

## **EU Budget procedure 2023**

### **Pilot Project - PP13 (JURI)**

#### **EU Public repository of Public Domain and openly licensed works**

#### **(MEP BREYER - Greens-EFA)**

Article 17 of Directive EU/2019/790 on Copyright in the Digital Single Market has introduced a series of requirements for Online Content Sharing Service Providers regarding their liability for making available copyright-protected content uploaded by their users. This same legal provision also requires that such cooperation between rightholders and platforms do not result in blocking the availability of works uploaded by users which do not infringe copyright or are not subject to copyright or related rights. As part of the transposition of Article 17 into national law, Member States such as Germany have elaborated on these requirements, for example on safeguards against blocking requests in respect of works in the public domain.

In order to ensure a correct application of this provision, it will be essential to easily identify works which are not protected by copyright anymore (public domain works) or which can be used freely under open licences. This can be achieved by developing databases that can allow the identification and reference of Public Domain and openly licensed works. Such databases could have an added value by increasing opportunities for the re-use of public domain cultural heritage beyond the scope of Article 17, by making those works and their public domain status more readily available.

The Copyright DSM Directive contains rules to facilitate the use of content in the public domain (recital 3, article 14). While acknowledging the status of works of visual art in the public domain (article 14), the Directive also notes the differences between the national copyright laws governing the protection of the reproductions of these works which give rise to legal uncertainty and affect the cross-border dissemination of works of visual arts in the public domain (recital 53).

The purpose of this Pilot project is to assess the opportunity of developing public repositories of Public Domain and openly licensed works in order to enhance legal certainty for all types of works in the public domain or not subject to copyright protection.

#### **Justification**

This Pilot Project would consist in a feasibility study, to confirm that there is an actual market failure and to confirm the risk of over-blocking such public domain works, as well as to determine the technical needs, including from platforms, and ensure the buy-in from stakeholders. The project would also develop a prototype database that could be used, referenced and augmented by platforms, content providers, institutions of the GLAM sector (Galleries, Libraries, Archives and Museums) or other non-for-profit organisations working with public domain or freely licensed content. Such public repositories of freely reusable works could help to unlock the societal value of these works, and thereby truly enable access to and promotion of culture, and the access to cultural heritage. The above work is to be seen as

a pilot that will develop our knowledge in the field and help confirm the need and opportunity to possibly develop this prototype into a fully fleshed database.