

**Action 2: Propose a EU copyright and data legislative and regulatory framework fit for research**

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**1. Description**

**A legislative and regulatory framework fit for research should enable**, among other things:

- access to (including open access) and reuse of publicly funded R&I results;
- access to (including open access) and reuse of publications and data for research purposes;
- data services and infrastructures managed by/for the benefit of research stakeholders; and
- flow of research knowledge and data across the EU based on Article 179 TFEU and academic freedom.

However, barriers and challenges to these objectives exist in the EU legislative and regulatory framework. To address this situation, the Commission will **analyse EU copyright and data legislation to identify existing and possible additional barriers and challenges, and possible measures to address them**. The results of the analysis will be discussed with MS/AC and relevant stakeholders.

**With regard to copyright**, the analysis will examine whether the relevant EU Copyright legislation (i.e. Information Society Directive, Copyright Directive) fosters and/or deters access and reuse of scientific publications and will examine some of the legal barriers encountered by researchers and institutions to provide open access to them (e.g. due to copyright and licensing conditions in publishing agreements). The analysis will also look at specific initiatives to enable open access to scientific publications, including: amendments introduced by several MS into their national copyright legislation enacting a secondary publication right for publicly-funded scientific publications (i.e. BE, NL, AT, FR, DE) and non-legislative initiatives such as those developed by research funders (e.g. cOAlition S Rights Retention Strategy) and research institutions (e.g. Harvard model)). Beyond scientific publications, the analysis will also explore whether the EU legislation on copyright, related rights and sui generis database rights (i.e. Copyright Directive, Database Directive) fosters and/or deters access to (including open access) and reuse of data for scientific purposes. It will also examine relevant copyright and licensing initiatives that seek to foster access to and reuse of publicly funded research data.

**With regard to data legislation**, the analysis will explore how specific existing legal instruments (i.e. Open Data Directive) and proposed legislation (i.e. Data Governance Act, Data Act) (may) impact research and research stakeholders' operations (e.g. access to data, research data sharing and reuse, impact on research performing organisations such as universities, research funding organisations, and research infrastructures/services). Specific digital legislation (i.e. Digital Services Act, Digital Markets Act) will also be analysed.

	<p>On the basis of the copyright and data legislation analysis, the action will explore possible legislative and non-legislative measures to ensure a framework fit for research.</p> <p>This action will interact with ongoing actions such as the monitoring and guidance on the transposition of existing Directives (e.g. Copyright Directive; Open Data Directive).</p> <p>This action is not intended to specifically cover the General Data Protection Regulation or more sectoral legislation such as the upcoming proposal for a European Health Data Space Regulation or the proposed Artificial Intelligence Act.</p> <p><b>Outcomes:</b></p> <ul style="list-style-type: none"> <li>• <b>Identify barriers and challenges to access and reuse</b> of: i) publicly funded R&amp;I results; ii) publications and data for scientific purposes, <b>and identify potential impacts on research</b>, through an analysis of relevant provisions under EU copyright and data legislation and related regulatory frameworks, and of relevant institutional and national initiatives</li> <li>• <b>Propose legislative and non-legislative measures</b> to improve the current EU copyright and data legislative and regulatory frameworks.</li> </ul>
<p><b>2. Actors</b></p>	<p>The results of the analysis by the Commission and the possible way forward will be discussed with MS/AC and relevant stakeholder organisations during <b>two online workshops in June 2022</b>.</p> <p>The <b>proposed legislative and non-legislative measures</b> to improve the current EU copyright and data legislative and regulatory framework are expected to be developed and implemented by the Commission, the MS/AC and research performing/funding organisations.</p>
<p><b>3. Timing and milestones</b></p>	<p><b>Independent experts will support the analysis and deliver reports on:</b></p> <ul style="list-style-type: none"> <li>• copyright and related rights and access and reuse of scientific publications</li> <li>• copyright and related rights and access and reuse of data</li> <li>• the Open Data Directive, the Data Governance Act and the Data Act</li> <li>• the Digital Services Act and the Digital Markets Act</li> </ul> <p>On the basis of these reports, <b>two online workshops</b> with the ERA Forum members and relevant R&amp;I stakeholder organisations will be held in June to consult on challenges or obstacles to open sharing of scientific information due to legislation related to EU copyright and data legislation. The workshops will focus on:</p> <ul style="list-style-type: none"> <li>• 1) EU copyright and related rights legislation and access and reuse of scientific publications and data</li> <li>• 2) EU data and digital legislation and research</li> </ul>

	<p>Finalising the identification of barriers and challenges and potential impacts on research, and developing the proposals for possible legislative and non-legislative measures (Autumn 2022).</p> <p><b>Possible measures could include:</b></p> <ul style="list-style-type: none"> <li>• Compiling research-related provisions in a structured way</li> <li>• Guidelines regarding the transposition and/or application of relevant legislative instruments</li> <li>• Specific legislative initiatives (e.g. making research exceptions in copyright legislation mandatory, EU secondary publication right?)</li> <li>• Sectoral directive and/or regulation amending existing legislation in the form of a “Digital Research/Knowledge Act”</li> </ul>
<b>4. Funding</b>	<p>Horizon Europe (in particular the WIDERA part) for training/capacity building on IP management to support open science and related to potential guidelines or any other non-legislative initiatives that may result from this action.</p>
<b>5. Expected impact</b>	<ul style="list-style-type: none"> <li>• Improved understanding of the impact of the EU copyright and data legislative and regulatory framework on research and innovation.</li> <li>• Improved EU legislative and regulatory framework conditions for research and innovation.</li> </ul>
<b>6. Monitoring</b>	<ul style="list-style-type: none"> <li>• Monitoring of the uptake of the legislative and non-legislative measures resulting from the action.</li> </ul>
<b>7. Communication</b>	<ul style="list-style-type: none"> <li>• Publication by the Commission of the results of the analysis.</li> <li>• Dissemination of the legislative and non-legislative measures proposed.</li> </ul>
<b>8. Additional information</b>	--