

COPYRIGHT PROTECTION IN EDUCATION

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Abstract Respect of copyright encompasses all levels of education. Starting with a simple homework in elementary school, all way through to a diploma thesis of a study programme. This topic also refers to teachers and professors in research and the pedagogical process. Therefore, the author wants this chapter to stress essential aspects of copyright. In the beginning, the legal framework of copyright in the EU is presented. Then, a description of the term plagiarism, citing of copyrighted work providing for respect of another author's work, forms of copyright in education and research, the question of ownership of copyright in labour relations, and exceptions from use of copyright in teaching or research follows.

Keywords:

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copyright in
education,
copyright in the
EU

1 Introduction

As copyright in the EU is regulated by many directives allowing Member States a specific liberty in implementing the rules, copyright differs between EU Member States despite the same core. Thus, as an introduction, the legal framework of copyright law in the EU is presented. Then, a description of the most relevant aspects of copyright in education follows. The topic addressed in the framework of copyright in education encompasses the term plagiarism, citing of copyright providing for respect of another author's work, forms of copyright emerging in education and research, the question of ownership of copyright in labour relations and exceptions in the use of copyright in teaching or research. Many questions are regulated on a national level in terms of copyright in education. Therefore in the course of the text, Slovenian law will be used to represent an exemplification pattern of EU regulation.

2 Copyright Law in the EU

Copyright means the right of authors to literature, scientific works, and works of art.¹ It must be stressed that copyright in the world is not submitted totally to a unique regulation. Still, EU Member States have a set of common ground regarding certain aspects of copyright in numerous legal acts. Legal acts addressing copyright in the Member States are listed in the table below.

European Union Intellectual Property Office Observatory (EUIPO) offers answers to the 15 most frequently asked questions in national and in English for the 27 Member States. These questions regarding respect to the copyright in education include:

- “Under what conditions may I use a work under copyright created by someone else? I was told that the use of works created by others is just a citation and, as such, is always allowed.

¹ Compare with article 1 of Copyright and related Rights Act (*Zakon o avtorski in sorodnih pravicah*) (hereinafter ZASP), Official Gazette RS, no. 16/07.

- Is it allowed to upload a work under copyright from the Internet, and in doing this, is it relevant what technology I use and if I upload only parts of such a work?
- How do I know whether a work under copyright is offered online in a legal or illegal way?"²

Table 1: List of EU copyright legislation.

Source: European Commission, Shaping Europe's digital future, The EU copyright legislation, accessible under: <https://digital-strategy.ec.europa.eu/en/policies/copyright-legislation> (25. 6. 2021).

Name	Date	Area of application
Directive 2001/29/EC	22 May 2001	Directive on the harmonisation of certain aspects of copyright and related rights in the information society
Directive 2006/115/EC	12 December 2006	Directive on rental rights and lending rights and on certain rights related to copyright in the field of intellectual property
Directive 2001/84/EC	27 September 2001	Directive on the resale right for the benefit of the author of an original work of art
Council Directive 93/83/EEC	27 September 1993	Directive on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission
Directive 2009/24/EC	23 April 2009	Directive on the legal protection of computer programmes
Directive 2004/48/EC	29 April 2004	Directive on the enforcement of intellectual property rights
Directive 96/9/EC	11 March 1996	Directive on the legal protection of databases
Directive 2011/77/EU	27 September 2011	Directive amending Directive 2006/116/EC on the term of protection of copyright and certain related rights
Directive 2012/28/EU	25 October 2012	Directive on certain permitted uses of orphan works (Text with EEA relevance)
Directive 2014/26/EU	26 February 2014	Directive on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market
Directive (EU) 2017/1564	13 September 2017	Directive on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired, or otherwise print disabled and amending Directive 2001/29/EC on the harmonisation of certain

² European Union Intellectual Property Office Observatory – EUIPO, FAQs on Copyright, Pogosto zastavljena vprašanja o avtorskih pravicah, accessible under: <https://euipo.europa.eu/ohimportal/sl/web/observatory/faqs-on-copyright-sl> (27. 6. 2021).

Name	Date	Area of application
		aspects of copyright and related rights in the information society
Regulation (EU) 2017/1563	13 September 2017	Regulation on the cross-border exchange between the Union and third countries of accessible format copies of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired, or otherwise print-disabled
Regulation (EU) 2017/1128	14 June 2017	Regulation on cross-border portability of online content services in the internal market
Directive (EU) 2019/790	17 April 2019	Directive on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC
Directive (EU) 2019/789	17 April 2019	Directive of laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC ^{3,4}

3 Plagiarism

3.1 Forms of Plagiarism

Participants in education must respect copyright in education (e.g., elementary school children, pupils, and students) as well as their educators (e.g., teachers and lecturers). Disrespect of copyright results in its violation. One of the forms of violation that are frequent, mainly in education, is plagiarism or presentation of another author's work as one's own. Plagiarism shows up mainly in the following forms of copyright violations:

- Copying another author's texts without naming the author or source,
- Copying another author's thoughts without naming the person,⁵

³ Three additional instruments (DIRECTIVE 87/54/EEC of 16 December 1986 on the legal protection of topographies of semiconductor products; Council Decision 94/824/EC of 22 December 1994 on the extension of the legal protection of topographies of semiconductor products to persons from a Member of the World Trade Organization and Council Decision 96/644/EC of 11 November 1996 on the extension of the legal protection of topographies of semiconductor products to persons from the Isle of Man) harmonise legal protection of topography of agricultural products.

⁴ Directive 2000/31/EC of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce) and Directive 98/84/EC of 20 November 1998 on the legal protection of services based on, or consisting of, conditional access, also contain provisions of relevance for enforcement of copyright.

⁵ Janez, Biblioblog, Plagiatorstvo in njegovo odkrivanje, accessible under:

- Copying a picture, sound, music sheet, computer software, sketches, or plans of another author without naming the person or without naming the source,⁶
- Copying another author's text or thought to such an extent that it forms a larger part of the new work (without citing the name of the author or source),
- Copying thoughts or texts and changing words in a text without naming the author or source,
- False naming (e.g. leaving out quotation marks, giving false data) of a source or an author⁷
- Translation of a work under copyright from another language without naming the author or source.⁸

The most common forms of plagiarism are the acceptance of parts of a text, images, graphs, tables, etc., from works of another author without their indication and taking over parts of another author's work, where minor changes and adaptations are made (replacement or modification of word order, sentence rearrangement, merging of another author's and one's own text) without a clear indication of the original author's work.⁹

Ghostwriting refers to actions where a person creates text for others without claiming copyright of the work (e.g., a so-called ghost writer prepares a final paper in exchange for money on the student's instructions, which the student claims as his or her own). This is not plagiarism, but it is nevertheless an act that is not allowed in education.¹⁰

The term self-plagiarism refers to the re-identical use of one's own text, which has already been previously published, without the author referring to previous work.¹¹

<https://www.biblioblog.si/2011/03/plagiorstvo-in-njegovo-odkrivanje.html> (13. 6. 2021).

⁶ Ivan Kanič, Knjižničarske novice, Plagiorstvo in njegovo preprečevanje, accessible under <http://old.nuk.uni-lj.si/knjiznicarskenovice/v2/podrobnostClanek.aspx?id=1202> (13. 6. 2021).

⁷ Janez, Biblioblog, Plagiorstvo in njegovo odkrivanje, accessible under:

<https://www.biblioblog.si/2011/03/plagiorstvo-in-njegovo-odkrivanje.html> (13. 6. 2021).

⁸ Milan Ojsteršek, SlideServe, Preverjanje podobnosti vsebin v e-izobraževanju, accessible under:

<https://www.slideserve.com/teagan-moss/preverjanje-podobnosti-vsebin-v-e-izobra-evanju> (13. 6. 2021).

⁹ Ivan Kanič, Knjižničarske novice, Plagiorstvo in njegovo preprečevanje, accessible under <http://old.nuk.uni-lj.si/knjiznicarskenovice/v2/podrobnostClanek.aspx?id=1202> (13. 6. 2021).

¹⁰ Debora Weber-Wulff (2014). False feathers: A Perspective on Academic Plagiarism. Springer. p. 14.

¹¹ Ivan Kanič, Knjižničarske novice, Plagiorstvo in njegovo preprečevanje, accessible under <http://old.nuk.uni-lj.si/knjiznicarskenovice/v2/podrobnostClanek.aspx?id=1202> (13. 6. 2021).

If the author has not transferred the material copyright of the text when it is published in a book or article, he or she has the right to use it again. Copyright, in this case, does not provide for sanctions, nor is it plagiarism, but such re-use of the text should be marked as a violation of the ethics of scientific research.¹²

Plagiarism can be committed intentionally and through negligence (superficiality or ignorance).¹³ Intention or unintentional plagiarism does not affect its presence but can be considered in legal proceedings when imposing a sanction.¹⁴ The extent of plagiarism is also not relevant to its presence; namely, even one sentence (key sentence or thought) can be qualified as appropriating another author's work as one's own (plagiarism).¹⁵

3.2 Consequences of Plagiarism

The consequences of plagiarism are:

1. Academic sanctions in the framework of legal proceedings of higher education institutions may mean the revocation of the acquired professional or scientific title.
2. Ethical sanctions that result in inappropriateness to perform their work or functions (politicians, senior officials, higher education teachers, etc.).¹⁶
3. A lawsuit for damages by an author whose copyright has been unjustifiably infringed.¹⁷

¹² Debora Weber-Wulff (2014). *False feathers: A Perspective on Academic Plagiarism*. Springer. p. 13.

¹³ Ivan Kanič, *Knjižničarske novice*, Plagiorstvo in njegovo preprečevanje, accessible under <http://old.nuk.uni-lj.si/knjiznicarskenovice/v2/podrobnostClanek.aspx?id=1202> (13. 6. 2021).

¹⁴ Tomaž Keresteš (2017). *Akademski plagiat v Avtorska dela na univerzi* (ed. Martina Repas). Univerzitetna založba Univerze v Mariboru. p. 116.

¹⁵ Polona Tominc, Vladimir Drozg, Milan Ojsteršek, Nataša Samec, Bernarda Korez, Doroteja Kardum and Rok Hržič (2012). *Preverjanje plagiorstva na UM*. Accessible under https://www.um.si/studij/splosno/Documents/Preverjanje%20plagiorstva%20na%20UM%20-%20delovno%20gradivo_18_9_2012.pdf (13. 6. 2021), p. 1.

¹⁶ Tomaž Keresteš (2017). *Akademski plagiat v Avtorska dela na univerzi* (ed. Martina Repas). Univerzitetna založba Univerze v Mariboru. p. 103, 104.

¹⁷ Ivan Kanič, *Knjižničarske novice*, Plagiorstvo in njegovo preprečevanje, accessible under <http://old.nuk.uni-lj.si/knjiznicarskenovice/v2/podrobnostClanek.aspx?id=1202> (13. 6. 2021).

3.3 How to Respect Copyright in Education

It is allowed to paraphrase and summarise another author's works, but under the condition of appropriate citation of the text or source, as it is a presentation of another author's thoughts, data, etc. The primary guideline for avoiding plagiarism is when the writer is not the original author of the text or its constituent part (e.g., sentence, pictorial material, graph, table, etc.), the author's work used must imperatively be cited.¹⁸

The Court of Justice has already ruled in certain cases on the use of copyright in education. Directives 2001/29/EC regulate acts of reproduction and communication of a work of authorship in Articles 2 and 3. Reproduction and communication of the copyrighted work to the public by a third party requires the prior consent of the original author. When, for example, a hyperlink of a website is published in a copyrighted work, which refers to the copyrighted work on another website, published with the prior consent of the copyright holder, it is not a matter of public communication, as the copyright holder may be published on the website in question, the work is simply withdrawn, making the cited hyperlink inoperable. For this reason, in this case, we cannot talk about communicating the author's work to the public. On the contrary, this means that the online publication of the author's work on another website is considered a new communication to the public, which is independent of the original communication, even if it is, for example, a photograph previously published without restrictions on its transfer and with the permission of the copyright holder. Accordingly, it is not allowed, for example, to use a photograph in a seminar paper without the authorisation of the copyright holder if the seminar paper is to be published on another publicly accessible website (e.g., the school website), even if the photograph cites its author.¹⁹

Due to the possible sanction of revoking an acquired title, attention should be paid to the respect of copyright when preparing the final work in higher education. Thus, the student must (1) respect copyright, (2) comply with the rules of the higher education institution on quoting or citing sources and literature; and (3) follow the supervisor's instructions. On the other hand, the supervisor of the final work must

¹⁸ Ibidem.

¹⁹ Case C-161/17, *Land Nordrhein-Westfalen vs. Dirk Renckhoff*, from 7 August 2018, ECLI:EU:C:2018:634, Points 7, 29, 44, 47.

(1) pay attention to the fact that the student is familiar with the guidelines and rules regarding citation or citation of sources and literature and that it respects the copyright, (2) professionally and carefully review the final work, and (3) check the text for possible plagiarism. Every higher education institution, whether at the level of universities or faculties, must have clear guidelines for preventing plagiarism.²⁰ Clearer and more detailed rules than the rules of citation or citations of sources and literature, respectively, make it easier for authors of final works to respect copyright and easier for supervisors to monitor their possible violations.

4 Citation or Naming of the Author's Work

The best way to reduce, if not eliminate, plagiarism and encourage the respect of copyright is to follow the guidelines and rules that apply to citations or naming of sources and the literature. Every higher education institution has rules at the university or faculty level, which students must follow when preparing their final theses or assignments.

As there are many ways to cite, guidelines and policies differ, we can nevertheless identify a common denominator that typically occurs in the same type of work cited, regardless of the method of citation:

- Books: author, book title, edition number or notebook, publisher, and year of publication.
- Chapter published in a multi-author book: author of the chapter, title of the chapter, editor of the book, title of the book with data (see the previous indent), and volume of the chapter by pages.
- Articles in journals: author, title of the article, name of the journal, year of publication, year and issue number in the year, and volume of the article.
- Websites: author, website name, subtitle or the title of the website article, the date of publication, the page number (where possible), and the date of access to the page.²¹

²⁰ Polona Tominc, Vladimir Drozg, Milan Ojsteršek, Nataša Samec, Bernarda Korez, Doroteja Kardum and Rok Hrzič (2012). Preverjanje plagiatorstva na UM. Accessible under https://www.um.si/studij/splosno/Documents/Preverjanje%20plagiatorstva%20na%20UM%20-%20delovno%20gradivo_18_9_2012.pdf (17. 6. 2021), str. 2.

²¹ Univerzitetna knjižnica Maribor, Citiranje, accessible under: https://ukm.um.si/citiranje#_ftnref1 (18. 6. 2021).

This information is given either in the notes or in the list of references and sources, depending on the method of citation. In (current or final) notes or the footnote in parentheses, respectively, depending on the method of citation must always indicate the page number where the cited content is located, provided that the author's work is divided into pages. The text quoted literally must always be given in quotation marks. Appropriate citation ensures its purpose, which is primarily reflected in ensuring respect for copyright. It also allows for the verifiability of summarised, paraphrased, or literally copied content.

It is also worth noting the rule that generally known facts (e.g., the capital of a country) do not need to be cited. In this case, the author does not need to refer to the Constitution, which determines the capital of the state (e.g., Article 10 of the Constitution of the Republic of Slovenia²² stipulates that Ljubljana is the capital of Slovenia).

The most common ways of quoting are considered to be:

- APA, accessible under the following link: <https://apastyle.apa.org/>;
- AMA, accessible under the following link:
<https://www.amamanualofstyle.com/>;
- Chicago, accessible under the following link:
<https://www.chicagomanualofstyle.org/home.html>;
- IEEE, accessible under the following link:
<https://ieeauthorcenter.ieee.org/wp-content/uploads/IEEE-Reference-Guide.pdf>; and
- MLA, accessible under the following link: <https://style.mla.org/>.²³

5 Forms of Copyrighted Works in Education

Qualifying elements of the author's work are:

- creation,
- the field of literature, science, and art,

²² *Ustava Republike Slovenije*, Official Gazette RS, no. 33/91-I.

²³ Univerzitetna knjižnica Maribor, Citiranje, accessible under: https://ukm.um.si/citiranje#_ftnref1 (18. 6. 2021).

- spirituality,
- expressiveness,
- individuality.²⁴

Copyright in a copyrighted work is created at the moment of the creation of the work.²⁵ Examples of copyrighted works are determined by the second paragraph of Article 5 of the ZASP, which along with several copyrighted works, also highlights (1) spoken works, such as, e.g., speeches and lectures; (2) written works, such as, e.g., articles, manuals, studies, and computer programs; (3) works of art, such as pictures and graphics, and (4) presentations of a scientific, educational or technical nature (technical drawings, plans, sketches, tables, expert opinions, plastic presentations and other works of the same nature). ZASP specifically stipulates that ideas, principles, discoveries, and official texts from the legislative, administrative, and judicial fields, as well as folk literary and artistic creations, are not protected by copyright.²⁶

Lectures within the pedagogical process at educational institutions are considered an author's work (ZASP explicitly cites them as an example of an author's work). Regarding PowerPoint slides, transparencies, and other material used as an aid in conducting lectures, there is no single answer as to whether it is a copyrighted work or not. The definition of an author's work varies from case to case. The lecture notes are, in fact, valid for their reproduction, which is why they are marked as the lecturer's work. The reproduction itself does not constitute a violation of copyright, especially if it is a reproduction that is in accordance with copyright (e.g., private reproduction within the framework of article 50 of ZASP). More problematic is the situation when the notes are distributed as photocopies among students, or even more so when the notes are uploaded to a freely accessible website. In the latter case, it is a communication to the public, which is considered to be the exclusive right of the copyright holder (e.g., the lecturer).²⁷ Recording lectures also means encroaching on copyright, as well as distributing a recording. Lectures may only be recorded if the lecturer agrees.

²⁴ Miha Trampuž (2000). Intelektualna lastnina: avtorska dela, ki nastanejo na univerzi. *Podjetje in delo*, 26, no. 6/7, p. 1283-1292.

²⁵ Ibidem.

²⁶ Article 9 of ZASP.

²⁷ Miha Trampuž (2000). Intelektualna lastnina: avtorska dela, ki nastanejo na univerzi. *Podjetje in delo*, 26, no. 6/7, p. 1283-1292.

Pedagogical exercises have a wide variety of content, which is why their definition of an author's work depends on the circumstances of the performance. For example, when exercises have elements of lectures, they are judged according to the same rules as lectures.²⁸ On the other hand, laboratory exercises are not supposed to be defined as authorial work.²⁹

So, the prerequisites for authorial work (at least as a rule) are met by lectures, seminars, textbooks, articles, reviews, expert opinions, research assignments, studies, and translation. However, rehearsals and exams can also mean copyrighted work in some instances.³⁰

6 Copyright Ownership in Employment

From copyright derives personality (moral copyright), property (material copyright), and other rights (other copyright).³¹ The ownership of the copyright in a copyrighted work that arises within the framework of an employment relationship, where both the employee and the employer contribute to the creation of copyright, is primarily a question of ownership of material copyrights and other copyrights.³² Copyright ownership in employment is regulated at the level of national law, which is why, for illustrative purposes, it will be highlighted below how the Slovenian ZASP addresses this issue.

In accordance with Article 14 of the ZASP, copyright always belongs to the author who created the copyrighted work. The author can only be a human person (not a corporate legal entity). A legal entity can be a copyright holder, but it cannot be an author. ZASP regulates copyrighted work from employment in articles 101 and 102. The rule set out in article 101 stipulates that when an employee creates a copyrighted work in the course of fulfilling his or her obligations or following the instructions of the employer, the material copyright and other rights of the author shall be transferred exclusively to the employer for a period of 10 years, unless otherwise

²⁸ Ibidem.

²⁹ Miha Trampuž, Branko Oman, Andrej Zupančič (1997). *Zakon o avtorskih in sorodnih pravicah (ZASP) s komentarjem*. Ljubljana: Gospodarski vestnik. p. 233.

³⁰ Elizabeta Zirnstein (2017). *Avtorska pravica iz delovnega razmerja na univerzi v Avtorska dela na univerzi* (ed. Martina Repas). Univerzitetna založba Univerze v Mariboru. p. 8.

³¹ Article 15 of ZASP.

³² Elizabeta Zirnstein (2017). *Avtorska pravica iz delovnega razmerja na univerzi v Avtorska dela na univerzi* (ed. Martina Repas). Univerzitetna založba Univerze v Mariboru. p. 3.

agreed. After this period, the rights return to the employee. Since the employer assigns the employee a payment based on the employment relationship, the rebuttable presumption of the transfer of material and other rights of the author in the copyrighted work applies. The employee and the employer may otherwise agree on the ownership of material and other rights in the contract (e.g., change the time period of ownership, agree on the content that will be the subject of the transfer, the amount of special compensation, etc.).³³

The importance of interpreting "according to the instructions of the employer" and "fulfilling one's obligations" is emphasised in order to place the creation of an author's work in an employment relationship. For scientific articles, scientific monographs, study materials, etc., the criterion "according to the instructions of the employer" is less applicable.³⁴ The very nature of scientific research almost conceptually excludes the possibility of giving instructions. Even if the instructions are shown in the form of basic ideas that encourage the creation of an author's work, they clash with the principle of academic freedom. Lectures, exercises, seminars and other direct pedagogical work of higher education teachers fall within the framework of "fulfilling one's obligations". As a result, higher education institutions have material copyrights over the mentioned forms of pedagogical work insofar as they are copyrighted works.³⁵

PowerPoint slides, slides, lecture handouts, hypothetical illustrative examples, exams, etc., created by higher education teachers for study purposes are considered borderline cases (this is a dilemma between placement between scientific research works - basic research and between the work obligation of higher education teachers, defined by acts of the higher education institution), where the ownership of copyright is conditioned by the circumstances of the creation of the copyrighted work. In particular, the relevant circumstances are whether preparing these works is a work obligation or whether the higher education teacher creates them on his own initiative. Since election to the title is a decision and not merely the meeting of formal conditions, it does not show the criteria for election to the title to be interpreted in the light of the "fulfilling of one's obligations" by the higher education teacher. Also,

³³ Ibidem, p. 3, 5, 6.

³⁴ Exceptions are computer programmes and databases.

³⁵ Elizabeta Zirnstein (2017). *Avtorska pravica iz delovnega razmerja na univerzi v Avtorska dela na univerzi* (ed. Martina Repas). Univerzitetna založba Univerze v Mariboru. p. 7, 8.

copyrighted works created in the framework of basic research cannot be placed in the criterion of "fulfilment of work obligations".³⁶

As students are not in an employment relationship, copyright ownership arrangements are out of the question. Even if they create a copyrighted work for the purposes of study obligations during their studies, they acquire full copyright. The same applies to final theses such as diploma theses, master's theses, or doctoral dissertations.³⁷ Supervising a higher education teacher in the final work or seminar work cannot mean co-authorship of the final work or seminar paper.³⁸

7 Exceptions to the Use of Copyright in Teaching or Research

Directive (EU) 2019/790, which Member States have to implement into national law by 7 June 2021 at the latest, amends Directive 2001/29/EC in certain areas. Both Directives are relevant, *inter alia*, to the field of copyright and related rights in education. Directive (EU) 2019/790 amends article 5 (3) (a) of Directive 2001/29/EC, which provides for one of the possibilities for the Member States to provide for exceptions and limitations to the rights provided for in articles 2 and 3 of this Directive (reproduction right and the right to communicate works to the public), as follows: "use for the sole purpose of illustration for teaching or scientific research, as long as the source, including the author's name, is indicated unless this turns out to be impossible and to the extent justified by the non-commercial purpose to be achieved, without prejudice to the exceptions and limitations provided for in Directive (EU) 2019/790". Except for minor changes resulting from the non-uniform translation of both directives,³⁹ the substantive change is subject to the annotation in Article 24 (2) (b) of Directive 2019/790 "without prejudice to the exceptions and limitations provided for in Directive (EU) 2019/790."

³⁶ Ibidem, p. 9, 10.

³⁷ Ibidem, p. 10 and Miha Trampuž, Branko Oman, Andrej Zupančič (1997). *Zakon o avtorskih in sorodnih pravicah (ZASP) s komentarjem*. Ljubljana: Gospodarski vestnik. p. 233.

³⁸ Elizabeta Zirnstein (2017). *Avtorska pravica iz delovnega razmerja na univerzi v Avtorska dela na univerzi* (ed. Martina Repas). Univerzitetna založba Univerze v Mariboru. p. 8.

³⁹ As far as we can compare English versions of article 24(2)(b) of Directive 2019/790 and article 5(3)(a) of Directive 2001/29/EC, the wording is identical, except the wording »without prejudice to the exceptions and limitations provided for in Directive (EU) 2019/790« in the wording of article 24(2)(b) of Directive 2019/790.

The exception provided for in Article 5 (3) (a) of Directive 2001/29/EC provides for the possibility of using all forms of copyright for illustrative purposes in teaching or scientific research, provided the source and author are indicated, for non-commercial purposes and to the extent necessary to achieve such a purpose. As this provision is optional, it is not necessary for Member States to introduce it. As a rule, the Member States that have implemented this provision have regulated it in two sets:

- Exceptions and limitations that appear in textbooks and compilations;
- Exceptions and restrictions for other forms of copyright used in education.⁴⁰

Implementation into national arrangements differs not only in introducing an exception or not but also in what exceptions are established in teaching and education. Exceptions and restrictions for other forms of copyrighted work relate to a range of possibilities for exploiting copyright content in teaching and education, from the use as well as the dissemination of texts to the performance of drama plays or film evenings.⁴¹

In Member States which have not opted to implement exemptions in education, in certain cases, copyrighted works for educational purposes may be used within the framework of citation rules. This exception can be even more useful in practice, as copyrighted work is allowed to be used, reworked, made available to the public, etc. Although on the other hand, the restrictions that apply for citation purposes (scope of use, etc.) must be taken into account.⁴²

As an example of the exception introduced under Article 5 (3) (a) of Directive 2001/29/EC, the provision of article 51 of ZASP, which states that, for the purpose of illustration, confrontation, or reference, it is permissible to cite excerpts or individually published fields of photography, fine arts, architecture, applied arts, industrial design, and cartography, provided the source and authorship are cited.

⁴⁰ Saša Krajnc (2017). Omejitve avtorske pravice za namene izobraževanja v Avtorska dela na univerzi (ed. Martina Repas). Univerzitetna založba Univerze v Mariboru. p. 38, 39.

⁴¹ Ibidem, p. 39, 42.

⁴² Ibidem, p. 44, 45.

Looking at the new Directive 2019/790, Member States will not have to adopt a new exemption under Article 5, provided that appropriate licensing is provided to allow the lawful use of copyrighted work.⁴³ The exception allows the sharing of copyrighted content only in closed electronic networks (e.g., intranet of educational institutions), which does not provide a basis for exchanging works outside the institution.⁴⁴

8 Conclusion

Respect of copyright encompasses all levels of education. Starting with preparing a group-work paper in primary school and all the way to the final work on study programmes. This topic also concerns teachers and lecturers in research and the pedagogical process. Their task is extremely crucial in mentoring the final and other works, where they meet and teach the authors about the respect of another author's copyrights under appropriate supervision. Due to the growing intertwining of education and information and communication technology tools and the ease of access to the works of another author, raising awareness of copyright protection is even more important. As a result, the work identifies aspects of copyright to which the author wanted to draw special attention. The main guideline is that the writer should use the rules of citation whenever he or she uses another author's work. The clearer and more detailed the citation rules are, the easier it will be for the writer to use another author's copyright. Finally, the role of EU law should be highlighted, where it is possible to identify quite a few possibilities for improving the current regulation about exceptions to the use of copyrighted works solely for the purpose of illustration in teaching or research.

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⁴³ Ibidem, p. 46.

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