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Q246

Exceptions and limitations to copyright protection for libraries, archives and education and research institutions

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I. Current law and practice

1) Does your law provide for exceptions or limitations to copyright protection for libraries and archives?

yes

If so, please provide details of such exceptions or limitations, including in relation to the following activities::

a) reproduction and/or distribution for the purpose of preservation or replacement;

yes

Please comment:

b) reproduction and/or distribution for the purpose of interlibrary lending;

no

Please comment:

c) reproduction and/or distribution for the purpose of providing copies (either in a physical or a digital form) to users of libraries or archives; or

no

Please comment:

d) any other activities, and if so, what activities?

yes

Please comment:

Reproduction of special copies for disabled people

2) Do any of these exceptions or limitations apply to libraries, archives or other organizations (e.g. museums) generally, or only to certain organizations (e.g. public and/or commercial libraries and archives)? If so, which organizations?

It applies only for non-commercial libraries

3) Are there any conditions as to the type or scope of any permitted activities (e.g. number of copies that may be created, whether only a portion of a work may be used, whether certain forms of reproduction (e.g. digital reproduction) are excluded)? If so, please explain the conditions.

New copies can be done generally to replace existing copies which become damaged

4) Are there any conditions as to the type of copyrighted work that may be used (e.g. lawfully created copies, copies existing in the library's or archive's collection, published works)? If so, please explain the conditions.

The original copies should be lawfully introduced in Russia

5) Does your law provide for exceptions or limitations to copyright protection for education and research institutions?

yes

If so, please provide details of such exceptions or limitations, including in relation to the following activities::

a) performance and/or display for educational purposes;

yes

Please comment:

b) reproduction and/or distribution for educational purposes (e.g. preparation of course packs, compilations or anthologies, exams);

yes

Please comment:

c) making translations;

yes

Please comment:

d) making available in digital networks for educational purposes (e.g. uploading course packs onto on-line platforms, compilations or anthologies, providing distance education);

no

Please comment:

Directly not indicated but may be possible under our understanding of the law

e) reproduction and/or distribution for research purposes; or

yes

Please comment:

f) any other activities, and if so, what activities?

yes

if so, what activities?:

Reproduction on copier for personal and family purposes

6) Do any of these exceptions or limitations apply to educational and research institutions generally (e.g. non-profit institutions), or only to certain institutions? If so, which institutions?

The exceptions are not limited to institutions but to the purpose of use (scientific non-commercial)

7) Are there any conditions as to the type or scope of the activities and the persons who may engage in such activities (e.g. number of copies that may be created, whether only a portion of a work may be used, whether both a teacher's and student's performance is covered, or only one or the other)? If so, please explain the conditions.

It is not indicated directly

8) Are there any conditions as to the type of copyrighted work that may be used (e.g. only lawfully created copies, only certain kinds of copyrighted works)? If so, please explain the conditions.

It can be done only using lawfully obtained copies

For the questions below, please provide an answer for each exception or limitation mentioned above.

9) Is there any statutory provision that specifically provides for such exception or limitation? Is it alternatively or additionally recognized in case law? If neither, does your jurisdiction have a more general or broad exception or limitation that is interpreted as covering such specific exception or limitation?

It is directly mentioned in the law

10) Does your law adopt the Three-Step Test (or equivalent wording) in relation to such exception or limitation?

Yes, equivalent wording is applied as criterion

11) Is use under the exception or limitation permitted automatically (without any further action), or must certain criteria be fulfilled/procedure(s) followed (e.g. seeking a compulsory licence)? If it is the latter, please explain the criteria/procedure(s).

Such use is permitted without notifying the right holder -so no license is required

12)	Is remuneration payable for use under such exception or limitation? If so, how is the amount of remuneration determined or calculated? Who is liable for making such payment, and to whom must such payment be made?
	No remuneration is due

13)	Is there any special treatment for orphan works for use within such exception or limitation? If so please explain.
	No special regime for orphan works is provided in the Russian law

14)	Does the law of your jurisdiction allow the exception or limitation to be overridden by contract?
	Not specified directly. But such contract would be considered as contradicting direct permission of the law and might be interpreted as void under certain circumstances.

15)	Other than what is provided in the law of your jurisdiction, are there any efforts by private organizations (such as a private licensing organizations) to address use by libraries, archives and educational and research institutions?

II. Policy considerations and proposals for improvements of the current law

16)	Should there be any exceptions or limitations to copyright protection for libraries and archives?
	yes If yes, in relation to what activities?: Yes, such exceptions and limitations should exist to have balance between private and public interest

17)	Should there be any exceptions or limitations to copyright protection for education and research institutions?
	yes If yes, in relation to what activities? : Yes, such exceptions and limitations should exist to have balance between private and public interest

18)	Is the Three-Step Test a useful test for determining any exceptions or limitations to copyright protection?
	yes Why?: Yes, we believe it is reasonable and useful

19)	Should the exception or limitation be capable of being overridden by contract? Why? Why not?
	No

20)	Should remuneration be payable for any of the activities described in 16) and 17) above? Why? Why not?
	No. This is a limitation to the material right in the interest for society

21)	How can your current law as it applies to exceptions and limitations to copyright protection for libraries, archives and educational and research institutions be improved?
	We believe that reasonable court practice can specify difficult situation (proper application of 3-steps test is advisable).

III. Proposals for harmonisation

22)	Is harmonisation in this area desirable?
	yes Please comment:
	Yes, but harmonization shall leave some space for reasonable interpretation

If yes, please respond to the following questions without regard to your national or regional laws. Even if no, please address the following questions to the extent you consider your national or regional laws could be improved.

23)	If your answer to question 16) or 17) is no, should this be explicitly set out in any international treaty/convention?
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24)	If yes to question 16):
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a)	to what libraries, archives and other organizations should these exceptions or limitations apply;
	We believe that the core thing is purpose of the use - limited scientific and non-commercial

b)	to what activities should these exceptions or limitations apply;
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c)	under what conditions should the activities be undertaken or the copyrighted work used?
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25)	If yes to question 17):
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a)	to what educational and research institutions should these exceptions or limitations apply;
	We believe that the core thing is purpose of the use - limited educational and non-commercial

b)	to what activities should these exceptions or limitations apply;
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c)	under what conditions should the activities be undertaken or the copyrighted work be used?
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For the questions below, please provide an answer for each exception or limitation mentioned above (as applicable).

26)	Should use under the exception or limitation be permitted automatically (without any further action), or should certain criteria or procedure(s) be required? If so, what criteria/procedure(s)?
Yes it should be permitted this way	

27)	How should any remuneration for use that falls under such exception or limitation be determined or calculated? Who should be liable for making such payment, and to whom should such payment be made?
No remuneration is to be due	

28)	What special treatment, if any, should there be for use of orphan works within such exception or limitation?
We do not have strong position on that issue	

29)	In what circumstances should the exception or limitation be capable of being overridden by contract?
Should not be capable of being overridden by contract	

30)	How should any efforts by private organisations to address use by libraries, archives and educational and research institutions, be reconciled with any exception or limitation provided by law?
It shall be specified in the law	

Summary

Please comment on any additional issues concerning exceptions and limitations to copyright protection for libraries, archives and educational and research institutions you consider relevant to this Working Question.
