



knowledge without boundaries

EIFL-IP

**Promoting a fair and
balanced copyright system**

Copyright reform in Poland:

the need to address the issue of balanced limitations and exceptions

Project Manager: Barbara Szczepanska, Library & Information Services Manager, Hogan Lovells

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Results of an EIFL-IP funded project

'Thanks to the project, the library community is in a strong position. We have mutual agreement on the main issues, and a clear idea of what is needed in terms of copyright law amendments. We are prepared and ready to take part in the national debate in 2013.'

Barbara Szczepanska, Project Manager

The Context

In 2004, the copyright law was amended when Poland joined the European Union. While there is a rather good list of limitations and exceptions, some are in need of updating for the digital world while others require clarification to meet current needs.

In February 2012, following the declaration that Poland would not ratify the Anti-Counterfeiting Trade Agreement (ACTA), the Prime Minister, Mr. Donald Tusk promised to continue the debate on digital freedoms. Consequently in March, the Ministry of Administration & Digital Affairs announced the formation of five task forces to work on legislative reforms essential for the growth of a robust digital society in Poland, such as rights for Internet users and privacy issues.

Libraries must be part of these discussions not only to ensure that the current state-of-the-art is preserved, but also that the existing provisions are updated for the digital environment to enable libraries in Poland to fulfil their responsibilities.

Project Objectives

The project partners were Centrum Cyfrowe Projekt Polska and the Poznan Foundation of Scientific Libraries. The main objectives of the project were to:

- raise awareness of the importance of copyright limitations and exceptions and the role of libraries in building a creative knowledge society and economy;
- re-introduce the issue of well-crafted limitations and exceptions that serve society to policy makers, national copyright experts, members of parliament, journalists, the wider library community, as well as to the general public;
- ensure that librarians participate in the debate on copyright law reform in Poland;
- produce a draft law that accommodates library problems and needs.

- ✓ **A major result of the project is [a legal analysis of provisions concerning libraries in Polish law \(Act on Libraries and Act on Copyright\), and the drafting of amendments to the copyright law that reflects the new reality for libraries and their users.](#)**

The analysis first looks at the responsibilities and obligations of libraries within the library law. Then it reviews the provisions in the copyright law taking into account the diversity of materials held by libraries, different methods of acquisition and use, as well as changing user expectations in the digital environment. Issues such as the distribution and use of digital content, inter-library loan, PhD dissertations, orphan works, secondary liability, and the use of book images in library catalogues are covered. Proposals for amendments include harmonization of the rules on permitted uses to include all types of libraries; permitted uses protected from override by contracts; deletion of the three-step test variant from national law; amendments to limitations and exceptions.

'The project was a unique opportunity for me to study the practical operation of copyright in today's libraries. I discovered that many of the problems faced by libraries touch upon a fundamental part of copyright theory i.e. the balance between authors' and public interests. But the most rewarding part of the project was that I could help design solutions to the problems, in an attempt to bring the theoretical debate to a more practical level'.

Krzysztof Siewicz, Project Legal Advisor

- ✓ **For the first time, an in-depth discussion on library copyright issues with legal support took place.** The model law was drafted following broad consultations with librarians from academic, public and school libraries, and the National Library. So far, it has been well received by the community while dialogue is on-going with professional bodies, such as the Conference of University Library Directors, the Conference of Public Library Directors and the Information Society Development Foundation to gain institutional support.
- ✓ **Librarians were invited to participate in high-level discussions on copyright, becoming recognized for the first time as important stakeholders in a national process.** Libraries took part in task force meetings on copyright reform held by the Ministry of Culture & National Heritage (responsible for copyright law) together with the Ministry of Administration & Digital Affairs in the summer of 2012, initiated by the Prime Minister's office. Bringing the perspective of public interest institutions, their goals and social mission to the table is a great achievement that we must maintain into the future. The library intervention is included in the [official protocol of the meetings](#).
- ✓ **The visibility of libraries and the importance of copyright limitations and exceptions among experts and the public at large is increased.** The library model law will be published later in 2013 in [Zeszyty Naukowe Uniwersytetu Jagiellońskiego. Prace z Prawa Własności Intelektualnej](#), a renowned legal journal that will help stimulate discussion of library issues among academics.

[An article on library copyright issues was published in the high profile legal section of "Rzeczpospolita"](#), one of the largest circulation national newspapers in Poland, written by Barbara Szczepanska.



Strategies and Tactics

- To take the opportunity of the national debate on copyright reform - be visible during the debates and ready to deliver statements with legally sound arguments.
- To actively promote the library position through the media, online channels such as mailing lists, social media networks, and selected events.
- To work with a broad coalition of partners to make the library proposals stronger.

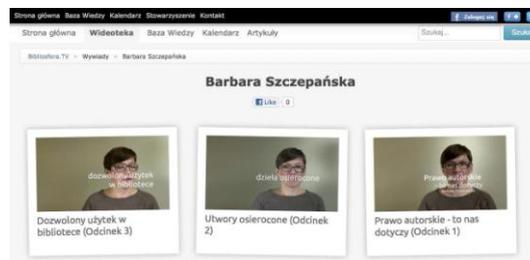
Activities

- In May/June 2012 – we participated in five stakeholder meetings organized by the Ministry of Culture & National Heritage and the Ministry of Administration & Digital Affairs on copyright law reform.
- From May to December – we monitored the legislative process.
- In August/September 2012 – three consultation meetings were held with the library community including the National Library and Łazarski University Library in Warsaw, Jagiellonian University Library and Economic University Library in Krakow, University Library Toruń, Banking School Library and University Library in Poznań, Economic University Library and Public Library in Wrocław and the Information Society Development Foundation.
- From August to December 2012 – media promotion activities.
- From October to December – final drafting and publication of the model law.

Advocacy and Promotion

Library videos

Working with a professional media organization, we produced four videos to explain the library model law in a user-friendly way. Currently three of the videos are available online: <http://bibliosfera.tv/kolekcja/30/barbara-szczepanska/>



The project team made presentations at conferences including:

- [Public interest and copyright](#), “Reform of copyright law for libraries”, dr Krzysztof Siewicz, October 2012 (Krakow).
- [Libraries with a vision](#), “What is fair use and what to be aware of? Copyright in the activities the public library”, Barbara Szczepanska, October 2012 (Warsaw).
- [Conference of the Polish Librarians Association](#), “Culture as a common good. New chances for library co-operation in the digital society”, Alek Tarkowski, November 2012 (Warsaw).

Online promotion:

- Project website: <http://centrumcyfrowe.ol/projekty/reforma-prawa-autorskiego-dla-bibliotek/>
- Links to news items, workshops, quotations on popular library portals including:
 - Polish Librarians Association www.sbp.pl
 - Library Development Program www.biblioteki.org/en
 - Bibliosfera, a portal for librarians <http://bibliosfera.net/>
 - Nowy EBIB, a portal for librarians www.nowyebib.info

Lessons Learnt

- Working with partners gave us access to expertise, resources and support that we wouldn't otherwise have had.
- Consultation is a long-lasting process that requires on-going activities, such as conference calls and meetings. The legislative process is unpredictable too. Factor this into time planning!
- No single person has all the knowledge or expertise, so it is very important to bring people with you along the way, to discuss and persuade.

The Future

In February 2013, the Ministry of Culture and National Heritage announced the establishment of a Copyright Forum – a platform to renew discussion of the copyright law and especially its reform. Topics will include orphan works, financing the public domain, public lending right, criminal liability, licensing in the digital single market.

Librarians will present their viewpoints, as well as the model law. The project has laid the groundwork for participation in the Forum and future copyright reform activities in Poland.

'The needs of libraries and other public interest institutions have not been addressed sufficiently by the state during the copyright reform process in 2012. With the next phase of public debate starting soon, I am glad that our project has set the agenda for the necessary changes'.

Alek Tarkowski, Director, Centrum Cyfrowe Projekt: Polska

EIFL-IP supported this project with a grant of €4,000. The project began in June 2012 for a duration of seven months. For more information, please contact the Project Manager, Barbara Szczepanska at <barbara.szczepanska@[j]hoganlovells.com>.

For information on other EIFL projects in support of national copyright law reform, visit www.eifl.net/advocacy-campaigns-national-copyright-law-reform