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# Copyright and Open science

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# Agenda

1. Copyright Basics
2. Creative Commons
3. Open Science in Slovenia
4. Future expectations
5. Questions

# COPYRIGHT BASICS

- **Copyright and Related Rights Act** (Official Journal of the Republic of Slovenia, No 16/07 - Official consolidated text, 68/08, 110/13, 56/15, 63/16 - ZKUASP, 59/19 and 130/22)
- Constitution of the Republic of Slovenia (Article 60)
- International conventions
- EU Directives

# Copyright works

= individual intellectual creations in the fields of literature, science and art, expressed in any manner, unless otherwise provided by the Copyright and Related Rights Act.



## Copyright works:

- spoken works such as speeches, sermons and lectures,
- written works such as works of literature, articles, manuals, studies, and computer programs,
- musical works with or without lyrics,
- theatrical or theatrical and musical works and puppetry works,
- choreographic works and works of pantomime,
- photographic works and works made by a process similar to photography;
- audiovisual works;
- works of fine art such as paintings, graphic works and sculptures;
- works of architecture such as sketches, plans, and built structures in the fields of architecture, urban planning and landscape architecture;
- works of applied art and industrial design;
- cartographic works;
- presentations of a scientific, educational or technical nature (technical drawings, plans, sketches, tables, expert opinions, three-dimensional representations and other works of a similar nature).

# Unprotected creations:

- ideas, principles or discoveries;
- official legislative, administrative or judicial texts;
- folk literary and artistic creations.



# Author

= a natural person who has created a copyright work.



# Copyright ©

= an indivisible right to a work from which arise:

- exclusive personal rights (moral rights)
- exclusive property rights (economic rights)
- other rights of the author.

→ Copyright belongs to the author by virtue of the creation of the work. No need for registration.

→ Copyright lasts for 70 years after the author's death (unless otherwise provided for in the Copyright Act)



## 1. Moral rights

shall protect the author with respect to his intellectual and personal ties to the work.

- Right to the first disclosure
- Right to recognition of authorship
- Right to the integrity of the work
- Right of withdrawal

## 3. Other rights of the author

- Right of access and of delivery
- Resale right
- Public lending right
- Right to remuneration

## 2. Economic rights

shall protect the author's economic interests by giving the author an exclusive right to authorise or prohibit the use of his work or copies thereof.

- Use of a work in **material form**: [right of reproduction](#)
- Use of a work in **non-material form (communication to the public)**: the right of public performance, of public transmission, of public communication by means of phonograms and videograms, of public presentation, of broadcasting, of rebroadcasting, of secondary broadcasting, [of making available to the public](#)
- Use of the work **in a modified form**: [the right of transformation](#), the right of audiovisual adaptation
- Use of **copies of a work**: the right of distribution, the rental right

# Limitations to copyright

## **General rule** (Article 46):

Limitations to copyright shall be permissible in cases laid down in Section 4 of the Copyright and Related Rights Act, provided that the extent of such use of copyright works is limited in relation to the purpose to be achieved, is in accordance with fair practice, does not conflict with normal use of the work and does not unreasonably conflict with the legitimate interests of the author.

# Limitations to copyright

## 1. LEGAL LICENCES

- Teaching and periodicals
- Distance or cross-border teaching by electronic means

## 2. FREE USE

- Direct teaching
- Reproduction for private and other internal use
- Quotations
- Text and data mining for scientific research
- Scientific research
- ...



# Text and data mining

Text and data mining shall mean any automated analytical technique aimed at analysing text and data in electronic form to generate information such as patterns, trends and correlations, including the digitisation of analogue content and remote access to such content where this is necessary for the purposes of text and data mining. (Article 57a)

# Text and data mining for scientific research (Article 57b)

(1) Research organisations, publicly accessible archives, libraries, museums, film or audio heritage institutions and public broadcasting organisations, as well as persons belonging to research organisations and cultural heritage institutions, may freely reproduce works to which they have lawful access under the conditions laid down in this Article and shall carry out text and data mining operations referred to in paragraph one of the preceding Article on works to which they have lawful access for the purposes of scientific research under the conditions laid down in this Article, including the digitisation of analogue content and remote access to such content where this is necessary for the purposes of text and data mining.

(3) Copies of works made under the conditions referred to in paragraph one of this Article shall be kept in a secure environment and may be retained for as long as is necessary for the purposes of verifying the results of the research for which the text and data mining was carried out. In order not to unduly restrict use pursuant to paragraph one of this Article, storage in a secure environment should be provided with an appropriate level of security, which should be proportionate and limited to what is necessary for the secure storage of copies and the prevention of unauthorised use.

(4) An author may take appropriate measures to ensure the security and integrity of his networks and databases, but such measures may not be disproportionate and may not prevent the effective implementation of text and data mining as referred to in paragraph one of this Article. If the use of any security and protection measures prevents a person from carrying out acts permitted under this Article, the author shall provide that person with access to and use of the works in accordance with this Article within a time limit not exceeding 72 hours.

(5) The sharing and making available to the public of the results of the text and data mining referred to in paragraph one of this Article shall be permissible provided that the extent of the text and data mining is limited by the intended purpose, is compatible with fair practice, does not conflict with normal use of the work and does not unreasonably prejudice the legitimate interests of the author.

(6) Any contractual stipulation contrary to this Article shall be null and void.

# Scientific research (Article 57c)

(1) For the purpose of scientific research in the context of an individual or joint scientific research project or a review of the quality of a scientific research project, and not for direct or indirect economic advantage, persons engaged in the scientific research project shall be free to reproduce up to 15% of a disclosed work, distribute it and communicate it to the public, and third parties shall be free to do so for the purpose of a review of the quality of the scientific research project.

(2) Notwithstanding the preceding paragraph, up to 75% of a work may be reproduced for the purposes of the author's own scientific research.

(3) Notwithstanding paragraphs one and two of this Article, a photograph, illustration or very short work, such as a short article, may be used in its entirety.

(4) In the cases referred to in this Article, the source and authorship of the work shall be indicated if they are indicated on the work used.

(5) Any contractual stipulation contrary to this Article shall be null and void.

# Copyright management

- Collective management = management of rights in multiple copyright works by several authors at the same time
- Individual management
  - Contractual (transfer of material copyright)
  - With permission (licenses, e.g. Creative Commons)



# CREATIVE COMMONS

1. A non-profit organisation founded in the USA in 2001 in response to the increasing copyright restrictions compared to the evolving technology.
2. A set of legal tools: free-to-use public licenses, which creators all over the world can use.
3. A movement with more than 800\* members with a shared opinion that we must work together for the common good, share our work and knowledge, reform copyright, work towards open education and open access to publicly funded research.

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- CC licenses are **a legal tool** that **helps authors** protect their copyright and state to what extent they allow their work to be used.
- They operate under slogan „**some rights reserved**“ as opposed to the well-known „all rights reserved“.
- They can only be used on works that are considered copyrighted works.
- In addition to authors, they are also **helpful to users** who know exactly how they can use a work marked with a CC license.
- They are **free, easy to use, legally enforceable, known worldwide** and last as long as applicable copyright lasts.

# Three layer design

CC licenses are made in a way that even non-lawyers can understand, while still being legally enforceable. 3 layers of each license:

- **The Legal Code** = a base layer containing the terms and conditions that are legally enforceable
- **The „Human Readable“ version** = summary of the legal code containing key license terms
- **The „Machine Readable“ version** = a form of the main license obligations that can be understood by computer systems, search engines and other technology



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CC licenses have **4 different elements**, which in combination form **6 different licenses**. All of them contain at least an indication of authorship, the rest can be chosen by the authors depending on whether they allow the use of their work for commercial purposes, allow adaptations of the work and, if so, under what conditions the newly created work can be shared.



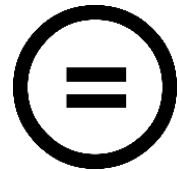
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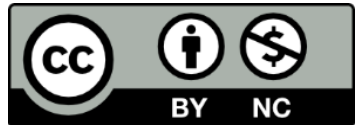
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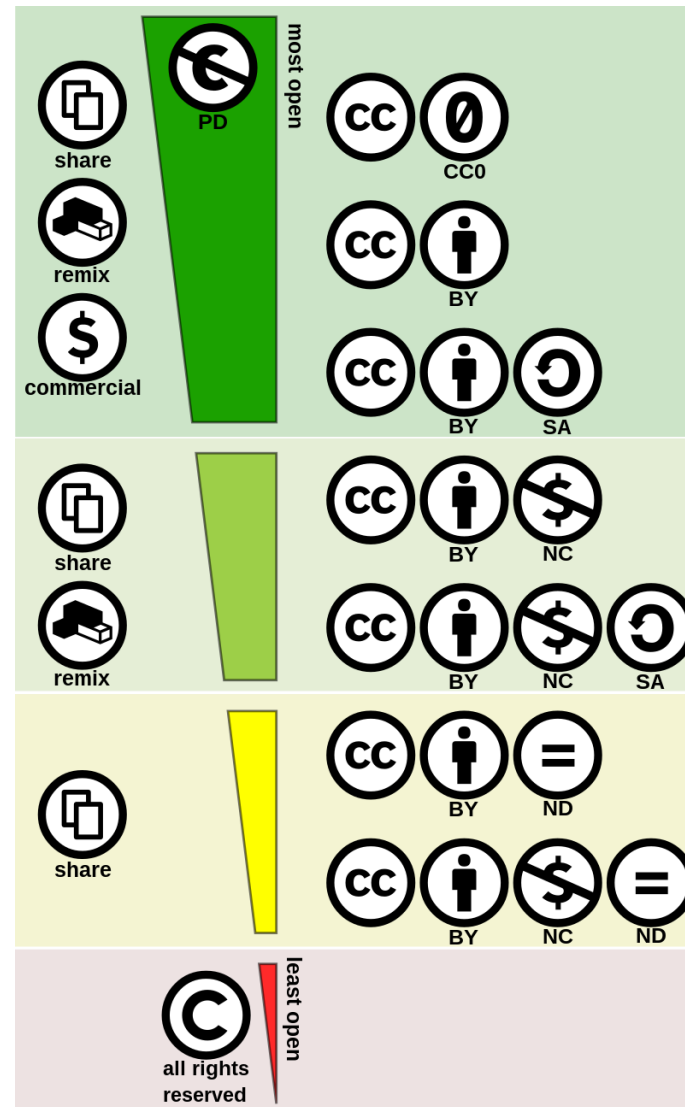
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The work enters the public domain: when copyright protection expires, if the work has never been under copyright protection or if the author waives his copyright. These are therefore works that are not protected by copyright.

# Open Science in Slovenia

## Scientific Research and Innovation Activities Act (2021)

### Article 40

#### (Open science)

(1) Open science shall include, in particular, **open access to research results**, the evaluation of the quality and impact of scientific research work using responsible metrics, and the integration and involvement of the interested public in the research process. More detailed requirements for conducting scientific research according to the principles of open science shall be set by the Government, taking into account the Scientific Research and Innovation Strategy of Slovenia and the recommendations of European research policies. Open science measures shall be defined in an action plan adopted by the Government.

## Article 41

(Open access to scientific publications and research data)

(1) For research co-financed in the amount of **at least 50% public funding, the funding provider shall request and the researcher shall provide open access** to all peer-reviewed scientific publications and research data and other research results. A provider of scientific research activities or researchers shall also comply with this obligation in the individual management of intellectual property rights, **by reserving the appropriate level of rights necessary to comply with the obligations set out in this paragraph.**

(2) The results of research co-financed from public funds shall be open and accessible, subject to any restrictions imposed by the protection of intellectual property, the protection of personal data, the security of persons or the security of the state. Open research data shall be published or otherwise made accessible in a manner that makes it discoverable, accessible, interoperable and reusable.

(5) The detailed requirements for the preparation of scientific publications and research data referred to in paragraphs one or two of this Article and the time limits for ensuring open access shall be laid down by the Government, taking into account the provisions of paragraph three of this Article.

# Decree on the Implementation of Scientific Research Work in Accordance with the Principles of Open Science (2023) – „Decree on Open Science“

## Article 1

(Content of the Decree and definition of research results)

(2) Scientific publications (e.g. scientific articles published in scientific journals and on scientific publishing platforms), scientific monographs and other types of peer-reviewed publications, research data, software produced as a result of research, and other types of research results in digital form **shall be considered research results** referred to in the first indent of the preceding paragraph.

## Article 6

### (Copyright management of scientific publications)

- (1) Copyright in scientific publications may only be transferred to third parties **on a non-exclusive basis** by the authors of the scientific publications or by their employers where the rights are transferred to them.
- (2) The authors of scientific publications or their employers, where copyright is transferred to them by law, shall publish scientific publications **under an open licence** that allows anyone to freely use, modify and share the scientific publication in accordance with the principles of scientific research ethics (e.g. a Creative Commons Attribution (CC BY) licence and Attribution-ShareAlike (CC BY-SA) licence or equivalent).
- (3) Funders shall include the requirements referred to in paragraphs one and two of this Article in calls and contracts for the co-funding of scientific research activities.

## Article 6

### (Copyright management of scientific publications)

(4) Monographs and scientific publications of comparable length, if peer-reviewed or if third parties hold any rights in them, may be published under a licence that restricts further commercial use or adaptation of the work (e.g. the Creative Commons Attribution-NonCommercial (CC BY-NC) licence, which restricts further commercial use, and the Creative Commons Attribution NoDerivatives (CC BY-ND) licence, which prohibits derivatives, or their equivalents).

(5) Metadata on research publications shall be made public. If copyright, rights related to copyright or other rights of the author arise in the metadata of research publications under the law governing copyright and related rights, the metadata shall be made available under a licence whereby the authors waive their copyright, related rights and other rights as authors to the fullest extent permitted by law (e.g. the Creative Commons Public Domain Dedication (CC0) licence, or, where this is not possible, under the Creative Commons Attribution (CC BY) licence).

## Article 7

### (Management of copyright in research data and other research results)

- (1) Research data and other research results shall be made publicly accessible and openly accessible in accordance with the requirements set out in Article 4 of this Decree.
- (2) Where copyright arises in research data and other research results, the authors or their employers, if the copyright has been assigned to them, may sub-delegate it to third parties only **on a non-exclusive basis**.
- (3) Where copyright, related rights or other rights of the author arise in research data and other research results (e.g. research software or research methods), the authors or their employers shall, if the copyright is vested in them by law, publish it **under an open licence** that allows anyone to freely use, modify and share the research data and other research results in accordance with the principles of scientific research ethics (for example, the Creative Commons Attribution (CC BY) and Creative Commons Attribution-ShareAlike (CC BY-SA) licences, or their equivalents).



## Article 7

(Management of copyright in research data and other research results)

(4) Funders shall include the requirements referred to in paragraphs one and two of this Article in calls and contracts for the co-funding of scientific research activities.

(5) Metadata of research data and other research results **shall be made publicly available** in accordance with the requirements set out in Article 4 of this Decree. If the metadata of research data and other research results give rise to copyright, related rights or other rights of the author under the law governing copyright and related rights, the metadata shall be made available under a licence whereby the authors waive their copyright, related rights and other rights as authors to the fullest extent permitted by law (e.g. the Creative Commons Public Domain Dedication (CC0) licence, or, where this is not possible, under the Creative Commons Attribution (CC BY) licence).

In Slovenia the Rights Retention obligation is mandated by the law and set out in the specific legislation and not only in the institutional rules.

# Future expectations - Secondary Publication Right

New paragraphs in Article 41 of the Scientific Research and Innovation Activities Act:

(6) In cases where the provider of scientific research activities or the researchers do not individually manage the rights in accordance with the first paragraph of this Article, the researcher or the provider of scientific research activities may publish or make available to the public the results of the scientific research activity in a public open access repository as soon as the result of the research has been accepted for publication, with due reference to the researcher and the source of the first publication.

(7) Contractual provisions contrary to the preceding paragraph of this Article shall be null and void.

# QUESTIONS

Publicly funded results and data must be made available in open access. **What about experimental materials?** If someone has published a paper based on a publicly funded experiment for which they have created experimental materials (e.g. they have paid someone to create drawings or animations to test children's language skills). If I were to repeat the experiment, can I expect them to make the materials available to me? What about the copyright of the maker of the drawings/animations? The cartoon/animation maker was probably working under the assumption that he was working for his specific client?

# Thank you!

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