

EU Budget Procedure 2023

Proposal 91

Type: Pilot Project / New

Title:

The role of copyright laws in facilitating distance education and research.

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Heading: 1. Single Market, Innovation and Digital

Remarks:

In 2016, the CJEU clarified in its VOB decision (C-174/15) that the lending of e-books is permitted under the public lending exception enshrined in Directive 2006/115, but practical problems still prevent libraries in Europe from fully using this exception. The Pilot Project could look at what practical improvements are needed in order to allow libraries to genuinely benefit from the public lending exception for e-books in practice. Whereas Member States had to transpose the Directive on Copyright in the Digital Single Market (Directive (EU)2019/790) by June 2021, mapping the national measures aiming at facilitating distance access to the libraries collections would help in systemising the harmonisation of copyright Union rules.

Directive 2019/790 has introduced an EU-wide exception that allows libraries to digitise their collections, but not to make them available online. According to Directive 2001/21, Member States can introduce exceptions that allow libraries to make available their digital collections through dedicated terminals on the premises of the institutions, but not online. The Pilot Project could be based on one or more studies to assess whether national measures implementing copyright Union rules duly achieve the objectives of facilitating public access to culture and education while respecting rightsholders' interests, and whether these measures could be adjusted, either through additional national measures or by some targeted changes in the EU legal framework, so that Member States have more flexibility to address efficiently the needs to access libraries digital collections .

Digital learning and collaborative work solutions have become central for schools and universities. The Pilot Project could further assess what copyright issues have arisen in the context of education & research at a distance notably in the light of the recent EU and national case-law, and what legal and technical solutions could be found to address the growing needs in the field of distance education and research.

Justification:

Improving digital solutions for Education, Research and Library institutions, in order to support the full implementation of the making available of these public interest institutions' collections as allowed by EU law, is a key issue, the importance of which has only been reinforced by the 'stress test' incurred by the recent Covid crisis.

Addressing proactively the practical problems and opportunities for libraries in a digital world deserves closer scrutiny. The recent delay for national transposition of the Directive on Copyright in the Digital Single Market is a good time to start assessing the various implementing legislative measures adopted by the Member States, particularly in the field of public access to the digital collections of Education, Research and Library institutions.