

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

Country: Ukraine

by

Name and contact information (including telephone and e-mail): State Department of Intellectual Property

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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: _____

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: free use of a work with the indication of the author's name, free reprographic reproduction by libraries and archives of copies of a work, free copying, modification and decompilation of computer programs, free reproduction of works for personal purposes

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: Art.42 of the Law – blank tape levies (see description in №7)

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: Article 25 (Free Reproduction of Works for Personal Purposes):

1. It shall be permissible to reproduce exclusively for personal purposes or for the family circle and for close acquaintances of this family, without the consent of the author (or other copyright holder), and without payment of the author's remuneration, works previously promulgated in a lawful way, except for the following:

- a) works of architecture in the form of buildings and facilities;
- b) computer program, except for the cases stipulated in Article 24 of this Law;
- c) to reprographically reproduce books, musical notifications and original works of fine art, except for the cases stipulated in Articles 22 and 23 of this Law;

2. It shall be permitted to reproduce works and performances taped in phonograms, videograms and in copies thereof, as well as audiovisual works and their specimen, in home conditions and exclusively for private purposes or for the family circle without the consent of the author(s), performers, and the producers of the phonograms (videograms), but with paying the author's remuneration. The specifics of paying the author's remuneration in this case are stipulated in Article 42 of the present Law.

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

+ Yes
 No

If yes, please describe: Article 42 (Restriction of the Proprietary Rights of Performers, Phonogram and Videogram Producers and Broadcasting Organizations):

1. It shall be permissible to use performances, phonograms (videograms), and broadcast programs, to fix, and to reproduce and broadcast them for the general public, without consent of performers, phonogram (videogram) producers and broadcasting organizations and without payment of remuneration in the cases stipulated in Articles 21 through 25 of this Law concerning the restriction of the proprietary rights of the authors of literary, art and scientific works in case the following requirements are observed:

- reproduction of the specified objects is conducted exclusively with the aim of study or scientific research;

- the right to reproduction envisaged in clause “a” of this part shall not extend upon export of reproduced specimen of phonograms, videograms, broadcast programs beyond the customs territory of Ukraine;

- subjects of related rights shall retain the right to fair remuneration taking into account a number of reproduced specimen.

The use of objects of related rights without the consent of their related rights holders and without payment of remuneration to them, as stipulated in this part, shall be possible only if the personal non-proprietary rights of subjects of copyright and related rights, stipulated in Articles 14 and 38 of this Law

2. It shall be permissible to reproduce the works fixed in phonograms (videograms) and their copies in home conditions and exclusively for personal purposes without consent of the author(s) and phonogram (videogram) producers, but paying remuneration to them in a way stipulated by part four of this Article.

3. The use of objects of related rights without consent of subjects of related rights envisaged in parts two and three of this Article shall not prejudice normal exploitation of performances, phonograms (videograms) and broadcast programs nor affect the legitimate interests of performances, phonogram (videogram) producers and broadcast programs or other subjects of copyright and (or) related rights.

4. The remuneration to phonogram (videogram) producers and other persons holding copyright and (or) related rights with respect to reproductions envisaged by part two of this Article shall be paid as deductions (interest) by the producers and the importers of equipment and (or) material media, with the use of which it is possible to carry out the reproduction of the works fixed in phonograms (videograms) exclusively for personal purposes in home conditions, except for:

a) professional equipment and (or) material media not designed for use in home conditions;
b) equipment and material media that are exported outside the customs territory of Ukraine;
c) equipment and material media that are imported by an individual into the customs territory of Ukraine exclusively for personal purposes and without a commercial purpose.

5. The amount of deductions (interest) to be paid by the producers and (or) importers of equipment and material media as the remuneration for the reproductions indicated in parts two and four of this Article shall be determined by the Cabinet of Ministers of Ukraine. This money shall be remitted by the producers and importers of equipment and material media to collective management organizations (hereinafter – authorized organizations). Funds collected shall be distributed between collective management organizations, registered at the Institution, on the basis of contracts signed between authorized organizations and all collective management organizations. The importers shall remit this money when they import goods into the customs territory of Ukraine, and the producers - at the end of each month after sale of the equipment and material media.

6. The Institution and the authorized organizations specified by the Institution for collection of money shall be entitled to demand from producers and importers information concerning the production, import and realization (sale) of the equipment and material media indicated in part four of this Article.

7. The money so collected – indicated in parts two and four of this Article shall be distributed between the authors, performers and producers of phonograms (videograms). Unless otherwise stipulated by contracts between collective management organizations these funds shall be distributed in the following way: authors – 50%, performers – 25%, and phonogram (videogram) producers – 25%.

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

If yes, please describe: Article 24. Free Copying, Modification and Decompilation of Computer Program:

1. A person lawfully possessing a legally produced specimen of computer program shall be entitled to do the following without the consent of the author or other person holding the copyright with respect to the software:

1) to change (modify) computer program with the aim of ensuring its operation when it is used with the user's technical equipment, and performing the actions related to the operation of the computer program in accordance with its purpose, in particular, to record and store in computer memory and to correct evident errors, **unless otherwise stipulated by an agreement with the person holding the copyright.**

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: Article 24. Free Copying, Modification and Decompilation of Computer Program:

1. A person **lawfully possessing a legally produced specimen of computer program** shall be entitled to do the following without the consent of the author or other person holding the copyright with respect to the software:

1) to change (modify) computer program with the aim of ensuring its operation when it is used with the user's technical equipment, and performing the actions related to the operation of the computer program in accordance with its purpose, in particular, to record and store in computer memory and to correct evident errors, unless otherwise stipulated by an agreement with the person holding the copyright;

2) to produce one copy of computer program, provided that the copy is made only for archival purposes or to replace a lawfully acquired specimen in case the original computer program is lost, damaged, destroyed or becomes unusable. In this case, the copy of the computer program shall not be used for purposes other than those specified in this clause and clause 1 of this part, and shall be destroyed if possession of a specimen of the computer program ceases to be lawful;

3) to decompile computer program (to transform its object code into output text) with the aim of obtaining the information required for the achievement of its compatibility with independently developed computer program, subject to the following conditions:

a) the person in question previously had no other sources of access to the information necessary for the achievement of compatibility;

b) said actions are performed only with respect to the computer program portions that are necessary for the achievement of compatibility;

c) information obtained upon decompilation shall be used only to effect its compatibility with other software, and shall not be transferred to other persons, except when this is necessary for the achievement of compatibility with other software, and shall not be used for the development of computer program that looks similar to the decompiled computer program, or for any other copyright-infringing action;

4) to inspect, study and modify the functioning of a computer program in an effort to understand the ideas and principles that make up its basis, on the condition that this is done in order to facilitate some action such as loading, display, functioning, transfer, or storing in memory (saving) computer program;

2. The enforcement of the provisions of this Article shall not prejudice the use of computer program nor restrict the legitimate interests of the author and (or) of another person holding the copyright with respect to the computer program.

Article 25. Free Reproduction of Works for Personal Purposes

1. It shall be permissible to reproduce exclusively for personal purposes or for the family circle and for close acquaintances of this family, without the consent of the author (or other copyright holder), and without payment of the author's remuneration, **works previously promulgated in a lawful way...**

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: _____

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: not defined

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: _____

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: not defined

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

+ Yes
 No

Please describe: Article 24 (Free Copying, Modification and Decompilation of Computer Programs of the Law):

1. A person lawfully possessing a legally produced specimen of computer program shall be entitled to do the following without the consent of the author or other person holding the copyright with respect to the software:
 - 1) to change (modify) computer program with the aim of ensuring its operation when it is used with the user's technical equipment, and performing the actions related to the operation of the computer program in accordance with its purpose, in particular, to record and store in computer memory and to correct evident errors, unless otherwise stipulated by an agreement with the person holding the copyright;
 - 2) to produce one copy of computer program, provided that the copy is made only for archival purposes or to replace a lawfully acquired specimen in case the original computer program is lost, damaged, destroyed or becomes unusable. In this case, the copy of the computer program shall not be used for purposes other than those specified in this clause and clause 1 of this part, and shall be destroyed if possession of a specimen of the computer program ceases to be lawful;
 - 3) to decompile computer program (to transform its object code into output text) with the aim of obtaining the information required for the achievement of its compatibility with independently developed computer program, subject to the following conditions:
 - a) the person in question previously had no other sources of access to the information necessary for the achievement of compatibility;
 - b) said actions are performed only with respect to the computer program portions that are necessary for the achievement of compatibility;
 - c) information obtained upon decompilation shall be used only to effect its compatibility with other software, and shall not be transferred to other persons, except when this is necessary for the achievement of compatibility with other software, and shall not be used for the development of computer program that looks similar to the decompiled computer program, or for any other copyright-infringing action;
 - 4) to inspect, study and modify the functioning of a computer program in an effort to understand the ideas and principles that make up its basis, on the condition that this is done in

order to facilitate some action such as loading, display, functioning, transfer, or storing in memory (saving) computer program;

2. The enforcement of the provisions of this Article shall not prejudice the use of computer program nor restrict the legitimate interests of the author and (or) of another person holding the copyright with respect to the computer program.

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

Yes
+ No

Please describe: Article 1. Definitions:

reproduction - production of one or more copies of a work, videogram, phonogram in any material form, **as well as their recording for temporary or permanent storage in electronic (including digital), optical or other computer-readable form.**

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 Law of Ukraine “On Copyright and Related Rights” doesn’t provide any norms specially for providers. But the Law of Ukraine “On Telecommunications” (Art. 40) provides that the operators, providers of telecommunications shall not be held liable for the content of information transmitted through their networks..

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: _____

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: not defined

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: Art 21 of the Law: The following shall be permitted without the consent of the author (or other copyright holder) and with mandatory indication of the author's name and of the source of borrowing: to use literary works and works of art to the extent justified by the intended purpose, such as illustrations in publications, broadcasts, sound recordings or video recordings of educational nature.

Art 22 of the Law: It shall be permissible for libraries and archives, the activity of which is not aimed directly or indirectly at earning profit, to reprographically reproduce, without the consent of the author or other copyright holder, one specimen of a work, subject to the following:

1) when a reproduced work is a separately published article or other small works or excerpts from written works (except for computer software and databases), with or without illustrations, and when the reproduction is made upon an individual's requests provided that:

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

a) the library or archive has sufficient reason to believe that such a specimen will be used for the purpose of **education**, training and private research;

b) reproduction of the work is a single and not a regular event.

Art 23 of the Law: (Free Reproduction of Specimens of a Work for Educational Purposes)

The following shall be permitted without the consent of the author or other copyright holder:

1) to reproduce excerpts from published written works, audiovisual works such as illustrations for educational purposes, provided that the extent of the reproduction is consistent with the indicated purpose;

2) for educational institutions to reprographically reproduce for classroom lessons published articles and other small works and excerpts from written works, with or without illustrations, provided that:

a) the extent of the reproduction is consistent with the indicated purpose;

b) reproduction of the work is a solitary and not a regular event.

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: See description in #22. There is not special regulation for distance education

On performances²

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: See description in #23 (on performances).

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

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.

Yes
 No

If yes, please describe: Art 42 of the Law:

1. It shall be permissible to use performances, phonograms, videograms, broadcast programs, to fix, and to reproduce and broadcast them for the general public without consent of performers, phonogram or videogram producers and broadcasting organizations in the cases stipulated in Articles 21 through 25 of this Law concerning the restriction of the proprietary rights of the authors of literary, art and scientific works in case the following requirements are observed:

- a) reproduction of the specified objects is conducted exclusively with the aim of study or scientific research;
- b) the right to reproduction envisaged in subparagraph (a) of this paragraph shall not extend upon export of reproduced specimen of phonograms, videograms, broadcast programs beyond the customs territory of Ukraine;
- c) subjects of related rights shall retain the right to fair remuneration taking into account a number of reproduced specimen.

The use of objects of related rights without the consent of the subjects of the related rights as stipulated in this paragraph shall be possible only if the personal non-proprietary rights of subjects of copyright and related rights, stipulated in Articles 14 and 38 of this Law are observed.

3. The use of objects of related rights without consent of subjects of related rights envisaged in paragraphs one and two of this Article shall not prejudice normal exploitation of performances, phonograms, videograms and broadcast programs nor affect the legitimate interests of performances, phonogram and videogram producers, producers of broadcast programs or other subjects of copyright and (or) related rights.

4. The remuneration to phonogram and videogram producers and other persons holding copyright and (or) related rights envisaged by paragraph two of this Article shall be paid as deductions (interest) by the producers and (or) the importers of equipment and material media with the use of which it is possible to carry out the reproduction of the works fixed in phonograms (videograms) exclusively for personal purposes in home conditions, except for:

- a) professional equipment and (or) material media not designed for use in home conditions;
- b) equipment and material media that are exported outside the customs territory of Ukraine;
- c) equipment and material media that are imported by an individual into the customs territory of Ukraine exclusively for personal purposes and without a commercial purpose.

5. The amount of deductions (interest) indicated in paragraphs two and four of this Article to be paid by the producers and (or) importers of equipment and material media shall be determined by the Cabinet of Ministers of Ukraine. This money shall be remitted by the producers and importers of equipment and (or) material media to collective management organizations (hereinafter – authorized organizations). Funds collected shall be distributed between collective management organizations registered at the Institution on the basis of contracts signed between authorized organizations and all collective management organizations. The importers shall remit this money when they import goods into the customs territory of Ukraine, and the producers - at the end of each month after sale of the equipment and material media.

6. The Institution and the authorized organizations specified by the Institution for collection of funds shall be entitled to demand from producers and importers information concerning the production, import and realization (sale) of the equipment and material media indicated in paragraph four of this Article.

7. The funds collected as indicated in paragraphs two and four of this Article shall be distributed between the authors, performers and producers of phonograms (videograms). Unless otherwise stipulated by contracts between collective management organizations these funds shall be distributed in the following way: authors – 50%, performers – 25%, and phonogram (videogram) producers – 25%.

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

If yes, please describe: the extent of the reproduction must be consistent with the educational purpose

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: Art 23 of the Law: (Free Reproduction of Specimens of a Work for Educational Purposes)

The following shall be permitted without the consent of the author or other copyright holder:

1) to reproduce excerpts from published written works, audiovisual works such as illustrations for educational purposes, provided that the extent of the reproduction is consistent with the indicated purpose;

2) for educational institutions to reprographically reproduce for classroom lessons published articles and other small works and excerpts from written works, with or without illustrations, provided that:

a) the extent of the reproduction is consistent with the indicated purpose;

b) reproduction of the work is a solitary and not a regular event.

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: Digital copying isn't mentioned but according to the Art. 1 of the Law reproduction - production of one or more specimens of a work, videogram, phonogram in any material form, as well as their recording for temporary or permanent storage in **electronic** (including digital), optical or other computer-readable form;

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

Yes

+ No

If yes, please describe: _____

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: Blank tape levies for the use of use performances, phonograms, videograms, broadcast programs.

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: the extent of the reproduction must be consistent with the educational purpose

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: _____

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: Ukrainian legislation doesn't provide specific limitations and exceptions allowing translations for educational purposes

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: Ukrainian legislation doesn't provide specific limitations and exceptions allowing translations for educational purposes

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: Ukrainian statute deoesn't provide specific limitations and exceptions for making available in digital networks for educational purposes.

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: Ukrainian statute deoesn't provide specific limitations and exceptions for making available in digital networks for educational purposes.

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: exceptions on making available in digital networks, digital libraries, distant learning.

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: low sense of justice in the field of education results copyright infringements (plagiarism, piracy, other unauthorised use) instead of use of limitations and exceptions for educational purposes.

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: Article 22. Free Reprographic Reproduction by Libraries and Archives of Specimens of a Work

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

It shall be permissible for libraries and archives, the activity of which is not aimed directly or indirectly at earning profit, to reprographically reproduce, without the consent of the author or other copyright holder, one specimen of a work, subject to the following:

- 1) when a reproduced work is a separately published article or other small works or excerpts from written works (except for computer software and databases), with or without illustrations, and when the reproduction is made upon an individual's requests provided that:
 - a) the library or archive has sufficient reason to believe that such a specimen will be used for the purpose of education, training and private research;
 - b) reproduction of the work is a single and not a regular event;
- 2) when reproduction is made to preserve or replace a lost, damaged and unusable specimen of this library or archive, or to renew a lost, damaged or unusable specimen from the storage of a similar library or archive, and it is impossible to obtain such a specimen by other means, as well as when reproduction of the work is a single and not a regular event.

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

Please describe: separately published article or other small works or excerpts from written works (except for computer software and databases), with or without illustrations,

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

- + Yes
 No

Please describe: 1) when a reproduced work is a separately published article or other small works or excerpts from written works (except for computer software and databases), with or without illustrations, and when the reproduction is made upon an individual's requests.

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

Please describe:

- a) the library or archive has sufficient reason to believe that such a specimen will be used for the purpose of education, training and private research;
- b) reproduction of the work is a single and not a regular event;
- 2) when reproduction is made to preserve or replace a lost, damaged and unusable specimen of this library or archive, or to renew a lost, damaged or unusable specimen from the storage of a similar library or archive, and it is impossible to obtain such a specimen by other means, as well as when reproduction of the work is a single and not a regular event.

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

+Yes
 No

Please describe: reprographic reproduction made to preserve or replace a lost, damaged and unusable specimen of this library or archive, or to renew a lost, damaged or unusable specimen from the storage of a similar library or archive, and it is impossible to obtain such a specimen by other means, as well as when reproduction of the work is a single and not a regular event.

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

Please describe: any type of work

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: _____

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

Please describe: exceptions for digital bases of works made available by libraries and archives for the access of public over the Internet (non-commercial digital libraries and archives)

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: _____

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

N/A

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?

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: _____

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: Article 21. Free Use of a Work with the Indication of the Author's Name
The following shall be permitted without the consent of the author (or other copyright holder) and with mandatory indication of the author's name and of the source of borrowing:
6) to issue works for the blind, published in Braille characters.

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

Yes

No

Please describe: Braille print

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

Please describe: N/A

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: _____

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

Yes
 No

Please describe: there are not any special exception for deaf persons

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

Please describe:N/A

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: _____

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

- Yes
 No

Please describe:N/A

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

Please describe: N/A

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: _____

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

Please describe: limitations and exceptions that allow persons with disabilities use modern technologies like text-to-speech and audiobooks in digital format.

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

Article 21. Free Use of a Work with the Indication of the Author's Name

The following shall be permitted without the consent of the author (or other copyright holder) and with mandatory indication of the author's name and of the source of borrowing:

- 1) to use quotations (brief excerpts) from published works to the extent justified by the intended purpose, including quotations from newspaper and magazine articles in the form of press reviews, if this is required by the critical, polemic, scientific or informational nature of the work incorporating the quotations; to freely use quotations in the form of brief excerpts from performances and works incorporated in a phonogram (videogram) or a broadcasting program;
- 2) to use literary works and works of art to the extent justified by the intended purpose, such as illustrations in publications, broadcasts, sound recordings or video recordings of educational nature;
- 3) to reproduce in the press, to carry out public performance or public notification of previously published newspaper or magazine articles on current economic, political, religious and social issues, or previously broadcast works of the same nature, when the right to carry out such a reproduction, public notification or other public communication has not been specially prohibited by the author;
- 4) to reproduce in order to highlight current events by means of photography or cinematography, to carry out public notification or other public announcement of the works seen or heard in the course of such events to the extent justified by the informational purpose;
- 5) to reproduce in catalogues works displayed at exhibitions, auctions, fairs or collections that are open for public access for covering the above-mentioned events without using these catalogues for commercial purposes (Article 21 (1) (5) in wording of the Law of Ukraine No. 850-IV(850-15) of 22 May 2003);
- 6) to issue works for the blind, published in Braille characters;
- 7) to reproduce works for court and administrative proceedings, to the extent justified by this purpose;
- 8) to carry out public performance of musical works during official and religious ceremonies as well as funerals to the extent justified by the nature of such ceremonies;
- 9) to reproduce for informational purposes in newspapers and other periodicals, to transmit by air or to carry out other public notification of publicly delivered speeches, addresses, reports and other similar works to the extent justified by the intended purpose;
- 10) to reproduce a work for the purposes and under the conditions stipulated in Articles 22 through 25 of this Law.

This list of freely usable works is exhaustive.

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: Article 21. Free Use of a Work with the Indication of the Author's Name

The following shall be permitted without the consent of the author (or other copyright holder) and with mandatory indication of the author's name and of the source of borrowing:

3) to reproduce in the press, to carry out public performance or public notification of previously published newspaper or magazine articles on current economic, political, religious and social issues, or previously broadcast works of the same nature, when the right to carry out such a reproduction, public notification or other public communication has not been specially prohibited by the author;

8) to carry out public performance of musical works during official and religious ceremonies as well as funerals to the extent justified by the nature of such ceremonies;

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: Article 21. Free Use of a Work with the Indication of the Author's Name

The following shall be permitted without the consent of the author (or other copyright holder) and with mandatory indication of the author's name and of the source of borrowing:

3) to reproduce in the press, to carry out public performance or public notification of previously published newspaper or magazine articles on current economic, political, religious and social issues, or previously broadcast works of the same nature, **when the right to carry out such a reproduction, public notification or other public communication has not been specially prohibited by the author;**

8) to carry out public performance of musical works during official and religious ceremonies as well as funerals **to the extent justified by the nature of such ceremonies;**

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 Article 21. Free Use of a Work with the Indication of the Author's Name

The following shall be permitted without the consent of the author (or other copyright holder) and with mandatory indication of the author's name and of the source of borrowing:

5) to reproduce in catalogues works displayed at exhibitions, auctions, fairs or collections that are open for public access for covering the above-mentioned events without using these catalogues for commercial purposes

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: Article 21. Free Use of a Work with the Indication of the Author's Name

The following shall be permitted without the consent of the author (or other copyright holder) and with mandatory indication of the author's name and of the source of borrowing:

5) to reproduce in catalogues works displayed at exhibitions, auctions, fairs or collections that are open for public access for covering the above-mentioned events **without using these catalogues for commercial purposes**

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: Article 21. Free Use of a Work with the Indication of the Author's Name

The following shall be permitted without the consent of the author (or other copyright holder) and with mandatory indication of the author's name and of the source of borrowing:

1) to use quotations (brief excerpts) from published works to the extent justified by the intended purpose, including quotations from newspaper and magazine articles in the form of press reviews, if this is required by the critical, polemic, scientific or informational nature of the work incorporating the quotations; to freely use quotations in the form of brief excerpts from performances and works incorporated in a phonogram (videogram) or a broadcasting program;

- 3) to reproduce in the press, to carry out public performance or public notification of previously published newspaper or magazine articles on current economic, political, religious and social issues, or previously broadcast works of the same nature, when the right to carry out such a reproduction, public notification or other public communication has not been specially prohibited by the author;
- 4) to reproduce in order to highlight current events by means of photography or cinematography, to carry out public notification or other public announcement of the works seen or heard in the course of such events to the extent justified by the informational purpose;
- 7) to reproduce works for court and administrative proceedings, to the extent justified by this purpose;
- 9) to reproduce for informational purposes in newspapers and other periodicals, to transmit by air or to carry out other public notification of publicly delivered speeches, addresses, reports and other similar works to the extent justified by the intended purpose.

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: Article 21. Free Use of a Work with the Indication of the Author's Name

The following shall be permitted without the consent of the author (or other copyright holder) and with mandatory indication of the author's name and of the source of borrowing:

- 1) to use quotations (**brief excerpts**) **from published works** to the extent justified by the intended purpose, including quotations from newspaper and magazine articles in the form of press reviews, if this is required by **the critical, polemic, scientific or informational nature of the work incorporating the quotations**; to freely use quotations in the form of brief excerpts from performances and works incorporated in a phonogram (videogram) or a broadcasting program;
- 3) to reproduce in the press, to carry out public performance or public notification of **previously published** newspaper or magazine articles on current economic, political, religious and social issues, or previously broadcast works of the same nature, when the right to carry out such a reproduction, public notification or other public communication **has not been specially prohibited by the author**;
- 4) to reproduce in order to highlight current events by means of photography or cinematography, to carry out public notification or other public announcement of the works seen or heard in the course of such events **to the extent justified by the informational purpose**;
- 7) to reproduce works for court and administrative proceedings, **to the extent justified by this purpose**;

9) to reproduce for informational purposes in newspapers and other periodicals, to transmit by air or to carry out other public notification of publicly delivered speeches, addresses, reports and other similar works **to the extent justified by the intended purpose;**

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: Article 24. Free Copying, Modification and Decompilation of Computer Software

1. A person lawfully possessing a legally produced specimen of computer software shall be entitled to do the following without the consent of the author or other person holding the copyright with respect to the software:

1) to change (modify) computer software with the aim of ensuring its operation when it is used with the user's technical equipment and performing the actions related to the operation of the computer software in accordance with its purpose, in particular, to record and store in computer memory and to correct evident errors, unless otherwise stipulated by an agreement with the person holding the copyright;

2) to produce one copy of computer software provided that the copy is made only for archival purposes or to replace a lawfully acquired specimen in case the original computer software is lost, destroyed or becomes unusable. In this case the copy of the computer software shall not be used for purposes other than those specified in this subparagraph and subparagraph 1 of this paragraph, and shall be destroyed if possession of a specimen of the computer software ceases to be lawful;

3) to decompile computer software (to transform it from object code into output text) with the aim of obtaining the information required for the achievement of its compatibility with independently developed computer software subject to the following conditions:

a) this person previously had no other sources of access to the information necessary for the achievement of compatibility;

b) actions referred to are performed only with respect to the computer software portions that are necessary for the achievement of compatibility;

c) information obtained upon decompilation shall be used only to effect its compatibility with other software, and shall not be transferred to other persons except when this is necessary for the achievement of compatibility with other software, and shall not be used for the development of computer software that is similar to the decompiled computer software or for any other copyright-infringing action;

4) to inspect, study and search the functioning of a computer software in an effort to understand the ideas and principles that make up its basis provided that this is done in the course of performing any action such as loading, display, functioning, transfer or storing in memory (saving) computer software;

2. The enforcement of the provisions of this Article shall not prejudice the use of computer software nor restrict the legitimate interests of the author and (or) of another person holding the copyright with respect to the computer software.

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: _____

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: Law "**On Telecommunications**" Article 38. Rights of Operators, Providers of Telecommunications

1. The operators of telecommunications shall have the right to;
8) reduce the list or terminate the provision of telecommunications services to consumers that violate the rules of the provision and receipt of telecommunications services or disconnect the terminal equipment of the consumer if it does not have a document, which is issued under the procedure stipulated by the legislation, about compliance with the requirements of normative documents in the telecommunication sector under the procedure established by these rules;
- 9) disconnect, pursuant to a court decree, the terminal equipment if it is used by the consumer for doing wrongful acts or acts that threaten the interests of the national security;

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: no regulation in copyright legislation

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: not provided

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: _____

N/A

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

Exceptions or limitations in the cases of use for the purpose of caricature, parody or pastiche. Correlation between exceptions and limitations with the free public licenses like Creative Commons which can be considered as exceptions and limitations given to public by the rightholder

[End of questionnaire]