa.eu/juris/document/document_print.jsf?doclang=EN&text=&pageindex=0&part=1&mode=req&docid=157511&occ=first&dir=&cid>=
* Licensing / Communication to the public: Public Relations Consultants Association Ltd (PRCA) v The Newspaper Licensing Agency Limited and Others (NLA) <http://curia.europa.eu/juris/document/document.jsf?text=&docid=140431&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=31396>
* Circumvention of TPMs; plus ‘digital exhaustion’: Nintendo (Case 355/12) 23/01/14 <http://curia.europa.eu/juris/document/document.jsf?text=&docid=146686&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=532968>
* Private copying from unlawful sources: ACI Adam (Case 435/12) 10/04/14 <http://curia.europa.eu/juris/documents.jsf?num=C-435/12>

**Other Legal matters**

**Public Procurement**

*In Poland,* under the new legislation contracts for supplies or services concerning acquisition of library or museum materials where the value of the contract does not exceed the equivalent in PLN of EUR 207,000 are exempted from the scope of the law and from tendering procedures for awarding contracts. The new law promotes and simplifies the development of library collections and makes it easier for libraries to address the demand for current and new offerings.

**Digital Library**

*In Russia,* the procedure for working out and signing agreements with rightsholders for The NEL (National Electronic Library) has been developed and is successfully applied. The NEL comprises today over 1 million texts, including dissertations. Annual 10%acquisitions are managed by the National Library Resource.

**Open Access / Open Learning Resources**

*In the USA,* tree acts in favour of open science were introduced*: i*n September 2013, the Public Access to Public Science (PAPS) Act was introduced in the House of Representatives to build on the recently issued White House Office of Science and Technology Policy (OSTP) Directive on Public Access and to codify that language into legislation for agencies under the jurisdiction of the House Science Committee. A 12-month embargo period would balance publishers' needs with public access goals. ***I***n January 2014, [Congress passed](http://www.washingtonpost.com/blogs/post-politics/wp/2014/01/16/senate-approves-1-1-trillion-spending-bill/) the Consolidated Appropriations Act that contains a section promoting public access to federally funded research. The bill requires federal agencies under the Departments of Labor, Health and Human Services, and Education with research budgets of $100 million or more to develop a federal research public access policy that provides for online access to articles resulting from federally funded research within 12 months of publication in a peer-reviewed journal, in compliance with all relevant copyright laws. Twins bills entitled the “Affordable College Textbook Act” were introduced in the Senate on November 2013 and in the House. They would expand the use of open textbooks on college campuses, providing affordable alternatives to traditional textbooks and lowering prices. The bills direct the Secretary of Education to fund the creation of college textbooks and materials to be made available under open licenses and to create a grant program to support pilot programs at colleges and universities to create and expand the use of open textbooks.

In *Germany,* a mandatory new law on open access publications came into force (§ 38 par.4 UrhG). This law allows authors of publicly funded articles, published in periodicals, to make them available on the internet, even if the publisher´s agreement prohibits this. The reform is supposed to improve the situation for authors who want to publish their articles on repositories. However, it is still unclear what means publicly funded.

*Open Government data*

*In the USA*, in January 14, the U.S. House of Representations approved the Presidential and Federal Records Act Amendments, that updates selected provisions of the Presidential Records Act and the Federal Records Act. For example, the bill imposes a time limit during which a former president must assert any claim of privilege to a record once the Archivist of the United States has decided to make that record available to the public. The amendments also call for a process to manage the release of records when such a claim of privilege is made.

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