

Rights Retention and Secondary Publishing Rights

Launch of EIFL Guide for Libraries

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Rights Retention (RR) and Secondary Publishing Rights (SPR)

**Separate but complementary concepts
that co-exist in support of open science**

What is a Secondary Publishing Right?

- **Legal right of authors** (or their institutions) to make a work openly available after or in parallel to publication of a formal version
 - usually peer-reviewed Author's Accepted Manuscript (AAM) or final, typeset Version of Record (VoR)
- **Legislative measure** that enables publicly funded research to be made available in OA under certain conditions
- **Found in a range of national laws**
 - e.g. copyright law, law on science and technology, economic law, culture

What does a Secondary Publishing Right do?

A SPR enables authors (or their institutions) to:

- **manage and enforce their rights** in support of open access with the full backing of the law;
- **ensure that published, publicly funded work is openly available and ideally reusable**, even in the absence of an open access publishing agreement with the publisher;
- **increase the impact of published research** by helping to guarantee wide dissemination and reuse through open access.

Which countries have a Secondary Publishing Right?

- A growing number of countries in Europe e.g. Austria (2015), Belgium (2018), Bulgaria (2023), France (2016), Germany (2014), Netherlands (2015), Slovenia (2023)
- 2020 Researchers called on European Commission for legislation ensuring that researchers always retain the right to share their publicly funded, peer-reviewed research findings (European Council of Doctoral Candidates and Junior Researchers, Marie Curie Alumni Association, Young Academy of Europe)
- 2021 European Research Area Policy Agenda 2022-2024: Action 2 proposed EU legislative and regulatory framework for copyright and data that is 'fit for research' (undertook to examine SPR provisions enacted by Member States)
- 2023 EU Council welcomed the introduction of SPR by MS in their national copyright laws (Council conclusions on high-quality, open and equitable scholarly publishing)

SPR: an EU-wide approach



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Reduce fragmentation and encourage harmonization of national approaches to SPR

5 Policy Options

- Include broad range of scientific output (not only journal articles)
- Relax threshold requirement for public funding (50% or less)
- Expand scope to include VoR (essential for citation purposes)
- Minimize embargo periods (no embargo or only a short period)
- Allow all types of uses (restriction to specific forms of use, such as non-commercial purposes, seems outdated and overly restrictive)

Example of a Secondary Publishing Right - Bulgaria

**Act to Amend and Supplement the Copyright
and Related Rights Act, Decree No. 211
November 28, 2023**

Article 60

(2) The author of a work of scientific literature created on the occasion of a research, funded in whole or in part by public funding, shall retain the right to make that work or parts thereof available to the public in educational or scientific repositories for non-commercial purposes after its acceptance for publication by a publisher, and shall be obliged to mention the publisher when doing so.

(3) Any arrangement which prevents or restricts what is provided for in para 2 shall be null and void.

(4) A publisher may not impose restrictions on the publication of a work of scientific literature solely on the grounds that it has already been published in an educational or scientific repository for a non-commercial purpose.

More information: www.knowledgerights21.org/news-story/key-wins-on-knowledge-rights-21-priorities-in-bulgarias-implementation-of-the-digital-single-market-directive/

Example of a Secondary Publishing Right - Slovenia

Decree on the implementation of scientific research work in accordance with the principles of open science, May 2023

Article 6 Copyright management of scientific publications

(1) Copyright in scientific publications may only be transferred to third parties on a non-exclusive basis by the authors of the scientific publications or by their employers where the rights are transferred to them.

(2) The authors of scientific publications or their employers, where copyright is transferred to them by law, shall publish scientific publications under an open licence that allows anyone to freely use, modify and share the scientific publication in accordance with the principles of scientific research ethics (e.g. a Creative Commons Attribution (CC BY) licence and Attribution-ShareAlike (CC BYSA) licence or equivalent).

Article 1 Definition of Research Results

Article 2 Requirements for Open Access to Scientific Publication

Article 7 Management of copyright in research data and other research results

More information: <https://www.openaire.eu/blogs/slovenia-government-adopted-the-action-plan-for-open-science>

How to make use of a Secondary Publishing Right?

- Does your national law provide for a secondary publishing right e.g. check copyright law, law on science and technology, economic law, culture
- If it does, be aware of any conditions that might apply e.g. minimum percentage of public funding required for a publication to be subject to SPR, embargo periods, type of scholarly works covered.
- The author deposits the AAM or VoR in a repository e.g. institutional repository in accordance with any conditions set out in the law.

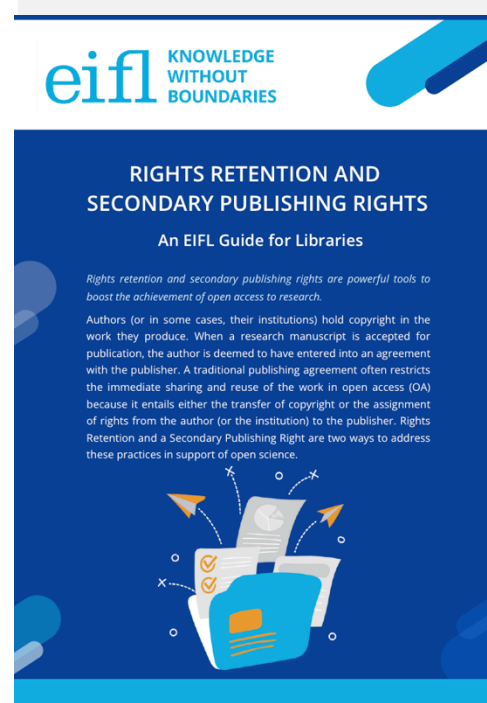
For guidance on specific national laws and rules on SPRs, check with a local legal professional.

Take action!

- Learn more about national initiatives - Secondary Publishing Rights in Europe, Status, Challenges and Opportunities LIBER/KR21 (2023) doi.org/10.5281/zenodo.8428315
- Raise awareness of the opportunities for researchers and the challenges
- Start working towards the adoption of strong SPR legislation in your country including:
 - zero embargo - immediate open access and reuse (by means of an open licence)
 - all types of research outputs
- Expert guidance from the community will contribute towards better drafting and more effective laws

What is EIFL doing?

- Raising awareness in EIFL's network - an EIFL Guide for Libraries
- Offering support to library consortia in EIFL partner countries - contact info@eifl.net
- Considering a new provision on SPR in EIFL's Draft Law on Copyright
- Cooperating with partners and allies in Europe and beyond on best practices



eifl
draft law
on copyright
INCLUDING MODEL
EXCEPTIONS & LIMITATIONS
FOR LIBRARIES AND THEIR USERS

Based on WIPO Draft Law on Copyright
and Related Rights (VERSION 2005)

Recommendations by EIFL (2016)
WORK IN PROGRESS

Thank you!

Contact

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