

NordILL 2018



Libraries without borders?
Utopia or reality

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Libraries without borders?

Utopia or reality?

It all depends... on the conditions

EU law

Most important are:

Regulations

Directives

EU law

Regulations

are binding in its entirety and directly applicable in all Member States

EU law

Directives

shall be implemented in National
Legislation

General Data Protection Regulation

Subject-matter and objectives

- protect fundamental rights and freedoms of natural persons and – in particular – their right to the protection of personal data
- the free movement of personal data within the Union shall be neither restricted nor prohibited for reasons connected with the protection of natural persons with regard to the processing of personal data

General Data Protection Regulation

Principles relating to processing of personal data

- lawfulness, fairness and transparency
- purpose limitation
- data minimization
- accuracy
- storage limitation
- integrity and confidentiality

General Data Protection Regulation

Lawfulness of processing

- a) the data subject has given consent
- b) processing is necessary for the performance of a contract
- c) processing is necessary for compliance with a legal obligation

General Data Protection Regulation

Lawfulness of processing, cont.

- d) processing is necessary in order to protect the vital interests of the data subject
- e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller**
- f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party

General Data Protection Regulation

Lawfulness of processing, cont.

The basis for the processing referred to in point (c) and (e) above shall be laid down by:

- Union law, or
- Member State law to which the controller is subject

General Data Protection Regulation

Lawfulness of processing, cont.

- processing is necessary for the performance of a task carried out in the public interest
- Member State law (in Sweden) = Libraries Act, bibliotekslagen (2013:801)

General Data Protection Regulation

Lawfulness of processing, cont.

“...might be inconvenient lending books without knowing who the borrowers are”

General Data Protection Regulation

Lawfulness of processing, cont.

You cannot process personal data for any other purpose than the purpose for which they initially were collected, unless

- you have the subject's consent, or
- there is a provision in Union law or Member State law

General Data Protection Regulation

Right to rectification

The data subject shall have the right to obtain from the controller without undue delay the rectification of inaccurate personal data

General Data Protection Regulation

Right to erasure (right to be forgotten)

The data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without undue delay if:

- the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed
- the data subject withdraws consent

Regulation on Copyright

The Berne-convention

Directives from The European Council

National legislation

Contracts

Regulation on Copyright

The Berne Convention (1886)

- is amended by 176 states (2018),
- is administered by WIPO (World Intellectual Property Organization)

Norway (1896), Denmark (1903), Sweden (1904),
Finland (1928), Iceland (1947), USA (1989), Russia (1995)

2017/18 Kiribati

2018 Afghanistan

The Berne Convention

Three basic principles

- 1. Works originating in one of the Contracting States (that is, works the author of which is a national of such a State or works first published in such a State) must be given the same protection in each of the other Contracting States as the latter grants to the works of its own nationals (principle of "national treatment")*

The Berne Convention

Three basic principles, cont.

- 2. Protection must not be conditional upon compliance with any formality (principle of "automatic" protection)*

The Berne Convention

Three basic principles, cont.

- 3. Protection is independent of the existence of protection in the country of origin of the work (principle of "independence" of protection).*

The Berne Convention

Amendment - WIPO Copyright Treaty (WCT)

- ...maintain a balance between the rights of authors and the larger public interest, particularly education, research and access to information

Regulation on Copyright

- Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society
- 2018 - Proposal for a Directive of The European Parliament and of the Council on copyright in the Digital Single Market

Regulation on Copyright

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Regulation on Copyright

National legislation (in Sweden)

*Act on Copyright in Literary and Artistic Works
(1960)*

Act on Copyright in Literary and Artistic Works

Reproduction within Certain Libraries:

1. for purposes of preservation, completion or research
2. for delivery to users (only single articles or short extracts of works)
3. for use in reading devices

Right to make copies according to this Article have public libraries and such scientific and research libraries which are operated by public authorities

Reproduction on paper as mentioned in item 2. may be distributed to the borrower

Regulation on Copyright

Contracts

Collective licenses

Regulation on Copyright

2018: DSM-directive

*Proposal for a Directive of The
European Parliament and of the
Council on copyright in the Digital
Single Market*

DSM-directive, proposal

Subject matter and scope

is to further harmonize the Union law applicable to copyright and related rights in the framework of the internal market, taking into account in particular digital and cross-border uses of protected content

DSM-directive, proposal

The proposal opens for “text and data mining”

Member States shall provide for an exception for reproductions and extractions of works or other subject-matter to which *research organisations* have *lawful access* and made in order to carry out text and data mining for the purposes of scientific research by such organisations.

DSM-directive, proposal

Member States shall provide for

educational establishments and cultural heritage institutions conducting scientific research

in such a way that the access to the results generated by the scientific research cannot be enjoyed on a preferential basis by an undertaking exercising a decisive influence upon such organisations, to also be able to benefit from the exception provided for in this Article.

DSM-directive, proposal

Conducting scientific research would mean research

1. on a not-for-profit basis or by reinvesting all the profits in its scientific research, or
2. pursuant to a public interest mission recognized by a Member State

DSM-directive, proposal

The European Parliament has recently proposed almost 90 amendments to the text proposed by the European Commission.

The proposal does not seem to restrict the possibilities to use copyright protected material that libraries have today.