

# Legal Contexts of Digitization and Preservation of Written Heritage

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## Summary

*Purpose of this paper is comparing valid acts of Republic Croatia which regulate matters of preservation of written heritage in correlation to related valid contexts in European union.*

*In continuation of paper we will put an accent on an obligatory example(OP) and protection of author rights, also on advantages, disadvantages and main reasons for formation of digital contents.*

*In this paper we report facts of 27 countries, members of European union linked with digitization of written heritage, and we represent their influence on the further development of digital contents in Republic Croatia.*

**Key words:** juridical context, obligated example, protection of author rights, access to information, digitization of written heritage, digital contents in Republic Croatia, Europeana

## The legal framework of digitizing

Information society development and diffusion of new information technologies and communications have substantially influenced the policies of the member countries as well as their initiatives in relation to the preservation and evaluation of huge wealth of European cultural and scientific heritage. Government of the countries of the European Union ensure that appropriate legislation should guarantee obtaining the authority for storage, protection and handling of electronic materials as a cultural good, the attainment of compulsory copies of electronic materials and access, search and use of such materials as the foundation of a democratic society.

Croatia is not yet an EU member but has devoted considerable attention in the preparation of the group law on the protection of Croatian heritage in electronic

media as well as priorities by way of selection, storage, permanent storage and use. The Croatian legislation emphasize the important laws that provide legal framework for regulation of electronic material matter, and that the following laws: Law Library (NN 105/97), Law on archival matter and archives (NN105/97, 65/09), Law of museums (NN 142/98), Law on the protection and preservation of cultural goods (NN157/03), Law on Copyright and Related Rights (NN 167/03), Law on the Freedom of Information Act (NN 172/03).

Croatia in the drafting of the national program of digitizing the archive, library and museum collection is taken into account the principles and experience in the field of digitization of cultural heritage in the European Union. Accepted the Lund principles (Principles Lund, Sweden, 2001. G.) and Lund Action Plan (Action Plan Lund, Sweden, 2001)<sup>1</sup>, which define the basic objectives that can be summarized in the basic recommendations: development of a mechanism for promoting good practice in order to harmonization and optimization; Dissemination of European scientific and cultural content, development of reference criteria for the actions of digitization; Encouraging quality and promote the availability of the contents of the citizens of Europe.

On the basic principles of the digitization of cultural heritage defined in Lund, Sweden, adopted and Parm Charter (Charter of Parma, 2003.) Used by the operational support of the European network of Minerva. Network Minerva (Minerva Network) is directed to establish a common European technology platforms and content, making recommendations and guidelines for the digitization, creation of data, ensuring long-term availability and protection of digital content. Year 2002. Minerva network is put forward his proposal the extension of the network to new countries before entering the EU and in Russia and Israel, which is concretize in MinervaPlus project that began with the application in early 2004. year.

Group of national representatives appointed by the institutions responsible for culture at the level of EU member states, who met in Paris 19th November 2003. The agreement on a definition of the conclusions and principles Parm charters given in the following articles: Art. 1. Intelligent application of new technologies, art. 2. Availability, art. 3. Quality, Art. 4. Protection of intellectual property rights and respect for privacy, art. 5. Interoperability and standards, Art. 6. Inventories and multilingualism, art. 7. Comparative evaluation (assessment), art. 8. Cooperation at national, European and international level, Art. 9. Enlargement, Art. 10. Joint construction of the future direction of society.<sup>2</sup>

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<sup>1</sup> <http://www.minervaeurope.org/structure/nrg/documents/chapterparma031119final-hr.htm> (2009-06-19)

<sup>2</sup> <http://www.minervaeurope.org/structure/nrg/documents/chapterparma031119final-hr.htm> (2009-06-19)

The fundamental law of the related laws governing the matter of protection of cultural heritage is the Law of Copyright and Related Rights (here in after the Act). These kinds of laws includes the legal system of the state to safeguard the authors since it is assumed that only the author of which is guaranteed compensation for the creation will be driven to continue creating. It is important to emphasize that the Constitution of the Republic of Croatia guarantees the protection of the moral and material rights deriving from scientific, cultural, artistic, intellectual and other creative work. Digitization of books, and a growing share of sales of electronic books in total turnover, all are actually setting up the problem of protection of copyright. It is clear that the full protection of intellectual property could also prevent the free access to copyright works, and do not want nor the authors nor the publishers nor the state itself. Copyright under the Act (Article 99) lasts for the whole of life and seventy years after his death, regardless of when the dealer lawfully published. Current programs include digitizing mostly old material, ie the one you should not pay the copyright holder.

Law, and exceptions from the protection for the otherwise protected works may be used without paying the usual fees, and exemptions usually allow for research, personal training, teaching. The artist's name and source must always be mentioned. It is interesting that the law does not mention the possibility that cultural institutions may duplicate the individual works for their needs, such as the protection of materials or other lending institution. Law on Copyright and Related Rights of the Republic of Slovenia provides for the free copying of up to three copies for the personal needs of the individual, but also for the internal use of public archives, public libraries, educational and scientific institutions if the duplication is performing from their own copies.

IFLA in 2000 – the adopted Statement of copyright in the digital environment in which stresses that the legislation on copyright affect almost all library services for users and determine the conditions under which the material can be accessed. Believes that libraries must maintain a balance between the interests of users and their rights to free access and the interests of the author to just compensation for their intellectual work. The basic attitude is IFLA's digital environment that is not so different from the analogue to justify enhanced protection to the author user. The European Union and of the coordinated law (Article 84) allows for limitations to the benefit of individual institutions. The law provides that public archives, public libraries, educational and scientific libraries, which their services can not charge its own copies of copyright work reproduced on any other basis to a maximum of one copy. This allows the digitization of analogue materials for the purpose of its protection, but not access to the material via the Internet or its use. Libraries, archives and museums before digitizing of copyright protected works should negotiate and conclude an agreement with the bearers of rights, or the institutions they represent, about the conditions of accessing digital material. When obtaining a license, there are sometimes difficul-

ties in determining the rights holders and the project states that a portion of material belongs to the acts for which one can not establish the bearer of rights. Happens if the project manager will need to enclose a given statement at the time when such digitized material to become available to the public.<sup>3</sup>

The whole article is the emphasis on the protection of digitization of text and cultural heritage, but all the protection there is no purpose if the written heritage is not available to the public. Croatia, which rests on the foundations of democracy in 2003. year passed the Law on the Freedom of Information Act (hereinafter the Law), whose aim is to facilitate and ensure the realization of the right of access to information, physical and legal persons through openness and public action by public authorities. The law expires in Article 35th paragraph to the right of access to information includes the right beneficiary to claim and obtain information as well as the obligation to the public authorities to allow access in requested information, or to publish information when it is no specific request for such disclosure represents the obligation of a law. According to the rules of Nomotehnic in this law there are exceptions to the right of access to information that are prescribed by Article 8 Law. Is an interesting paragraph 2 type specified in Article 6 determined that the right to deny access to information if there are grounds for suspicion that its publication would endanger the right of intellectual property, except in the case of express written consent of the author or owner.

### **Digitization of written heritage**

Digitizing is the process of recording, storing and processing the content using digital cameras, scanners and computers.<sup>4</sup>

In recent decades, new technologies and new forms of communication among people have changes in all social levels and the role and importance of libraries in society. Almost no library that does not affect the concept of digitizing or not digitalizes or thinking about how to digitalizes their holdings in order to protect and made available to a broader audience.

Digitization, by itself it seems tempting to all libraries and educational institutions, however, as the rest of it in himself has certain advantages and disadvantages.

What the digitization process, and I make very high quality are larger and faster availability of material, then you can build high-quality copies since the duplication is not lost on quality, quality time with not disappear because digital stuff does not usage. With the advantages of step with them and are certain disadvantages. Comparing with the paper, digital formats are short-lived and are not

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<sup>3</sup> <http://www.ffzg/.../HorvatPravniaspekti.html> (2009-06-21)

<sup>4</sup> Digitization as a Method of Preservation? : Final report of a working group of the Deutsche Forschungsgemeinschaft / H. Weber. 1997. <http://www.knaw.nl/ecpa/PUBL/weber.html>

readable to the eye. Specifically, documents that are printed on paper without substance and guarded in the cold space with a little moisture can last several hundred years and the paper remains the eye readable without any additional equipment. The big disadvantage of this procedure is its high cost, which includes labor, rapid technology changes that require a switch to new formats and media, then the lack of standards for digital formats. But the biggest drawback is acceptance and long-term data storage.

This question is tackled by prof. Aparac-Jelušić stating that this problem undoubtedly depends on the national strategy digitize each country, and the established plan of raising the compulsory copies of various electronic materials.<sup>5</sup>

Such a step in the process of digitization of which the Professor spoke in 2001, launched in 2004 and had a task to create a Draft National Program for digitizing the Republic of Croatia.<sup>6</sup>

Document to that end seeks to provide a framework for shaping long-term policy digitize, planning and organization of national, institutional and cooperative projects of construction of digital collections in the institutions that want to protect and improve their access to their collections.

In the framework of our National Program for digitization set out some important reasons that encourage such a process. Primarily to the digitization performed to protect the source, increase the availability and ability to use written heritage for the creation of offers, or customer service or complete an existing fund.<sup>7</sup>

Digitization in order to protect the original increases greater than the possible damage during use, transmission, transportation or other proceedings. On the other hand, digitization in order to improve the availability becomes available remotely releasing the digital content via the Internet, regardless of where the user is located in the area reviewed material, it is available to her. The third reason is the creation of new offers. These may be the reason not only to offer new features but also new services. To complete the digitization of the fund allows its users the completion of those portions of the funds that are needed and states that users search for themselves. Digital copy will then be the only form in which the material exists in the institution.

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<sup>5</sup> Aparac-Jelušić, Tatjana. Digitalna baština u nacionalnim programima zaštite baštine. URL: <http://dzs.ffzg.hr/text/Digitalnabastina-aporac.htm> (2009-06-16)

<sup>6</sup> Prijedlog nacionalnog programa digitalizacije arhivske, knjižne i muzejske građe. URL: [http://www.daz.hr/bastna/nacProgramDigit\(2\).pdf](http://www.daz.hr/bastna/nacProgramDigit(2).pdf). (2009-06-14)

<sup>7</sup> Prijedlog nacionalnog programa digitalizacije arhivske, knjižne i muzejske građe. URL: [http://www.daz.hr/bastna/nacProgramDigit\(2\).pdf](http://www.daz.hr/bastna/nacProgramDigit(2).pdf). (2009-06-14)

## **Croatian projects under the projects EU Member States**

Ministry of Culture of the Republic of Croatia, following the digitization of cultural heritage in the world, and especially in Europe, familiar with all the initiatives that are as basic guidelines adopted countries of the European Union and in accordance with the process of digitization of the cultural heritage recognized important objective in the achievement of cultural policy and the cultural development of our country.<sup>8</sup> Understanding to thereby increase the possibility to process the availability of valuable materials at the national and international level, the Ministry of Culture appointed union people who are in charge in order to achieve these goals. And in February 2006 played the plan.

Back two years made the survey in 27 EU countries that represent the statistics of digital cultural heritage in order to detect speed and cost, which marks the process of digitization.<sup>9</sup> From its data can be seen as the digital projects at the low level of financial resources (0.6%). What is actually digitalizes, regardless of where the institution for, whether it is an archives, museums, national and other types of libraries, is actually an old and rare stuff that keeps this process and also became available not only to users of those institutions but also other audiences that are interested in this type of cultural property.

According to statistics, most EU countries there is still no developed plan for the digitization, were even 2/3 (66%). The exceptions are Germany, Estonia, Lithuania, Slovenia and the Netherlands who have written and accurately formulated plans for the digitization of its cultural resources. Surprising is the fact that says that 2/3 of institutions within the surveyed countries, there is no on-line catalogues, so that then we should not be surprised that certain countries have developed plans for digitization.

However, due to high cost of proceedings, most countries are still waiting to digitize their material intended for it.

Croatia has also conducted a survey in order to achieve the real state of libraries and their opportunities in today's world where technology has advanced. The research results showed deflating figures that say that only 8% of the library has access catalogues via the Internet, while only 18% have general access to catalogues.<sup>10</sup> The data only show that we belong to 2/3 EU countries are still struggling to improve unsatisfactory infrastructure and establish a library of on-line catalogues.

But in a good way because we are trying to integrate the library and create a digital collection. This confirms the fact that we first partner outside the European Union countries called the European Partnership. The Republic of Croatia,

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<sup>8</sup> Isto

<sup>9</sup> [http://www.numeric.ws/uploaded\\_files/NUMERIC%20Newsletter%20Nov%202008%20Issue%204.pdf](http://www.numeric.ws/uploaded_files/NUMERIC%20Newsletter%20Nov%202008%20Issue%204.pdf) (2009-06-16)

<sup>10</sup> <http://www.niska.hr/dokumenti/sadrzaj.html> (2009-06-20)

only confirms its regional leader position in the process of digitization of cultural heritage, and culture in general. Specifically, the project of digitizing the archive, library and museum collection "Croatian cultural heritage", boosted by the Ministry of Culture, is recognized as an organization that has the desire, opportunity and ability to actively contribute to further development of Europeana. Europeana is a multimedia online library of internet users around the world provides access to more than 2 million books, maps, records, photographs, archival documents, pictures and movies from national libraries and other institutions in the culture from 27 EU countries (digital collections of Spain, France (Gallico) and other countries joined in the European digital library.<sup>11</sup>

Europeana opening a new way of using the European heritage, anyone who is interested in literature, arts, science, politics, history, architecture, music or film now has a free and fast access to the largest European collections using web portals in all the languages of the EU. Recently held conference in the Czech Republic on the subject of digital cultural heritage (26.5.2009), discussed how to extend the European project and European cultural heritage closer to the world and much more is available to witness the rich European cultural diversity. Within this we'll list our most important projects that will eventually be of great importance not only at national level as now but also at the international level when they set on the European.

These are digitized heritage NSK, Silvije Strahimir Kranjčević, Peter Preradović, Đuro Sudeta on the web, Naša sloga, Glas Podravine and the recently completed project of the HAZU.

It is also of great importance and the Society for the Advancement of literature on new media.<sup>12</sup> Represents a non-governmental organization founded with the aim of promoting literature in new media, primarily on the Internet and CD-ROM, as well as the promotion of literature among the users of new media and technology. It is planned to publish 20 of free electronic books. Specifically, potential users should be English, Internet users, then the Croatian diaspora which is contemporary Croatian books unavailable, people who lived in the area of former Yugoslavia, and understand the English language. Cultural exchange with these countries is very low intensity. But this project, the Croatian culture becomes available outside of its borders thus that some books are translated and the Slovenian, Czech, English and German. It is important to mention also that the potential users and people with special needs, especially poorly mobile and immobile persons and partially sighted people because in such a project allows you to access books from home, and today provides software to increase the letters. And finally the last group would be the world's academic community, its slavistic part.

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<sup>11</sup> <http://europeana.eu/links.php#2> (2009-06-20)

<sup>12</sup> [http://www.donacije.info/seek\\_deatils.php](http://www.donacije.info/seek_deatils.php) (2009-06-22)

The world is such a project known as Google Book Search<sup>13</sup> originated from two sources publisher and library. As our project, which was probably prompted hereby, including finding books that are very difficult to find. The aim of the project is to create a searchable virtual catalogues of books in all languages so that users found the new books, and publishers find new customers. And finally we have mentioned a project the World Digital Library (World Digital Library) encouraged Congress Library and Google to include and unified all the libraries throughout the world. Initiator Billington said that this project should bring together old and unique materials kept in the U.S. and the Western repository with other beautiful cultures that lie across Europe, including in the more than one billion Chinese people in eastern Asia, India and the world of Islam.

## Conclusion

Digital materials is an essential phase that must reach all of Europe's cultural institutions to protect and enhance a common cultural heritage, to improve education and tourism and all in order to contribute to the development of new digital content. It is necessary to emphasize that the Republic of Croatia on a series of laws and protection of digitization of cultural heritage is trying to be European and international level but for the conduct of the life laws of all the necessary commitment of all entities, both public bodies responsible for law enforcement and non-government organizations, NGOs and the overall public.

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<sup>13</sup> <http://books.google.com/googlebooks/library.html>(2009-06-22)