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# ILEO Conference Report: ‘Regulating Innovation in the Digital Environment: Towards a Digital Knowledge Agenda’

This report presents an overview of the conference held at the European Parliament of Strasbourg on 10 July 2025 entitled ‘Regulating innovation in the digital environment: towards a Digital Knowledge Agenda’. The event brought together 12 speakers, including leading scholars, legal experts, and EU policymakers from across Europe to discuss how to unlock innovation through better access to knowledge in education and research. From the presentations it is possible to identify some main pillars of a research and education-friendly copyright system. These key takeaways can serve as inspiration for future legislative reform in the digital environment over the coming years. Above all, it is clear that the European Union should develop a genuine knowledge society through policies that prioritize research and education and overcome barriers stemming from the past. The conference was organized by the Innovation Law and Ethics Observatory (ILEO) at Luiss University in collaboration with Members of the European Parliament from Volt Europa.

## I. Introduction

The conference ‘Regulating innovation in the digital environment: towards a Digital Knowledge Agenda’ was held at the European Parliament on 10 July 2025. The event brought together twelve speakers, including leading scholars, legal experts, and European Union (EU) policymakers from across Europe to discuss how to unlock innovation through better access to knowledge in education and research. This report provides a reasoned overview of this conference, retracing the main points of the four sessions. The final section draws some conclusions that can serve as a basis for future discussions and initiatives.

The conference was organized by the Innovation Law and Ethics Observatory (ILEO) in collaboration with Members of the European Parliament from Volt Europa. ILEO is a research structure created at Luiss University in April 2024 focusing on innovation law, with a particular emphasis on ethics and sustainability. The core of its research activities is the investigation of the delicate challenge of securing economic growth while preserving the core values on which the EU has been built. The conference was also supported by The Greens/EFA in the European Parliament, American University Washington College of Law – Program on Information Justice and

Intellectual Property, UCD Centre for Digital Policy, COMMUNIA, Knowledge Rights 21 (KR21), and the University of Strasbourg – Centre des études Internationales et européennes (CEIE).

The central theme of the conference was reflected in the introductory speech by Christophe Geiger (Luiss University and ILEO) and Damian Boeselager (MEP Volt). It is important for the EU to develop a genuine knowledge society, with policies prioritizing research and education and overcoming barriers stemming from the past. Indeed, the legal framework dealing with these issues still dates from the analogue era, and the freedoms on which the EU single market was founded are not sufficient to address a new economy based on access and sharing.

Reform is necessary, particularly with respect to copyright law, which has too often been shaped by the activities of interest groups and lobbies rather than by a clear societal project and the public interest. Copyright law poses many obstacles to the use of protected material in the digital environment by researchers, educators, and knowledge institutions. These barriers render access to knowledge more difficult and prevent these actors from performing their public interest role. A Digital Knowledge Agenda should foster scientific and cultural progress for everyone, ensuring that researchers, educators, and knowledge institutions have access to and can work with protected works. This goal is essential in creating an innovation ecosystem that reduces inequalities and creates a level playing field both online and offline.

In a territory poor in natural resources and where labor is expensive, knowledge is the main asset. EU policymakers and academics should engage in an open dialogue to address these issues concerning innovation policy.

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This conference is intended to be a step in this direction. All contributions are forthcoming as blog posts on *Verfassungsblog*.<sup>1</sup>

## II. First session: Copyright barriers to innovation in the field of research and education: Copyright as an access right?

In the first session, Bernd Justin Jütte (UCD Dublin and ILEO) presented the results of a joint study conducted with Christophe Geiger (Luiss University and ILEO) and commissioned by COMMUNIA and KR21.<sup>2</sup>

The study argues that copyright law was originally meant to incentivize access to knowledge. However, the copyright law system has often been misused or misconceived to exclude such access rather than to facilitate it, with the free use of information encased in copyright-protected works nowadays being the exception, not the norm.

Over the years, more and more materials needed for education and research have been digitized, which has multiplied the instances in which the exclusive rights under copyright can be opposed against those who want to access information through copyright-protected works. Exclusive rights also give rightholders – who are not necessarily the authors – a dominance over information resources.

Moreover, rightholders have used copyright to diversify the distribution channels, resulting in more expensive access to a variety of information. Finally, the copyright system is still relatively fragmented and based on the principle of territoriality. The lack of harmonization hinders the development of information sharing as part of the emerging fundamental rights to research and to information.

Individuals must have control over the information resources they produce themselves or have lawful access to, not only for a brief subscription period. For example, scholars should be able to share information freely without restrictions from publishers. Moreover, sharing information across borders should be easier, and libraries should be empowered for this purpose.

## III. Second session: Enabling innovation through access to knowledge: Fostering research

The second session was moderated by Reiner van Lanschot (MEP Volt) and featured Martin Senftleben (University of Amsterdam and IViR) and Giulia Dore (University of Trento).

Van Lanschot emphasized that research is a precondition for a sustainable future. Universities and other

research institutions are central actors in early-stage innovation, generating breakthrough research and new skills. When research is funded by public money, it must be accessible, and indeed, accessibility is the very purpose of publicly funded research. However, paywalls still lock out much of research.

Senftleben's presentation was based on a study conducted together with Kacper Szkalej, Caterina Sganga, and Thomas Margoni, which identifies the barriers to access to resources that researchers and research organizations encounter because of copyright protection.<sup>3</sup>

In EU copyright law, protection is the rule and areas of freedom are an exception. If researchers do not seek permission entering into contractual agreements, they must look for specific provisions in copyright law to determine whether they can proceed without permission. These provisions are very specific and limited, with one of the core provisions allowing reproduction and communication to the public for the sole purpose of non-commercial illustration for teaching or scientific research.<sup>4</sup> However, each Member State has its own manifestation of this rule, and some have implemented it partially or not at all.

These specific exceptions for research are further restricted in their applicability by the so-called three-step test.<sup>5</sup> In other words, a research provision shall only be applied in special cases that do not conflict with the normal exploitation of the work or unreasonably prejudice the legitimate interests of the rightholder. Consequently, even if a researcher determines that a specific use falls under the research exception, a publisher may argue that the way it is performed conflicts with the three-step test because it conflicts with the normal exploitation or harms legitimate interests, a problem that arises particularly in transnational consortia. The EU wants researchers to collaborate across borders, but it lacks a legal framework to support this. Publishers are strongly against any change to the current legislative framework because they are the main beneficiaries of legal uncertainty.

Dore focused on how to shift from the protection of rightholders to a paradigm fostering research through copyright law.<sup>6</sup> The innovation ecosystem is very complicated, with multiple challenges arising and different interests at stake. A balanced solution should address all instances.

One instrument to find a compromise could be the secondary publication of scientific articles, a right that allows

<sup>1</sup> The introductory post of the series is Christophe Geiger and Damian Boeselager, 'Shaping the EU Digital Knowledge Agenda: Why Reform is Key for Access to Information Online' (*Verfassungsblog*, 10 November 2025) <<https://verfassungsblog.de/eu-digital-knowledge-agenda-copyright/>> accessed 11 November 2025.

<sup>2</sup> Christophe Geiger and Bernd Justin Jütte, 'Copyright as an Access Right: Concretizing Positive Obligations for Rightholders to Ensure the Exercise of User Rights' [2024] GRUR International 1019-35 <<https://doi.org/10.1093/grurint/ikae130>> accessed 11 November 2025.

<sup>3</sup> Martin Senftleben and others, 'Towards a European Research Freedom Act: A Reform Agenda for Research Exceptions in the EU Copyright Acquis' (2025) 56 IIC 1329-58 <<https://doi.org/10.1007/s40319-025-01604-6>> accessed 11 November 2025. Caterina Sganga and others, 'Towards a European Research Freedom Act: A Proposal for an EU-wide Secondary Publication Right' (2025) 56 IIC (forthcoming) <<https://doi.org/10.1007/s40319-025-01620-6>> accessed 11 November 2025.

<sup>4</sup> art 5(3)(a) Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society ('InfoSoc Directive') [2001] OJ L167/10-19.

<sup>5</sup> In EU law, art 5(5) InfoSoc Directive.

<sup>6</sup> Dore mentioned the previous work by Roberto Caso and Giulia Dore, 'Academic Copyright, Open Access and the "Moral" Second Publication Right' (2021) Trento Law and Technology Research Group Research Paper No 47 <<http://dx.doi.org/10.2139/ssrn.3981756>> accessed 11 November 2025.

the republication of works that have already been published. It is a veritable right with an economic and moral dimension and enables researchers to put their work immediately at the disposal of the public with limited or no embargo. This right must not be restricted by contracts or technological protection measures in order to be effective.

Article 27 of the Universal Declaration of Human Rights (UDHR)<sup>7</sup> – concerning cultural rights and scientific advancement – provides solid international justification from the legal point of view. Moreover, the right to share research outputs is also supported by the strong commitment of EU institutions to open science. This is no longer an issue that concerns only scholars, publishers, and authors, but has become a wide-ranging social issue. Accordingly, a broad EU-wide solution is required to help researchers do their work and, above all, to help society to benefit from their research.

#### IV. Third session: Enabling innovation through access to knowledge: Fostering education

The third session was moderated by Nela Riehl (MEP Volt) and featured Martin Senftleben (University of Amsterdam and IViR), Bernd Justin Jütte (UCD Dublin and ILEO), and Thomas Margoni (KU Leuven and CiTiP).

As a former teacher, Riehl provided practical background on the topic, underlining the relevance and urgency of investigating how better access to knowledge can foster education.

Senftleben clarified that there are rules on education under copyright laws, but they were inspired by the analog past and are consequently not perfectly fit for the digital era. The latter requires sharing knowledge freely, inspiring people in schools and universities to remix, remash, and enter into discussion, as well as handling cross-border situations. The current system provides legal uncertainty, especially for public institutions.

Jütte commented on the copyright exception pursuant to Art. 5 of Directive (EU) 2019/790 (CDSMD)<sup>8</sup> for the use of protected works for education in the digital environment. This exception allows teachers to use material in educational premises or in virtual online learning environments with a certain cross-border dimension. However, the scope of the exception is limited to non-commercial uses, such that for instance, private schools would probably not be covered. Furthermore, Member States can exclude certain books for which a well-established licensing market exists, leading to a large amount of highly relevant material falling outside the scope of the exception. Member States could prevent the upload of copyright-protected works into virtual learning environments.

<sup>7</sup> art 27 UDHR: ‘1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. 2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author’.

<sup>8</sup> art 5 Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market (CDSMD), PE/51/2019/REV/1, [2019] OJ L130/92-125: Use of works and other subject matter in digital and cross-border teaching activities.

Margoni pointed out that copyright plays a huge role in most educational activities. Digital technologies have their own characteristics, and activities that in the physical world were not copyright relevant suddenly become so in the digital world. As things currently stand, access to materials online requires a legal basis, whether contractual (i.e., a license) or statutory (i.e., an exception). Often, when there is an exception, there are many conditions to consider that add legal uncertainty to its applicability. Legal certainty is very relevant, especially for public institutions, because of their structure and ethical concerns, and they require a clear framework to operate.

#### V. Fourth session: Towards a digital knowledge act: The next steps

The fourth session was moderated by Bernd Justin Jütte (UCD Dublin and ILEO) and featured Fédérique Berrod (University of Strasbourg), Stephen Wyber (IFLA), and Teresa Nobre (COMMUNIA).

Jütte introduced the necessity of legal reform or, at least, of a reform agenda. The topics discussed are urgent, and mere policy declarations are not enough. At the moment, a Damocles sword hangs over the heads of researchers and educators as they try to do a socially valuable job – a situation that needs to be changed.

Berrod emphasized that universities face several issues concerning freedom of knowledge, the first of which is freedom of research. Researchers face many obstacles when they attempt to have effective access to literature. Another problem is access to data, it not being easy to have such access when much data is produced by the private sector and is therefore protected by a certain number of rights. In the EU, there are also many problems of interoperability. All this is a major problem for the credibility of research. A proper harmonization at the EU level in the field of access to knowledge, balancing the different interests, is central.

According to Wyber, libraries represent a knowledge infrastructure because they are not just focused on the consumption of knowledge, but on its activation. However, libraries are the place where all these often inconsistent and contradictory laws come into play. The EU has been regulating knowledge and research, often by accident, for many years, resulting in unworkable sets of laws. First, the EU has recognized that there is a need to work across borders but does not mandate harmonized laws. Second, the EU urges knowledge valorization and cooperation with the private sector through partnerships, but still has copyright laws that discriminate against the private sector.

Nobre explained how COMMUNIA has been working together with many other civil society organizations to develop a Digital Knowledge Act.<sup>9</sup> Knowledge institutions are rarely considered – or at most are the last thing to be thought of – by the EU legislator although they are essential to innovation, research, and competitiveness in Europe. There is the need for a broad, flexible, and open

<sup>9</sup> COMMUNIA, ‘A Digital Knowledge Act for Europe’ (2024) <<https://communia-association.org/wp-content/uploads/2024/09/Digital-Knowledge-Act-for-Europe.pdf>> accessed 11 November 2025.

research exception. For instance, the text-and-data mining exception does not allow the sharing of research works, with another issue being abusive contractual practices. One of the solutions could be to require publishers to license works to knowledge institutions under fair and reasonable conditions, while another measure – common in the United States and other common law countries – is a limitation of liability, meaning that a subject acting in good faith should be protected.

## VI. Conclusion

The conference ‘Regulating innovation in the digital environment: towards a Digital Knowledge Agenda’ addressed a wide range of EU copyright topics. From the presentations it is possible to identify some main pillars of a research and education-friendly copyright system. These key takeaways – as also emerged in the conclusive remarks by Boeselager

and Geiger – can serve as inspiration for future legislative reform in the digital environment over the coming years.

First, the current framework of limitations and exceptions is not sufficient to allow researchers to fully exercise their right to share their work, which needs to be a priority in the EU agenda. Second, there is a need for harmonization. Cross-border cooperation is frequent, but not properly addressed. Third, the legislative framework in which research institutions, including universities and libraries, operate should be clear enough to allow them to navigate it and to perform their important task of sharing culture and fostering innovation.

Possible next steps could include a European Parliamentary initiative report as a first practical measure to move the discussion further. These are only a few aspects of a future comprehensive innovation policy, which will also have to address other pressing issues, such as artificial intelligence, which also plays a role in the fields of education and research.