

FINAL QUESTIONNAIRE ON LIMITATIONS AND EXCEPTIONS

prepared by the World Intellectual Property Organization (WIPO) Secretariat

INTRODUCTION

The WIPO Standing Committee on Copyright and Related Rights (SCCR) has agreed to address the issue of exceptions and limitations to copyright and related rights for the purposes of education, libraries and persons with disabilities, by exploring existing and proposed national laws on the subject, with a view to strengthening international understanding on exceptions and limitations.

During the 17th session of the SCCR held in November 2008, the WIPO Secretariat was requested to prepare a draft questionnaire regarding exceptions and limitations, with particular emphasis on the issues regarding education, libraries and persons with disabilities, for the consideration of Member States of the SCCR in the 18th session.

At the 18th session of the SCCR held in May 2009, it was agreed that delegations would send comments on the draft questionnaire (document SCCR/18/3) to the Secretariat. Based on those comments, the Secretariat would present a revised questionnaire.

In the conclusions of the 19th session of the SCCR held in December 2009, delegations were invited to send comments on the revised version of the questionnaire, or second draft questionnaire (document SCCR/19/2), to the Secretariat by January 8, 2010. On the basis of the comments and the discussions of the Committee, the Secretariat would finalize the questionnaire without any substantial changes in the content of the questions, and while retaining its seven chapters, and submit it to the Member States and the European Union by February 10, 2010 for replies.

Instructions

The Secretariat presents this final questionnaire on limitations and exceptions and Member States are now invited to respond accordingly, via on-line or in paper form:

– On-line (preferred option): Replies may be provided by completion of the electronic form available on the WIPO website at <http://www.wipo.int/copyright/en/>. In order to access and complete the electronic form online, a general password has been created for all respondents: “LE2010”.

– Paper form: This copy is available in printable form from the aforementioned website and may be completed and sent to the International Bureau, c/o Copyright Law Division, WIPO, by post: 34, chemin des Colombettes, 1211 Geneva 20, Switzerland; by facsimile: +41 22 338 907010; or by e-mail: copyright.mail@wipo.int.

Member States are invited to submit their replies by May 10, 2010. After that date, the questionnaire will no longer be available on the WIPO website.

The Secretariat shall prepare a consolidated paper for the Twentieth Session of the SCCR based on the information gathered from the replies to this questionnaire.

This final questionnaire comprises 103 questions distributed in seven parts:

- Part I on general questions on limitations and exceptions;
- Part II on limitations and exceptions for educational activities;
- Part III on limitations and exceptions for libraries and archives;
- Part IV on limitations and exceptions for persons with disabilities;
- Part V on questions relating to religious, social and cultural exceptions;
- Part VI on other questions regarding digital technology; and
- Part VII on general questions to cover areas left out in Parts I to VI.

This questionnaire is only intended as a tool for data collection to facilitate an analysis of the status of copyright limitations and exceptions in WIPO Member States. It is acceptable for respondents not to answer all questions, particularly when the available data does not allow giving an unequivocal answer to the questions.

When questions include the phrase “please describe,” respondents are encouraged to provide a citation for the statutory provision and/or governing court decision (if applicable) and any other additional description that supports their answer.

The answers to this questionnaire have been provided on behalf of:

Country: by REPUBLIC OF CROATIA

Name and contact information (including telephone and e-mail):

—
Tajana Tomić, LL.M. Head of Copyright Department, SIPO

Ulica grada Vukovara 78

www.dziv.hr

Tel.: +385 1 6106 408

Faks. +385 1 6112 017

tajana.tomic@dziv.hr

Part I: General

1. Does your national statute provide for a limited number of specific statutory limitations and exceptions, an open system of limitations and exceptions (such as fair use or fair dealing) or a mix of both systems?

Specific

Open

Mixed

Others, please describe: _____

2. Does your national statute include the three-step test as a general provision on copyright limitations and exceptions?

Yes

No

Partially, please describe: _ “Disclosed copyright work may be used without the author's authorization, or without the author's authorization and without payment of remuneration, only in the cases which are expressly stipulated in this Act. The provisions concerning the limitations referred to in this Chapter cover only such uses of a copyright work which do not conflict with regular use of the work and do not unreasonably prejudice the legitimate interests of the author.”

3. Does your national statute provide limitations and exceptions as free uses (there is no need for authorization or for payment of remuneration)?

Yes

No

If yes, please describe: _ Temporary acts of reproduction of the copyright work, Reproduction of the work for private or other personal use, Ephemeral recordings, Restrictions for the benefit of particular institutions, Use of copyright works by disabled persons Use of copyright works for judicial, administrative or other official proceedings, Use of the works for teaching, Use of copyright works for the purpose of informing the public, Quotations, Reproduction of copyright works permanently located in public places, Posters and catalogues, Parodies and caricatures, Use of copyright works for the purpose of presentation and testing of equipment.

4. Does your national statute include limitations and exceptions based on statutory licenses (direct permission granted by the law against remuneration)?

- Yes
 No

If yes, please describe: “Collections intended for teaching or scientific research”.

- (1) It shall be permitted to reproduce on paper or any similar medium and distribute particular portions (parts) of lawfully disclosed works, or integral short works from the domain of science, literature and music, as well as disclosed individual works of visual arts, architecture, applied arts and industrial design, photographic or cartographic works, and presentations of scientific or technical nature, in the form of a collection which contains contributions of several authors, and which is, by its contents, and systematisation exclusively intended for teaching or scientific research, as long as the source is indicated, unless the author expressly prohibits it. Reproduction and distribution of particular parts of copyright works shall not be considered as infringement referred to in Article 16 of this Act, unless the disclosure of particular part would jeopardize the honour or reputation of the author.
- (2) The authors of the works included in the collection referred to in paragraph (1) of this Article, are entitled to an equitable remuneration for the reproduction and distribution of their works.

5. Does your national statute include limitations and exceptions based on compulsory licenses (obligation of the rights owners under the law to grant licenses against remuneration)?

- Yes
 No

6. Does your national statute include specific limitations or exceptions permitting the use of copyrighted works for private or personal purposes, without previous authorization of the copyright or related rights owner?

- Yes
 No

Please describe: “A natural person may reproduce a copyright work in any medium if he does so for private use, or in the form of photocopying and other personal use if this copy is not intended for or accessible to the public and has no direct or indirect commercial purpose. It shall not be permitted to reproduce the whole book, unless the copies of such book have been sold out for at least two years, graphic editions of musical works (hereinafter: sheet music), electronic databases, cartographic works, nor the building of architectural structures, unless otherwise provided by this Act or a contract.”

7. Does your national statute provide remuneration for private or personal uses (for instance, copyright levies)?

- Yes
 No

If yes, please describe: “RIGHT TO REMUNERATION FOR REPRODUCTION OF A COPYRIGHT WORK FOR PRIVATE OR OTHER PERSONAL USE

- (1) Where a copyright work may be reproduced without the author's authorization pursuant to Article 82 of this Act, the author whose works are, due to their nature, expected to be reproduced without authorization, by photocopying or by recording on sound, visual or text fixation mediums, for private or other personal use, shall have the right to an appropriate remuneration upon sale of technical appliances and blank audio, video or text fixation mediums.
- (2) Apart from the right referred to in paragraph (1) of this Article, the authors shall have a right to an appropriate remuneration to be obtained from a natural or legal person who provides services of photocopying against payment.
- (3) Any other reproduction techniques shall be assimilated to photocopying, and any other appliances providing the same effect shall be assimilated to appliances for sound or visual recording.
- (4) The remuneration referred to in paragraph (1) of this Article shall be paid by manufacturers of appliances for sound and visual recording, manufacturers of appliances for photocopying, manufacturers of blank audio, video or text fixation mediums, and jointly and severally with them importers of appliances for sound and visual recording, photocopying, blank audio, video or text fixation mediums, unless

such imports concerns small quantities intended for private and non-commercial use, forming part of personal luggage. If the mentioned appliances and objects are not produced in the Republic of Croatia, the remuneration shall be paid by the importer.

(5) The obligation to pay the appropriate remuneration referred to in paragraph (1) shall arise:

1. in respect of the first sale in the Republic of Croatia or import in the Republic of Croatia of new appliances for sound and visual recording;
2. in respect of the first sale in the Republic of Croatia or import in the Republic of Croatia of new blank audio or video fixation media;
3. in respect of the first sale in the Republic of Croatia or import in the Republic of Croatia of new photocopying appliances.

(6) The remuneration referred to in paragraph (2) of this Article shall be paid in the amount depending on the information on the number of photocopies made.

(7) Authors may not renounce the rights to remuneration referred to in paragraphs (1) and (2) of this Article.”

8. Does your national statute allow parties to agree in licensing agreements or other binding contracts not to engage in conduct that would otherwise be permitted under the national statute’s exceptions and limitations?

- Yes
 No

(1) If yes, please describe: _See the answer no. 7.

9. Does your national statute subject the exercise of limitations and exceptions to the condition of a lawful or authorized source requirement (for instance, that copies are made from a lawful source)?

- Yes
 No

If yes, please describe: “Disclosed copyright work may be used without the author's authorization, or without the author's authorization and without payment of remuneration, only in the cases which are expressly stipulated in this Act.”

10. Does your national statute protect technological measures?

- Yes
 No

11. Does your national statute protect rights management information?

- Yes
 No

12. Does your national statute provide specific mechanisms to ensure that limitations or exceptions continue to apply despite the existence of any technological measures implemented by the copyright or related rights owners?

- Yes
 No

If yes, please describe: _

- (1) “Where the use of a copyright work without the author's authorization is allowed under Articles 82 - 87 of this Act, and where the use of the work or the access to it are prevented by the application of technological measures referred to in Article 175 of this Act, the authors or other persons, who applied such measures or who are authorized or have the possibility to remove them, shall be obliged, by providing special measures or concluding contracts, to enable the users or their associations access to such works and the use thereof in accordance with the limitations referred to in Articles 82 - 87 of this Act. The provisions of this paragraph shall not apply to computer programs.
- (2) (2) If the authors or other persons, respectively, who applied technological protection measures to prevent access to a copyright work or the use of it, or who are authorized and have the possibility to remove them, fail to comply with the provisions of paragraph (1) of this Article, the person who claims to be authorized pursuant to any of the provisions of Articles 82 to 87 of this Act to use a copyright work without the author's authorization or without the author's authorization and without payment of remuneration, may institute a legal action against the author or other person, respectively, who has applied technological measures or who is authorized and has the possibility to remove them, claiming provision of access to the copyright work and its use in compliance with the limitation referred to in any of Articles 82 to 87 of this Act. The plaintiff shall prove in the legal action that the conditions laid down in Article 80 of this Act have been fulfilled.”

13. If recourse to legal proceedings is needed, what is the average time to ensure the exercise of limitations and exceptions if some type of technological measures of protection is applied by copyright and related rights owners?

Please describe:

No case law is available at this moment.

14. Does your national statute provide that certain limitations or exceptions prevail over the prohibitions on the act of circumventing technological protection measures or rights management information?

- Yes
 No

If yes, please describe: _ “Where the use of a copyright work without the author's authorization is allowed under Articles 82 - 87 of this Act, and where the use of the work or the access to it are prevented by the application of technological measures referred to in Article 175 of this Act, the authors or other persons, who applied such measures or who are authorized or have the possibility to remove them, shall be obliged, by providing special measures or concluding contracts, to enable the users or their associations access to such works and the use thereof in accordance with the limitations referred to in Articles 82 - 87 of this Act.”

15. If recourse to legal proceedings is needed regarding limitations and exceptions, what is the average time needed to resolve a dispute regarding the prohibition of circumventing the technological measures of protection and digital rights management?

Please describe: No case law is available at this moment.

16. Does your national statute include limitations and exceptions especially for the use of computer programs?

- Yes
 No

Please describe:

- “(1) In the absence of specific contractual provisions the acts referred to in Article 109, paragraph (1), items 1 and 2 of this Act, shall not require authorization by the right holder, where they are necessary for the use of the computer program by the lawful acquirer in accordance with its intended purpose, including for error correction.
- (2) The making of a back-up copy by a person having a right to use the computer program may not be prevented by a contract insofar as it is necessary for that use.
- (3) The person having a right to use a copy of a computer program shall be entitled, without the authorization of the author, to observe, study or test the functioning of a program in order to determine the ideas and principles that underlie any element of the program, if he does so while performing any of the acts of loading, displaying, running, transmitting or storing the program which he is entitled to do.
- (4) Any contractual provision contrary to the provisions of paragraphs (2) and (3) of this Article shall be null and void.”

17. Does your national statute provide limitations and exceptions for the temporary use of digital works?

- Yes
 No

Please describe:

“Temporary acts of reproduction of the copyright work, which are transient or incidental, and constitute an integral and essential part of a technological process, whose sole purpose is to enable a transmission in a network between third parties by an intermediary, or authorized use of the work, and which have no independent economic significance, shall be excluded from the exclusive right of reproduction referred to in Article 19, paragraph (1) of this Act.

18. Does your national statute include limitations and exceptions, or statutory safe harbors (statutory safe harbor refers to any statutory enactment which provides that a person will not be liable upon taking certain measures), for the activities of the service providers of digital transmission of works?

- Yes
 No

Please describe: “The circumvention of technological measures shall also mean, under this Act, manufacture, import, distribution, sale, rental, advertisement for sale or rental, or

possession for commercial purposes of technology, computer programs, devices, products or components, or the provision of services which:

- are promoted, advertised or marketed for the purpose of circumvention of technological measures,
- have only a limited commercially significant purpose or use other than to circumvent technological measures,
- are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of effective technological measures.”

19. Does your national statute provide that certain limitations or exceptions prevail over the prohibition on the acts of trafficking with devices or providing services that allow the circumvention of technological protection measures or rights management information?

- Yes
 No

If yes, please describe:

“Where the use of a copyright work without the author's authorization is allowed under Articles 82 - 87 of this Act, and where the use of the work or the access to it are prevented by the application of technological measures referred to in Article 175 of this Act, the authors or other persons, who applied such measures or who are authorized or have the possibility to remove them, shall be obliged, by providing special measures or concluding contracts, to enable the users or their associations access to such works and the use thereof in accordance with the limitations referred to in Articles 82 - 87 of this Act. The provisions of this paragraph shall not apply to computer programs.”

20. If recourse to legal proceedings is needed regarding exceptions and limitations, what is the average time needed to resolve a dispute regarding the prohibition of dealing with devices or providing services to circumvent the technological protection measures and rights management information?

Please describe: No case law is available at this moment.

Part II: Limitations and Exceptions related to Educational Activities

21. If your national statute is included in the analysis of specific exceptions contained in any of the studies on limitations and exceptions for educational or research activities (documents SCCR/19/4, SCCR/19/5, SCCR/19/6, SCCR/19/7, SCCR/19/8)¹, do you consider that the analysis is correct?

Yes

No

The national statute was not included in the analysis

If you do not consider that the analysis is correct, please describe why:

22. Does your national statute provide specific limitations and exceptions for educational purposes?

Yes

No

Please list them:

“(1) It shall be permitted to reproduce on paper or any similar medium and distribute particular portions (parts) of lawfully disclosed works, or integral short works from the domain of science, literature and music, as well as disclosed individual works of visual arts, architecture, applied arts and industrial design, photographic or cartographic works, and presentations of scientific or technical nature, in the form of a collection which contains contributions of several authors, and which is, by its contents, and systematisation exclusively intended for teaching or scientific research, as long as the source is indicated, unless the author expressly prohibits it. Reproduction and distribution of particular parts of copyright works shall not be considered as infringement referred to in Article 16 of this Act, unless the disclosure of particular part would jeopardize the honour or reputation of the author.

¹ For Latin American and the Caribbean countries, document SCCR/19/4. Available at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=130303

For African countries, document SCCR/19/5. Available at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=130241

For Arab countries, document SCCR/19/6. Available at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=130302

For Asian and the Pacific countries, document SCCR/19/7. Available at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=130249

For countries in North America, Europe, Caucasus, Central Asia and Israel, document SCCR/19/8. Available at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=130393

(2) The authors of the works included in the collection referred to in paragraph (1) of this Article, are entitled to an equitable remuneration for the reproduction and distribution of their works.”

23. In case of affirmative answer to the previous question, what kind of activities are those limitations and exceptions related to?

- Face-to-face activities**
- Distance education
- Both

Please list them: _____

*On performances*²

24. Does your national statute provide specific limitations and exceptions allowing performances for educational purposes, such as performances by teachers in classrooms or school concerts?

- Yes
 No

If yes, please describe:

“It shall be permitted to publicly perform a work or to present it at stage in the form of direct teaching or at school events, to the extent justified by the educational purpose thereof to be achieved by such communication, where the works are not used for direct or indirect economic or commercial benefit by the educational institution, the organizers or third persons, where the performers receive no payment (remuneration) for their performance and where the tickets are free of charge.”

25. Does your national statute provide remuneration against the exercise of the specific limitations and exceptions that permit performances for educational purposes?

- Yes
 No

If yes, please describe:

— “where the works are not used for direct or indirect economic or commercial benefit by the educational institution, the organizers or third persons, where the performers receive no payment (remuneration) for their performance and where the tickets are free of charge.”

26. Does your national statute provide for any specific requirement regarding the qualitative or quantitative limits and nature of the works or objects of related rights covered by the specific limitations and exceptions allowing performances for educational purposes?

- Yes
 No

² Performance is used here *lato sensu*. It is a broadly applied practice in national legislation to use terms other than those appearing in the international norms on copyright and related rights; that is, to characterize the acts and rights concerned in a way different from the way they are characterized legally in the said international norms. As in the current case, for example, several countries may grant a “right of public performance” in a way that it covers more or less all non-copy-related rights (not only the performance *stricto sensu*, but also and in particular, the right of broadcasting and the right of communication to the public by cable (wire), which, in the Berne Convention are construed as separate rights), or it is also frequent in national laws that a broader right of broadcasting is provided which also covers the right of communication to the public by cable (wire), a separate right under the Berne Convention.

If yes, please describe:

“where the works are not used for direct or indirect economic or commercial benefit by the educational institution, the organizers or third persons, where the performers receive no payment (remuneration) for their performance and where the tickets are free of charge.”

27. Who is eligible to engage in activity covered by the specific limitations and exceptions allowing performances for educational purposes? (more than one option can be selected)

Teachers

Students

Educational institutions

Others. Please describe: _____

28. In case educational institutions are eligible to engage in activities covered by specific limitations and exceptions allowing performances for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

For-profit

Not-for-profit

Public

Private

Others. Please describe: _____

On reproduction

29. Does your national statute provide targeted limitations and exceptions allowing reproduction for educational purposes?

- Yes
 No

If yes, please describe:

It shall be permitted to publicly perform a work or to present it at stage in the form of direct teaching or at school events, to the extent justified by the educational purpose thereof to be achieved by such communication, where the works are not used for direct or indirect economic or commercial benefit by the educational institution, the organizers or third persons, where the performers receive no payment (remuneration) for their performance and where the tickets are free of charge.

30. What kind of reproduction is covered by those limitations and exceptions? (more than one option can be selected)

- Reprography**
 Digital copying
 Others. Please describe: _____

31. Do the limitations or exceptions allowing reproduction include the preparation of course packs, compilations or anthologies?

- Yes
 No

If yes, please describe:

“It shall be permitted to reproduce on paper or any similar medium and distribute particular portions (parts) of lawfully disclosed works, or integral short works from the domain of science, literature and music, as well as disclosed individual works of visual arts, architecture, applied arts and industrial design, photographic or cartographic works, and presentations of scientific or technical nature, in the form of a collection which contains contributions of several authors, and which is, by its contents, and systematisation exclusively intended for teaching or scientific research, as long as the source is indicated, unless the author expressly prohibits it. Reproduction and distribution of particular parts of copyright works shall not be considered as infringement referred to in Article 16 of this Act, unless the disclosure of particular part would jeopardize the honour or reputation of the author. The authors of the works included in the collection referred to in paragraph (1) of this Article, are entitled to an equitable remuneration for the reproduction and distribution of their works. ”

32. Does your national statute provide remuneration for the exercise of the specific limitations and exceptions allowing reproduction for educational purposes?

- Yes
 No

If yes, please describe:
See the answer no. 31.

33. Does your national statute provide for any specific requirement regarding the qualitative or quantitative limits and nature of the works or objects of related rights covered by the specific limitations and exceptions allowing reproduction for educational purposes?

- Yes
 No

If yes, please describe:

“It shall be permitted to publicly perform a work or to present it at stage in the form of direct teaching or at school events, to the extent justified by the educational purpose thereof to be achieved by such communication, where the works are not used for direct or indirect economic or commercial benefit by the educational institution, the organizers or third persons, where the performers receive no payment (remuneration) for their performance and where the tickets are free of charge.”

34. Who is eligible to engage in activities covered by the specific limitations and exceptions allowing reproduction for educational purposes? (more than one option can be selected)

Teachers

Students

Educational institutions

Others. Please describe: _____

35. In case educational institutions are eligible to engage in activities covered by the enumerated limitations and exceptions allowing reproduction for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

For-profit

Not-for-profit

Public

Private

Others. Please describe: _____

36. Does your national statute subject the limitations and exceptions on reproduction for educational purposes to the use of technological measures?

Yes

No

If yes, please describe: _

“Where the use of a copyright work without the author's authorization is allowed under Articles 82 - 87 of this Act, and where the use of the work or the access to it are prevented by the application of technological measures referred to in Article 175 of this Act, the authors or other persons, who applied such measures or who are authorized or have the possibility to remove them, shall be obliged, by providing special measures or concluding contracts, to enable the users or their associations access to such works and the use thereof in accordance with the limitations referred to in Articles 82 - 87 of this Act. The provisions of this paragraph shall not apply to computer programs.²

On translations

37. Does your national statute provide specific limitations and exceptions allowing translations for educational purposes?

- Yes
- No**

38. Does your national statute provide remuneration against the exercise of specific limitations and exceptions allowing translations for educational purposes?

- Yes
- No**

If yes, please describe: _____

39. Does your national statute provide for any specific requirement regarding the extent and nature of the works or objects of related rights covered by the enumerated limitations and exceptions allowing translations for educational purposes?

- Yes
- No**

If yes, please describe: _____

40. Who is eligible to engage in activities covered by the specific limitations and exceptions allowing translations for educational purposes? (more than one option can be selected)

- Teachers
- Students
- Educational institutions
- Others. Please describe: _____

41. In case educational institutions are eligible to engage in activities covered by any of the enumerated limitations and exceptions allowing translations for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

- For-profit
- Not-for-profit
- Public
- Private
- Others. Please describe: _____

On making available in digital networks

42. Does your national statute provide specific limitations and exceptions for making available in digital networks for educational purposes?

- Yes
- No**

43. Do the specific limitations or exceptions for making available in digital networks include coursepacks, compilations or anthologies?

- Yes
- No**

If yes, please describe: _____

44. Does your national statute provide remuneration against the exercise of the specific limitations and exceptions for making available in digital networks for educational purposes?

- Yes
- No**

If yes, please describe: _____

45. Does your national statute include any specific requirement regarding the qualitative or quantitative limits extent and nature of the works or objects of related rights covered by the specific limitations and exceptions for making available in digital networks for educational purposes?

- Yes
- No**

If yes, please describe: _____

46. Who is eligible to engage in activities covered by the specific limitations and exceptions for making available in digital networks for educational purposes? (more than one option can be selected)

- Teachers**
- Students**
- Educational institutions
- Others. Please describe: _____

47. In case educational institutions are eligible to engage in activities covered by the specific limitations and exceptions for making available in digital networks for educational purposes, does your national statute establish conditions regarding their nature? (more than one option can be selected)

- For-profit
- Not-for-profit
- Public
- Private
- Others. Please describe: _____

48. Does your national statute subject the limitations and exceptions on making available in digital networks for educational purposes to the use of technological measures?

- Yes
- No

If yes, please describe:

49. Does your national statute include any other specific limitations or exceptions related to educational purposes that have not been covered above?

- Yes
- No

50. If not, what other limitations and exceptions for educational purposes would be necessary?

Please describe: _____

51. Are there impediments to the use of limitations and exceptions for educational purposes (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?

- Yes
- No

If yes, please describe: _____

Part III: Limitations and Exceptions related to Libraries and Archives

52. If your national statute is included in the analysis of specific exceptions contained in the Annex of the WIPO Study on Copyright Limitations and Exceptions for Libraries and Archives (document SCCR/17/2)³, do you consider that the analysis is correct?

Yes

No

The national statute was not included in the analysis

If you do not consider that the analysis is correct, please describe why:

53. Does your national statute contain any limitations or exceptions that permit copying by libraries and/or archives for purposes of preservation or replacement?

Yes

No

Please describe:

“Public archives, public libraries, educational and scientific institutions, preschool educational institutions and social (charitable) institutions pursuing non-commercial purposes may reproduce the work from their own copy to any media in not more than one copy.”

54. What types of works may be reproduced for these purposes?

Please describe:

“the work from their own”

55. Does your national statute establish qualitative or quantitative limits for these purposes?

Yes

No

Please describe:

“not more than one copy”

56. What other conditions must be met in order for such reproduction to be authorized?

Please describe:

See the answer no. 53.

³ Document SCCR/17/2, page 72. Available at:
http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=109192

57. Does your national statute contain any limitations or exceptions that permit copying by libraries or archives for patron use?

- Yes
 No

Please describe:
See the answer no. 53

58. What types of works may be reproduced for these purposes?

Please describe:
See the answer no. 53

59. Does your national statute include specific provisions regarding orphan works?

- Yes
 No

If yes, please describe: _____

60. Does your country have plans to include or modify the specific exceptions and limitations related to the activities of libraries and archives?

- Yes
 No

If yes, please describe: _
Although we are aware of the fact that our Law should also be amended in the part relating to limitations and exceptions, we can not indicate, at this moment, the exact wording of the amendments to be provided for.

61. If not, what other limitations and exceptions for libraries and archives would be necessary?

Please describe: _____

62. Are there impediments to the use of limitations and exceptions related to the activities of libraries and archives (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?

- Yes
 No

If yes, please describe: _____

63. Does your national statute establish qualitative or quantitative limits for these purposes?

- Yes**
 No

Please describe:_
See the answer no. 53

64. What other conditions must be met in order for such reproduction to be authorized?

Please describe:
See the answer no. 53

65. Does your national statute contain any limitations or exceptions that permit libraries to reproduce and/or distribute works (either reprographic and/or digital) for the purposes of interlibrary lending?

- Yes**
 No

Please describe:_____

66. Does your national statute contain any limitations or exceptions that permit any other organizations (such as museums or educational institutions) to reproduce or distribute works for archival, preservation, or replacement purposes?

- Yes**
 No

Please describe:
See the answer no. 53

Part IV: Limitations and Exceptions for Persons with Disabilities

67. If your national statute is included in the analysis of specific exceptions contained in Annexes 2 and 3 of the Study on Limitations and Exceptions for the Visually Impaired (document SCCR/15/7)⁴, do you consider that the analysis is correct?

Yes

No

The national statute was not included in the analysis

If you do not consider that the analysis is correct, please describe why:

68. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for persons with print disabilities⁵ or visually impaired persons, including the reading impaired?

Yes

No

Please describe:

“The use of copyright works for the benefit of people with a disability shall be permitted where the work is used in a manner directly related to the disability of such people to the extent required by the specific disability, and where such use is of a non-commercial nature.”

69. Does your national statute specify the formats (for instance, Braille or large print) that fall under this exception?

Yes

No

Please describe: _____

70. What other conditions must be met in order for such uses to be authorized?

Please describe: See the answer no. 68.

⁴ Document SCCR/15/7, page 138. Available at:
http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=75696

⁵ A person with print disability is a person who cannot effectively read print because of a visual, physical, perceptual, developmental, cognitive, or learning disability.

71. Does your national statute contain any limitations or exceptions that permit the importation and/or exportation of material accessible to persons with print disabilities or visually impaired persons, including the reading impaired?

- Yes
- No

Please describe: _____

72. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for deaf persons?

- Yes
- No

Please describe: _ See the answer no. 68.

73. Does your national statute specify the formats that fall under this exception?

- Yes
- No

Please describe: _____

74. What other conditions must be met in order for such uses to be authorized?

Please describe: _____

75. Does your national statute contain any limitations or exceptions that permit the importation and/or exportation of material accessible to the deaf persons?

- Yes
- No

Please describe: _____

76. Does your national statute contain any limitations or exceptions that permit reproduction, distribution, and/or other form of utilization of works for persons with any other disabilities?

- Yes
 No

Please describe: _ See the answer no. 68.

77. Does your national statute specify the formats that fall under this exception?

- Yes
 No

Please describe: _____

78. What other conditions must be met in order for such uses to be authorized?

Please describe: _____

79. Does your national statute contain any limitations or exceptions that permit the importation and/or exportation of material accessible to persons with any other disabilities?

- Yes
 No

Please describe: _____

80. Does your country have plans to include or modify the specific exceptions related to persons with print disabilities, visually impaired persons or other persons with disabilities?

- Yes
 No

If yes, please describe:

Although we are aware of the fact that our Law should also be amended in the part relating to limitations and exceptions, we can not indicate, at this moment, the exact wording of the amendments to be provided for.

81. If not, what other the limitations and exceptions for persons with disabilities would be required?

Please describe: See the answer no. 80.

82. Are there impediments to the use of the limitations and exceptions for persons with disabilities (international constraints, capacity building, lack of information about the limitations and exceptions, etc.)?

Yes

No

Please describe: _____

Part V: Religious, social and cultural exceptions

83. Does your national statute provide limitations and exceptions for religious, social and cultural purposes?

- Yes
- No

84. In case of affirmative answer to the previous question, what kind of activities are those limitations and exceptions related to?

- Religious activities
- Cultural Activities
- Social Activities

85. Does your national statute subject the exercise of limitations and exceptions for religious purposes to the condition of the nature of the religious activities?

- Yes
- No

If yes, please describe: _____

86. Does your national statute provide remuneration for the exercise of limitations and exceptions for religious purposes?

- Yes
- No

87. Does your national statute subject the exercise of limitations and exceptions for religious purposes to any specific requirement regarding the extent and nature of the works or objects of related rights?

- Yes
- No

If yes, please describe: _____

88. Does your national statute subject the exercise of limitations and exceptions for cultural purposes to the condition of the nature of the cultural activities?

- Yes
 No

If yes, please describe: _____

89. Does your national statute provide remuneration for the exercise of limitations and exceptions for cultural purposes?

- Yes
 No

90. Does your national statute provide for any specific requirement regarding the extent and nature of the works or objects of related rights covered by the limitations and exceptions for cultural purposes?

- Yes
 No

If yes, please describe: _____

91. Does your national statute subject the exercise of limitations and exceptions for social purposes to the condition of the nature of social activities?

- Yes
 No

If yes, please describe: _____

92. Does your national statute provide remuneration for the exercise of limitations and exceptions for social purposes?

- Yes
 No

93. Does your national statute subject the exercise of limitations and exceptions for social purposes to any specific requirement regarding the extent and nature of the works or objects of related rights?

- Yes
 No

If yes, please describe: _____

Part VI: Other questions on digital technology

94. Does your national statute provide any limitations or exceptions for reverse engineering?

- Yes
 No

If yes, please describe: _____

95. Does your national statute impose any kind of liability (direct, indirect, or secondary) according to which a party can be held liable for the copyright infringement of third parties under certain circumstances (such as when that party has the ability to control an infringer's actions or contributes to a third party's infringing actions)?

- Yes
 No

If yes, please describe: _

- “(1) The circumvention of effective technological measures designed to protect the rights provided by this Act shall represent the infringement of such rights, unless otherwise specially provided by this Act.
- (2) The circumvention of technological measures shall also mean, under this Act, manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of technology, computer programs, devices, products or components, or the provision of services which:
- are promoted, advertised or marketed for the purpose of circumvention of technological measures,
 - have only a limited commercially significant purpose or use other than to circumvent technological measures,
 - are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of effective technological measures.
- (3) A request may be filed against a person who knew or had reasonable grounds to know that she or he was circumventing or enabling the circumvention of technological measures. It shall be considered that the person who acts in the manner described in paragraph (2) of this Article has reasonable grounds to know that she or he is circumventing or enabling the circumvention of technological measures.
- (4) For the purposes of this Act, technological measures shall mean any technology, computer program, device, product or component thereof that in the normal course of its operation is designed to prevent or restrict acts, which are not authorized by the right holder under this Act. The technological measures shall be considered effective where the use of copyright works or subject matters of related rights is restricted by the right holders under this Act through the application of an access control or a protection process, such as encryption, scrambling or other alteration of the work or other subject matter or a copy control mechanism, which achieves the protection objective.”

96. With respect to liability that arises from the infringing activities of third parties, does your national statute, for purposes such as to encourage online service providers to cooperate with rightsholders in deterring infringement, provide limitations or exceptions, or statutory safe harbors, to the liability of online service providers in any way?

Yes

No

If yes, please describe: _____

97. With respect to liability that arises from the infringing activity of a third party, for which of the following activities, if any, does your national statute provide limitations or exceptions, or statutory safe harbors, to the liability of online service providers?

Acting as a conduit for infringing material (e.g., transmitting, routing, or supplying connections for material)

Caching infringing material

Storing infringing material at the direction of a user

Providing access by means of information search tools such as indices, references, hyperlinks and directories to infringing materials that users post

Others. Please specify: _____

98. What conditions, if any, must be met in order for an online service provider to qualify for the limitation of liability, exception to liability, or statutory safe harbor?

Please specify: _____

Part VII: General questions to cover areas left out in Part I to VI

99. Are the following limitations or exceptions included in your national statute? (more than one option can be selected)

- right of quotation**
- news reporting**
- ephemeral copies**
- incidental uses**
- government uses**
- non-voluntary license for broadcasting
- non-voluntary license for mechanical reproduction of musical works

Please describe: _____

100. Does your national statute include limitations and exceptions for any other activities that are not covered in the questionnaire so far?

- Yes
- No**

If yes, please describe: _____

101. Has your country signed, or is in the process of negotiating, a Free Trade Agreement (FTA) containing clauses on copyright and related rights exceptions and limitations?

- Yes
- No**

Please describe: _____

102. If so, with which country or group of countries?

Please describe: _____

103. Please add any further comments and information you deem interesting for this questionnaire.

We could not give answers to all the questions as posed, for two reasons. Firstly, the Croatian Law does not provide for all the limitations and exceptions, as contained in the Questionnaire. Secondly, although we are aware of the fact that our Law should also be amended in the part relating to limitations and exceptions, we can not indicate, at this moment, the exact wording of the amendments to be provided for.

[End of questionnaire]