



ICT-PSP Project no. 297158

EUROPEANAPHOTOGRAPHY

EUROPEAN Ancient PHOTographic vintaGe repositoRies of digitAized Pictures of  
Historical qualitY

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## Context

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WP Leader	Promoter
Task 6.2	IPR Guidebook
Task Leader	ICCU
Dependencies	

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**Statement of originality:**

This deliverable contains original unpublished work except where clearly indicated otherwise. Acknowledgement of previously published material and of the work of others has been made through appropriate citation, quotation or both.

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## 1 EXECUTIVE SUMMARY

Dedicated IPR tasks and work-packages are considered necessary for all projects and actions delivering content to Europeana. The need is globally recognized and many projects strive to provide better information and analysis of key IPR issues having impact on the ingestion process. In parallel, the IPR landscape is constantly changing and new strategies aiming at IPR interoperable digital repositories are under implementation. These strategies are affecting past and ongoing projects and their content related activities.

EuropeanaPhotography (EP) is analyzing the current situation and working towards ensuring uninterrupted content distribution to Europeana, has planned and implemented important actions to inform and support the existing content provider partners, as well as future new additions to the EuropeanaPhotography community, in the understanding of and compliance with the Europeana IPR strategies and models.

The IPR issue in the EP project is even more crucial because as a project it has a fine equilibrium between the public and private sector which have common objectives but also many different needs and particularities regarding IPR.

EP's IPR Guidebook is a key supporting tool with the following main objectives:

1. Inform and update EP Partners and interested parties of Europeana's strategies and initiatives regarding IPR. Analyze and give answers to key IPR issues for digital content creation, ingestion, distribution and dissemination.
2. Study and evaluate the key IPR issues existent in the EP partnership through an IPR survey conducted internally.
3. Provide continuous support and help throughout the project's lifecycle and after.
4. Bridge the public-private partnership considerations regarding IPR and provide relevant consideration.
5. Globalizing its results through coordination activities with other projects under the aegis of Europeana.

To achieve these goals the IPR Guidebook implements and offers:

1. Information services:
  - Providing basic knowledge on key IPR terminology and strategies and basic concepts on copyright for digital images.
  - Analyzing Europeana's IPR Strategy and how this affects the EP project. In this framework the DEA is explained and the focus is on key issues regarding ingestion.
  - Key IPR issues are analyzed. The IPR Labeling and how the EP project is compatible with this initiative are explained. Other IPR issues are analyzed such as the Public Domain, Orphan Works, Out-of-commerce works, IPR issues for the public and private sector.
  - The available rights statements to be selected and used during content ingestion are presented to the EP Partners and explained through practicable scenarios.
  - Discussions and results of the EP meetings are included to shed light not only on EP specific problems but also on issues encountered by other projects.
  - Supporting information such as the DEA and an IPR Glossary.



2. Continuous support services:
  - An online IPRGuidebook has been implemented as a tool with which enables content providers to explore the main aspects of IPR legislation and get support through a step based guide, a Library on IPR, a database of who is who in IPR in several countries and a direct link to an IPR blog. The IPR blog is an active forum for IPR issues discussion, breaking down and resolution.
3. Coordination actions:
  - The need of coordination of projects dealing with common IPR issues under Europeana's supervision is necessary so as to maximize the results and minimize the effort. Towards this goal the EP project proposed and produced, in cooperation with Europeana, a matrix of projects delivering content to Europeana and at the same time dealing with various aspects of IPR. In addition it was agreed to plan and implement coordination workshops for the projects under the aegis of Europeana.

This deliverable is a snapshot of an ongoing discussion regarding Europeana, new IPR models and strategies are still evolving. The actions are still on-going and produce new proposals and results on an everyday basis. This is proved by the first section of this deliverable which includes the discussions so far in the EP project which - except from answers - are also producing new questions. Questions which not only affect the public and private sector's partners but also have an impact on how content partners as end users of Europeana view and evaluate its IPR strategies and access models. The discussions have impact not only on the EP partners but also on Europeana.

The open issues and the need for further discussion were also proved by the IPR Survey which was conducted within the EP partnership. Based on the survey's results, at first the strong commitment of the EP partnership to deliver rich content to Europeana is proved. On the other hand, there is a great variety of access models used by each EP partner. Real life access models are complicated and the Europeana's predefined copyright statements could be proved inadequate to clearly describe the real IPR status of an object. In this framework the need for more detailed predefined statements used during ingestion is emerging. In these statements, clear distinction between the rights status of the object and the access restrictions posed by the rights holder is considered useful.

Also the EP partners from the Private and Public sector consider that the Public Domain and CC0 marks are sometimes misleading and in some cases could pose a serious risk for financial sustainability and / or even survival. These marks will be used with extreme caution by the EP partners during the content delivery process.

## 2 INTRODUCTION

The D.6.2 IPR guidebook, according to the Description of Work, is a deliverable due at M15 with the following scope:

“Explaining the Europeana IPR models and how these, in practice, are achieved by the content providers.”

The present document fully complies with this task, offering to EuropeanaPhotography content providers an overview of Europeana IPR models, a clear explanation of the Data Exchange Agreement and valuable support tools.

This deliverable was written by the IPR experienced authors of University of Patras, including the contribution and discussion by the whole consortium. The document also includes several issues that were raised during discussions among the partners, addressing the practical implications of complying with the Europeana IPR models.

Europeana team was involved in the review of this deliverable and the IPR Committee also gave valuable comments and contributions.

On the one hand, the work related to this deliverable was successfully completed, and as a witness of the fact that EuropeanaPhotography partners are ready and willing to publish their content to Europeana, it is important to highlight that the DEA was signed by each content provider.

On the other hand, the discussion is still on-going and expanding beyond the simple analysis of Europeana IPR models: the discussion is actually touching “conceptual” issues that go far beyond the practical procedures related to publishing in Europeana.

Because this project is related to photography, and as the consortium is composed of public as well as private companies, whose core-business is primarily related to the reproduction (i.e. copies, both printed and digital) of photography, very specific issues have arisen that may not have been considered before.

For example, a deeper understanding of the concept of Public Domain in respect of the original object (in our case, the photo) against its digital copies (in our case, the reproductions that some of our partners make their business out of) needs to be investigated, in order to comply with Europeana 's position that public domain should also apply to digital copies of works which are themselves in the public domain.

Of course, the private companies in the EuropeanaPhotography consortium represent the most intense voice in this regard, but the institutional bodies too are involved in the discussion, because – even if a public body does not aim at profit – a more and more evident approach of the cultural managers goes towards the need of marketing their institutions, managing development and fostering fundraising, and also generating a revenue for protecting the institution’s artistic and cultural content in view of possible economic restrictions imposed by the national laws.

For this reason, because of the important issues covered by this deliverable, in the light of implementing in the best way the comments and contributions received both by Europeana and by the IPR Committee, as well as the results of the IPR Survey and also to contribute more actively to the next, very linked deliverable of Sustainability planning, a new release of this deliverable has been issued in the next month (M16).

With this second release, EuropeanaPhotography intends to act as a role-model for all those institutions and companies dealing with digital content (and specifically with photography), by whom the IPR issue is felt as a matter of the utmost importance also in the light of “advertising” their content through their presence in Europeana.

Moreover, on the basis of the progress in the discussion associated to the Rights Labelling Campaign launched by Europeana, it is possible to foresee further updates of the document that is intended to be a “living” document, able to evolve during the whole life-time of the project.

## 2.1 BACKGROUND

WP6 – Sustainability and IPR – addresses the general issue of the sustainability of EuropeanaPhotography beyond the EC funding period and in particular the question of the management of intellectual property rights (IPR).

Intellectual property remains a key issue for this project, as it does for every content-rich cultural heritage project. While the Europeana agreements with content providers and content aggregators provide an “IPR framework”, each content provider also has its own policies which much be respected.

In some cases, such policies may vary across the collections held, the manner of use of the metadata by Europeana / third parties, etc.

A dedicated IPR task supported by the IPR Committee has been created to support current content provider partners, as well as future new additions to the EuropeanaPhotography community, in understanding and compliance with the aforementioned Europeana IPR models.

These models are a subject of negotiation and evolution, so that all partners will need expert support in examining and adapting to any new IPR approach agreed by the Europeana community. The IPR work of EuropeanaPhotography will not seek to create “yet another IPR model” but will instead focus on support and guidance based on the extensive expertise of aligning local IPR models to the Europeana model which will be generated during this project.

In this framework, an IPR Guidebook and supplementary supportive services are produced to inform the partners in a comprehensive way and to support their processes with regard to this very important matter.

## 2.2 ROLE OF THIS DELIVERABLE IN THE PROJECT

This deliverable presents all the activities regarding supporting and resolving IPR issues in the EuropeanaPhotography project. In addition, it includes the IPR Guidebook, its structure, rationale and contents. The role of the deliverable is significant as the IPR Guidebook and its supportive services

## 2.3 STRUCTURE OF THE DOCUMENT

The structure of the document includes the following sections:

EuropeanaPhotography and IPR issues: Results, answers and questions collected from all the discussions between the EP partners so far. An important section which provides valuable input from content providers regarding Europeana’s access models and produces questions to be further debated with Europeana. In addition, useful recommendations for the EP partners that will ingest content are provided regarding the IPR issues.

The IPR Guidebook: The rationale, contents and services of the IPR Guidebook. The section includes:

- COPYRIGHT FOR IMAGES IN A NUTSHELL
  - SIMPLE EXPLANATORY STEP GUIDE
  - USEFUL EXAMPLES FROM THE PHOTOGRAPHY SECTOR
- THE EUROPEANA’S IPR STRATEGY
  - EXPLAINING THE DEA
    - PREAMBLE
    - SUMMARY OF THE EUROPEANA DATA EXCHANGE AGREEMENT

- SIGNATURE OF THE DEA
- ARTICLE 4: URLS AND PREVIEWS IN EUROPEANA
  - ARTICLE 4(3)
  - ARTICLE 4(2)
- RIGHTS OPTIONS FOR PUBLISHING METADATA TO EP
  - LIST OF RIGHTS OPTIONS FOR EUROPEANAPHOTOGRAPHY
  - USEFUL SCENARIOS FOR USING RIGHT STATEMENTS DURING INGESTION
  - SELECTING THE CORRECT CREATIVE COMMONS STATEMENT
  - METADATA FILTERING PROPOSAL
  - SIGNATURE OF THE DEA
  - ANNEX TO THE IPR GUIDEBOOK - METADATA SETS TO EUROPEANA
- KEY IPR ISSUES
- RIGHTS LABELLING AND UNDERLYING ISSUES
  - EUROPEANAPHOTOGRAPHY AND RIGHTS LABELLING
  - UNDERLYING ISSUES
  - ORPHAN WORKS
  - OUT-OF-COMMERCE WORKS AND THE MLA SECTOR
- HOW TO GET HELPs
- ONLINE GUIDEBOOK
- EMAIL LIST
- IPRGUIDE BLOG

New Technologies and Methodologies. A brief section regarding new developments is included.

The IPR Survey: The IPR survey was conducted so as to gather useful feedback from EuropeanaPhotography's content providers.

The Europeana IPR Matrix: The section regarding the table created to support coordination with the EU projects delivering content to Europeana.

The Appendices:

- The Data Exchange Agreement.
- The IPR Glossary.
- Definition of Terms and Abbreviations.

### 3 EUROPEANAPHOTOGRAPHY AND IPR ISSUES

This first section is very important. It depicts all the discussions so far concerning the EP project and IPR issues in the Europeana framework. This section raises important issues, present misconceptions of the partners regarding key IPR matters, like the Public Domain mark, it also identifies Europeana's weaknesses regarding its IPR access models, especially for a consortium with a fine equilibrium between public and private sector. This section also proposes workarounds and key actions to clarify or alleviate the aforementioned weaknesses.

It should be clearly noted that EuropeanaPhotography as a project and as a partnership, shares the general objectives of Europeana as to make as many cultural items available / visible online as possible - but it may differ of opinion on certain strategies. The content providers acknowledge that Europeana's goal is to increase the quantity of works available under the public domain mark and are indeed willing to provide accurate definitions of the status of the works in their collection; they on the other hand need to preserve their economic models. This relies partly on their capacity to charge fees for access and / or use of medium and high resolution copies of the works in their collections, which are under the public domain or under copyright. This applies to private agencies, with no or little other financial resources, but also to public bodies that, in a context of decreasing public budgets, need to preserve alternative funding sources.

It is also highlighted that EP project's consortium consists of five (5) private partners (photo agencies) and eleven (11) publicly funded / public mission organizations (museums, government institutions, ...). This unique mix adds to the relevance of our input in Europeana IPR discussions.

Firstly both these private and public institutions are **caretakers** of heritage: they ensure that important, valuable collections are preserved and made available for commercial and other use. Secondly, they share common objectives but also have different approaches regarding IPR issues such as reproduction, access to, distribution models etc.

It is of the utmost importance that their activity in Europeana enforces the sustainability of those efforts. This will also push Europeana to further develop IPR models that are clearer and more focused for these institutions.

These efforts are the reason why, in most cases, both public institutions and photo agencies charge for reproductions of their collection items. In the context of Europeana, however, there is a clear and arguably sound business case to give free access to metadata and thumbnails, on the condition that this **access is precisely defined**.

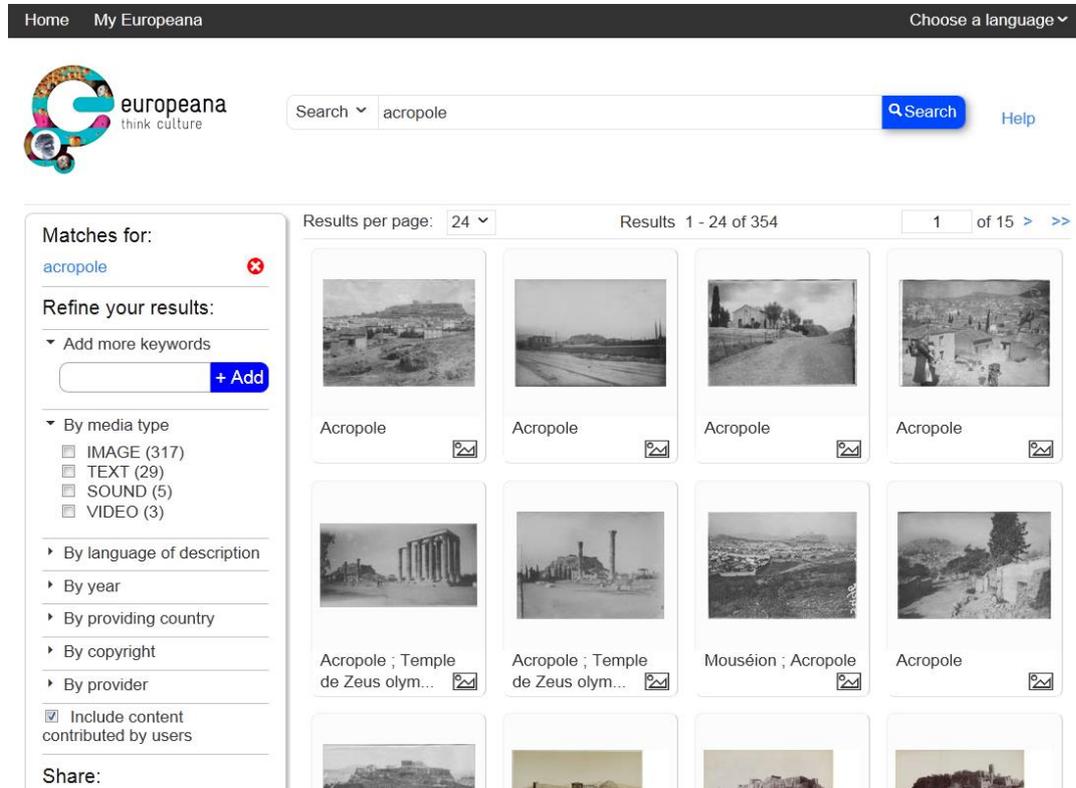
This section raises new questions regarding Europeana's access models in regards to IPR that should be further debated with Europeana.

#### 3.1 THE PUBLIC – PRIVATE INSTITUTIONS AS EUROPEANA'S END USERS

The discussions initiated by a role playing idea. The public – private institutions of the EP consortium became the end-users of the Europeana portal. The end user experience was based on the next step based scenarios.

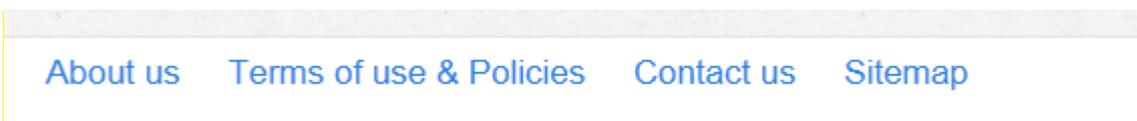
## 1<sup>st</sup> Scenario

When an end user performs a query on Europeana, e.g. “Acropolis” the following screen appears:



The screenshot shows the Europeana search results page for the query "Acropolis". The page features a navigation bar with "Home", "My Europeana", and a language selection dropdown. The search bar contains the query "Acropolis" and a "Search" button. The results are displayed in a grid of 12 thumbnails, each with a caption and a small icon. The captions include "Acropole", "Acropole ; Temple de Zeus olym...", and "Mouséion ; Acropole". A sidebar on the left provides filtering options, including "Matches for: acropole", "Refine your results:", "Add more keywords", "By media type" (IMAGE: 317, TEXT: 29, SOUND: 5, VIDEO: 3), "By language of description", "By year", "By providing country", "By copyright", "By provider", and "Include content contributed by users". The page also shows "Results per page: 24" and "Results 1 - 24 of 354".

On this screen, no copyright information is provided for the thumbnails. But on the bottom of the page, there is a link to “Terms of Use”:



This link leads to the following page:

Home My Europeana Choose a language ▾



## Terms & Policies:

- [Introduction](#)
- [Using our data](#)
  - [Terms of Use](#)
  - [Usage Guidelines for Metadata](#)
  - [Public Domain Usage Guidelines](#)
  - [API Terms of Use](#)
  - [Europeana Data Sources](#)
- [Contributing data to us](#)
  - [Europeana Data Exchange Agreement](#)
  - [Terms for User Contributions](#)
- [Our policies](#)
  - [Privacy](#)
  - [Language](#)
  - [Accessibility](#)
  - [Public Domain Charter](#)

## Europeana Terms and Policies

In this section of the Europeana website you will find an overview of our Terms and Policies. These are divided into three subsections: 'Using Our data', 'Contributing data' and 'Our Policies':

**Using Our data** provides you with the Terms of Use and Guidelines for using the data published on Europeana.eu.

**Terms of Use** governs what you can or cannot do with the metadata and previews that are published on Europeana.eu, with separate [Terms of Use for the Europeana API](#). Europeana publishes guidelines for working with [Europeana metadata](#) as well as for using digital reproductions of [Public Domain works that you find via Europeana](#). Additionally we provide a list of [data sources that Europeana uses](#) to enrich the metadata provided by our data providers.

**Contributing data** provides terms that ensure that Europeana can combine objects and data provided by individual users with the rest of the Europeana metadata.

[The Europeana Data Exchange Agreement](#) governs the relationship between Europeana and the institutional data providers. The [terms for user contributions](#) governs the terms on which users contribute data to Europeana.

**Our policies** contains Europeana's policies.

The page mentions the Terms of Use for the metadata and previews, it does not mention **thumbnails**.

It is noted that Europeana considers previews to be the same as thumbnails. Europeana clearly keeps in mind that the Europeana Licensing Framework needs to support many different types of data providers. With regards to the licensing framework thumbnails are one possible manifestation of a preview. The Europeana Licensing Framework considers all the visual representations of the digital object (on the search results pages and on the individual item pages) as previews.

Nevertheless certain issues could be raised even at a terminology level. For many content providers certain restrictions are in-force even for the thumbnails. A preview and / or a thumbnail is a digital object depicting a work under certain copyright conditions and certain Terms of Use could be in force regarding these previews / thumbnails which could be in contradiction with the Terms of Use defined by Europeana. In the minimum case individual brief copyright information per thumbnail / preview should be visible in accordance with each provider case. The copyright information provided in the preview pane in the Europeana portal is considered general and in some cases unspecified.

When the user clicks on a thumbnail, the following page is presented:



Search ▾ acropole

Search

Help

[Return to search results](#)[< Previous](#) [Next >](#)

© Europeana - Rights reserved -  
Free access

View item at  
[Ministère de la culture et de la communication, Médiathèque de l'architecture et du patrimoine](#)

## Acropole

**Title:** L'Acropole et l'Art moderne

**Type:** Reportage

**Identifier:** oai:culture.gouv.fr:ark:67717/0006/APOR129119

**Relation:** <http://collections.culture.fr/>

**Rights:** Ministère de la Culture (France) Médiathèque de l'Architecture et du Patrimoine Diffusion RMN

**Data provider:** Ministère de la culture et de la communication, Médiathèque de l'architecture et du patrimoine

**Provider:** moteur Collections ; France

**Providing country:** France

### Search also for:

**Title**

[Acropole \(338\)](#)  
[L'Acropole et l'Art moderne \(1\)](#)

**What**

[Reportage \(111378\)](#)

**Provider**

[Ministère de la culture et de la communication, Médiathèque de l'architecture et du patrimoine \(511538\)](#)  
[moteur Collections ; France \(937468\)](#)

Here, the source of the image is mentioned in the left sidebar, as well as a copyright notice: “Europeana – Rights Reserved – Free access”.

When the end user clicks on the link below “View item at”, he is redirected to a page at the provider’s website, and therefore **leaves the Europeana portal**:

IMAGES

Liste des réponses | Affiner la recherche | Autre recherche | Commande photo

Réponse n° 1



Localisation: Grèce ; Attique ; Athènes

Titre série: Sites et monuments : Athènes moderne

Edifice: Acropole

Légende: L'Acropole et l'Art moderne

Auteur de l'illustration: Opérateur C ; Machard, Pierre (photographe)

Date prise vue: 1917.10.21

Type de support: Tirage photographique

N° tirage: OR129119

Technique tirage: Tirage argentique noir et blanc

Observations phototype: N° de série OR811

Service producteur: SAP40

Contact service producteur

Crédit photo: Ministère de la Culture (France) – Médiathèque de l'Architecture et du Patrimoine – Diffusion RMN

Date Mistral: 2008/11/28

Référence: APOR129119

Protection des droits des auteurs de la base Mémoire, des notices et des images  
 Aucune exploitation, notamment la diffusion et la reproduction, intégrale ou par extrait, autre que celle prévue à l'article L.122-5 du Code de la propriété intellectuelle, de la base de données, des notices et des images de ce site ne peut être réalisée sans autorisation préalable du ministre chargé de la culture ou, le cas échéant, du titulaire des droits d'auteur s'il est distinct de lui, sous peine de poursuites pour contrefaçon en application de l'article L.335-3 du Code de la propriété intellectuelle.

Depending on the provider, these external pages mention copyright status or terms of use. In This case, the text states:

«Protection des droits des auteurs de la base Mémoire, des notices et des images : Aucune exploitation, notamment la diffusion et la reproduction, intégrale ou par extrait, autre que celle prévue à l'article L.122-5 du Code de la propriété intellectuelle, de la base de données, des notices et des images de ce site ne peut être réalisée sans autorisation préalable du ministre chargé de la culture ou, le cas échéant, du titulaire des droits d'auteur s'il est distinct de lui, sous peine de poursuites pour contrefaçon en application de l'article L.335-3 du Code de la propriété intellectuelle.»

And a preview is available:



Ministère de la culture - base Mémoire

In this particular case, the preview doesn't mention any copyrights. When the .jpg file is downloaded, it doesn't contain metadata either.

This use-case scenario, for the EP partnership raises some key issues:

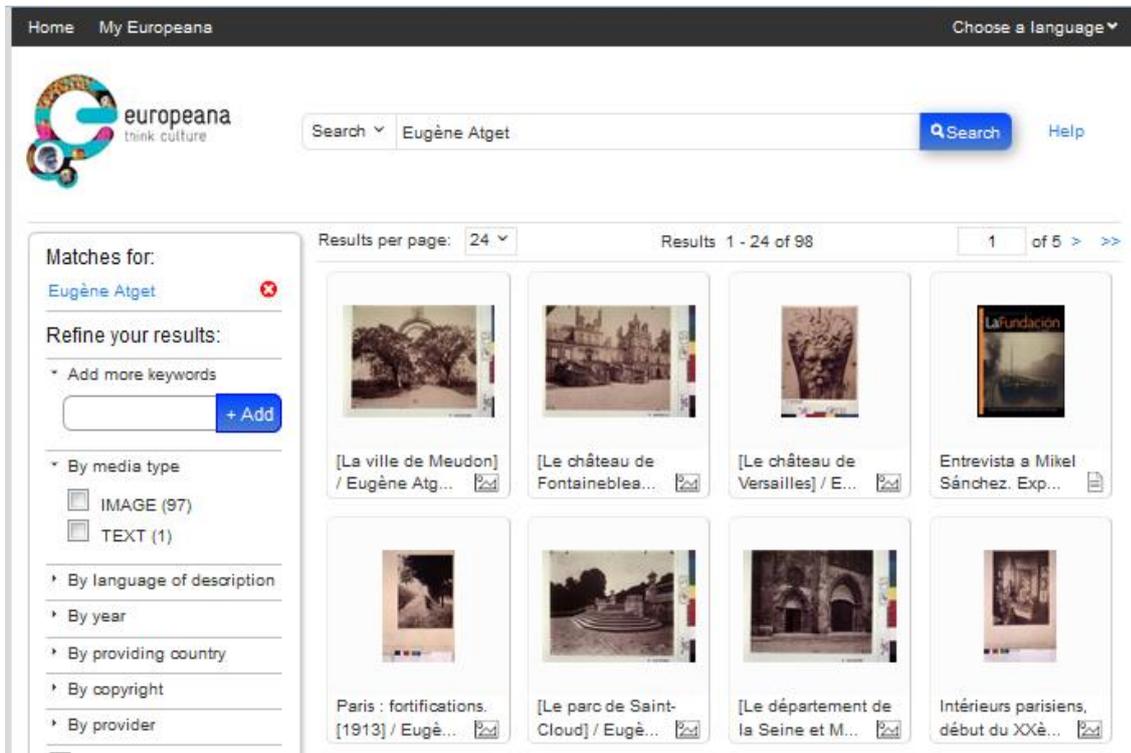
- “Previews” as a term may raise certain issues within the EP’s partnership.
- In the thumbnails view there is no individual brief copyright information per thumbnail. This information is only included on the individual item view.
- The copyright information in the preview pane in the Europeana portal is general and underspecified. There is a “Term of Use” link in the bottom of the page but it would be preferable to have individual copyright information for each thumbnail. In this way the information is more clearly presented to the end user.
- The Terms of Use are not including information regarding the use of thumbnails and terms of access and use of the thumbnails
- The link is redirecting to a site with the full .jpg image without further metadata and with a more specific copyright notice. This, on one hand, could be considered as outside of the scope of the Europeana Licensing Framework as this page is completely under control of the data provider and Europeana has no editorial or other control over it. Nevertheless, Europeana plays a central role to the access path of this (and each) item and sets Europeana in the middle, as an intermediate providing access to items with unspecified or confusing copyright information.

Throughout this scenario the end user is following an access path accompanied with inadequate, sometimes misleading, non-specific and in general not homogenous copyright information or information on terms of use and access. This results in a non-good practice of access model as considered by the EP project. Even if there is a clear set of rules to access information and content in Europeana this is not clearly presented to the end user. This access scenario has initiated discussions analyzed in the Athens plenary meeting.

## 2<sup>nd</sup> Scenario

Accessing the “Bibliothèque Nationale de France” collections.

The end user performs a query on Europeana, using the “Eugène Atget” keyword and the following screen appears:



The screenshot shows the Europeana search interface. At the top, there is a search bar with the text 'Eugène Atget' and a 'Search' button. Below the search bar, there are filters for 'Matches for:' (Eugène Atget) and 'Refine your results:' (Add more keywords, + Add). There are also filters for 'By media type' (IMAGE (97), TEXT (1)), 'By language of description', 'By year', 'By providing country', 'By copyright', and 'By provider'. The main content area displays a grid of search results, each with a thumbnail image and a caption. The first result is '[La ville de Meudon] / Eugène Atget...'. Other results include '[Le château de Fontainebleau...]', '[Le château de Versailles] / E...', 'Entrevista a Mikel Sánchez. Exp...', 'Paris : fortifications. [1913] / Eugè...', '[Le parc de Saint-Cloud] / Eugè...', '[Le département de la Seine et M...', and 'Intérieurs parisiens, début du XXé...'.

The user selects and clicks on a thumbnail, the following page is presented:

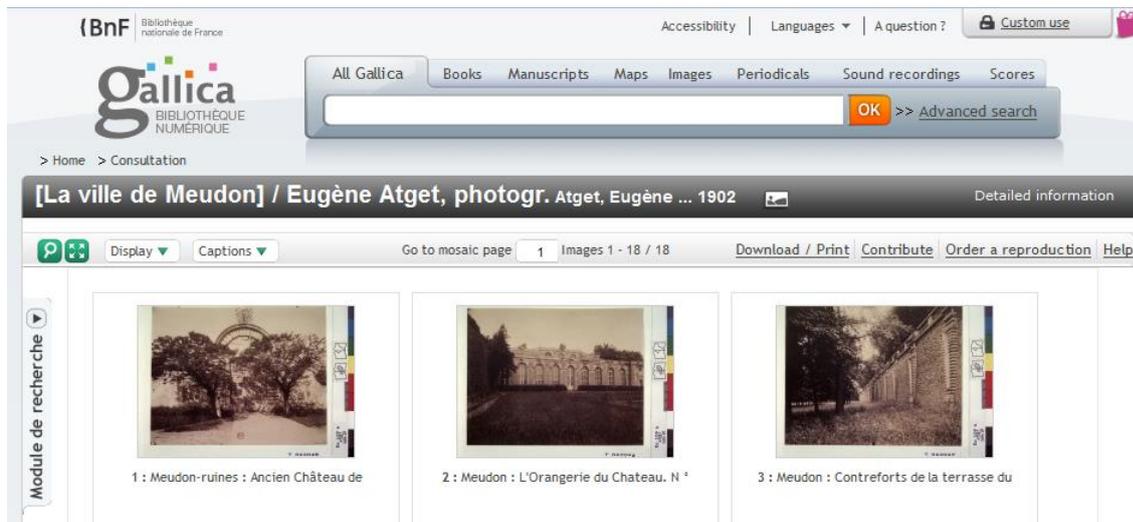


The screenshot shows the Europeana item detail page for the photograph '[La ville de Meudon] / Eugène Atget, fotogr.'. The page is divided into several sections:

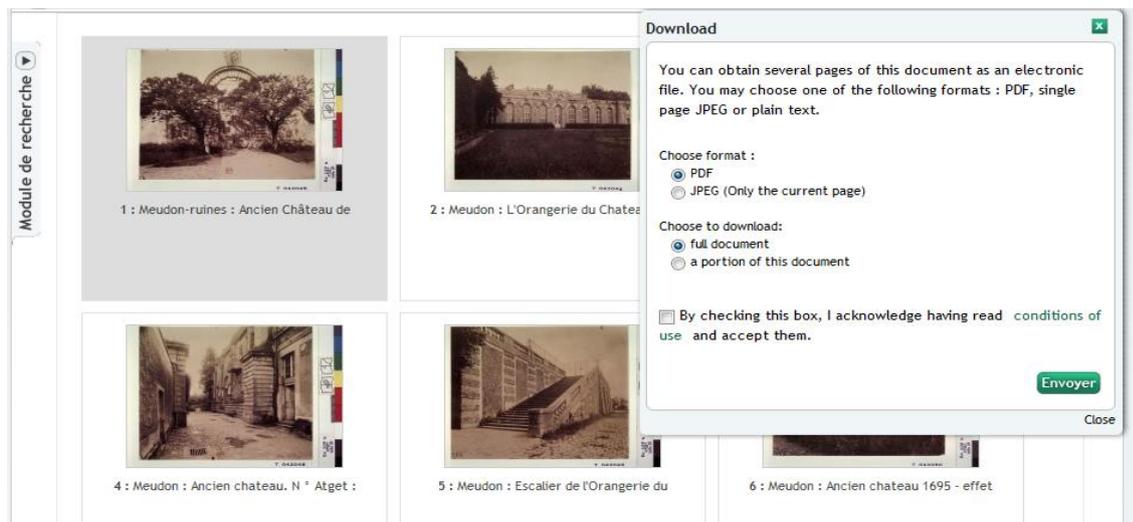
- Image:** A thumbnail of the photograph, with a copyright notice: 'Public Domain Mark - "No Known Copyright"'. Below the image, there are links to 'View item at French National Library - Bibliothèque Nationale de France' and 'Share'.
- Description:** 'Enregistrement : 00-00-1902'. 'Creator: Atget, Eugène (1857-1927). Photographe'. 'Date: 1902; <http://semium.org/time/1902>'. 'Type: image fixe; image; still image'. 'Format: 18 fotogr. pos. : n. et b. ; 16 x 22 cm (épr.) (et moins); image/jpeg'. 'Subject: Hauts-de-Seine (France) -- 1900-1945; Meudon (France) -- 1900-1945'. 'Identifier: <http://gallica.bnf.fr/ark:/12148/btv1b3100086t>'. 'Relation: Notice du catalogue : <http://catalogue.bnf.fr/ark:/12148/cb38496861b>'. 'Rights: domaine public; public domain'. 'Source: Bibliothèque nationale de France'. 'Data provider: French National Library - Bibliothèque Nationale de France'. 'Provider: The European Library'. 'Providing country: France'. 'Auto-generated tags'.
- Search also for:** A section with the following details:
  - Title:** '[La ville de Meudon] / Eugène Atget, fotogr. (1)'
  - Who:** 'Atget, Eugène (1857-1927). Photographe (96)'
  - What:** 'image fixe (218752)', 'image (8623699)', 'still image (1708417)', 'Hauts-de-Seine (France) -- 1900-1945 (7)', 'Meudon (France) -- 1900-1945 (1)', '18 fotogr. pos. : n. et b. ; 16 x 22 cm (épr.) (et moins) (3)', 'image/jpeg (3330537)'
  - Provider:** 'French National Library - Bibliothèque Nationale de France (1565817)', 'The European Library (4574525)'

According to the IPR information available the item is in the Public Domain – “No Known Copyright”

Clicking “View item at” the user is redirected to the next web portal:



A tool is provided through which the whole document may be viewed, and methods to download, print or order a reproduction are offered. If the user chooses to Download / Print the document the following screen is presented:



It is observed that you may download a part of the whole of the document in accordance with the conditions of use. Clicking “the conditions of use” the user is prompted to these conditions:

### → Conditions for the use of Gallica's contents

1/ The contents accessible on Gallica website are mostly digital reproductions of works from the collections of the BnF that are no more protected by intellectual property rights.

The use of these reproductions is covered by French Law n°78-753 of 17 July 1978:

- The non-commercial use of these contents is free of charge, subject to compliance with the current legislation and notably the inclusion of the source's statement.
- The commercial use of these contents is subject to payment and covered by a license. Commercial use includes the resale of the contents in the form of prepared products the supply of services.

[Click here to access the price lists and the license](#)

2/ Gallica's contents are the property of the BnF within the meaning of Article L.2112-1 of the French Public Entity Property General Code (Code Général de la Propriété c Personnes Publiques).

3/ Some contents are subject to specific conditions of use. These are:

- Reproductions of documents protected by any copyright belonging to a third party. These documents cannot be used without the prior authorisation of the holder of the rights, except in the context of copying for private use.
- Reproductions of documents held in partner libraries and other institutions. These are marked by means of the wording Source Gallica.BnF.fr / Bibliothèque municipale de .. (or other partner organisation). The user is directed to contact these organisations for their conditions of use.

The non-commercial use of these contents is free of charge, subject to compliance with the current legislation and notably the inclusion of the source's statement.

The commercial use is subject to payment and covered by a license and certain tariffs are specified for each item in a separate full detailed document. Indicative tariffs are presented in the next figure.

#### Tarifs pour les livres et périodiques paginés (numérique seul ou numérique plus papier)

Tirage	≤ 1 500	1 501 à 15 000	15 001 à 40 000	40 001 à 100 000	100 001 à 200 000	200 001 à 400 000	> 400 000
Format							
1/8 de page	24	27	40,8	55,2	69,6	84	98,4
1/4 de page	48	54	81,6	110,4	139,2	168	196,8
3/4 de page	72	81	122,4	165,6	208,8	252	295,2
Pleine page et 4 <sup>e</sup> de couverture	96	108	163,2	220,8	278,4	336	393,6
Couverture	240	270	408	552	696	840	984

- 80 % pour les publications académiques jusqu'à 1500 exemplaires.

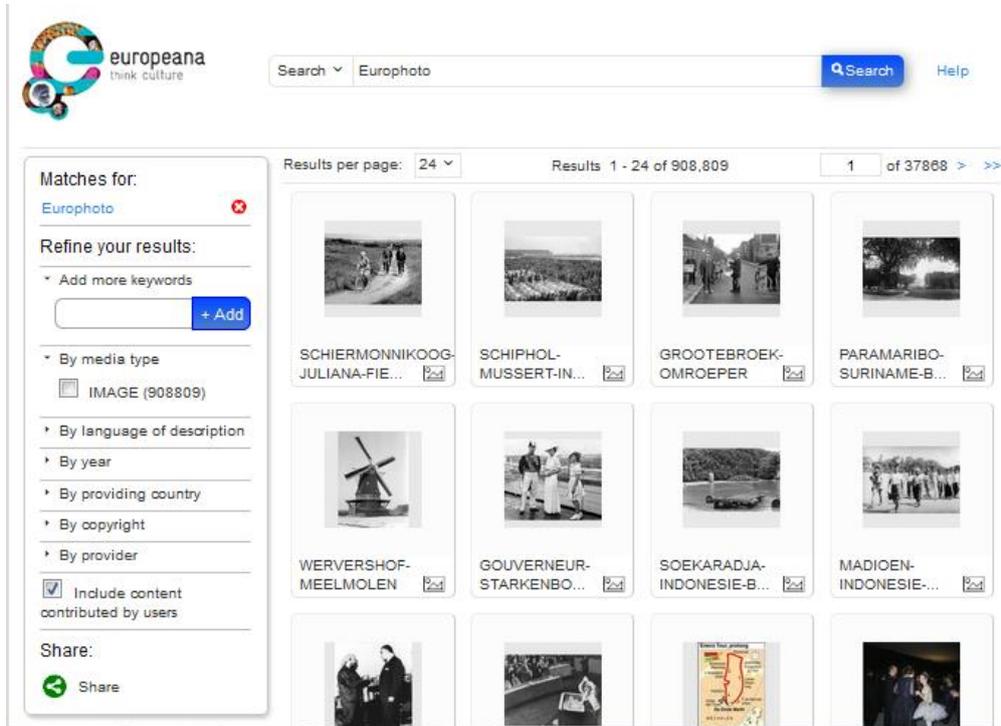
In this use-case scenario:

- The issue regarding Previews / Thumbnails remains.
- Public Domain – although the work itself may be in the public domain, from the supplier's perspective, its digital copy is not : the use is defined by the supplier's terms, which only permit free non commercial use and requires payment of a fee for any commercial use. This seems contrary to Europeana's official position on public domain as well as the definition posted on the Europeana website and could therefore be considere to be misleading.

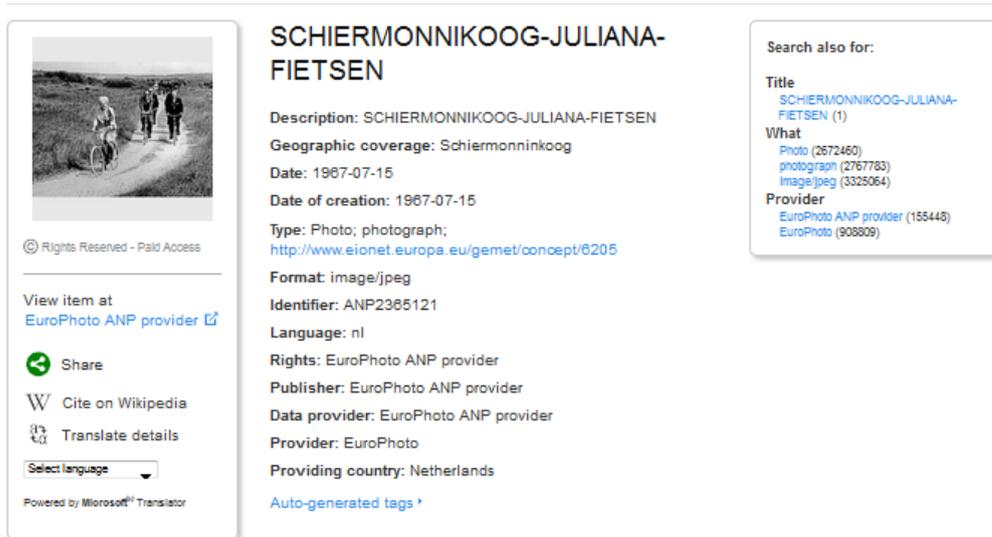
### 3<sup>d</sup> Scenario

Accessing the “Europhoto” collections.

The end user performs a query on Europeana, using the “Europhoto” keyword and the following screen appears:

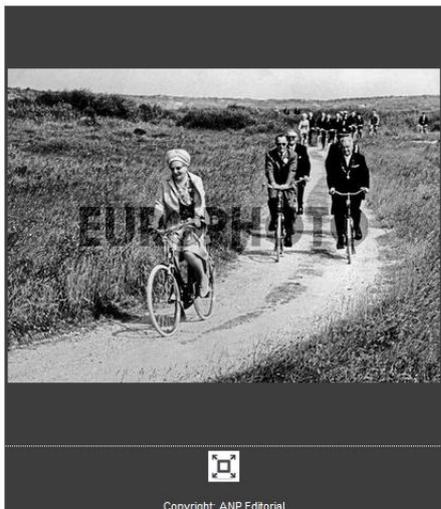


The user selects and clicks on a thumbnail, the following page is presented:



According to the IPR information available the item has “©Rights Reserved – Paid Access”

Clicking on the “View item at” selection the user is redirected to the following web portal:



Picture Identifier (GUID): ANP2385121  
 Source: ANP Editorial  
 Copyright: ANP Editorial  
 Date Created: 15/07/1987  
 Country: NED  
 High quality available: Higher resolution available on demand

English  
 Headline : SCHIERMONNIKOOG-JULIANA-FIETSEN  
 Description :  
 City: Schiermonnikoog

National Language  
 Headline : SCHIERMONNIKOOG-JULIANA-FIETSEN  
 Description :  
 City: Schiermonnikoog

SHOW AUTOMATIC FIELDS    ADD TO MYCART     CREATE LINK

Copyright: ANP Editorial

Here, the supplier has used the most protective of the Europeana rights models, and is actually delivering more than promised by the license since access to the preview is indeed free. However, its use is regulated under the user's terms & conditions, which basically restricts any reuse of the images.

This scenario proves that a correct access path from Europeana to the digital object can be fulfilled with consistent copyright information and without imposing risks either to Europeana and the content provider. This however applies only to images under copyright.

### 3.2 THE ATHENS DISCUSSIONS

In the meeting in Athens, an in-depth discussion about the different access steps was conducted. Based on this discussion the following issues were identified:

1. The **meaning of “free access”**. EP’s interpretation is that, by clicking an image, you can access freely a representation of the object. It is not specified whether this will be a preview (this is governed mainly by the Europeana DEA), nor what its resolution, copyright status or usability are.  
 So it is important to note that in EP’s point of view “free access” does NOT entail in this case **“Public Domain” or “CC0 license”**. In this sense there is also a difference between **access and use**. Free access to a representation does not entail, in EP’s point of view, free use of this representation.
2. There is a discussion about what is expected from the **preview** at the provider’s site. In our understanding, the full copyright statements issued by the **provider** are applying. So you can have **“free access”** to a preview which states that all rights are reserved.
3. Europeana asks to **describe the copyright status** of the work in the metadata in accordance with a predefined set of rights statements. Here there are two clear areas of problems: Orphan works and works in the Public Domain
  - a. **Orphan works**. In many cases, the author of the work is unknown, or is known but cannot be located. The DEA forces providers to keep the **full liability** of publishing those data, exposing them to the risk of claims from rightful owners. The EP consortium provides a public service by offering previews through Europeana, and since orphan works form a known but still evolving issue, it is crucial that the liability not solely resides with the content providers but also with Europeana. The EP partners, who have signed the DEA, are open for **further debate on the DEA**, regarding orphan works.

- b. Works in the Public Domain. There is a keen interest from Europeana and expressed by the reviewers that we should clearly indicate (whenever possible) when a work is known to be in the public domain. There is however a difference of opinion regarding the Public Domain in the digital world, and its usage, which is identified by the EP partners in relation to Europeana.

It is the opinion of the consortium that this misconception could lead to **false expectations** by the users of Europeana. A work can be in the public domain, e.g. the painting of Mona Lisa by Leonardo da Vinci. This means that the original author of the work or his/her legal heirs cannot claim exploitation rights from it. But that doesn't mean of course that the general public "owns" the physical object and anyone is allowed to take it out of the museum. It doesn't even mean that one has free "access" to it: the entrance fee at the museum is paid, partly to cover the costs of long term preservation.

It also means that one will have to pay fees for **reproduction** to a service provider who makes and/or commercially exploits these reproductions.

There are even relating rights to Public Domain works regarding descriptive metadata rights for the original, original works created based on the original, preservation rights etc. These rights affect both access and use of the reproductions of the original.

Following the works in the Public Domain discussion the following common example is given. A private photo agency, (like the EP partners) owning photo collections of which a part is work in the public domain, is considered.

First of all, the photo agency offers public services by preserving, for the long term, the works in good condition based on unique preservation methods. This is certainly the case when the photographs are considered heritage, but remain in private hands. Second, there are cases where a photo agency delivers digital copies for use, an **access service** is offered which in itself is not "public domain", and has a specific fee. The reproductions are transacted under certain terms of use. On the other hand there are cases in which a photo agency allows free access to the imagery so the access service does not have a specific fee. What is charged is a right to reproduce and that right is issued as a license with specific terms of use regarding reproduction, duration of use and other restrictions. Third, the digital master and the metadata are, in most of cases, the property of the photo agency who produced it, and who may therefore require payment for providing users with high resolution files.

For most photo agencies, **the digital master is not considered to be in the public domain and in these cases the rights are reserved by the content holder and free access is not by default and obvious.** "Public Domain" works preserved by public or private institutions are accompanied by a complex set of relating rights concerning preservation, reproduction, access to, terms of use which are set by the institutions holding the work.

Based on the above access scenario and the aforementioned discussions regarding Public Domain, Europeana's access model on IPR is considered to be **simplistic or in some cases not clearly presented to the data providers.**

From a private – public institution point of view:

1. Free access is not the same as public domain and not the same as free use. According to Europeana, the data provider is able to select which statement to use. In the case where the provider wants to set conditions for reuse of the digital master of a photo of an artwork which is in the public domain, the data provider should be

able to select the free access rights statements. This is not made clear in the Europeana Licensing Framework.

2. The Intellectual object itself can be public domain, but this doesn't necessary hold for the physical object or reproduction especially if for the physical object preservation, management, documentation and dissemination actions are taken which produce added value to the object.
3. On the object, there is the added value of the provider (museum, private) for which a fee should be charged (its own intellectual property)
4. Furthermore, there are services a provider can offer, for which a fee should be charged in addition.

Europeana's model is currently at risk to miss the focus on these aspects as the attention is kept mostly to access. A reason might be that Europeana controls the links to the digital objects of the data provider and not the objects itself. But Europeana plays a key and intermediate role to this access path and a special focus on these aspects by Europeana is considered necessary for the EP partnership.

### 3.3 RECOMMENDATION TO CONTENT PROVIDERS

The aforementioned issues produce some caution and recommendations to the EP content partners.

Initially, a content provider is recommended to be extremely cautious when using the **Public Domain mark**: the EP partners encourage Europeana to improve the clarity and initiate discussion regarding the meaning of the Public Domain label in Europeana with regard to the conditions of use of the digital image.

The official Europeana policy regarding Public Domain is as follows: if a material is indeed in the public domain (because the copyright has expired) then Europeana mandates that the public domain mark is being used. If the material is not in the public domain then the PD mark should not be used and data providers are free to use any other available rights statement.

This statement seems to indicate that the EP data providers do not have much choice and have to use the Public Domain mark for the digital object if a work is in public domain and then, it should be freely reusable – which of course raises an important issue for the sustainability of the data provider. A private data provider cannot modify its IPR licensing policy, which is in fact the pillar for sustainability and / or even survival.

Most private data providers, members of the EP partnership, provide free registration to photographic content repositories (text and images). However, the user is not able to copy text nor even downloading the low res images, although technically possible, is forbidden for any usage. Other approaches, for specific needs/clients/projects, are implementing a fully paid web site access (i.e.. the student pay a subscription fee and then navigates and downloads a certain quantity of data, according to his subscription plan).

On the other hand Europeana's policy states that the rights statements do not apply to works but rather to digital objects (c.f. relevant definitions of the Data exchange agreement). It is clearly understood that there can be digital objects that have access rights reserved while they depict works of art in the Public Domain.

Based on these facts the EP partners encourage Europeana to initiate further discussions to clarify the policies and use of the PD Mark.



It is also noted that there is a particularity to the Europeana business model, since it is a public service with a large target audience (larger than the business audiences of both public museums and private agencies). This means that there is **added risk** that currently is put squarely in the shoes of the providers.

Furthermore the expected audience in Europeana is uncontrolled compared with the audience of the individual institution. This risks the loss of control of access and therefore loss of control regarding the use of the image and the metadata of each work. It is almost impossible to predict the future use of the content and how it will be finally exploited by end users, computer applications, mobile applications, search engines etc. From Europeana's point of view loss of control of metadata is intended and this is the reason why it is made available under CC0. Loss of control of actual content does not happen through Europeana because it does not hold the content itself. But Europeana as a central information hub pointing to actual digital objects could unintentionally boost loss of control over the real content and this issue is of absolute importance for the data providers.

The EP content partners will select and deliver content to Europeana through the MINT tool. The question raised is, what a content provider shall do during content ingestion? What right statement should be selected and in what case? Surely, there is not a straight answer for all content providers as the content delivery is depending on the content's rights status. Each content provider should be treated as an individual case.

For this reason the EP partners are recommended to use the tools which were created and are included in this deliverable and the Online Guidebook:

Issue	Recommended tools
Not aware of the basics in copyright?	D.6.2.2. Section: Copyright for images in a Nutshell.
Difficulties with the DEA?	D.6.2.2. Section: Explaining the DEA.
Delivering content? What right statement to use?	D.6.2.2. Section: Available rights statements for ingesting content to the EP project and Europeana.  D.6.2.2. Section: Useful scenarios for using rights statements during ingestion.  EP-IPR blog: <a href="http://ep-blog.iprguide.org">http://ep-blog.iprguide.org</a>
I want help now for the above and other issues or just to ask a question...	Online Guidebook:  <a href="http://europeana-photography.iprguide.org">http://europeana-photography.iprguide.org</a>  EP-IPR blog: <a href="http://ep-blog.iprguide.org">http://ep-blog.iprguide.org</a>

### 3.4 TO SUMMARIZE

The conclusions so far of the discussions are depicted in the next key issues:

1. The EP partners feel that there is much more to the IPR issue than one can currently find in official documents from Europeana.
2. The partners should be extremely cautious using the “public domain” mark and labelling, because this label is quite far from practical business; partners need practical notions that are understandable and related to the real job.
3. Europeana right statements risk mixing 2 things: the copyright status of the **work of art** that is reproduced, and the access to the **reproduction** of the work of art. So **when in the metadata it is stated that the work is in the public domain, we are not claiming that the actual (digital) photo is in the public domain.** The Europeana metadata fields should provide the possibility to make clear this distinction.
4. The EP partners encourage Europeana to initiate discussions regarding the policies and use for the PD Mark.
5. The difference between regulation of use and access should be clarified.

It could help if the Europeana documentation makes a distinction between:

1. The **intellectual** object, which can be public domain
2. The owned, **preserved** object and /or a digital master, which from the EP project’s point of view remains completely untouched by the DEA.
3. **Services** provided by a rights owner or a third party, e.g. provision of a digital high-res copy.

The IPR discussion in Europeana can be furthered greatly with a clear distinction between all the key notions:

- original / reproduction / preview / digital master / digital copy
- ownership / public domain / orphan works
- access / use / service

## 4 THE IPR GUIDEBOOK

### 4.1 INTRODUCTION

In this section the IPR Guidebook context, contents and online tools are fully presented.

The IPR Guidebook informs the partners in a comprehensive way so as to support their processes with regard to IPR issues. In addition, it offers tools for continuous support for resolving IPR issues within the EP project and in general.

The IPR Guidebook includes the following sections:

- Copyright of Images in a Nutshell.
- Europeana's IPR Strategy
- Explaining the DEA
- Available rights statements for ingesting content to the EP project and Europeana.
- Useful scenarios for using rights statements during ingestion.
- How to get Help

### 4.2 COPYRIGHT FOR IMAGES IN A NUTSHELL

Copyright is a legal concept, included in the IPR legislation, enacted by most governments, giving the creator of an original work exclusive rights to it, usually for a limited time.

Generally, it is "the right to copy", but it is also used to determine who may adapt the work to other forms, perform the work, financially benefit from it, and other related rights.

By virtue of the Berne Convention for the Protection of Literary and Artistic Works, works are protected in all 160 countries that are party to the Convention, as well as various other laws such as the US copyright act.

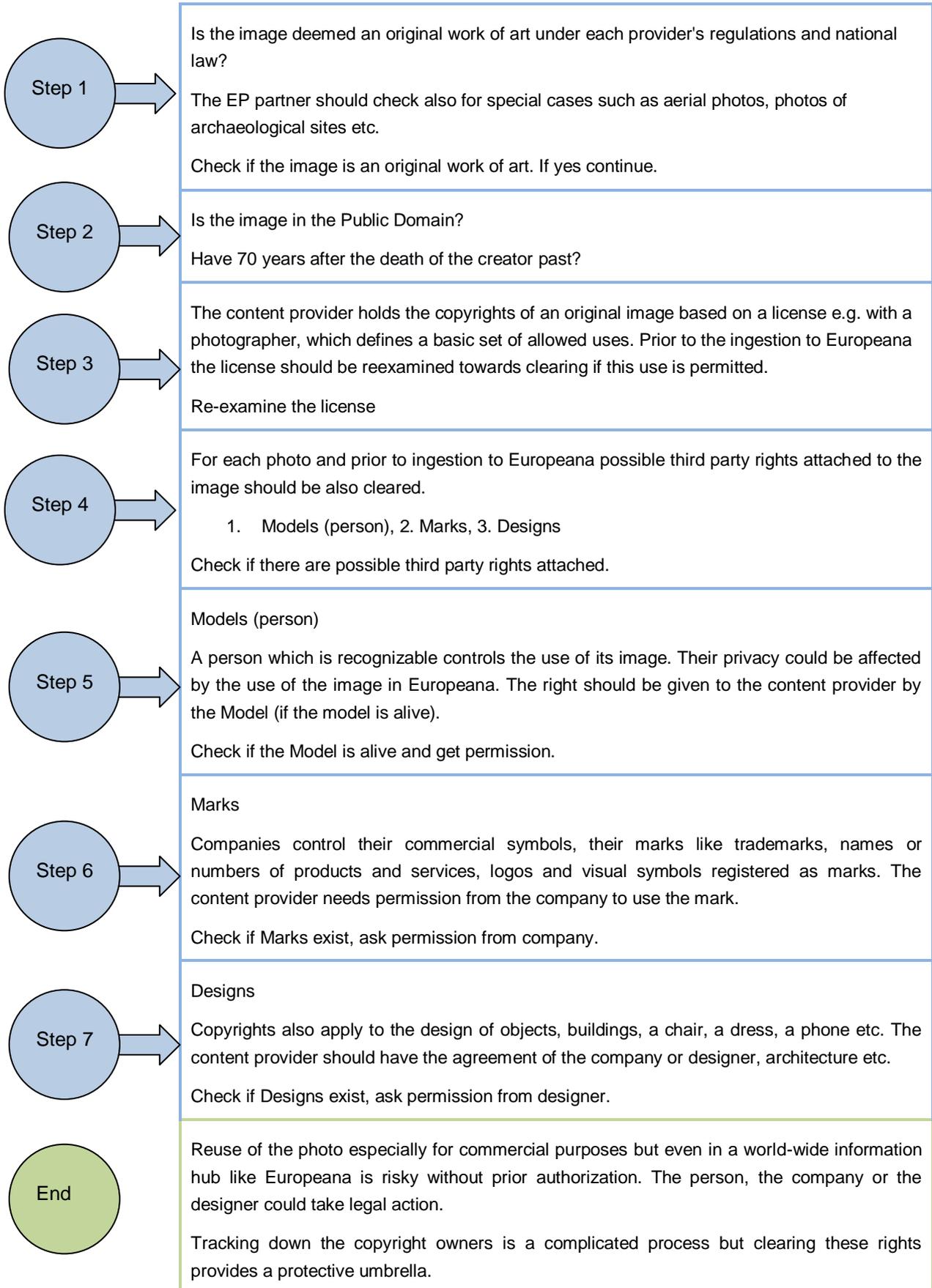
The copyright applies to all original creations. From the time it is created, a photo or other image is automatically protected by copyright.

For each image third party rights are in some cases attached. These rights are in most of times complicated and not cleared by the content providers. The following guide gives useful examples of example photo, its copyright status and comments. The examples were provided by Parisienne de Photographie and Mrs Nathalie Doury to be used in this deliverable.

When publishing an image through Europeana, the EP partner should:

- Step 1. Clear rights thoroughly.
  - Based on the next simple step guide
  - study the examples from the Photography sector
  - and use at least once the <http://europeana-photography.iprguide.org> online tool which simulates the rights clearance procedure and - at the same time – makes the user become aware of the key issues of IPR and copyrights of third parties.
- Step 2. Decide on the rights statement to be used during the ingestion.
  - Go to relevant sections in this deliverable:
    - c.f. "List of rights option for EuropeanaPhotography".
    - c.f. "Useful scenarios for using rights statements during ingestion"
  - or visit <http://europeana-photography.iprguide> for updated information
- Step 3. Finish the ingestion.
- For any question post to the <http://ep-blog.iprguide.org>, or send an email to EP's IPR committee, [EPiprcommittee@promoter.it](mailto:EPiprcommittee@promoter.it).

#### 4.2.1 SIMPLE EXPLANATORY STEP GUIDE



#### 4.2.2 USEFUL EXAMPLES FROM THE PHOTOGRAPHY SECTOR

The next examples include images from the collections of Parisienne de Photographie and / or the “City of Paris” collection, which will be used for the EP project. For each example a different copyright status is valid and useful comments are provided. These examples give a clear picture of the necessary steps which should be followed by each EP partner for clearing rights prior to ingestion of content.

##### 1. Straightforward public domain



Construction of the Paris Metro (line 3), drilling of a tunnel under the Canal Saint-Martin, 1901.

Photograph by Charles Maindron ((1861-1940) from the collection of Bibliothèque de l'Hôtel de Ville

Comment: This is a pretty straightforward example: as the photographer is identified and his date of death is known, this is clearly a public domain image, since January 1st, 2011.

## 2. “Estimated” public domain

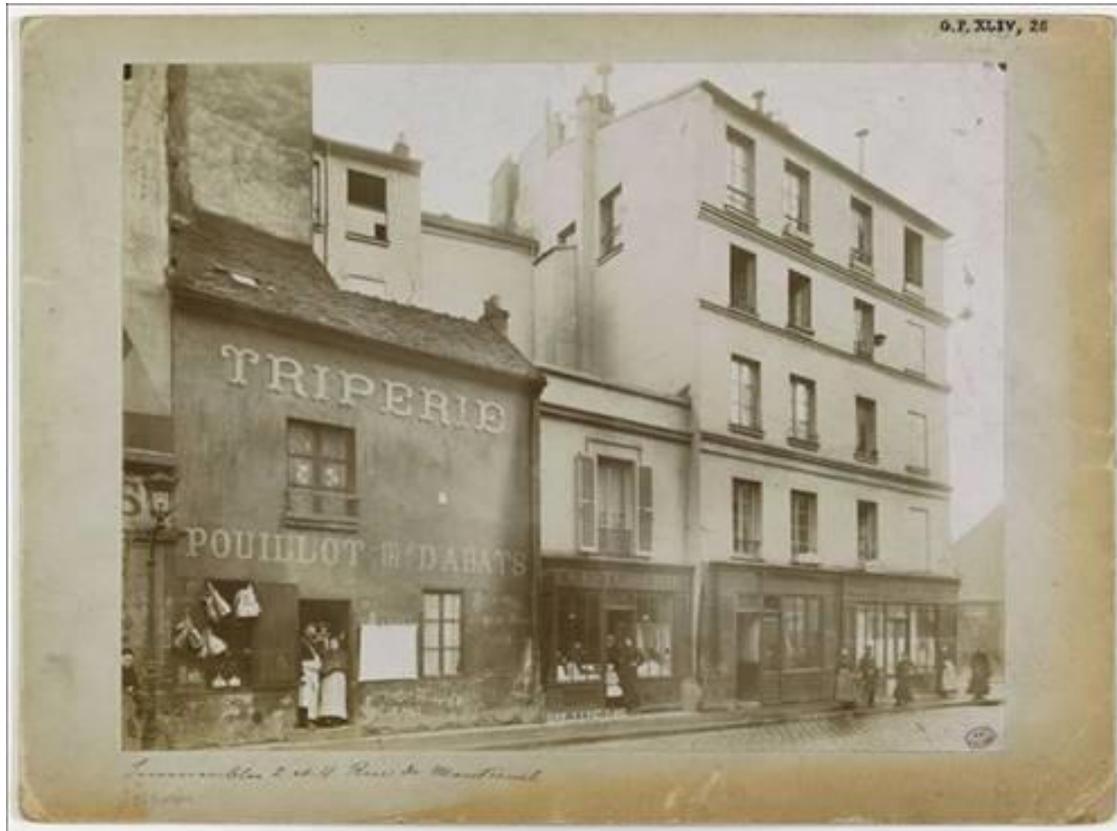


Funerals of French President at le Panthéon, July 1st, 1894, Paris.

Anonymous photograph from the collection of Bibliothèque Historique de la Ville de Paris

Comment: Although this is an anonymous photograph, the event depicted (the funeral of a French president) can be easily dated. Our research shows that, based on a mortality table published by the French demographic institute, life expectancy at age 20 in 1894 was 41 years, e.g. if the photographer was no older than 20 when he took the picture, he was likely to be dead by 1935, **which puts the image in the public domain** at least on a statistical basis. Of course, there are exceptions and the EP partners should check the data in their own geographical territories, but this can be a good practice to establish whether an image is likely to be in the public domain or not. Parisienne de Photographie uses 1895 as an inflexion point (before: public domain, assuming no more info is available on the photographer – after: still under copyright).

### 3. Orphan work – Case 1



Old Parisian houses soon to be demolished in rue de Montreuil. Paris, 1906

Photograph by Union Photographique Française from the collection of Bibliothèque Historique de la Ville de Paris

Comment: this is an example of an orphan work. Union Photographique Française (UPF) was a cooperative association of documentary photographers, active in Paris until the first World War. No individual name of photographer is associated with the image, and therefore, no date of death, or other relevant information to indicate whether this is or isn't in the public domain. The cooperative was dissolved before WWI. The date of the image itself (1906) does not give us any decisive answer as life expectancy at 20 in 1906 was 50 years eg estimated date of death 1956. In this case, Parisienne de Photographie decided to take the risk to publish the image and include it in the Europeana content as the nature of the image is clearly strictly documentary and in this case, UPF worked under commission by the City of Paris.

#### 4. Orphan work case 2



Jean Cocteau, French playwright, novelist and director, 1938, Paris, France.

Anonymous photograph from the collection of Bibliothèque Historique de la Ville de Paris

Comment: in this case, this is also an orphan work since there is no photographer's name and no indication whatsoever of the source. But because of the date of the image (1938), it is almost impossible for this image to belong in the public domain. As Cocteau has been pictured by many professional photographs and artists, this image is very likely under copyright. We would therefore recommend not to publish it on Europeana nor do we publish it on our website either. If the IPR deliverable is published beyond the project 's inner circle, this image should not be reproduced.

## 5. Photograph under copyright – no other work of art depicted



Marc Chagall , French painter, and his first wife, Bella, Paris, august 1934

Photograph by Boris Lipnitzki

© Boris Lipnitzki / Roger-Viollet

Comment: This is a copyrighted picture, as Boris Lipnitizki, its author, died in 1971. However, Parisienne de Photographie holds the rights to the image via an agreement with the photographer's estate. A Chagall painting appears at the background. However, as the work of art is not one of the main subjects of the image, which is clearly about the painter and his wife, the photo itself cannot be deemed the reproduction of a third party's work of art. Both the artist and his former wife are now dead, and cannot claim any personal image rights. It can therefore be published on Europeana without any further research.

## 6. Photograph under copyright – other work of art depicted



Marc Chagall, French painter, standing in front of his painting "Solitude", 1934

Photograph by Boris Lipnitzki

© Boris Lipnitzki / Roger-Viollet

Marc Chagall © ADAGP

Comment: Although this image is from the same photographer as the previous one, and the photographer's copyright is cleared, the photograph represents another work of art : a painting by Chagall, which is clearly recognizable (the title is even named in the caption) and one of the main subjects of the image as it shows the artist at work. The copyright for the painting needs to be cleared prior to publishing the image on Europeana. Chagall's rights are held by a French collecting society ADAGP, who will therefore need to issue a license for the anticipated use.

### 4.3 EUROPEANA’S IPR STRATEGY

Europeana’s strategy on IPR and related rights is based on the axiom that “Metadata related to the digitized objects produced by the cultural institutions should be widely and freely available for re-use”.

Europeana has defined the Europeana Licensing Framework (ELF) which includes a number of different elements. The Europeana Data Exchange Agreement (DEA) is one of these elements. The DEA can be found in Appendix 1. The elements of the ELF are presented in the next figure:

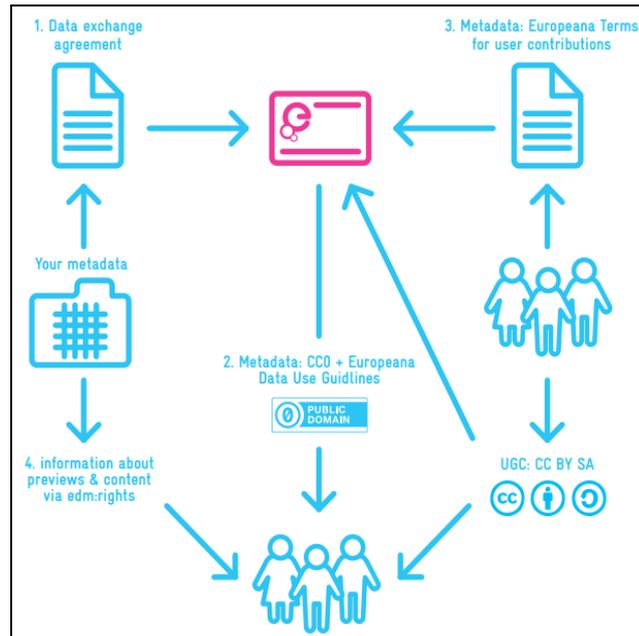


Figure 1: Elements of the Europeana Licensing Framework



Based on this framework, Data Providers and Aggregators deliver to Europeana only metadata, a preview and a link pointing to a digital object at the provider's website.

The terms regarding data delivery and re-use are governed by Europeana's Data Exchange Agreement. Europeana supports open re-use of the metadata provided by Data Providers and Aggregators.

Information related to the Intellectual Property Rights status of the digital object is part of the mandatory information a provider delivers to Europeana. Data providers are presumed to make the best effort to provide accurate rights statements regarding digital objects.

Europeana is not aggregating digital content from providers and Europeana is committed to safeguard and promote the Public Domain.

Europeana and its partners are also promoting awareness and best practice for providers to tackle legal barriers related to digitization and online availability of works.

One of the provisions of the Europeana Data Exchange Agreement is that Europeana may make available all metadata it receives from the data providers under the terms of CC0. A Work made available under CC0 may be protected by copyright and related or neighboring rights ("Copyright and Related Rights"). Copyright and Related Rights include, but are not limited to, the following:

- the right to reproduce, adapt, distribute, perform, display, communicate, and translate a Work;
- moral rights retained by the original author(s) and/or performer(s);
- publicity and privacy rights pertaining to a person's image or likeness depicted in a Work;
- rights protecting against unfair competition in regards to a Work, subject to the limitations in paragraph 4(a), below;
- rights protecting the extraction, dissemination, use and reuse of data in a Work;
- database rights (such as those arising under Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases, and under any national implementation thereof, including any amended or successor version of such directive); and
- other similar, equivalent or corresponding rights throughout the world based on applicable law or treaty, and any national implementations thereof

For the metadata, links and relevant data transferred Europeana obtains a non-exclusive license and authorization to make the metadata available to third parties under CC0.

To summarize:

- The metadata submitted to Europeana will be published with a CC0 license. This means that Content Providers dedicate the metadata to the public domain by waiving all the rights to the work worldwide under copyright law, including all related and neighboring rights, to the extent allowed by law. Consequently any user can copy, modify, distribute and perform the work, even for commercial purposes, all without asking permission.
- The original digital object pointed to via URL, remains on the Content Provider's server apart from the preview submitted to Europeana, which will be cached and stored on Europeana's server. The preview keeps the rights assigned by the content provider.

## 4.4 EXPLAINING THE DEA

This section of the IPR Guidebook summarizes all possible uses of the metadata provided by EuropeanaPhotography (EP) Content Providers in Europeana.

It is valid for all Content Providers within EuropeanaPhotography, both project partners and external contributors.

Following this introduction the document deals with the use of content in Europeana.

All organizations supplying data to Europeana from the EuropeanaPhotography project have signed the Data Exchange Agreement, allowing Europeana to publish all textual metadata (including the URL linking to the cached preview) as Linked Data, under a CC0 waiver that allows anyone to reuse this data without restriction or obligation.

EuropeanaPhotography enables its Content Providers to filter their contributions, as recommended in Europeana's FAQ<sup>1</sup>. Each EP Content Provider is requested to send to Europeana at least the minimum set of metadata.

### 4.4.1 PREAMBLE

This section informs EP Content Providers, allowing the EP project to be successful, while safeguarding their own specific interests.

By signing the Grant Agreement, Content Providers have agreed to contribute to EP and Europeana the data that are specified in the content table of Part B of the DoW. New EP Content Providers, upon the consortium's agreement and on the basis of a "Cooperation Agreement", shall cooperate with the Coordinator and with the other members of the EP project on contributing to the ingestion of new items to Europeana. Every Content Provider is thus bound to provide metadata to Europeana.

At the time of the European Commission's approval of the EP project, the Data Exchange Agreement (DEA)<sup>2</sup> was effective. As a history note Europeana firstly released the Europeana Data Provider and Data Aggregator Agreements<sup>3</sup>. These agreements governed the allowed use, by Europeana and third parties, of the data that was submitted by a Content Provider to Europeana.

By the letter of the Grant Agreement, an EP Content Provider is bound to provide data to the Europeana portal and thus agree to the Europeana DEA. In order to safeguard the interests of the EP Content Providers, technical solutions for the control of metadata publishing to Europeana have been foreseen in the EP project's implementation plan and used tools. This will allow Content Providers to provide more data to the technical environment of the EP project than they wish to make available through Europeana, keeping these two uses of their data separate.

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<sup>1</sup> "We understand though that there may be some commercial interest in some data or some sensitive information that providers don't want to continue to make available. We see different implementation scenarios for delivering data to Europeana under the Data Exchange Agreement: Filtering at provider level; filtering at aggregator level; Time-embargo filtering; Make use of different packaging options to exploit data." - See <http://version1.europeana.eu/web/europeana-project/newagreement/>

<sup>2</sup> Full details of the new Europeana DEA are at: <http://version1.europeana.eu/web/europeana-project/newagreement/>

<sup>3</sup> See also the timeline Europeana puts forward here <http://www.version1.europeana.eu/web/europeana-project/newagreement-consultation/> - bottom of page.

#### 4.4.2 SUMMARY OF THE EUROPEANA DATA EXCHANGE AGREEMENT

The metadata submitted to Europeana (except the image preview) will be published with a CC0 license. This means that the Content Provider is aware that any user can copy, modify, distribute and perform them, even for commercial purposes, all without asking permission<sup>4</sup>.

The image/digital content that Content Providers point to via a URL, remains on the Content Provider's server - apart from the image preview submitted to Europeana. The preview will be cached and stored on Europeana's server. Additional information is provided in section 2.4 to clarify the treatment of URLs and previews under the DEA<sup>5</sup>. See also the section below on URLs.

#### 4.4.3 SIGNATURE OF THE DEA

As declared in section 2.1, every EP Content Provider is bound to provide information to Europeana and, as a consequence, to subscribe to the DEA to allow the metadata to be shown in the Europeana portal.

Europeana foresees three possible scenarios for subscribing to the DEA for the European projects that provide content:

- a. the project consortium acting as an Aggregator forms a legal entity (e.g. CENL on behalf of European Libraries)
- b. one of the project partners assumes the role of an aggregator and signs the Data Exchange Agreement with Europeana on behalf of the other providers, with their consent
- c. If scenario a. or b. is not possible, Europeana signs the Data Exchange Agreement with the individual Content Providers.

Scenarios a and b cannot be applied to EP (which is not a legal entity). Therefore, each EP Content Provider signed the DEA individually and directly with Europeana. The EP project management team assisted and monitored this process.

#### 4.4.4 DEA ARTICLE 4: URLS AND PREVIEWS IN EUROPEANA

##### 4.4.5 ARTICLE 4(3)

In the DEA Art. 4(3), it is stated that "Europeana is entitled to publish the URLs pointing to the Previews together with other Metadata, unless the Data Provider indicates to Europeana in writing that it does not allow Europeana to do so. In the latter case, Europeana will only use the Previews in accordance with paragraph 2<sup>6</sup> of this article."

The EuropeanaPhotography project has defined URLs pointing to previews as part of the mandatory data included in the data exports of the content providers.

The URLs' in this article of the DEA refer to the URL of the cached image on Europeana's server, not to the URL that Content Providers directly submit to Europeana (in `europeana:object`, `europeana:isShownAt` or `europeana:isShownBy`).

For all the EP content providers who agreed to including the URLs, we could say that:

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<sup>4</sup> See: <http://creativecommons.org/publicdomain/zero/1.0/deed.en>

<sup>5</sup> Based on previous correspondence with Paul Keller (Kennisland, core member of Europeana DEA working group).

<sup>6</sup> "Europeana is entitled to store and publish on Europeana.eu all Previews provided by the Data Provider, though only in combination with the Metadata that pertains to the same Content."



- Europeana will publish the submitted text metadata under CC0
- Image previews keep the rights assigned by the content provider in the europeana:rights field
- a URL that makes the preview accessible on Europeana's website is also released under CC0.

If Europeana publishes these URLs as linked data, it becomes technically very easy to access not only single images, but all images of a data set. If Content Providers are concerned about third parties linking to the images that are available at publicly available URLs, then Europeana suggests the Content Providers should either take those images offline or implement technical measures that prevent others from hot linking (linking directly to the digital file).

As soon as an image is published via a publicly accessible URL (on Europeana or Content Provider WebPages), the URL is published and can be used by anyone to display that image, by simply entering the URL into a browser or similar application.

#### **4.4.6 ARTICLE 4(2)**

In the DEA Art. 4(2) it is said that "Europeana is entitled to store and publish on Europeana.eu all Previews provided by the Data Provider, though only in combination with the Metadata that pertains to the same Content".

Europeana indicates that because it has no control over how third parties build their websites, the combination 'metadata+preview' can only be assured on the level of the Europeana-portal, but not on the level of third-party re-use (i.e. third parties can display the previews in stand-alone mode, without the related metadata). This does not mean that Europeana allows unauthorized third party re-use, but rather that it is unable to prevent it, even though the rights on metadata will be published with the preview in Europeana.

### **4.5 RIGHTS OPTIONS FOR PUBLISHING METADATA TO EP**

Note that the fact that the EP project is highlighting all possible implications of submitting content to Europeana under the new DEA, this does not mean that EP encourages the delivery of a minimal metadata set to Europeana. The choice to do so is only offered to partners who do not feel comfortable providing full metadata sets under the current regulations as posed in the DEA.

In order for everyone to reach meaningful goals, EP strives for as much flexibility as possible; in this way, nothing is added or removed from the original obligations of EP or its partners under the Grant Agreement.

#### **4.5.1 LIST OF RIGHTS OPTIONS FOR EUROPEANAPHOTOGRAPHY**

The National Technical University of Athens (NTUA), as a partner responsible for the mapping and ingestion process, is in charge of physically gathering the data, and commits hereby to process the data contributed by the Content Provider only in the framework of the tasks and activities foreseen within the EP project, and to only transfer them to the Europeana server after having been authorized to do so by the Content Provider. As noted, this is entirely in accordance with Europeana's recommendations and compatible with the Rights Labelling Campaign and the predefined set of rights statements supported by Europeana. The NTUA provides the MINT data ingestion tool. The tool supports a variety of rights options. There are four different types of rights statements available. These are listed here and explained below:

- Public Domain Mark: Objects that are not protected by copyright and can therefore be freely re-used.
- CC0 1.0 Universal Public Domain Dedication: When the data provider is also the rights holder and wants to make the digital object available for re-use (or has been authorised by the rights holder to do so). If a rights holder wants to waive all the rights on a digital object, he can apply a CC0 waiver to the works in question. Also the next statements are supported:
  - Creative Commons - Attribution (BY), which waives the rights to share, to copy, distribute and transmit the work, to remix, to adapt the work, make commercial use of the work. Attribution of the work in the manner specified by the author or licensor is obligatory.
  - Creative Commons - Attribution, ShareAlike (BY-SA), which waives the rights to share, to copy, distribute and transmit the work, to remix, to adapt the work, make commercial use of the work. Attribution of the work in the manner specified by the author or licensor is obligatory and if a third party alters, transforms, or builds upon this work, it may distribute the resulting work only under the same or similar license to BY-SA.
  - Creative Commons - Attribution, No Derivatives (BY-ND), which waives the rights to share, to copy, distribute and transmit the work, make commercial use of the work. Attribution of the work in the manner specified by the author or licensor is obligatory. No Derivatives: the work should not be altered, transformed, or a third party should not build upon this work.
  - Creative Commons - Attribution, Non-Commercial (BY-NC), which waives the rights to share, to copy, distribute and transmit the work, to remix, to adapt the work. Attribution of the work in the manner specified by the author or licensor is obligatory. The work should be only used for non-commercial purposes.
  - Creative Commons - Attribution, Non-Commercial, ShareAlike (BY-NC-SA), which waives the rights to share, to copy, distribute and transmit the work, to remix, to adapt the work, make commercial use of the work. Attribution of the work in the manner specified by the author or licensor is obligatory. The work should be only used for non-commercial purposes. If a third party alters, transforms, or builds upon this work, it may distribute the resulting work only under the same or similar license to BY-NC-SA.
  - Creative Commons - Attribution, Non-Commercial, No Derivatives (BY-NC-ND) which waives the rights to share, to copy, distribute and transmit the work. Attribution of the work in the manner specified by the author or licensor is obligatory. The work should be only used for non-commercial purposes. No Derivative: the work should not be altered, transformed, or a third party should not build upon this work.
- Europeana Rights Reserved Statements: Used when the data provider is also the rights holder and wants to make the digital object available without authorising re-use by third parties (or has been authorised by the rights holder to do so). Use of these statements means that the data provider is reserving the rights on the digital object and that the object may not be used without additional permissions.
  - Rights Reserved – Free Access  
This rights statement is applicable when users have free (as in gratis), direct and full access to the digitised object on the data provider's website.
  - Rights Reserved – Paid Access  
This rights statement is applicable when users need to pay data providers to gain access to the digitised work on the data provider's website. This may be

the case if only a preview is accessible through the data provider's portal, and registration and payment is required to gain access to the digitised object itself. In this case, the link from Europeana should give access to the metadata and (ideally) a low-resolution preview. Europeana will not link directly to a payment page.

- Rights Reserved – Restricted Access

This rights statement is applicable when there are limitations other than the requirement to pay a fee for accessing a digitised object on the data provider's website. For example, when a registration is required or only snippets or previews are available to users. In this case, the link from Europeana should give access to the metadata and (ideally) a low-resolution preview. Europeana will not link directly to a registration page.

- Unknown: Objects with a copyright status that is unclear (for example because no rights holder could be identified) can be marked with an 'unknown' copyright statement.

The Unknown statement is **not an option** for the EuropeanaPhotography project or any project which stated clearly the Rights Status in the table of content to be delivered to Europeana in its Description of Work. The CC0 waiver is automatically applied to all metadata provided to Europeana.

During the data ingestion process the providers will be prompted by the system to assign a rights statement to each item of their collection. In the next section several useful scenario's / examples are presented to assist in this assignment.

#### 4.5.2 USEFUL SCENARIOS FOR USING RIGHT STATEMENTS DURING INGESTION

The next table presents useful examples for the EP project's content providers for selecting rights statements available in the MINT data ingestion tool.

During the ingestion process the content providers will be prompted to choose the correct rights statement. Surely, this statement is depending on the current copyright status of the content but it will also affect future use of the ingested content by Europeana and third parties. So this selection is crucial and may affect the organization's sustainability.

Organization Type	Content Provider's Goal	Recommended Rights Statement
Private Photographic Archive (restricted access to all previews and content)	Financial sustainability and redirection to an eShop	Europeana: Rights Reserved - Paid Access
Public Library	Attract users to its web portal	Europeana: Rights Reserved – Free Access or CC BY-NC-ND.
Private Archive	Improving worldwide visibility and market potential	Europeana: Rights Reserved - Restricted Access
Public Photo Archive (providing free access to content)	Enhancing access to valuable photographs for the public	CC0, CC BY-NC-SA, CC BY-NC-ND

Private Archive (free access to medium res images only)	Attract visitors to enhance sell on the high res images.	CC BY-NC-ND
Public Archive (Previews and metadata are freely accessible, the digital objects are available for a fee.)	Attract visibility, better marketing, strengthening sustainability.	Europeana Rights : Rights Reserved - Free Access
Private Archive (No restricted access to view but restricted access to high resolution images after payment of a license of use.)	Enhancing international visibility.	Europeana Rights : Rights Reserved - Free Access

#### 4.5.3 SELECTING THE CORRECT CREATIVE COMMONS STATEMENT

If the Creative Commons statements (and not the Europeana:Rights statements) will be used during ingestion by the EP content provider, this section provides basic information on Creative Commons and a practical guide to assist the selection of the correct CC statement.

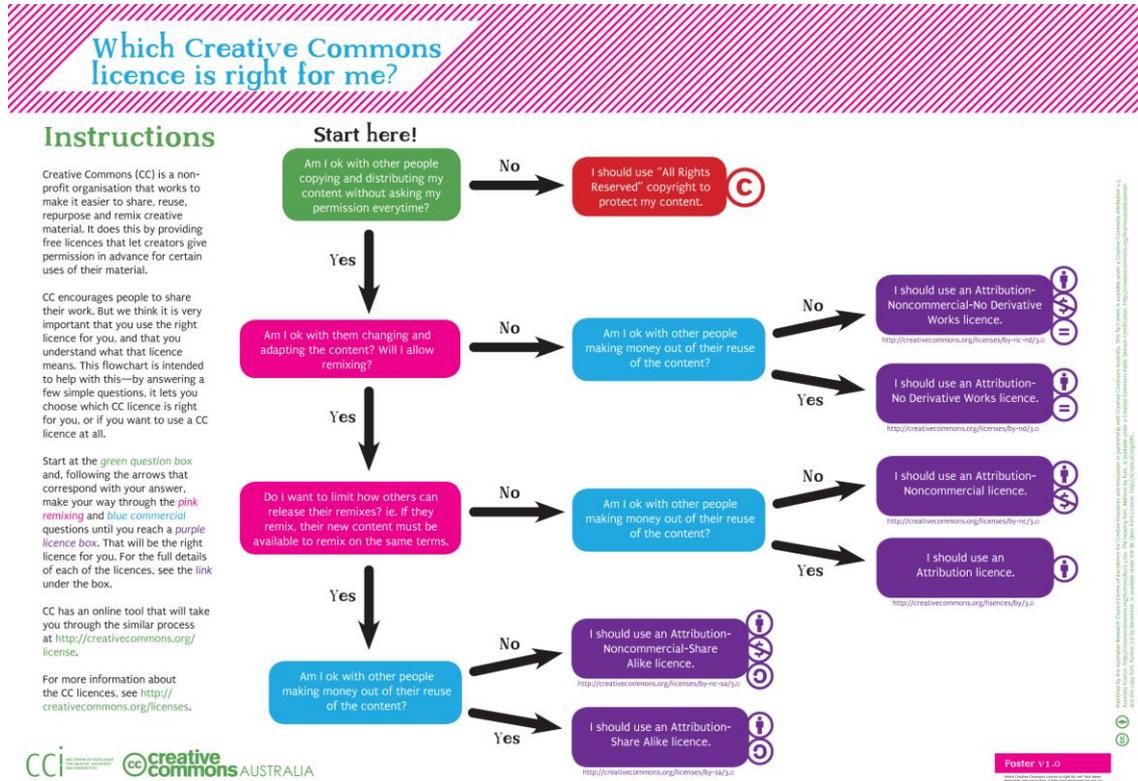
Creative Commons is a non-profit organization that enables the sharing and use of creativity and knowledge through free legal tools.

Creative Commons promotes free, easy-to-use copyright licenses and provides a simple, standardized way to give the public permission to share and use a creative work — on conditions of the creator’s choice. CC licenses let you easily change the copyright terms from the default of “all rights reserved” to “some rights reserved.”

Creative Commons licenses are not an alternative to copyright. They work alongside copyright and enable the content holder to modify the copyright terms to best suit his needs.

- Mission
  - Creative Commons develops, supports, and stewards legal and technical infrastructure that maximizes digital creativity, sharing, and innovation.
- Vision
  - The CC’s vision is nothing less than realizing the full potential of the Internet — universal access to research and education, full participation in culture — to drive a new era of development, growth, and productivity.
- Why CC?
  - The idea of universal access to research, education, and culture is made possible by the Internet, but our legal and social systems don’t always allow that idea to be realized. Copyright was created long before the emergence of the Internet, and can make it hard to legally perform actions we take for granted: copy, paste, edit source, and post to the Web. The default setting of copyright law requires all of these actions to have explicit permission, granted in advance, whether for an artist, teacher, scientist, librarian, policymaker, or just a regular user.
  - To achieve the vision of universal access, someone needed to provide a free, public, and standardized infrastructure that creates a balance between the reality of the Internet and the reality of copyright laws.

The next figure presents a useful flowchart which could be used by the EP partner so as to select the correct CC license which fits his needs during content ingestion (source: Creative Commons - Australia).



#### 4.5.4 METADATA FILTERING PROPOSAL

Before authorizing NTUA to pass on the gathered data<sup>7</sup>, the Content Provider will have the opportunity to choose the degree of granularity in the data to be published on Europeana. The MINT-tool allows for the technical selection by the Content Provider of one of the following scenarios:

A. Publish a minimal metadata set to Europeana

- Of the metadata that is supplied to the EP ingestion tool by the Content Provider, only the LIDO & ESE mandatory elements will be transmitted to Europeana under a CC0 license.

B. Publish an intermediate metadata set to Europeana

- Of the metadata that is supplied to the EP ingestion tool by the Content Provider, all metadata elements will be transmitted to Europeana under a CC0 license, except the LIDO elements that result in dc:description. This means that no object description, the part that most likely contains sensitive or valuable content, will be shown on Europeana.

C. Publish a full metadata set to Europeana

- Of the metadata that is supplied to the EP ingestion tool by the Content Provider, all metadata elements will be transmitted to Europeana under a CC0 license.

A more detailed explanation of each of the proposed scenarios can be found in Annex I to this document.

Here is a sample screenshot (not including all the Europeana rights values as the full system does) to show how to define the filtering option in the ingestion tool. (See also D 5.2 Mint Mapping Tool, Section 4.4. Transformation – Publication to Europeana)

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<sup>7</sup> Authorization is given to NTUA as soon as a Content Provider pushed the 'publish to Europeana' button in the MINT-tool.

✕ ↺
Europeana Agreement
📄 ↗

### Publication options

**⚠** To publish you must agree with the terms and conditions of the [Europeana Data Exchange Agreement](#) .

I agree

**Select the Europeana rights.**

Europeana: Rights Reserved - Free Access

Europeana: Rights Reserved - Paid Access

Europeana: Rights Reserved - Restricted Access

Europeana: Unknown copyright status

By default the **full metadata** set will be published. For publication options [click here](#) !

**Select the metadata set to publish to Europeana.**

Full (CC0)

Intermediate (CC0 - No descriptions)

Minimal (CC0 - Mandatory Only)

Submit

Figure 3. Selection of the metadata filtering option in the EP ingestion tool

The possibility to select the metadata that would be transmitted from the EP ingestor to Europeana allows Content Providers to submit full and rich metadata records to the EP project without being transmitted to Europeana, and thus published under CC0. This way, depending on the cases and business of each Content Provider, Europeana will have enough and rich information as foreseen by Europeana Photography project and, at the same time, the content providers, that choose this option for a certain data set, will possibly protect an important part of their business.

Note that the use of “Europeana: Unknown copyright status” is not recommended and highly discouraged in content delivery, although this option is left for EuropeanaPhotography partners, just in case a minimal number of records require it.

#### 4.5.5 SIGNATURE OF THE DEA

Every Content Provider has signed the new DEA (<http://version1.europeana.eu/web/europeana-project/newagreement/>) directly with Europeana, as they will provide Prototype Data. For Test Data, no formal contract is envisaged.

Therefore, each Content Provider should ensure that they understand the terms of this agreement and are able and willing to allow Europeana to publish the Prototype Data subset of elements on the open Web (through the [www.europeana.eu/](http://www.europeana.eu/) search portal) and as Linked Open Data (<http://pro.europeana.eu/linked-open-data>). As with the data in the search portal, we will request that Europeana removes the Prototype Data subset from their Linked Open Data (LOD) once the Prototype operating period has ended.

There is a small chance (given the relative size of the datasets in question compared with the whole Europeana LOD) that this Linked Open Data may have been harvested, integrated into some other Linked Data stores, and maybe republished elsewhere in the meantime, before it

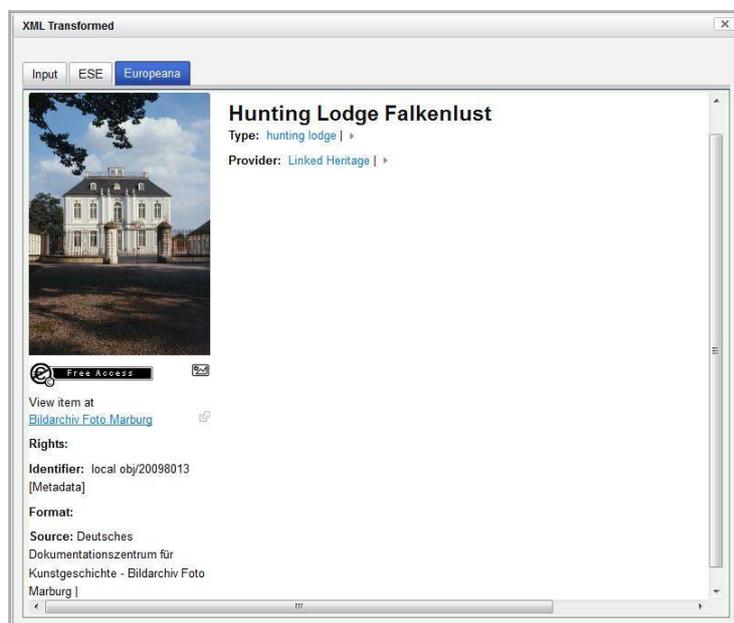
can be removed from the Europeana LOD. Content Providers should also be aware of this possibility and able to accept it for this subset of Prototype Data elements.

## 4.6 ANNEX TO THE IPR GUIDEBOOK - METADATA SETS TO EUROPEANA

### Option A: PUBLISH A MINIMAL METADATA SET TO EUROPEANA

*The EP ingestor to Europeana will allow Content Providers to submit full and rich metadata records to the EP project without being transmitted to Europeana.*

*Of the metadata that is supplied to EuropeanaPhotography by the Content Provider, only the LIDO & ESE mandatory elements will be transmitted to Europeana under a CC0 license. Example of a result on Europeana:*



Metadata elements are supplied to Europeana selecting the minimal metadata set.

Mandatory metadata elements to be supplied to Europeana<sup>8</sup>:

- lido:titleSet (=dc:title)
- lido:objectWorkType (=dc:type)
- lido:classification with lido:type="europeana:type" (=europeana:type TEXT or IMAGE or SOUND or VIDEO)<sup>9</sup>.
- lido:recordSource (=europeana:dataProvider)
- europeana:provider is supplied with the fixed value "EuropeanaPhotography"
- In addition the technical integration team of EuropeanaPhotography suggests also to provide the identifier for the described object in order to allow for tracing back to the object also from subsequent use of the data, although not imposed by Europeana.

About images / digital objects:

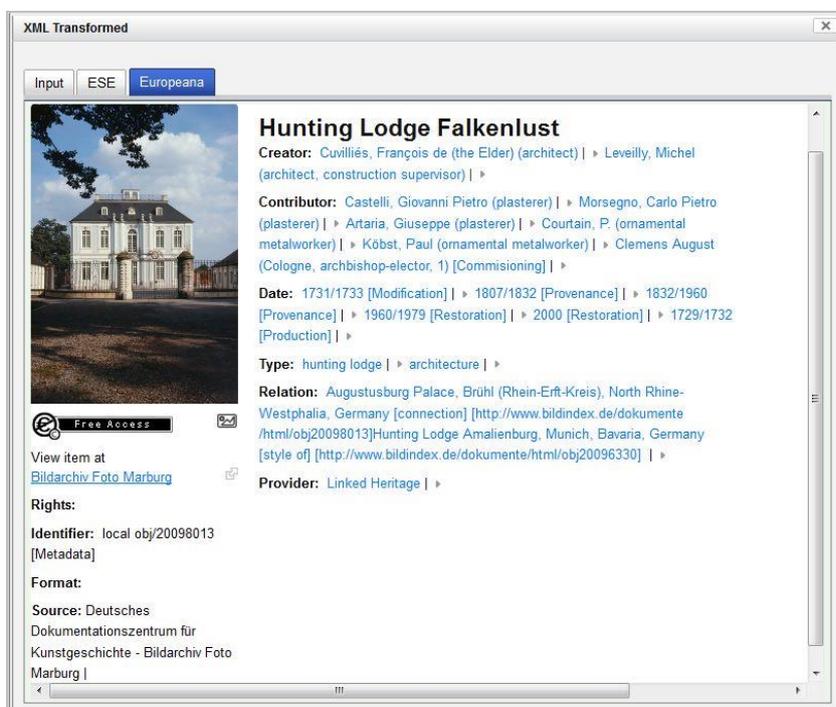
<sup>8</sup> This metadata will then be published by Europeana under a CC0 license.

<sup>9</sup> Being the type of objects delivered by EuropeanaPhotography images only, this value in MINT will be set as standard, i.e. IMAGE

- Requested is lido:resourceSet:
  - lido:resourceRepresentation with lido:type="image\_thumb" (=europeana:object)
  - lido:rightsResource (=europeana:rights)
- At least one of the following elements:
  - lido:recordInfoSet (=europeana:isShownAt)
  - lido:resourceRepresentation with lido:type="image\_master" (=europeana:isShownBy)

### Option B: publish an intermediate metadata set to Europeana

*Of the metadata that is supplied to the EP ingestor by the Content Provider, all metadata elements will be transmitted to Europeana under a CC0 license, except the LIDO elements that result in dc:description. This means that no object description will be shown on Europeana i.e. all the metadata elements listed in Option A plus any other element which does not result in a LIDO dc:description. Visible result on Europeana (example)*



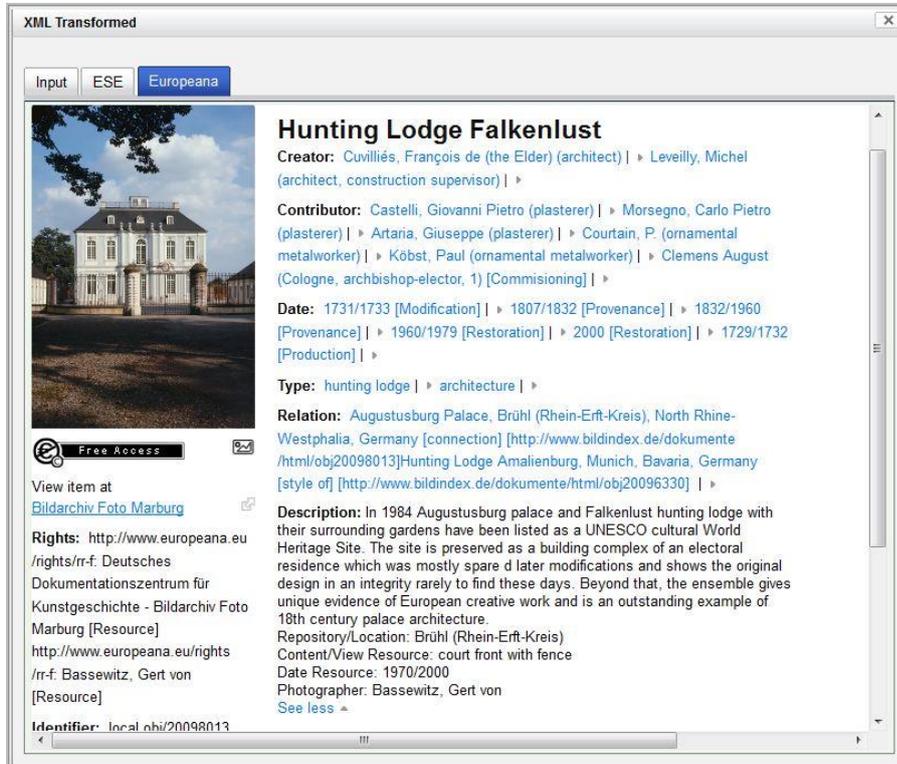
The screenshot shows a web browser window titled 'XML Transformed' with a tab for 'Europeana'. The main content area displays the following metadata for 'Hunting Lodge Falkenlust':

**Hunting Lodge Falkenlust**  
**Creator:** Cuvilliés, François de (the Elder) (architect) | Leveilly, Michel (architect, construction supervisor) |  
**Contributor:** Castelli, Giovanni Pietro (plasterer) | Morsegno, Carlo Pietro (plasterer) | Artaria, Giuseppe (plasterer) | Courtain, P. (ornamental metalworker) | Köbst, Paul (ornamental metalworker) | Clemens August (Cologne, archbishop-elect, 1) [Commissioning] |  
**Date:** 1731/1733 [Modification] | 1807/1832 [Provenance] | 1832/1960 [Provenance] | 1960/1979 [Restoration] | 2000 [Restoration] | 1729/1732 [Production] |  
**Type:** hunting lodge | architecture |  
**Relation:** Augustusburg Palace, Brühl (Rhein-Erft-Kreis), North Rhine-Westphalia, Germany [connection] [http://www.bildindex.de/dokumente/html/obj20098013]Hunting Lodge Amalienburg, Munich, Bavaria, Germany [style of] [http://www.bildindex.de/dokumente/html/obj20096330] |  
**Provider:** Linked Heritage |

Additional information shown includes a 'Free Access' icon, a 'View item at Bildarchiv Foto Marburg' link, and source information: 'Source: Deutsches Dokumentationszentrum für Kunstgeschichte - Bildarchiv Foto Marburg'.

### Option C: publish a full metadata set to Europeana

Of the metadata that is supplied to the EP ingestor by the Content Provider, all metadata elements will be transmitted to Europeana under a CC0 license. Visible result on Europeana (example)



The screenshot shows a web browser window titled "XML Transformed" with a navigation bar containing "Input", "ESE", and "Europeana". The main content area displays the following information:

**Hunting Lodge Falkenlust**

**Creator:** [Cuvilliés, François de \(the Elder\) \(architect\)](#) | [Leveilly, Michel \(architect, construction supervisor\)](#) | ▶

**Contributor:** [Castelli, Giovanni Pietro \(plasterer\)](#) | [Morsegno, Carlo Pietro \(plasterer\)](#) | [Artaria, Giuseppe \(plasterer\)](#) | [Courtain, P. \(ornamental metalworker\)](#) | [Köbst, Paul \(ornamental metalworker\)](#) | [Clemens August \(Cologne, archbishop-elect, 1\) \[Commissioning\]](#) | ▶

**Date:** [1731/1733 \[Modification\]](#) | [1807/1832 \[Provenance\]](#) | [1832/1960 \[Provenance\]](#) | [1960/1979 \[Restoration\]](#) | [2000 \[Restoration\]](#) | [1729/1732 \[Production\]](#) | ▶

**Type:** [hunting lodge](#) | [architecture](#) | ▶

**Relation:** [Augustusburg Palace, Brühl \(Rhein-Erft-Kreis\), North Rhine-Westphalia, Germany \[connection\]](#) [<http://www.bildindex.de/dokumente/html/obj20098013>] [Hunting Lodge Amalienburg, Munich, Bavaria, Germany \[style of\]](#) [<http://www.bildindex.de/dokumente/html/obj20096330>] | ▶

**Description:** In 1984 Augustusburg palace and Falkenlust hunting lodge with their surrounding gardens have been listed as a UNESCO cultural World Heritage Site. The site is preserved as a building complex of an electoral residence which was mostly spared later modifications and shows the original design in an integrity rarely to find these days. Beyond that, the ensemble gives unique evidence of European creative work and is an outstanding example of 18th century palace architecture.

Repository/Location: Brühl (Rhein-Erft-Kreis)  
Content/View Resource: court front with fence  
Date Resource: 1970/2000  
Photographer: Bassewitz, Gert von  
[See less](#) ▲

**Rights:** <http://www.europeana.eu/rights/rr-f>: Deutsches Dokumentationszentrum für Kunstgeschichte - Bildarchiv Foto Marburg [Resource]  
<http://www.europeana.eu/rights/rr-f>: Bassewitz, Gert von [Resource]

**Identifier:** local:obj20098013

Additional elements visible in the interface include a "Free Access" button, a "View item at Bildarchiv Foto Marburg" link, and a small thumbnail image of the building.

## 4.7 KEY IPR ISSUES

### 4.7.1 RIGHTS LABELLING AND UNDERLYING ISSUES

Europeana's [Rights Labelling Campaign](#) is aiming at promoting a small thesaurus of common statements with which projects, interested parties and individuals can label their resources so as to declare their IPR status in a homogenous and Europeana-compatible way. The following section reveals the key aspects of this campaign, its effects on EuropeanaPhotography's content providers and underlying issues.

### 4.7.2 EUROPEANAPHOTOGRAPHY AND RIGHTS LABELLING

Europeana's DEA requires that data providers of the EuropeanaPhotography project apply a rights statement to all digital objects described in their metadata. The rights that apply to the digital object will also apply to the previews on the Europeana portal. This rights statement is stored in the 'europeana:rights' field of the Europeana Semantic Elements (ESE) and in the 'edm:rights' field of the Europeana Data Model (EDM). **Only one rights statement can be provided per resource.** Rights statements are encoded as URLs referring to WebPages that contain information about the applicable rights. Data providers can choose from a [predefined set of rights statements](#) that cover the entire rights spectrum from Public Domain works to copyrighted works for which the rights holder reserves all rights and everything, such as Creative Commons licenses, in-between. This procedure ensures that all content delivered to Europeana is labelled according to these statements and Europeana can further use the content in a homogenous and interoperable way as far as IPR is concerned.

The [Rights Labelling Campaign](#) is aiming at promoting the aforementioned issue mainly to ongoing and future projects but also to already finished projects and individual content providers.

Regarding the EuropeanaPhotography project the MINT tool has already embedded the predefined set of rights statement in the metadata mapping procedure. In this way the compatibility of the mapped metadata with the rights labelling statements is ensured. When EP's content provider published his metadata through the MINT tool, he has at the same time complied with the set of rights statements predefined from Europeana.

Nevertheless, the EP partners are fully prompted to use the statements with extreme caution especially regarding the Public Domain Mark and the CC statements.

### 4.7.3 UNDERLYING ISSUES

Some questions which may arise regarding the abovementioned statements:

1. What is the difference between the Creative Commons Licenses and the Europeana Rights Reserved statements?

Creative Commons licenses allow re-use of the licensed object, while the Europeana Rights Reserved statements simply indicate under which conditions the object may be accessed (but not re-used).

Creative Commons licenses:

- Allow re-use of the digital objects under certain conditions
- May therefore only be applied by the rights holder or with permission from the rights holder



#### Europeana Rights Reserved Statements:

- Indicate that users can access the digital objects but that they are not allowed to re-use them
  - Should be applied by the rights holder or after the rights on the digital object have been created by the data provider
2. What is the difference between the Public Domain Mark and the CC0 Public Domain Dedication?

It is very important not to confuse these two rights statements. It will often be the case that cultural heritage digital objects submitted to Europeana will be in the public domain and must be marked accordingly by using the Public Domain Mark. CC0 is specifically designed for use of (meta) data sets and is unlikely to be used as a rights statement describing content. In the context of Europeana, CC0 is primarily used to ensure that metadata can be used without any restrictions. The CC0 waiver is automatically applied to all metadata that is provided to Europeana.

#### The Public Domain Mark (PDM):

- Applies to objects that are not subject to copyright either because copyright has expired (e.g. the author died many years ago) or because the object was never subject to such rights and is therefore in the public domain.
- Anyone can apply the PDM to an object if they know the object is in the public domain.
- When a work is in the Public Domain it should be noted that certain derivatives of the work might be under copyright protection e.g. a photograph of a work in the PD might be under copyright etc.
- In addition, an old photograph could be maintained by an organization which cures, protects and preserves it. This organization could regulate both access and use rights for the photograph.

#### The Creative Commons CC0 1.0 Universal Public Domain Dedication:

- Can be applied to objects or data that is subject to copyright but where the rights holder wants to waive the rights and dedicate the object to the public domain.
- It can only be applied by the rights holder or someone who is authorised by the rights holder.

#### The difference between regulation of use and regulation of access:

- Regulation of use is mainly focusing on the terms of use of the content, digital images etc. which regulate the exploitation, protect from misuse and refer to actions taken by third parties using the content.
- Regulation of access is the means of controlling access either by login forms or other methods and measures, such as multilevel permissions etc. The aim is to ensure a focused and controllable audience / group of users.
- In most cases the regulation of use is expressed through the terms of use in an online repository and regulation of access is implemented by maintaining a user database with personal information regarding the people accessing the content.
- Europeana is not applying access regulation and the audience is world-wide. Concerning photographs with complex and related rights it is certain that there will be cases of dispute. As Europeana points to the local repositories the disputes will be finally redirected to the content holder. The content providers are highly advised from all experts to deliver only the IPR safest possible content to Europeana.

#### 4.7.4 ORPHAN WORKS

What are Orphan Works? Works that are still protected by copyright, whose right holder or right holders cannot be identified or found, in order to obtain copyright permission. The term applies to all artistic works.

Why do orphan works exist?

- Ownership not apparent from work (e.g., unattributed photos or drawings).
- Long copyright protection term.
- Deceased owner / unclear ownership chain / inheritance of rights.
- Transfers of ownership through the years.
- Owner is known but cannot be found and in parallel absence of registration.
- Other situations: “half-orphan works”, partly orphan works, etc.
- Copyright owner cannot be found despite reasonable search efforts.
- Out-of-print works, no longer commercially available.

Museums, libraries and archives (MLAs) cannot obtain the requested prior authorization of right holders to make orphan works available to the public online, including for non-commercial purposes:

- of scanning for preservation purposes generally permissible under current copyright exceptions (Directive 2001/29/EC)
- Art. 5 Dir. 2001/29/EC: libraries can only provide access to works contained in their collections on dedicated terminals on their premises for the purpose of research or private study.

MLAs expose themselves to being sued for copyright infringement, especially in cases of mass-digitization projects given their large scale. Without prior authorisation, the collections of libraries, archives, museums and educational establishments containing orphan works cannot be made available to the public

A substantial share of Europe’s libraries and archives’ entire stock is “orphaned”. In accordance with certain statistical analysis supported by the EU it is assumed that are orphaned:

Regarding works of Text :

- 13% of books in European libraries (3 million)
- 10-40% of written material held by libraries
- 95% of newspaper material before 1912

Regarding Film and TV archives:

- 10% of commercial film and TV productions
- 225.000 films in European archives

Regarding Photography:

- 90-95% of old and / or unpublished photographs
- 78% of recent works

Regarding Sound:

- ≥ 50% of existing archives.

The Directive defines that “A work or a phonogram shall be considered an orphan work if none of the right holders in that work or phonogram is identified or, even if one or more of them is identified, none is located despite a diligent search for the right holders having been carried out and recorded in accordance with Art. 3”

There are two criteria in the Directive:

- Unlocated or unidentifiable right holder;
- Diligent search required (Art. 3)
  - Consultation of indicated sources required
  - In Member State of first publication only

The Directive also states that “For the purposes of establishing whether a work or phonogram is an orphan work, the organizations (...) shall ensure that a diligent search is carried out in good faith in respect of each work (...), by consulting the appropriate sources for the category of works (...). The diligent search shall be carried out prior to the use of the work or phonogram”.

The criteria for the “diligent search” are crucial and include:

- Consultation of indicated sources required:
  - determined by each Member State, in consultation with right holders and users
  - E.g. databases and registries, like ARROW, the accessible Registry of Rights Information and Orphan Works in the book publishing sector
- In the Member State of first publication only:
  - or, in the absence of publication, first broadcast. In the case of cinematographic or audiovisual works, the diligent search shall be carried out in the Member State where the producer has his headquarters or habitual residence.
  - Except if evidence exists to suggest that the right holder is to be found in other countries.
- Prior to the use of the work or phonogram
  - Organizations shall keep records of their diligent searches and of the use they made of the orphan work
  - Information to be recorded in a single European registry of all recognized orphan works, that will be set up and run by OHIM, the European Trade Mark Office based in Alicante, Spain

The mutual recognition of orphan work status (Art. 4) based on the EU Directive is defined as following:

“A work or phonogram which is considered an orphan work according to Article 2 in a Member State shall be considered an orphan work in all Member States. That work or phonogram may be used and accessed in accordance with this Directive in all Member States (...)”

Once a work is recognised as an orphan work, it shall be recognised as such across the European Union and the beneficiary organisations will be able to make it available online in all Member States for certain uses.

Art. 5 defines the end of an orphan work status. A right holder in a work or phonogram considered to be an orphan work has, at any time, the possibility of putting an end to the orphan work status in so far as his rights are concerned.

In this framework a new exception or limitation to the legislation has been introduced including:

- The right of reproduction: for the purposes of digitisation, making available, indexing, cataloguing, preservation or restoration;
- The right of making available to the public

For public-interest missions and activities it also permitted:

- Preservation, restoration and provision of cultural and educational access to works in their collections

- Allowed to generate revenues only to cover the digitisation costs, e.g. through public-private partnerships with commercial operators
- Fair compensation due to the right holder that puts an end to the orphan work status of their works for the use that has been made by the organisation of such works. Member States shall fix the level of the compensation in their national laws.

By 29 October 2014 the Directive shall apply in respect of all works referred to, protected by the Member States' legislation on or after that date. The first report of implementation of the Directive is due by 29 October 2015.

As is shown in the IPR Survey (c.f. relevant section), some partner organizations in the EP project have a vast majority of content with an orphan status. The current developments and the EU Directive for the regulation concerning orphan works therefore affect the project significantly.

Especially, for these organizations a new "diligent search" is critical before ingesting content to the EP project; it should include rights clearance steps in cooperation with indicated sources, databases and registries, the Registry of Rights Information and Orphan Works, collective societies etc. The procedure should also be documented in detail, in order to be able to attest to the "diligent search" upon request.

Based on the above, EuropeanaPhotography will contribute to the publication of half a million images with correct attribution information and information on the right holders. As such, the project will have an important role and may be a good tool to support diligent search as prescribed by the EU Directive.

#### **4.7.5 OUT-OF-COMMERCE WORKS AND THE MLA SECTOR**

Orphan works are only one of the issues that the digital MLA sector faces in its quest to make Europe's cultural heritage available online. The other issue is obtaining copyright permissions for the online display of out-of-commerce works.

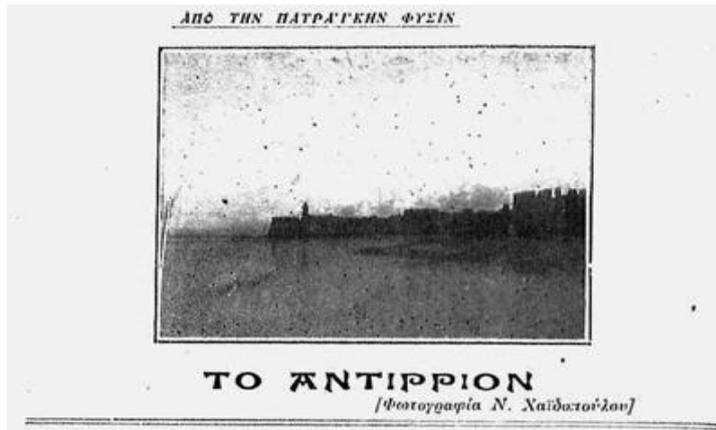
Towards this goal in 20.09.2011 a Memorandum of Understanding (MoU) on key principles on the use of out-of-commerce works was signed. It includes representatives of the right-holders community (publishers and authors), libraries and collecting societies. The Key Principles that these parties will follow to license the digitisation and making available (including across borders in the EU) of books or journals that are out-of-commerce. It aims to encourage voluntary collective licences.

This forms an important two-pronged and complementary approach in the field of copyright to further the development of digital libraries in Europe and provide the widest possible access to our cultural heritage, central in the Digital Agenda for Europe and in the EU Commission's Strategy on Intellectual Property Rights.

This Memorandum of Understanding has initiated relevant discussions of the interested parties from Museums and Archives mainly.

EuropeanaPhotography is not affected by these developments as the initiative is focusing mainly on Libraries but as an initiative will support research in photography as it will create a source of accessible information which will contain photographs, useful information for photographers etc.

As an example, based on this initiative the Library & Information Center - University of Patras published the following image.



The image is considered as the first photograph (1880) of Antirion castle in Patras and of Achaia nature at large. The name of the photographer is stated and useful information accompanies the image.

## 4.8 HOW TO GET HELP

### 4.8.1 ONLINE GUIDEBOOK

The Online Guidebook is a tool with which the content providers are able to explore the main aspects of IPR legislation and get support through a step based guide, a Library on IPR, a database of who is who in IPR in several countries and a direct link to the IPR blog.

The Online Guidebook is a complete help tool but, as it is built for continuous support, its contents and functionality are very flexible and can always be updated, in order to maximize the tool's impact. The basic structure, functionality and context are presented in this section. It is therefore noted that the tool presented herein is not a finalized and static result, but rather a snapshot of a continuously improving helpdesk on IPR.

The initial page of the Online Guidebook can be accessed from the address:

<http://europeana-photography.iprguide.org>

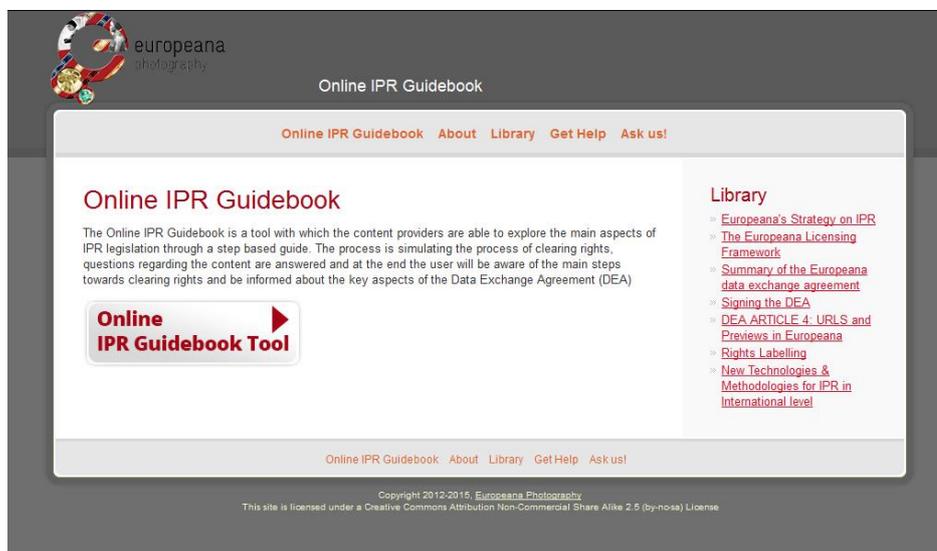


Figure 1: The Online IPR Guidebook

Specifically the Online Guidebook offers the next services:

#### 1. Step based guide.

The step based guide is simulating the process of clearing rights, questions regarding the content are answered and at the end the user will be aware of the main steps towards clearing rights and be informed about the key aspects of the DEA. At the finish line the step based guide produces, according to the user's feedback, two license agreement templates and prompts signing the DEA if delivery of the content to Europeana is an option. Following key steps are presented:

Step 0: Initializing the step by step guide.

### Online IPR Guidebook

The Online IPR Guidebook is a tool with which the content providers are able to explore the main aspects of IPR legislation through a step based guide. The process is simulating the process of clearing rights, questions regarding the content are answered and at the end the user will be aware of the main steps towards clearing rights and be informed about the key aspects of the Data Exchange Agreement (DEA)



## Step 1: Identification of the Work

### Identification of the work

Name of the work:

Name of the creator(s):<sup>1</sup>

Insert the names of the creators using a new line for each one. In case you do not know the name of the creator(s), you can not proceed with this IPR guide.

Collection name:<sup>2</sup>

Collection description:

[Go to step 2](#)

<sup>1</sup>The author is the creator of the work.

<sup>2</sup>This guide can also result in a license for a collection of works, e.g. all by the same creator.

## Step 2: Is the work copyright protected;

### Determination if the work is protected by copyright

Is the work **original**?  Yes  No

The present date is:   format: dd/mm/yyyy

#### Creators

Name of the creator

Is the creator dead?  Yes  No

When did the creator die?   format: dd/mm/yyyy

---

Are there more creators?  Yes  No

---

Did the author include works of other creators, e.g. visuals, text, music?  Yes  No

### Step 3: Type of Work

#### Type of work

The work you want to use:

- is a musical work or does contain music
- is an audiovisual work or does contain audiovisual material
- is a photograph of an original work

If none of the above options apply in your case, just click "Go to step 4".

Do you have the authorisation of the photographer?  Yes  No

Indicate number of photographers:

Name of the photographer

Is the photographer dead?  Yes  No

When did the photographer die?  format: dd/mm/yyyy

[Go to step 4](#)

### Step 4: Special Issues

#### Special Issues - Portraits

Is the portrait of a person represented (picture, painting)?  Yes  No

Name of the person

Is this person dead?  Yes  No

When did the person die?  format: dd/mm/yyyy

[Go to step 5](#)

### Step 5: Existing Licenses?

#### License in place and license needed.

If the work is protected by copyright, does your institution at present have a license?  Yes  No

What do you want the license to cover?

Digitisation

Access by authorised user through secure networks

Online accessibility over open networks

[Go to step 6](#)

## Step 6: Obtaining the license

### Obtaining the license

#### Creators

#### Photographs

Name of the photographer: Aral Gyuler

Who represents the creator for the license that you seek?

He represents himself.  A representative of his heirs.  A collecting society.  I don't know

Provide your country:

[Click here to find out which organization in Turkey might be able to help you locating the creator and/or who represents him/her.](#)

Name of the representative:

Address of the photographer:

---

[Go to Results](#)

Final Step: Results – Partial Screenshot – Example

## Results

### Work

Work name: Acropolis of Athens

Is it original? Yes

Present date: 03/04/2013

Is there a license already? No

What you want the license to cover:

Digitisation

Access by authorised user through secure networks

Online accessibility over open networks

---

### Creators

Name of the creator: Iktinos and Kallikratis

Address of the representative:

Is the creator dead? Yes

Date of death: 01/12/1000

Are there copyright issues? No

Expiration date of copyright: 1/12/1070

---

### Collection

Collection name: Ancient Greek Collection

Collection description: A selected photographic collection

---

---

## Photographs

Do you have the authorisation of the photographer?

Name of the photographer: Aral Gyuler

Address of the photographer:

Is the photographer dead? Yes

Date of death: 31/12/2011

Are there copyright issues? **Yes**

**You need to sign a license agreement with Aral Gyuler**

[License agreement \(short version\).doc](#)

[License agreement \(long version\).doc](#)

Expiration date of copyright: 31/12/2081

Representative: A **collecting society**.

Representative details: Saye Istanbuli

Country: Turkey

---

## Portrait of a person

Name of the depicted person: Melina Merkouri

Address of the depicted person:

Is the depicted person dead? Yes

Date of death: 31/12/1995

Does it refer to the public character of the person?

## Template Agreement:

### AGREEMENT FOR A LICENCE ON DIGITISATION AND ONLINE ACCESSIBILITY (SHORT VERSION)

BETWEEN:

Full name: Aral Gyuler

Full address:

Duly represented by: Saye Istanbuli

("the Licensor")

AND:

Full name: *Your organization's name*

Full address: *Your organization's address*

Duly represented by: *Your organization's representative*

("the Licensee")

IT IS AGREED AS FOLLOWS:

#### 1. LICENSE

1. The Licensor grants the Licensee a non-exclusive and non-transferable license to perform all uses of the Licensed Material (as specified in the Annex)

Nothing in this license agreement shall constitute a waiver of any statutory rights or benefits from statutory exceptions to copyright applicable to the Lic

#### A. DIGITISATION

1.1. The Licensee may digitise the Licensed Material, resulting in the "Digitised Version". The Digitised Version may be accessed and reproduced on pag  
The Licensee may store the Digitised Version in a systematic way so as to facilitate its search and retrieval.

## 2. Library

The section is a collection of key documents regarding IPR, information about Europeana's IPR strategy, the Labelling Strategy IPR issues and the DEA.

## 3. Get Help

The section includes a database of all the copyright organizations and collective societies from all over the world (not only the Member States).

## 4. Ask us

The section redirects the user to the IPR Guidebook Blog.

### 4.8.2 EMAIL LIST

A mailing list related to the IPR issues has been created to assist the partners and content providers. The list can be reached by the email address. [EPiprcommittee@promoter.it](mailto:EPiprcommittee@promoter.it).

The IPR experts of the EP project will deal with all the issues raised on the mailing list.

### 4.8.3 IPRGUIDE BLOG

The key issues resolved and topics under discussion regarding IPR questions are subjects of a blog at <http://ep-blog.iprguide.org>



Figure 2: The IPR Guidebook Blog

Following the link “Ask us”, interested parties can post a question to the blog and the IPR experts will respond by posting an answer. The discussions are visible to all, as the resolved IPR issues might be useful to third parties with similar issues.



The screenshot shows the 'Ask Us' section of the IPR Guidebook Blog. At the top, there is a navigation bar with links for 'Home', 'About', and 'Ask Us'. Below this, the 'Ask Us' section is titled and includes the text 'Ask an IPR Question.' and a link to the 'Online Guidebook'. A response from Dimitrios Tsolis is displayed, dated April 2, 2013, at 11:03 am, with the text: 'Use the “Leave a Reply” comment box to ask, comment and give us feedback. The experts will assist you as soon as possible.' To the right of the main content, there is a sidebar with a search box, 'Recent Posts' (listing 'Rights Labelling Campaign', 'EU Directive on Orphan Works', and 'IPR Guidebook Blog – Welcome'), 'Recent Comments' (listing 'Dimitrios Tsolis on Ask Us'), 'Archives' (listing 'March 2013' and 'January 2013'), 'Categories' (listing 'General' and 'Uncategorized'), and 'Meta' (listing 'Register', 'Log in', 'Entries R.SS', 'Comments R.SS', and 'WordPress.com').

Figure 3: The IPR Guidebook Blog – Ask us

The Blog will be fully maintained after the EP project finishes, collecting and analyzing the IPR issues that arose during the project period.

## 5 IPR: NEW TECHNOLOGIES AND METHODOLOGIES

The current strategies for IPR protection and management are aiming at delivering an environment for creativity, with the offer of digital content from international organizations and initiatives such as Europeana and from other resources. Open creativity is an objective nowadays especially with the support of innovative services and products, for education, leisure, tourism and research.

The creative process raises crucial IPR issues which should be effectively addressed. Towards alleviating possible risks there is a strand of actions, projects and initiatives which define and formulate the most current trends, technologies and methodologies for boosting open creativity based on the re-use of digital cultural, art and scientific resources.

The tasks dedicated to the IPR issues, have the objective of creating a mechanism for clearing rights for digital content to be re-used within the framework of open creativity. The mechanisms which support rights clearance in these cases include:

- Examination and production of different IPR instruments such as contributor's agreements, licenses, assignments and model policies that could support the operation and collaboration between creators and content holders.
- Corporate / organizational models for supporting creative production: this module explores the best legal formation for collective producing works in hybrid spaces (self-organized labs and spaces).
- License based business models: different combinations of licenses support different forms of flows of value and hence different business models.

In parallel, a new technological infrastructure is being developed to serve as an IP-safe environment that provides access to IPR resources to aggregators and individual content holders. These technologies usually provide the following main services:

- Unique identification of the new digital content created, the new creations. For each content element a unique identification number will be assigned so as to avoid duplicates and to provide proof of ownership. These systems ensure the uniqueness of the number at an international level.
- Copyright protection subsystems, for the user generated content based on the use of technical protection means. The issue anticipated is proof of ownership for the user generated content. The technical means usually include watermarking for the digital content based on unique watermarking keys and robust watermarking algorithms.
- Managing IPR for the user generated content based on international IPR metadata and Rights Expression Languages. IPR management is a key factor to efficient license management. Specific tools are provided which offer open and standardized IPR management for the digital content.
- e-licensing mechanisms: for each individual creation an individual digital license is defined and designated.

The aforementioned technologies are usually combined to provide new services to content users. In most cases, these services are provided through memberships, use of dedicated devices (the cases of Android tablets and iPads) for access and / or focused initiatives based on the coalition of Entertainment, Cultural and Educational institutions which collect and deliver digital content to the wider public. The services are supplemented with specialized access and search tools.

## 6 THE IPR SURVEY

The IPR Survey was initially designed and conducted for three reasons:

- a. To investigate which Europeana copyright statement the EP partners plan to use during ingestion and what is the reason for selecting this specific option .
- b. Gather useful views and opinions regarding the EP project's strategy and Europeana's strategy on IPR.
- c. Evaluate the real needs of the partners regarding IPR and, based on these needs, optimize this deliverable, the IPR Guidebook and the online tools.

The IPR Survey was, finally, also conducted for an equally important reason,: to add to the open IPR discussions between the Europeana supporting projects and Europeana, the feedback, real needs, practicable experience from the EP partners.

The EP partners stem from the private and public photography sectors, hitherto underrepresented in the content published through Europeana. Their special requirements for content access and distribution push forward the existing IPR policies and lead the way for new photographic archives to join the Europeana initiative.

The survey proved the next key points:

- a. Only 20% of the content selected for the EP project is in the Public Domain.
- b. The majority of the partners both from the private and public sector poses certain restrictions of access to their content either partially or as a whole.
- c. There are organizations of which the vast majority of content selected for the EP project consists of orphan works.
- d. There is a great variety of access models used by each EP partner. Real life access models are complicated and Europeana's predefined copyright statements could be proved inadequate to clearly describe the real IPR status.
- e. The rights reserved (paid access, restricted access) and non commercial use statements will dominate during content ingestion.
- f. The PD and CC0 marks are going to be used with extreme caution by the partners and with respect to rights holders.
- g. The PD and CC0 marks are considered at a minimum level misleading and in some cases pose a serious risk for business sustainability, and even survival of the institutions concerned.
- h. The need for more detailed predefined statements of the IPR status defined by Europeana and used during ingestion is emerging.
- i. Clear distinction between the rights status of the object and the access restrictions for the content in the Europeana portal is considered necessary.
- j. The commitment of the EP partnership to deliver rich content to Europeana is proved. The willingness of the consortium to clear all IPR issues prior to ingestion is strong.
- k. IPR is considered an important obstacle to be resolved and the partners are eager to respect the rights holders during the project.

Finally, based on the EP experience from this survey and as a variety of partners are participating to many Europeana supporting projects, feedback from all and further coordination of actions in IPR issues is considered necessary.

## 6.1 THE QUESTIONS

The survey was consisting of the following questions:

### 1. Who is filling the questionnaire?

Name & Surname:

Organization:

Country:

E-mail:

Telephone:

### 2. What is the estimated percentage of the content you selected for EuropeanaPhotography that is in Public Domain?

Percentage %:

Work in Public Domain = Work that has been identified as being free of known restrictions under copyright law, including all related and neighboring rights.

hbn

### 3. What is the percentage of orphan works in the collection you are providing to EuropeanaPhotography project?

Percentage %:

### 4. Are there any access models / access restrictions / access fees for the content? Please clarify in brief.

### 5. What Rights statements do you plan to use in Europeana for your copyrighted content if any in your selection? Explanation of the statements: <http://pro.europeana.eu/web/guest/available-rights-statements>

- Public Domain Mark (PDM)
- Creative Commons CC0 1.0 Universal Public Domain Dedication (CC0)
- Creative Commons - Attribution (BY)
- Creative Commons - Attribution, ShareAlike (BY-SA)
- Creative Commons - Attribution, No Derivatives (BY-ND)
- Creative Commons - Attribution, Non-Commercial (BY-NC)
- Creative Commons - Attribution, Non-Commercial, ShareAlike (BY-NC-SA)
- Creative Commons - Attribution, Non-Commercial, No Derivatives (BY-NC-ND)
- Europeana Rights : Rights Reserved - Free Access
- Europeana Rights : Rights Reserved – Paid Access
- Europeana Rights : Rights Reserved – Restricted Access
- Europeana Rights : Unknown

Other (please specify)

### 6. What Rights statements do you plan to use in Europeana for your public domain content if any in your selection? Explanation of the statements: <http://pro.europeana.eu/web/guest/available-rights-statements>

- Public Domain Mark (PDM)
- Creative Commons CC0 1.0 Universal Public Domain Dedication (CC0)
- Creative Commons - Attribution (BY)
- Creative Commons - Attribution, ShareAlike (BY-SA)
- Creative Commons - Attribution, No Derivatives (BY-ND)
- Creative Commons - Attribution, Non-Commercial (BY-NC)
- Creative Commons - Attribution, Non-Commercial, ShareAlike (BY-NC-SA)
- Creative Commons - Attribution, Non-Commercial, No Derivatives (BY-NC-ND)
- Europeana Rights : Rights Reserved - Free Access
- Europeana Rights : Rights Reserved – Paid Access
- Europeana Rights : Rights Reserved – Restricted Access
- Europeana Rights : Unknown

Other (please specify)

**7. Have you any problem publishing your content under one of the public domain marks (PD or CC0)? Please clarify why ?**

**8. Do you anticipate any other type of IPR related issue during the selection / ingestion phase of the project?**

## 6.2 SURVEY RESULTS

2. What is the estimated percentage of the content you selected for EuropeanaPhotography that is in Public Domain?	
Response	
Average	
Percentage %:	20.69
<a href="#">Show Responses</a>	

The individual answers are presented bellow.

62	0	
6/24/2013 3:54 PM	6/18/2013 10:24 AM	
18	0	
6/21/2013 2:28 PM	6/17/2013 12:14 AM	
6	0	0
6/19/2013 3:59 PM	6/13/2013 6:04 PM	6/12/2013 4:55 PM
80	0	93
6/19/2013 11:19 AM	6/13/2013 5:08 PM	6/12/2013 3:57 PM
30	0	17
6/18/2013 7:04 PM	6/13/2013 3:33 PM	6/10/2013 2:28 PM
0	10	15
6/18/2013 12:11 AM	6/12/2013 5:39 PM	6/10/2013 12:34 AM

As observed, 7 partners stated that 0% of the content selected for EP is in the Public Domain. 12 Partners (from total 16) have less than 20% of the selected content in the Public Domain. Only 3 partners have a majority of the content selected for EP in the Public Domain.

It is also clear that the majority of the partners both from the private and public sector poses certain restrictions of access to their content either partially or as a whole.

3. What is the percentage of orphan works in the collection you are providing to EuropeanaPhotography project? 	
	Response
	Average
<b>Percentage %:</b> <a href="#">Show Responses</a>	<b>21.57</b>

20 6/24/2013 3:54 PM	25 6/13/2013 6:04 PM	
7 6/19/2013 3:59 PM	0 6/13/2013 5:08 PM	
0 6/19/2013 11:19 AM	0 6/13/2013 3:33 PM	
95 6/18/2013 12:11 AM	70 6/12/2013 5:39 PM	
0 6/18/2013 10:24 AM	0 6/12/2013 4:55 PM	3 6/10/2013 2:28 PM
75 6/17/2013 12:14 AM	7 6/12/2013 3:57 PM	0 6/10/2013 12:34 AM

It is noted that there are organizations with the vast majority of content selected for the EP project consisting of orphan works. The current developments and the EU Directive for the regulation on orphan works therefore affect the project significantly.

4. Are there any access models / access restrictions / access fees for the content? Please clarify in brief.

This question at first proves the variety of access models used by each EP partner. It is manifest that the current predefined IPR statements used by Europeana are inadequate to clearly define the access status of each object and for each case. Real life business models are far more complicated. This differentiation generates a certain skepticism within the EP partnership which is translated through the answers to question 7.

The most important answers are the following:

1. *"No access restriction for thumbnails & watermarked previews. Registration required (password controlled) for un-watermarked previews and HD images download, reserved to identified customers".*
2. *"Registration with full data necessary, today only professional image buyers get access".*
3. *"Access to the low resolution images (thumbnails) and metadata to be provided to Europeana is free and unreserved. But to access high resolution images, you have to follow the link to the source of organization giving access to it. There you find the note about copyright policy claiming that content of the website is not for commercial use; i.e. it could be used in conformity with the laws in force concerning copyright and related rights, international and national treaties, and other applicable laws, and should indicate the source of information and, if there is one, the author of a work. The provided information is only for reading and watching purposes. It is not allowed to reuse, distribute or in any other way use website content without prior written agreement of the museum. To get the permission please send requests to the museum. All document copies and (or) programs must have the copyright symbol © and the registered trademark symbol ® that are not to be removed".*
4. *"We do limit the access to our high quality images and we do ask a fee for their use".*
5. *"No restricted access to view but restricted access for high resolution images on payment of a license of use".*
6. *"Previews and metadata are freely accessible by the final users; on the other hand, the copy of the digital objects is given upon a fee".*
7. *"We charge royalties for the use of the images depending on our price-list".*
8. *"Our partners are mostly state supported institutions and they have different access models and restrictions, available directly on their web-pages".*
9. *"There is no preview access to the images on polfoto.dk. Only registered members can see the images".*
10. *"All contents have access restrictions as they are subject to access fees".*
11. *"There is no access restriction referring to the medium-resolution image on our website. We charge for preparing the high-resolution image".*
12. *"Access is free to metadata and thumbnail representation of the object. The high resolution digital representation of the object is only available in the form of paid access".*

5. What Rights statements do you plan to use in Europeana for your copyrighted content if any in your selection? Explanation of the statements: <http://pro.europeana.eu/web/guest/available-rights-statements>

[Create Chart](#) [Download](#)

		Response Percent	Response Count
Public Domain Mark (PDM)	■	6.7%	1
Creative Commons CC0 1.0 Universal Public Domain Dedication (CC0)	■	6.7%	1
Creative Commons - Attribution (BY)		0.0%	0
Creative Commons - Attribution, ShareAlike (BY-SA)	■	6.7%	1
Creative Commons - Attribution, No Derivatives (BY-ND)		0.0%	0
Creative Commons - Attribution, Non-Commercial (BY-NC)		0.0%	0
Creative Commons - Attribution, Non-Commercial, ShareAlike (BY-NC-SA)	■	6.7%	1
Creative Commons - Attribution, Non-Commercial, No Derivatives (BY-NC-ND)	■	20.0%	3
Europeana Rights : Rights Reserved - Free Access	■	20.0%	3
Europeana Rights : Rights Reserved – Paid Access	■	26.7%	4
Europeana Rights : Rights Reserved – Restricted Access	■	20.0%	3
Europeana Rights : Unknown	■	6.7%	1

As anticipated the rights reserved and non commercial use statements dominate this field. This is consistent with the business models already selected and used by the EP partners.

6. What Rights statements do you plan to use in Europeana for your public domain content if any in your selection? Explanation of the statements: <http://pro.europeana.eu/web/guest/available-rights-statements>

[Create Chart](#) [Download](#)

		Response Percent	Response Count
Public Domain Mark (PDM)		23.1%	3
Creative Commons CC0 1.0 Universal Public Domain Dedication (CC0)		15.4%	2
Creative Commons - Attribution (BY)		0.0%	0
Creative Commons - Attribution, ShareAlike (BY-SA)		0.0%	0
Creative Commons - Attribution, No Derivatives (BY-ND)		0.0%	0
Creative Commons - Attribution, Non-Commercial (BY-NC)		0.0%	0
Creative Commons - Attribution, Non-Commercial, ShareAlike (BY-NC-SA)		0.0%	0
Creative Commons - Attribution, Non-Commercial, No Derivatives (BY-NC-ND)		23.1%	3
Europeana Rights : Rights Reserved - Free Access		15.4%	2
Europeana Rights : Rights Reserved – Paid Access		15.4%	2
Europeana Rights : Rights Reserved – Restricted Access		15.4%	2
Europeana Rights : Unknown		0.0%	0

Again the rights reserved and non commercial use statements represent the majority of the answers collected. This data underlines that even for the content in Public Domain the EP partners hold restrictions for the previews and access, which are considered as an investment to be returned. This proves the view of the partnership regarding the Public Domain mark and the clear distinction that most of the organizations hold between the original content and its digital object which is under IPR terms and conditions.

7. Have you any problem publishing your content under one of the public domain marks (PD or CC0)? Please clarify why? [Download](#)

This question was mainly used so as to evaluate the views of the EP partners regarding the PD and CC0 marks. These key ideas could add to the open discussion regarding Europeana's IPR policy and support further developments in the issues.

The survey proves that the PD and CC0 marks are considered at minimum level misleading and in some cases pose a serious risk for business sustainability and even survival of the organizations concerned. These marks will be used with extreme caution by the partners and with respect to rights holders.

A final emerging issue, is the further optimization and clarification of the IPR policy in Europeana towards more detailed predefined statements of the IPR status to be used during ingestion. The optimization could focus on a more clear distinction between the rights status of the object and the access restrictions for the content used by the right holder or the organization ingesting.

The most prominent views are the following:

1. *"We believe there is a copyright in the digital image therefore we would not use PDM. We do not use CC0 as our business relies on paid licenses of use".*
2. *"Yes, we do. It's our policy to rigorously respect the rights of the right holders when it comes to IPR".*
3. *"YES, we do. A memory institution cannot rely on the number of hits coming from Europeana only".*
4. *"Our organization needs to restrict the use of the digital images to strict non commercial uses since our business model is based on sales of such. Therefore, there will indeed be restrictions to the actual use of the digital images (save perhaps for the thumbnails) which makes the Public Domain Mark misleading".*
5. *"If material is in the PD Area, there is still the investment to digitalize the image. We therefore intent to protect our investment by restricted access to high-res and low-res".*
6. *"We have no problems using the PDM concerning the object itself. But when it comes to access to the high resolution representation and to reuse of the object it will always be Paid Access"*
7. *"We do not have any problems with publishing our content under the PD mark - is it is in public domain. But we publish under PD mark photographs of "unknown author". We do not consider them "orphan works" - it is related to national law".*
8. *"Yes, because in most cases our content has different levels of restricted access".*
9. *"Yes, as all content is owned by us".*
10. *"Every partner institution or individual has its own rules. They usually use Restricted Access model".*

8. Do you anticipate any other type of IPR related issue during the selection / ingestion phase of the project?

The answers prove the EP partnership's commitment to deliver rich content to Europeana and the willingness of the consortium to clear all IPR issues prior to ingestion. IPR is considered an important obstacle to be resolved and the partners are eager to respect the rights holders during the project.

1. *"A field indicating the actual right status of the object (rather than the "use" status of the file) would be appropriate".*
2. *"The contributed collections have been selected according to legal ownership and copyright laws in order to avoid any further problems".*
3. *"No. We selected our content very carefully. Some problems might occur during eventual enriching the content. There is a problem with Polish law and image protection".*
4. *"It is for the first time that we submit photographs to Europeana, it is possible that some obstacles could appear during the process".*

## 7 THE EUROPEANA IPR MATRIX

As decided during EuropeanaPhotography's plenary meeting in Athens, a coordination of projects dealing with common IPR issues is necessary so as to maximize the results not only of the EP project but of all projects under the direct supervision of Europeana.

It was decided that the first step is to produce a table of projects delivering content to Europeana and at the same time deal with various aspects of IPR. In this framework the EP project proposed the next key initiatives to be implemented in cooperation with Europeana:

1. Creation of the IPR Matrix: the table of ongoing projects dealing with IPR issues, evaluation and planning of coordination activities based on the IPR Matrix.
2. Initial plan of a workshop under the aegis of Europeana to promote the cooperation between projects dealing with common IPR issues and if possible to produce a solid result / directive / advice for the projects concerning the issues under examination.

Towards this goal the IPR Matrix was constructed. The rationale of the matrix is to identify the key IPR issues projects are dealing with, gather information / extracts from the DoWs especially focusing on IPR, gather Names (Who is Who in these projects) and provide useful conclusions regarding the overlapping issues between the projects. As a next step, strong coordination activities should be concentrated on the most commonly addressed issues based on the overlap strength.

The IPR Matrix is under evaluation by Europeana, certain changes are expected and after approval it will be distributed to all the CIP projects. After collecting the necessary data the matrix will be evaluated and will produce useful results regarding the key issues to be coordinated through all the projects.

The next short term steps for completing the IPR Matrix and the coordination activities are the following:

1. Europeana will elaborate the IPR Matrix produced by EuropeanaPhotography so as to make useful changes towards collecting easily the key information from the relevant projects.
2. Europeana and EuropeanaPhotography will elaborate jointly a list of "who is who" in IPR and relevant contacts in ongoing CIP projects.
3. An online electronic version of the IPR Matrix will be produced by EuropeanaPhotography in the form of a questionnaire to efficiently gather data. The questionnaire will be answered by the experts specified in the "who is who" list.
4. A new section in the Europeana Pro portal will be jointly created, focusing on IPR, to let key experts from the projects present issues, solutions etc. It is highly recommended to include this section in the Europeana Pro portal so as to gain maximum visibility.

Here below, the current version of the IPR Matrix is represented.



## EUROPEANA IPR MATRIX

Issues		I.1	I.2	I.3	I.4	I.5	I.6	I.7	I.8	I.9	I.10	I.11.	I.12	I.13	I.14
		Rights Labelling / Declaration Formats	Tools to Query Metadata Resources	Tools for Rights Labelling / Declaration	IPR Ontology	IPR Registries	Metadata for Rights Expression	Legislation in MS	Guidelines & Best Practices	Due Diligence & Orphan Works	Information systems & technology	Pro Forma Agreements	Layers of Rights and Embedded Rights	Business Models and Rights Workflow	Rights Clearance & Licensing
P.1	Europeana-Photography	X	X	X			X		X	X	X	X			X
<b>Overlap Strength</b>															

**Issues - Brief Analysis**

I.1. Rights Labelling and Declaration Formats: Raising awareness regarding [Europeana's Rights Labelling](#) campaign. Using metadata compatible with the Europeana's [predefined set of rights statements](#). Using metadata for copyright declaration, declaration formats (electronic forms, xml, xhtml etc), implementation of declaration standards (e.g. metadata schemata).

I.2. Tools to Query Metadata Resources: Search engines for metadata in repositories, interoperability issues for querying metadata resources, web or stand-alone tools for querying and various implementation issues (technologies, usability, mining efficiency and effectiveness, etc.).

I.3. Tools for Rights Labelling / Declaration: Web tools and electronic forms for on-line copyright declaration to repositories, compatibility of the tools with Europeana's [predefined set of rights statements](#). Study and analysis of technical implementations, solutions. The tools could be embedded in mapping / ingesting tools delivered by the project.

I.4. IPR Ontology: Creation of IPR ontology based on metadata standards and semantically engineered repositories.

I.5. IPR Registries: Registries and databases for digital objects (IPR clearance registries) and registries for organizations, governmental bodies and people concerning IPR, copyright clearance and other relevant issues.

I.6. Metadata for Rights Expression: Metadata standards and languages for rights expression (xhtml, mpeg, etc.).

I.7. Legislation in MS: Collection of documents for legislation and legislation analysis for IPR, copyright in the digital era etc.

I.8. Guidelines & Best Practices: Guidelines focusing on definitions for IPR, Best Practices for digital content distribution and rights clearance, problem collecting and solving concerning IPR, technological solutions and digital rights management and protection.

I.9. Due Diligence & Orphan Works: Guidelines for Due Diligence and definitions and methodologies of how to deal with of Orphan Works.

I.10. Information systems & technology: Design and implementation of information infrastructures, which provide for technological solutions on IPR clearance, protection and management.

I.11. Pro Forma Agreements: Providing predefined templates for agreements, sample agreements and wizards for constructing new ones.

I.12. Layers of Rights and Embedded Rights: Rights embedded in already copyrighted digital content and multi-layered rights clearance.

I.13. Business Models and Rights Workflow: Definition of key entities involved in right clearance and management, relations between them and the relevant information workflows.

I.14. Rights Clearance & Licensing: Support for signing the DEA, study and analysis of key existing Licensing models (including open source), use of Creative Commons Licensing and creation of new Model licenses.

### **Preliminary Results**

The expected result should present:

Issues from the table above with minor, middle and major overlapping between the projects.

Two or three projects working with the same issue (overlap strength 2 or 3) could coordinate and cooperate easily so as to exchange information and deliverables. On the other hand some issues will involve the work of 5 and 6 projects respectively. As a result coordination is becoming complicated.

A proposal could be that for the issues with Overlap Strength 4, 5 and 6 separate working groups will be created with a leader, one contact person, a working team, individual time schedules and independent working spaces.

For the issues with Overlap Strength 4, 5 and 6 a workshop could be organized under the Europeana aegis as this affects most of the projects and coordination is essential so as to achieve an optimal result. The result of the workshop could be a general directive of how to deal with these issues so as to achieve maximum coordination.

For issues with Overlap Strength 2 and 3 there is no need to create separate working groups but a simple common working space to exchange information.

### **Next Steps**

List of key actions towards coordination of activities.

**Europeana Projects & IPR – Description of Work and Who is Who on IPR**

<b>Project's Acronym &amp; Web Site</b>	DoW Extract (e.g. from objectives, WP description, relevant deliverables etc.) <i>Note: The aim is to present the key actions to be provided by the project regarding IPR issues e.g. during content ingestion to Europeana, digitization, content delivery through services etc. Only an extract from DoW is necessary.</i>	Person Responsible Name - Surname, Organization, Country, email
EuropeanaPhotography <a href="http://www.europeana-photography.eu/">http://www.europeana-photography.eu/</a>	<p>From Section: B.3.2.b. Work plan, Page 54/67            A dedicated IPR task supported by the IPR Committee, with the contribution of Dimitrios Tsois from University of Patras (acting as specialized IPR subcontractor to ICCU) will focus on supporting existing content provider partners, as well as future new additions to the EuropeanaPhotography community, in the understanding and compliance with the Europeana IPR models . These models are themselves the subject of negotiation and evolution, so that all partners will need expert support in examining and adapting to any new IPR approach agreed by the Europeana community. The IPR work of EuropeanaPhotography will not seek to create "yet another IPR model" but will instead focus on support and guidance based on the extensive expertise of aligning local IPR models to the Europeana model which will be generated during this project. An IPR Guidebook will be produced with the supervision and coordination of the University of Patras to inform the partners in a comprehensive way and to support their processes with regard to this very sensible matter.</p> <p>From Section: WP6 Sustainability and IPR, Page 20/67            Sustainability is concerned with the ability of the project to leverage the EU investment and establish a viable ongoing service with commercial potential or some other clear funding model. In this light, there is a clear link between the work on sustainability and that on IPR. Further, the management of intellectual property is a key issue for any Europeana feeder project. In the case of EuropeanaPhotography this is further emphasized by the involvement of content providers from both the private and the public sectors. Substantially differing intellectual property models exist within the consortium – an important challenge for the project is to communicate the relevant IP models and to maintain compliance with the models used by each partner while maximizing value to Europeana.</p> <p>From Section: Task 6.3 IPR Support, Page 21/67            The project will put in place a dedicated IPR support function identified as subcontractor of ICCU in the Computer Engineering and Informatics dept. - University of Patras – Greece, with the key contact as Dimitrios Tsois which has proven experience on many projects including LinkedHeritage and has strong knowledge on issues related to copyright, content sharing, long term preservation on historical images, digital rights management. The role of this subcontractor Institution, and the associated task, is to support all content provider partners (and any new content providers that join the community) in understanding the Europeana IPR models and how to react to them (e.g. how to map from local IPR approaches to the Europeana concepts). An important factor in the IPR landscape is the evolving nature of Europeana's own IPR approach and the reactions of Europeana's content provider community to such evolution. As a result, there is an ongoing need for support, in the form of briefing documents, dedicated IPR updates at project plenary meetings and a short IPR guidebook to assist content providers to navigate this challenging domain.</p> <p>Deliverable D6.2: IPR guidebook: Explaining the Europeana IPR models and how these, in practice, are achieved by the content providers. [month 15]</p>	<p>Marzia Pizzinino,            ICCU, Italy  <a href="mailto:marzia.piccininno@beniculturali.it">marzia.piccininno@beniculturali.it</a></p> <p>Dimitrios Tsois,            University of Patras, Greece  <a href="mailto:dtsolis@upatras.gr">dtsolis@upatras.gr</a></p>

## 8 CONCLUSION

The deliverable has fully presented the results of the actions taken to update / inform, as well as continuously support the EP partners and interested parties regarding the IPR issues. The actions so far were aiming at:

1. Inform and update EP Partners and interested parties on Europeana's strategies and initiatives regarding IPR, analyze and give answers to key IPR issues for digital content creation, ingestion, distribution and dissemination.
2. Provide continuous support and help throughout the project's lifecycle and after.
3. Bridge the public-private partnership considerations regarding IPR and provide relevant consideration.
4. Globalize its results through coordination activities with other projects under the aegis of Europeana.

The next milestones were achieved:

1. Open discussions regarding IPR issues to which all partners and key players in the field have contributed. Results, answers and questions were collected from all the discussions between the EP partners so far and throughout the IPR Survey. A critical section which raises issues regarding Europeana's access models and **produces questions** to be further debated with Europeana was included in the deliverable.
2. Analysis of Europeana's IPR Strategy and how this affects the EP project. In this framework the DEA was explained.
3. Key IPR issues were analyzed. The Rights Labelling Campaign and how the EP project is compatible with this initiative are explained. What rights options the EP partners have for publishing metadata to EP are presented, useful example scenario's were constructed to assist the partners during ingestion. Other IPR issues are analyzed such as the Public Domain, Orphan Works, Out-of-commerce works, IPR issues for the public and private sector.
4. An online IPRGuidebook has been implemented as a tool with which the content providers are able to explore the main aspects of IPR legislation and get support through a step-based guide, a Library on IPR, a database of who is who in IPR in several countries and a direct link to an IPR blog. The IPR blog is an active forum for IPR issues discussion, breaking down and resolution.
5. The EP project proposed coordination between projects actions and produced, in cooperation with Europeana, a matrix of projects delivering content to Europeana and at the same time dealing with various aspects of IPR. In addition it was agreed to plan and implement coordination workshops for the projects under the aegis of Europeana.

### 8.1 RESULTS

The actions produced quality results which include at first a section on EuropeanaPhotography and IPR issues: Results, answers and questions collected from all the discussions between the EP partners so far. A critical section raising issues regarding Europeana's access models and producing questions to be further debated with Europeana.

The IPR Guidebook was created and includes the following:

- Copyright for Images in a Nutshell.
- Analysis of the Europeana's IPR Strategy
- Explaining the DEA, presenting in detail:

- Summary of the Europeana Data Exchange Agreement
- Signature of the DEA
- DEA Article 4: URLS & Previews in Europeana
  - Article 4(3)
  - Article 4(2)
- Rights Options for Publishing Metadata to EP
  - Metadata Filtering Proposal
  - Signature of the Data Exchange Agreement
- ANNEX to the IPR Guidebook – Metadata Sets to Europeana.
- Key IPR Issues explained and including the following:
  - Rights Labelling and Underlying Issues
    - EuropeanaPhotography and Right Labelling
    - The Predefined Set of Rights Statements
    - Underlying Issues
  - Orphan Works
  - Out-of-commerce and the MLA Sector
- How to get Help
  - Online Guidebook, presentation of the step based tool and the accompanying information services (Library, who is who in IPR etc.)
  - Email list
  - Blog

The brief report “IPR: New Technologies and Methodologies” was produced.

The IPR Survey was conducted and analyzed.

The “Europeana IPR Matrix” was produced.

## 8.2 IMPACT

The IPR issues have a horizontal impact and concern all partners and all their activities. In this sense, the deliverable has a considerable impact on the EP partners.

This impact is proved by the first section of this deliverable which includes the discussions so far in the EP project, stressing the fact that each answer is still producing new questions. Questions which not only affect the public and private sector’s partners but also have an impact on how content partners as end users of Europeana view and evaluate its IPR strategies and access models.

The answers were given in the best possible detail, recommendations were produced and presented.

Nevertheless, the discussions regarding Europeana, new IPR models and strategies are still evolving. The actions are still on-going and produce impact on an everyday basis to the EP Partners and to Europeana.

## APPENDIX 1: THE DATA EXCHANGE AGREEMENT



Europeana  
foundation

[www.europeana.eu](http://www.europeana.eu)

Koninklijke Bibliotheek  
Prins Willem-Alexanderhof 5  
Postbus 90407  
2509 LK Den Haag  
Nederland

### Europeana Data Exchange Agreement

#### Parties:

##### Europeana Foundation (formerly EDL Foundation)

Address: Koninklijke Bibliotheek, Prins Willem-Alexanderhof 5,  
2509LK The Hague, The Netherlands

Phone: +31 70 314 0952

URL: [www.europeana.eu](http://www.europeana.eu)

Name of authorised Person: Jill Cousins

Title/Role in organisation: Executive Director

Work Phone: +31 70 314 0952

Work Email: [jill.cousins@kb.nl](mailto:jill.cousins@kb.nl)

##### Hereafter named: 'Europeana'

And

##### Name of organisation:

Address:

Phone:

Email:

URL:

Name of authorised Person:

Title/Role in organisation:

Work Phone:

Work Email:

##### Hereafter named: 'Data Provider'

Europeana Data Exchange Agreement – Annex 1: CC0 1.0 Universal Public Domain Dedication

1

**whereas**

- a. Europeana has the objective to provide access to Europe's cultural and scientific heritage;
- b. Europeana has, for this purpose, undertaken the task of ingesting, indexing, enriching and making available descriptive metadata and previews on objects that are part of that heritage;
- c. Europeana thereby intends to benefit both the holders of these objects and the public at large;
- d. Europeana has no intention to include any data in its database other than such metadata and previews;
- e. the Data Provider has and/or can create metadata and previews that are appropriate to form part of this database;
- f. the Data Provider is willing to make (a part of) these metadata and previews available for this database, under the conditions of this agreement;
- g. in some domains (such as museums) it can be difficult to differentiate clearly between content and metadata, and as a result whatever data is given to Europeana is called, for purposes of this agreement, metadata; and
- h. Europeana wishes to make all metadata in its database available for reuse to all its Data Providers and the public at large.

**the Parties have agreed to the following:**

**Article 1 Definitions**

**CC0 1.0 Universal Public Domain Dedication:** The Creative Commons Universal Public Domain Dedication as published at: <http://creativecommons.org/publicdomain/zero/1.0/>. The version of CC0 1.0 Universal Public Domain Dedication that is published on the Effective Date is attached to this agreement as **Annex 1**.

**Content:** a physical or digital object that is part of Europe's cultural and/or scientific heritage, typically held by the Data Provider or by a data provider of the Data Provider.

**Europeana Network:** The Network of Europeana's Content Providers and Aggregators (former CCPA), as established in accordance with article 12 of Europeana's articles of association.

**Effective Date:** The date on which this agreement commences, in accordance with article 5, paragraph 1.

**Europeana.eu:** The Europeana website, its data and its machine interfaces, all without necessarily being disclosed under URL europeana.eu.

**Europeana Data Use Guidelines:** Non-binding guidelines for users of data published by Europeana, on the Effective Date made available at <http://www.europeana.eu/portal/data-usage-guide.html>.

**Intellectual Property Rights:** Intellectual property rights including, but not limited to copyrights, related (or neighbouring) rights and database rights.

**Metadata:** textual information (including hyperlinks) that may serve to identify, discover, interpret and/or manage Content.

**Metadata Specifications:** The most recent version of the Metadata specifications published by Europeana and available at <http://europeana.eu/schemas/> on the Effective Date

**Preview:** A reduced size or length audio and/or visual representation of Content, in the form of one or more images, text files, audio files and/or moving image files.

**Public Domain:** Content, Metadata or other subject matter not protected by Intellectual Property Rights and/or subject to a waiver of Intellectual Property Rights.

**Third Party:** Any natural or legal person who is not party to this Agreement

**URI:** Uniform Resource Identifier, URLs (Uniform Resource Locators) are URIs.

#### Article 2 Provision of Metadata and Previews

1. Notwithstanding the minimum requirements of paragraphs 2 and 3 of this article, it is in the discretion of the Data Provider to decide which Metadata and Previews it provides to Europeana, including the right to submit only Metadata and Previews with regard to a part of the Content held by it or its data providers and the right to submit only a part of the Metadata and Previews it has or its data providers have with regard to particular Content.
2. The Data Provider shall submit Metadata and Previews in accordance with the Metadata Specifications.
3. The Data Provider must make best efforts to provide Europeana with correct Metadata on the Intellectual Property Rights to the Content, including the identification of Content that is Public Domain as being Public Domain.
4. Europeana shall ensure that future versions of the Metadata Specifications are compatible with the Metadata Specifications in place on the Effective Date. Before mandating changes to Metadata Specifications, Europeana must consult the Europeana Network.
5. Europeana shall collaborate with the Data Provider within thirty (30) days upon the latter's request, for the correction, update and removal of Metadata provided by the Data Provider.

#### Article 3 Use of Metadata

1. Under the condition that the requirements of paragraphs 2 and 3 of article 2 are met, Europeana shall include the Metadata provided by the Data Provider in the database held by Europeana and shall publish these Metadata as a part of this database.
2. Europeana shall publish all Metadata, including the Metadata provided by the Data Provider prior to the Effective Date, under the terms of the CC0 1.0 Universal Public Domain Dedication and is hereby authorized by the Data Provider to do so. The Data Provider recognizes that it hereby waives – to the greatest extent permitted by, but not in contravention of, applicable law – all Intellectual Property Rights in the Metadata it has provided and will provide to Europeana. If – according to the applicable law – such waivers are not legally binding in particular territories the “Public License Fallback” in sec. 3 of the CC0 1.0 Universal Public Domain Dedication will apply, and the Metadata provided by the Data Provider is licensed non-exclusively, unconditionally, free-of-charge for all types of use and for all territories to the public. For details about the waiver/public license see the Text of the CC0 1.0 Universal Public Domain Dedication under the URL mentioned in Article 1 above.
3. In as far as the Data Provider has provided or will provide Europeana with Metadata that it has aggregated from Third Parties or that otherwise originate from Third Parties, the Data Provider shall ensure that these Third Parties have authorized the Data Provider to authorize Europeana in accordance with paragraph 2 of this article.

4. When making available Metadata or any parts thereof under the terms of the CC0 1.0 Universal Public Domain Dedication, Europeana will provide a link to the Europeana Data Use Guidelines with the CC0 1.0 Universal Public Domain Dedication.
5. When Europeana publishes Metadata that can be (in whole or in part) attributed to the Data Provider, Europeana is obliged to give attribution to the Data Provider and to the party or parties referred to by the Data Provider through the europeana:dataProvider field (or its equivalent in a later version) of the Metadata Specification.
6. In the event that Europeana publishes a translation or transcription based on Metadata provided by the Data Provider, Europeana shall identify the translation or transcription as such.

**Article 4 Use of Previews**

1. Notwithstanding paragraphs 2 and 3 of this article, Europeana is entitled to allow use of the Previews by visitors of Europeana.eu and Third Parties in accordance with terms specified by the Data Provider in the europeana:rights field (or its equivalent in a later version) of the Metadata Specifications.
2. Europeana is entitled to store and publish on Europeana.eu all Previews provided by the Data Provider, though only in combination with the Metadata that pertain to the same Content.
3. Europeana is entitled to publish the URLs pointing to the Previews together with other Metadata, unless the Data Provider indicates to Europeana in writing that it does not allow Europeana to do so. In the latter case, Europeana will only use the Previews in accordance with paragraph 2 of this article.
4. In as far as the Data Provider is the proprietor of Intellectual Property Rights to the Previews it provides to Europeana, the Data Provider hereby grants Europeana a license to use these rights in accordance with this article, without affecting any moral rights that it may have in these Previews.
5. In as far as the Data Provider has provided or will provide Europeana with Previews that it has aggregated from Third Parties or that otherwise originate from Third Parties, the Data Provider ensures that these Third Parties have authorized the Data Provider to enable Europeana to perform paragraphs 1 and 2 of this article.

**Article 5 Term**

1. This Agreement enters into force as of the date of signature of the parties.
2. The Agreement shall end on the 31st December following the Effective Date. The Agreement will be renewed automatically for a period of one year every 1st January, unless terminated by one of the parties, by written notice received by the other party ultimately on 30 September of that year.

**Article 6 Liability and Notice and take Down**

1. The Data Provider must make best efforts to ensure that performance by Europeana of articles 3 and 4 does not constitute an unlawful act towards a Third Party, including but not limited to:
  - a. a violation of Intellectual Property Rights of a Third Party;
  - b. an infringement of personality, privacy, publicity or other rights; or
  - c. an infringement of public order or morality (hate speech, obscenity, etc.).
2. In the event that performance by Europeana of articles 3 and 4 constitutes an unlawful act towards a Third Party, Europeana shall assist the Data Provider in limiting the negative consequences of such unlawful act, however without accepting any liability. In the performance of this obligation, Europeana shall use the notice and take down procedure of paragraph 3 of this article.

3. In the event that a Data Provider or a Third Party notifies Europeana that it is of the opinion that performance by Europeana of articles 3 and 4 constitutes an unlawful act towards any party, Europeana shall within 5 working days decide whether it considers the notice (i) void of grounds, (ii) readily awardable or (iii) subject to debate, and Europeana shall perform the following:
  - (i) In the event that Europeana considers the notice void of grounds, it shall inform the notifying party accordingly.
  - (ii) In the event that Europeana considers the notice readily awardable, it shall take all required measures to end the unlawful state. Europeana shall inform both the notifying party and the Data Provider of its decision.
  - (iii) In the event that Europeana considers the notice subject to debate, it shall inform the notifying party of this decision and allow the Data Provider to provide its views on the opinion within five (5) working days from the date that Europeana has forwarded the opinion to the Data provider. Upon receipt of the views of the Data Provider, Europeana shall decide within five (5) working days whether measures are required to end an unlawful state. Europeana may decide to request the notifying party and, subsequently, the Data Provider for further views.
4. Both parties shall hold the other party free and harmless of any action, recourse or claims made by any Third Party due to the non-observance of its obligations under this agreement.

#### **Article 7 Termination**

1. Either party may terminate this agreement at any time on the material breach or repeated other breaches by the other party of any obligation on its part under this agreement, by serving a written notice on the other party identifying the nature of the breach. The termination will become effective thirty (30) days after receipt of the written notice, unless during the relevant period of thirty (30) days the defaulting party remedies the breach.
2. This agreement may be terminated by either party on written notice if the other party becomes insolvent or bankrupt, if the Data Provider's project ends or if the Data Provider withdraws or ceases operations. The termination will become effective thirty (30) days after receipt of the written notice.
3. Upon termination of this agreement, Europeana shall only be obliged to remove Metadata and Previews provided by the Data Provider if the Data Provider request Europeana to remove the Metadata and Previews. Removal shall happen no later than 30 days after such a request has been received by Europeana.
4. Termination of this agreement does not affect any prior valid agreement made by either party with Third Parties.

#### **Article 8 Miscellaneous**

1. If any term of this agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.
2. This agreement replaces all data provider and/or data aggregator agreements concluded by Europeana and the Data Provider before the Effective Date and all Metadata and Previews provided to Europeana by the Data Provider under the conditions of such other agreement are, as of the Effective Date, considered to be provided under the conditions of the present agreement.
3. This agreement may be supplemented, amended or modified only by the mutual agreement of the parties. Any modification proposed by Europeana must be notified to the Data Provider in writing. The Data provider shall be allowed at least two months from the date of reception of the notice to accept the new agreement. If the modifications are not accepted by the Data Provider in writing within the

Europeana  
foundation

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allowed period, the modifications are presumed to have been rejected. If the proposed modifications are rejected by the Data Provider, Europeana has the right to terminate this agreement against 31 December of any year, with a one month notice.

4. This agreement is drawn up in English, which language shall govern all documents, notices, meetings, arbitral proceedings and processes relative thereto.
5. This agreement shall be construed in accordance with and governed by the laws of The Netherlands.
6. All disputes arising out of or in connection with this agreement, which cannot be solved amicably, shall be referred to the mediation group of the Europeana Network for mediation. The outcome of the mediation process will be binding on the parties.

Signed by both parties:

Date: Date: 22.09.2011

Data Provider: Europeana:

## ANNEX 1



## Creative Commons Legal Code

CC0 1.0 Universal - <http://creativecommons.org/publicdomain/zero/1.0/>

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### Statement of Purpose

The laws of most jurisdictions throughout the world automatically confer exclusive Copyright and Related Rights (defined below) upon the creator and subsequent owner(s) (each and all, an "owner") of an original work of authorship and/or a database (each, a "Work").

Certain owners wish to permanently relinquish those rights to a Work for the purpose of contributing to a commons of creative, cultural and scientific works ("Commons") that the public can reliably and without fear of later claims of infringement build upon, modify, incorporate in other works, reuse and redistribute as freely as possible in any form whatsoever and for any purposes, including without limitation commercial purposes. These owners may contribute to the Commons to promote the ideal of a free culture and the further production of creative, cultural and scientific works, or to gain reputation or greater distribution for their Work in part through the use and efforts of others.

For these and/or other purposes and motivations, and without any expectation of additional consideration or compensation, the person associating CC0 with a Work (the "Affirmer"), to the extent that he or she is an owner of Copyright and Related Rights in the Work, voluntarily elects to apply CC0 to the Work and publicly distribute the Work under its terms, with knowledge of his or her Copyright and Related Rights in the Work and the meaning and intended legal effect of CC0 on those rights.

**1. Copyright and Related Rights.** A Work made available under CC0 may be protected by copyright and related or neighboring rights ("Copyright and Related Rights"). Copyright and Related Rights include, but are not limited to, the following:

- i. the right to reproduce, adapt, distribute, perform, display, communicate, and translate a Work;
- ii. moral rights retained by the original author(s) and/or performer(s);
- iii. publicity and privacy rights pertaining to a person's image or likeness depicted in a Work;
- iv. rights protecting against unfair competition in regards to a Work, subject to the limitations in paragraph 4(a), below;
- v. rights protecting the extraction, dissemination, use and reuse of data in a Work;
- vi. database rights (such as those arising under Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases, and under any national implementation thereof, including any amended or successor version of such directive); and
- vii. other similar, equivalent or corresponding rights throughout the world based on applicable law or treaty, and any national implementations thereof.

**2. Waiver.** To the greatest extent permitted by, but not in contravention of, applicable law, Affirmer hereby overtly, fully, permanently, irrevocably and unconditionally waives, abandons, and surrenders all of Affirmer's Copyright and Related Rights and associated claims and causes of action, whether now known or unknown

(including existing as well as future claims and causes of action), in the Work (i) in all territories worldwide, (ii) for the maximum duration provided by applicable law or treaty (including future time extensions), (iii) in any current or future medium and for any number of copies, and (iv) for any purpose whatsoever, including without limitation commercial, advertising or promotional purposes (the "Waiver"). Affirmer makes the Waiver for the benefit of each member of the public at large and to the detriment of Affirmer's heirs and successors, fully intending that such Waiver shall not be subject to revocation, rescission, cancellation, termination, or any other legal or equitable action to disrupt the quiet enjoyment of the Work by the public as contemplated by Affirmer's express Statement of Purpose.

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## APPENDIX 2: THE IPR GLOSSARY

In this appendix key IPR terms are being explained in a Glossary format.

### A

#### **Adaptation**

A translation or adaptation of another person's work or a new work that has been derived by modifying another person's work. An adaptation may be copyrighted only if it meets the required level of originality. The copyright of the adaptation does not restrict the rights of the original work.

#### **All rights**

The right to own your work. The owner of all rights is free to reprint material or to commercially exploit it without paying any additional fee. The owner would also be free to use all of the rights listed below.

#### **Assignee**

The author or other legal or natural person, to whom copyrights have been transferred by law, agreement, inheritance, divorce law or will etc.

#### **Author**

The person, who has created a literary or artistic work. In the music industry, authors are composers, lyricists, arrangers, and translators.

### B

#### **Berne Convention**

Berne Convention is an international copyright agreement that was first adopted and implemented in 1886. Its intent was to harmonize copyright law across national borders. There are currently 164 member countries.

#### **Bronze-wrap**

A type of licensing agreement, used for websites in particular, where the licensing terms are available under the 'terms and conditions' hyperlink.

### C

#### **Click-wrap**

A type of licensing agreement for computer applications, where the contractual terms are available prior to the installation of the application. The terms are normally accepted by clicking on a separate 'Agree' button.

#### **Collective work**

A work, which has been created by more than one author so, that each author's contribution can be distinguished from the others'. The authors of a collective work each receive a copyright for their contribution and each person may submit a copyright infringement claim for only their part of the work. Collective works include, among others, songs with both a composition and lyric element.

#### **Collective Rights Management Organization/Society**

An organization that controls the economic rights to a large number of creative works. A collective rights management organization or society most often deals with the rights to music and text. These groups lower the transaction costs of acquiring rights, and make it easy for would-be users of copyrighted works to get permission to do so. With a collective rights group,

there need only be one set of negotiations and one fee paid, regardless of how many different works are used. Compare having to find and negotiate with the rights-holders for one hundred different songs with negotiating a single contract.

While groups like this undoubtedly solve a market problem, criticisms leveled against them include that they do not channel enough of the fees they receive to the actual artists, and that they seek to unfairly charge for uses over which they should not have control. Also, most notably, there are no collective rights groups managing the rights to sound recordings, which have led to much controversy over sampling.

Some collective rights management organizations include:

- [ASCAP \(United States\)](#)
- [CISAC \(International\)](#)
- [GESAC \(European Union\)](#)
- [AGICOA website \(International\)](#)
- [BIEM \(International\)](#)
- [IGE \(Switzerland\)](#)
- [SIAE \(Italy\)](#)

### Common law

International legal systems tend to fall into one of three categories. Typically found within countries that have some historical connection with the United Kingdom or the former British Empire, “common law” systems have a legal system based primarily on custom -- the precedent set by court decisions (“case law”) , in contrast to civil law systems or religious law systems.

### Compilation

A work created by combining works or elements of works. The author of a compilation has the copyright to his work, but his right does not restrict the rights of the original works.

### Copyleft

Usually refers to a license that requires distributed modifications of licensed works be shared under the same license, most prominently in the case of the GPL. CC calls this property of licenses ShareAlike. [CC BY-SA](#) is unambiguously a copyleft license, while some consider [CC BY-NC-SA](#) to not be in the spirit of copyleft.

### Copyright

A right automatically granted to authors to prevent others from using their works without permission for a very long time and with limited exceptions. The expansion of copyright in length and scope with the increased costs of copyright enforcement in the digital age are some reasons why Creative Commons exists. The right of the work's author to protect his work. These rights vary from country to country, although there is substantial international harmonization. They can typically be divided into economic rights and so-called “moral” rights.

With respect to the economic rights, they essentially represent a temporary monopoly over the creative work in question. In theory, this monopoly control is supposed to incentivize and reward creator, convincing them to create more. However, when the term of copyright ends, the work belongs to the public. The public's gains from the creation of new works is thought to compensate for the inefficiencies that a monopoly represents. Economic rights are truly “property” in that they can be sold, assigned, inherited, divided up, and more. Copyright includes both economic and moral rights.

### Copyright holder

The person, to whom the work's copyright belongs. Usually the author of the work, however a copyright may also be transferred by agreement e.g. to the publisher, or it may be bequeathed or donated to someone.

### Creative Commons

A licensing concept created by Creative Commons that builds upon traditional copyright practices to define possibilities that exist between the standard “all rights reserved” full copyright and public domain “no rights reserved”. A Creative Commons license lets you dictate how others may use your work. The Creative Commons license allows you to keep your copyright

but allows others to copy and distribute your work provided they give you credit and only on the conditions you specify. For online work you can select a license that generates "Some Rights Reserved" or a "No Rights Reserved" button and statement for your published work

## D

### **Derivative work**

A derivative work is one that adapts or modifies an existing work, drawing on that work for its substance and general material. A film based on a novel is a derivative work of that novel. An action figure based on a character from an original film is a derivative work of the film. A derivative work may or may not be copyrightable on its own, depending on how much original material it contains, and whether permissions were granted for the copied material.

### **Distribution**

Making the work available to the public by sale, loan, rental, donation or other manner.

### **Distribution rule**

Teosto and Gramex's distribution rule defines the respective shares for the rights holders of a work regarding due compensations.

### **DMCA, or "Digital Millennium Copyright Act".**

The DMCA is copyright legislation that was passed in the United States in 1998. Its intended purposes were to bring U.S. copyright law more into harmony with international norms and to address many of the new concerns that digital technology and file-sharing raised. The DMCA contains the now-notorious anti-circumvention provisions, which made it illegal, even for a legitimate user, to avoid, break or disable any technological measures protecting content. It also created what are known as "safe harbors", descriptions of behavior where Internet service providers could be certain they would not be legally liable for the actions of their users.

### **DRM, or "Digital Rights Management"**

Actions for any technological measures, usually but not always software-based, that are put in place to protect copyrighted content. DRM usually works by restricting access to the content in some way. DRM applies to all would-be users of the content, even those who have purchased it, or the right to access it, legally. Most DRM techniques are also easily circumvented by a technically adept and/or determined user. Therefore, DRM has the net effect of inconveniencing legitimate users, sometimes seriously, and being a minor inconvenience at best for professional criminal users. Additionally, certain forms of DRM can raise serious privacy concerns, as well as call into question the very idea of "ownership" of digital information.

## E

### **Economic rights**

The author's exclusive right to determine the economic exploitation of the work. The economic rights include the following rights: the right to reproduce and publicly perform the work, to disseminate and present it to the public. The author may, by agreement, waive his economic rights.

### **Electronic rights**

The right to publish or allow others to publish electronic versions of your work (including CD-ROMs or other electronic devices). The Authors Guild argues that writers should be compensated for the electronic reproduction of their work, just as they are compensated for print reproduction.

### **Exclusive rights**

The right to publish your work without the work appearing elsewhere at the same time. Often, publishers request exclusive rights for a given length of time — three months, six months, or one year, for example. After the exclusivity period has ended, you are free to publish your work elsewhere.

## **F**

### **Fair Use**

The right to make certain uses of a work without permission of the copyright holder. Fair use is a set of guidelines, rather than a rule, and is evaluated on a case-by-case basis according to four non-exclusive factors. These are:

The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

The nature of the copyrighted work;

The amount and substantiality of the portion used in relation to the copyrighted work as a whole;

The effect of the use upon the potential market for, or value of, the copyrighted work.

The Fair Use is not adopted by all the countries. The U.S., Canada, Poland, Israel, South Korea are examples of countries which have adopted fair use. Many Member States have adopted relevant restrictions to the copyright and related rights of copyright holders.

## **G**

### **Grand rights**

The performance rights of grand stage works such as operas, musicals and ballets.

## **J**

### **Joint work**

A work, which one or more authors have created together so, that each author's contribution in the work cannot be distinguished. Co-authors of a joint work obtain a copyright together and anyone of them may make a copyright infringement claim for the work.

## **L**

### **License**

A license or permission that the copyright holder may grant for a copyrighted object. An agreement for such a license is called a license agreement. A license agreement will allow, for example, one to grant manufacturing and distribution rights as well as other equivalent rights. However, the original copyright remains with the grantor of the license.

## **M**

### **Management**

The registration of the copyrighted works, collection of compensations and monitoring of payments for a fee. For example, Teosto manages the copyrights of its music author members.

### **Master**

The final format of a recording to be duplicated.

### **Moral right**

Moral rights (a translation of the French concept "droit moral") in a creative work are the corollary to the economic rights. They represent the rights in a work that are inherent in its status as a creative work and in its relationship with its creator. While they are statutorily reinforced, they typically are thought of as existing on their own.

**N****NCB**

Nordisk Copyright Bureau, the joint Nordic organization supervising recording rights

**O****Open Educational Resources.**

OER are educational materials and resources offered freely and openly for anyone to use and under some licenses to re-mix, improve and redistribute.

**Open access**

A term describing an information resource that is open to all. It also refers to a movement within the academic community dedicated to making scholarly research more accessible, rather than hidden behind a price or permission barriers.

**Orphan works**

Orphan works are creative works that are still under copyright protection, but for which it is either impossible or prohibitively difficult to identify the copyright holder. This is most often a problem with photographs on the Internet, but arises with other types of works as well. Since the works are under copyright, permission is needed to use them, but since the rights-holder cannot be found, no permission can be obtained. This puts these works into a sort of limbo. People want to make use of them, but usually won't for fear of liability, and the works cannot pass into the public domain until the term of their copyright expires.

**P****Performance compensation**

In accordance with the Copyright Act, public performance of copyrighted music requires a license. The user is subject to the payment of a compensation, which is called a performance compensation. In practice, the compensations will be collected by Teosto, who pays the compensations to the authors and publishers.

**Permission for publication**

A contractual permission born to the user of a musical work to publish the work in their own printed publication. In connection with music, film and theatrical plays, this means presentation of the work.

**Private use**

Personal use or use within the family circle. Everyone has the right to make a few copies of a work for private use. Copies made in such a manner may not be used for any other purpose.

**Producer**

General title for manufacturers and distributors of audio and / or visual recordings. In accordance with the Copyright Act, this means any entity that for the first time records a sound or image. Protected sound recordings may not be copied or distributed without the producer's consent. The producer can also mean a person who is responsible for the content of the performances on a recording.

**Published works**

Works of which reproductions have been supplied to the public, such as books, newspapers, and magazines, most maps, commercially-made music CDs, television broadcasts.

**Public domain**

Works that are not restricted by copyright either because they are too old or not copyrightable (e.g., data). Works in the public domain do not have copyright protection. In copyright law, the public domain can be thought of as those creative works to which everyone has access, and over which no one has exclusive control. Some works in the public domain were created prior to any formal legal system of copyright. Some works in the public domain were once under

copyright, but the term of those copyrights has expired, allowing the work to pass into the public domain. The length of time before a work passes into the public domain depends on when a work was created, and the copyright regime in place at the time.

## R

### **Rare and unique works**

Examples from the Library's collection: architectural plans; art works; diaries, letters and other manuscripts; maps; unpublished music, photographs, oral history sound recordings; excludes rare books.

### **Recording compensation** (re-mechanization compensation)

Permission must be obtained for making a recording of music. In Finland, this is granted by Teosto / NCB. The compensation paid for use is called the recording or re-mechanization compensation, which is paid to authors and publishers.

### **Registering a work**

Rights holders notify the copyright society of the required details for the registration of a work using a work registration.

### **Reproduction**

Giving physical form to a work. Reproduction of a work or a part thereof - including manual copying - or transferring a work to a device capable of reproduction.

### **Required level of originality**

The requirement of independence and originality for a work, which a work must meet in order to obtain protection. However, no requirements regarding a work's artistic value are imposed.

### **Rights**

The rights a creator, copyright holder, the public or member of the public has as a result of copyright.

Copyright grants its holder various exclusive rights as part of its limited time monopoly. These rights can be usefully divided into economic rights and moral rights. In addition, as part of the copyright "bargain" the public gains certain rights in a copyrighted work as well. A list of these rights follows.

#### **Right of Integrity**

The right to prevent the destruction or defacement of a creative work, or to object to any changes made to a creative work

Most often seen in the context of a painting or sculpture. For example, the rights to a piece of art on display.

#### **Right of Attribution**

The right to be known as the creator of a particular creative work, to be given appropriate credit for one's creations, and not to be blamed for things one did not create.

#### **Right of Disclosure**

The right to determine when and if a work shall be made public.

#### **Right of Reproduction**

The right to make copies of a work.

#### **Right of Adaptation**

The right to make derivative works.

#### **Right of Distribution**

The right to sell, export or import a work or copies of a work.

### **Right of Public Performance and Display**

The right to perform or display a work in public.

### **Right of Withdrawal**

The right to withdraw a work from the public sphere.

Most commonly seen with artworks of which only a single copy exists but also sometimes seen as a right to purchase extant copies of a creative work at a reduced rate. For example, a book a writer no longer wants on the market.

### **Right of Access**

The right of the public to have access to a published copyrighted work.

This particular right is actually not a right of the copyright holder, but rather of the public. In return for granting the creator the various copyrights, arguably at the expense of the public, the public gains access to the work.

### **Royalties ("Profit-sharing compensation")**

The licensee is usually required to pay compensation for any income or fees received from copyrighted property. The compensation is usually based on net profit or sales.

## **S**

### **Semantic Web**

The project to make the web machine-readable using technologies such as RDF.

### **Syntax**

The logical structure of source character combinations and words.

### **Some Rights Reserved**

A descriptive tagline for any CC license -- the licensor offers some rights to the public, but withholds others.

## **T**

### **The term of protection**

The duration of the copyright and related rights. The term of protection for literary and artistic works extends up to 70 years after the end of the year of the author's death. This term is not equal to all countries and depends on national legislation. The term of protection for an artist's performance, a recording and a radio or television broadcast is 50 years from the end of the year of the recording or broadcast.

### **Traditional work**

A free work (if an original work and not adapted thereafter).

### **TPM**

Technological protection measures, or "TPM" are security measures added to digital technology and content by content providers in order to restrict and control access, and exert greater control over the uses of the content they sell.

## **U**

### **Unpublished works**

Works of which reproductions have not been supplied to the public. These can include architectural plans; art works; diaries, letters and other manuscripts; hand-drawn maps and music scores; oral history sound recordings; and photographs.

### **U.S. Copyright Office**

The U.S. Copyright authority, which keeps a register of copyrights and their holders.

## **W**

### **Web-wrap**

The term for "Click wrap" in connection with websites.

### **WIPO (World Intellectual Property Organization)**

The global parent organization for intellectual property. WIPO administers 24 different treaties, including the WIPO Convention, thirteen of which are intellectual property treaties.

### **Work**

The product of independent and original creative work. In music, works are seen to include compositions and any arrangements, lyrics (texts) and translations made based on those works.

## **X**

### **XMP**

eXtensible Metadata Protocol, a format for embedding metadata in many different file formats, most significantly PDF and JPEG. A recommendation of ccREL.

## APPENDIX 3: DEFINITIONS OF TERMS AND ABBREVIATIONS

Glossary of terms and abbreviations used in the document

CIP: Innovation Framework Programme

Copyright: The right to reproduce

DEA: Europeana's Data Exchange Agreement

EP: EuropeanaPhotography

IPR: Intellectual Property Rights

IPR Matrix: Table with projects dealing with Intellectual Property Rights

IPRGuide Blog: Blog for continuous support on IPR

IPR Glossary: An alphabetical set of terms for IPR

MINT: Tool developed by NTUA to foster data ingestion and metadata mapping.

Online Guidebook: Step based tool, available on line, to clear rights.

Orphan works: copyrighted work for which the copyright owner cannot be contacted

Out-of-commerce works : works that are still protected by copyright but are no longer available in customary channels of commerce

Rights Labelling Campaign: Europeana's campaign for assigning a predefined set of statements to content

Rights Options: Predefined rights options in the MINT tool.

Set of Rights Statements: A predefined set of rights statements to be assigned to content