



# A Position Statement from Knowledge Rights 21 on Secondary Publishing Rights

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## Summary

Academic authors traditionally routinely assign their copyright to proprietary publishers, or do not retain sufficient rights allowing them or their funders to republish or reuse their own work. This practice stands in opposition to the aim of education and research – to maximise the impact of research by sharing it as widely as possible in a timely manner.

As one means of achieving open access, Knowledge Rights 21 believes that European countries should introduce secondary publishing rights in respect of publicly funded research into national laws. In the case of EU member states this could be facilitated by a European Directive or Regulation.

This position statement builds on existing work undertaken by LIBER (Ligue des Bibliothèques Européennes de Recherche – Association of European Research Libraries) through its [Zero Embargo campaign](#)<sup>1</sup>.

## About this statement

This is a position statement produced by Knowledge Rights 21, an Arcadia funded programme advocating for copyright and open access reform across Europe.

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“Secondary publishing rights” refer to the right to republish publicly funded research in an internet searchable open access repository or elsewhere, simultaneously with its publication in academic journals and with guarantees around what subsequent uses can be made of the works. KR21 and LIBER believe that secondary publishing rights should also cover the right of the author, funder or author’s educational establishment to give access to works that arise from public funds. There must also be clear rights for end-users who access and reuse these articles - without knowing what can be done with research, downstream uses in research and education can be stymied.

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<sup>1</sup> Further insights and recommendations in this area with the goal of promoting the uptake of Secondary Publishing Rights will come from research commissioned by the Knowledge Rights 21 Programme from LIBER, due to be published in spring 2022.

While some publication contracts with legacy publishers do allow for republication, this usually involves a delay or embargo of 6 months and more, and often involves using a previous version of the final record. They also carry with them limitations on reuse. Legislation to ensure a secondary publishing right can better guarantee Open Access across Europe in a way that reflects the fact that many academic authors are employed and / or their research is funded by public bodies and the public purse. Moreover, public funds are used not just to support articles, but also book chapters, entire books and many other types of output. Such a guarantee can help address financial sustainability and inclusiveness in Open Access.

## Context

In 2020, 2.3% of the EU's GDP was spent on Research & Development (R&D). This €312 billion is divided among the business sector (66%), higher education (22%), government sector (12%) and the private non-profit sector (1%). In short, the public sector and public money is a crucial player in this space, investing in cutting-edge research to support the public interest.

It is broadly accepted that research should be published open access, given both the support this provides for further research, the need to support Knowledge Transfer between universities and private players, and the right of the public to access works that they have financed. This view is widespread across the sector – in 2018, 73% of researchers agreed with the statement “Having access to others research data benefits / would benefit my own research”<sup>2</sup>.

The European Commission has had an OA mandate for many years for the research that it funds. Coalition S, a group of funders from 15<sup>3</sup> European countries and beyond, has since 2018 been working toward requiring immediate access to journal articles they fund.

Yet more remains to be done. In no major European country are more than half of research publications freely available to view, with only a few smaller countries having higher levels<sup>4</sup>. What you can then do with these articles very often remains unclear.

Within the European Union, where an open access mandate has been in place as part of Horizon 2020, 83.1% of works have been made available online. But even then, publications only tended to be uploaded to open access repositories after about a year<sup>5</sup>, and due to Horizon 2020 specifying no particular licence, what end users can then do with the work they find is inconsistent and in 18% of the time no information on reuse was provided at all<sup>6</sup>.

Significantly in September 2022, the White House Office of Science and Technology Policy (OSTP) updated its policy guidance on open access to federal departments and agencies to ensure that as of January 2026 all federal government funded research or publications shall be made freely available to the public upon publication, thus removing all publisher embargo periods.<sup>7</sup>

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<sup>2</sup> Open Data: The Researcher Perspective. April 2017. Universiteit Leiden, Elsevier, CWTS.

<sup>3</sup> <https://www.coalition-s.org>

<sup>4</sup> Curtin Open Knowledge Initiative – Open Access Dashboard: <https://open.coki.ac/>

<sup>5</sup> European Union (2021), *Monitoring the Open Access Policy of Horizon 2020*, <https://op.europa.eu/en/publication-detail/-/publication/56cc104f-0ebb-11ec-b771-01aa75ed71a1/language-en>

<sup>6</sup> Ibid.p11.

<sup>7</sup> <https://www.whitehouse.gov/ostp/news-updates/2022/08/25/ostp-issues-guidance-to-make-federally-funded-research-freely-available-without-delay>

## The Current State of Play: European Union and National Governments

The European Union itself has made consistent efforts to promote open access, for example, by making OA mandatory for all Horizon 2020 and Horizon Europe grantees, and through the approach it has taken to its own publications and data. The Commission has also funded the European Open Science Cloud as well as Open Research Europe<sup>8</sup>, and has adopted Creative Commons licences for its own publications<sup>9</sup>.

At the Member State level over the past ten years, only seven countries (Austria, France, Germany, Belgium, Italy, the Netherlands and Spain) have passed secondary publishing laws which allow publicly funded research articles to be put online. With the exception of Spain, which as of 2022 mandates **immediate access**, access is granted only after a certain period of holdback-time following their initial publication (see annex for details). Such provisions clarify that researchers, as recipients of public funds, have the right to publish their articles regardless of other contractual obligations.

In 2021, based on the Open Data Directive, LIBER launched a secondary publisher [model law](#), to support debate and the further uptake of such provisions. The model law allows authors, funders and employers to republish publicly funded articles and book chapters immediately after their acceptance for publication. The LIBER model law also creates rights for end-users who access publicly funded articles and book chapters.

## Challenges to overcome

In advocating for a secondary publishing right we seek to address the following challenges:

- Variation across Europe in terms of rules around republication of research, with many EU member states likely waiting for a steer from the European Council, Commission or Parliament<sup>10</sup>.
- Variation in the terms applied in publisher policies or contracts relating to republication and reuse in the context of Green Open Access, which creates frustrating complexity for researchers, libraries and research-intensive businesses.
- Embargo periods that create unnecessary delays in access to publicly funded research, including urgently applicable research (such as that related to COVID-19).
- Even if republication is permitted by publishers, onward terms of use are often not clear, entirely absent, or broadly exclude commercial uses which could contribute to Europe's economic performance.
- Contracts from proprietary publishers generally concentrate on articles and not book chapters, which Knowledge Rights 21 believes are equally important.

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<sup>8</sup> See the EU's wider approach to Open Science: [https://research-and-innovation.ec.europa.eu/strategy/strategy-2020-2024/our-digital-future/open-science\\_en](https://research-and-innovation.ec.europa.eu/strategy/strategy-2020-2024/our-digital-future/open-science_en)

<sup>9</sup> [https://joint-research-centre.ec.europa.eu/jrc-news/commission-makes-it-even-easier-citizens-reuse-all-information-it-publishes-online-2019-03-28\\_en](https://joint-research-centre.ec.europa.eu/jrc-news/commission-makes-it-even-easier-citizens-reuse-all-information-it-publishes-online-2019-03-28_en)

<sup>10</sup> For example, Belgium's law explicitly only applies when there is a connection with Belgium either on the author or publisher side.

## Recommendations

Given the need to advance official government support for open access across Europe, Knowledge Rights 21 believes that one way to do this effectively is for all European countries (as well as the Commission) to introduce secondary publishing laws. With reference to LIBER's [Draft Law for the Use of Publicly Funded Scholarly Publications](#), and in the context of wider efforts to promote open access, KR21 therefore offers the following recommendations:

### 1. At the European Level

i) In support of the development of a true European Research Area (ERA) and given extensive efforts to promote cross-border research collaboration, the European Commission should propose a secondary publishing right either on its own or in the context of a wider package promoting research and / or open science.

ii) The Commission should recommend a secondary publishing right law for accession and European neighbourhood countries, which should be promoted in the context of cooperation with them.

### 2. At the National Level

i) All European countries, irrespective of whether an EU Member State or not, should introduce secondary publishing rights that allows the immediate republication of publicly funded articles and book chapters.

## Further Reading

- Ligue des Bibliothèques Européennes de Recherche (LIBER) Secondary Publishing Right Model Law <https://libereurope.eu/draft-law-for-the-use-of-publicly-funded-scholarly-publications/>
- European Commission, Directorate-General for Research and Innovation, Angelopoulos, C., Study on EU copyright and related rights and access to and reuse of scientific publications, including open access : exceptions and limitations, rights retention strategies and the secondary publication right, Publications Office of the European Union, 2022, <https://data.europa.eu/doi/10.2777/891665>
- Zero Embargo campaign <https://libereurope.eu/zeroembargo/>

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## ANNEX: Secondary Publishing Legislation

<p><b>Austria</b></p>	<p>Section 37a Act on Copyright and Related Rights (Urheberrechtsgesetz – UrhG or sometimes öUrhG)</p> <p>The author of a scientific contribution that was created by him as a member of the scientific staff of a research institution that is at least half financed with public funds and that has appeared in a collection that appears periodically at least twice a year, retains, even after he grants the publisher or editor a right to use the work, the right to make the article available to the public in the accepted manuscript version after twelve months have elapsed since it was first published, provided that this does not serve a commercial purpose. The source of the first publication must be indicated. Any deviating agreement to the detriment of the author is invalid.(5)</p> <p>—</p> <p>ORIGINAL</p> <p>Der Urheber eines wissenschaftlichen Beitrags, der von diesem als Angehörigem des wissenschaftlichen Personals einer mindestens zur Hälfte mit öffentlichen Mitteln finanzierten Forschungseinrichtung geschaffen wurde und in einer periodisch mindestens zweimal jährlich erscheinenden Sammlung erschienen ist, hat auch dann, wenn er dem Verleger oder Herausgeber ein Werknutzungsrecht eingeräumt hat, das Recht, den Beitrag nach Ablauf von zwölf Monaten seit der Erstveröffentlichung in der akzeptierten Manuskriptversion öffentlich zugänglich zu machen, soweit dies keinem gewerblichen Zweck dient. Die Quelle der Erstveröffentlichung ist anzugeben. Eine zum Nachteil des Urhebers abweichende Vereinbarung ist unwirksam.</p>	<p><a href="https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&amp;Gesetzesnummer=10001848">https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&amp;Gesetzesnummer=10001848</a></p>
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<p><b>Belgium</b></p>	<p><b>Code of Economic Law Art. XI.196 § 2/1 - voted by Belgian parliament 19 July 2018. In Article XI.196 of the same Code, inserted by the Act of 19 April 2014, a paragraph 2/1 is inserted, reading:</b></p> <p>§ 2/1. The author of a scientific article that is the result of research for which at least half of the financed comes from funds, even if, in accordance with article XI.167, he has ceded his rights to a publisher of a journal or has placed them under an ordinary or exclusive license, retains the right to make the manuscript available free of charge, open access, to the public after a period of twelve months for human and social sciences and six months for other sciences after the first publication, in a journal, provided the place of first publication is mentioned.</p> <p>The publishing contract may provide for a shorter term than that stipulated in the first paragraph.</p> <p>The King can extend the term stipulated in the first paragraph.</p> <p>No waiver can be made from the right in the first paragraph. This right is mandatory and applies regardless of the law chosen by the parties as long as there is a link to there is a connection to Belgium. The law also applies to works that have created before the entry into force of this paragraph and that are not in the public domain at this time.</p> <p>—</p> <p>ORIGINAL</p> <p><a href="#">Art. XI.196.</a></p> <p>§ 2/1. L'auteur d'un article scientifique issu d'une recherche financée pour au moins la moitié par des fonds publics conserve, même si, conformément à l'article XI.167, il a cédé ses droits à un éditeur d'un périodique ou les a placés sous une licence simple ou exclusive, le droit de mettre le manuscrit gratuitement à la disposition du public en libre accès après un délai de douze mois pour les sciences humaines et sociales et six mois pour les autres sciences, après la première publication, dans un périodique, moyennant mention de la source de la première publication.</p> <p>Le contrat d'édition peut prévoir un délai plus court que celui fixé à l'alinéa 1er.</p> <p>Le Roi peut prolonger le délai fixé à l'alinéa 1er.</p> <p>Il ne peut être renoncé au droit prévu à l'alinéa 1er. Ce droit est impératif et est d'application nonobstant le droit choisi par les parties dès lors qu'un point de rattachement est localisé en Belgique. Il s'applique également aux oeuvres créées avant l'entrée en vigueur de ce paragraphe et non tombées dans le domaine public à ce moment.}]<sup>2</sup></p> <p>§ 3. L'éditeur ne peut céder son contrat sans l'assentiment du titulaire du droit d'auteur, sauf en cas de cession concomitante de tout ou partie de son entreprise.}]<sup>1</sup></p>	<p><a href="http://www.ejus-tice.just.fgov.be/cgi_bin/change_lang.pl?language=fr&amp;table_name=loi&amp;cn=2013022819">http://www.ejus-tice.just.fgov.be/cgi_bin/change_lang.pl?language=fr&amp;table_name=loi&amp;cn=2013022819</a></p>
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<p><b>France</b></p>	<p><b>Article L533-4 of the Research Code</b></p> <p>“I.-When a scientific text resulting from research for which at least half of the funding has come from the State, local authorities or public institutions, by grants from national funding agencies or by funding from the European Union is published in a periodical published at least once a year, its author has, even after granting exclusive rights to a publisher, the right to make available free in an open format, by digital means, subject to agreement of potential co-authors, the final version of the manuscript accepted for publication, either from the moment that the publisher makes the text available for free by digital means or, failing that, after a set period after the date of first publication. This period is a maximum of six months for a publication in the fields of science, technology and medicine and twelve months for a humanities or social sciences publication.</p> <p>The version made available pursuant to the first paragraph may not be exploited via a publishing activity of a commercial nature.</p> <p>II.-When data from a research activity has received at least half of its financing from the State, local authorities, public institutions, grants from national funding agencies or funds from European Union and are not protected by a specific right or regulation and have been made public by the researcher, the research establishment or body, their reuse is free.</p> <p>III.-The publisher of a scientific text mentioned in paragraph I can not limit the reuse of research data made public as part of its publication.</p> <p>IV.-The provisions of this article are a question of public order and any clause contrary to them is deemed unwritten.”</p> <p>—</p> <p>ORIGINAL</p> <p>“I.-Lorsqu'un écrit scientifique issu d'une activité de recherche financée au moins pour moitié par des dotations de l'Etat, des collectivités territoriales ou des établissements publics, par des subventions d'agences de financement nationales ou par des fonds de l'Union européenne est publié dans un périodique paraissant au moins une fois par an, son auteur dispose, même après avoir accordé des droits exclusifs à un éditeur, du droit de mettre à disposition gratuitement dans un format ouvert, par voie numérique, sous réserve de l'accord des éventuels coauteurs, la version finale de son manuscrit acceptée pour publication, dès lors que l'éditeur met lui-même celle-ci gratuitement à disposition par voie numérique ou, à défaut, à l'expiration d'un délai courant à compter de la date de la première publication. Ce délai est au maximum de six mois pour une publication dans le domaine des sciences, de la technique et de la médecine et de douze mois dans celui des sciences humaines et sociales.</p> <p>La version mise à disposition en application du premier alinéa ne peut faire l'objet d'une exploitation dans le cadre d'une activité d'édition à caractère commercial.</p>	<p><a href="https://www.le-gifrance.gouv.fr/codes/article_lc/LEGIARTI000033205794/2016-10-09">https://www.le-gifrance.gouv.fr/codes/article_lc/LEGIARTI000033205794/2016-10-09</a></p>
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II.-Dès lors que les données issues d'une activité de recherche financée au moins pour moitié par des dotations de l'Etat, des collectivités territoriales, des établissements publics, des subventions d'agences de financement nationales ou par des fonds de l'Union européenne ne sont pas protégées par un droit spécifique ou une réglementation particulière et qu'elles ont été rendues publiques par le chercheur, l'établissement ou l'organisme de recherche, leur réutilisation est libre.

III.-L'éditeur d'un écrit scientifique mentionné au I ne peut limiter la réutilisation des données de la recherche rendues publiques dans le cadre de sa publication.

IV.-Les dispositions du présent article sont d'ordre public et toute clause contraire à celles-ci est réputée non écrite.”



<p><b>Germany</b></p>	<p><b>Act on Copyright and Related Rights 38(4)</b></p> <p>The author of a scientific contribution which results from research activities at least half of which were financed by public funds and which was reprinted in a collection which is published periodically at least twice per year also has the right, if he has granted the publisher or editor an exclusive right of use, to make the contribution available to the public upon expiry of 12 months after first publication in the accepted manuscript version, unless this serves a commercial purpose. The source of the first publication must be cited. Any deviating agreement to the detriment of the author shall be ineffective.</p> <p>—</p> <p>ORIGINAL</p> <p>Der Urheber eines wissenschaftlichen Beitrags, der im Rahmen einer mindestens zur Hälfte mit öffentlichen Mitteln geförderten Forschungstätigkeit entstanden und in einer periodisch mindestens zweimal jährlich erscheinenden Sammlung erschienen ist, hat auch dann, wenn er dem Verleger oder Herausgeber ein ausschließliches Nutzungsrecht eingeräumt hat, das Recht, den Beitrag nach Ablauf von zwölf Monaten seit der Erstveröffentlichung in der akzeptierten Manuskriptversion öffentlich zugänglich zu machen, soweit dies keinem gewerblichen Zweck dient. Die Quelle der Erstveröffentlichung ist anzugeben. Eine zum Nachteil des Urhebers abweichende Vereinbarung ist unwirksam.</p> <p><b>Law on the Universities of Baden-Württemberg 44(6)</b></p> <p>The universities shall oblige the members of their scientific staff by statute to exercise the right to non-commercial secondary publication after a period of one year after the first publication for scientific contributions that have arisen within the scope of the service duties and published in a periodically appearing at least twice a year collection. The articles of association regulate the cases in which the fulfillment of the duty under sentence 1 can exceptionally be waived. It may regulate that the secondary publication must be made on a repository in accordance with § 28 (3).</p> <p>—</p> <p>ORIGINAL</p> <p>(6) Die Hochschulen sollen die Angehörigen ihres wissenschaftlichen Personals durch Satzung verpflichten, das Recht auf nichtkommerzielle Zweitveröffentlichung nach einer Frist von einem Jahr nach Erstveröffentlichung für wissenschaftliche Beiträge wahrzunehmen, die im Rahmen der Dienstaufgaben entstanden und in einer periodisch mindestens zweimal jährlich erscheinenden Sammlung erschienen sind. Die Satzung regelt die Fälle, in denen von der Erfüllung der Pflicht nach Satz 1 ausnahmsweise abgesehen werden kann. Sie kann regeln, dass die Zweitveröffentlichung auf einem Repositorium nach § 28 Absatz 5 zu erfolgen hat.</p>	<p><a href="https://www.gesetze-im-inter-net.de/englisch_urhg/englisch_urhg.html#p0240">https://www.gesetze-im-inter-net.de/englisch_urhg/englisch_urhg.html#p0240</a></p> <p><a href="https://www.gesetze-im-inter-net.de/urhg/38.html">https://www.gesetze-im-inter-net.de/urhg/38.html</a></p> <p><a href="http://www.lexsoft.de/cgi-bin/lexsoft/justizportal_nrw.cgi?xid=461987.45">http://www.lexsoft.de/cgi-bin/lexsoft/justizportal_nrw.cgi?xid=461987.45</a></p>
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<p>Italy</p>	<p><b>Law of October 7, 2013, n. 112, G.U. n. 236, 8.10.2013, Article 4(2)</b></p> <p>The public entities responsible for the provision or management of research funding adopt, in their autonomy, the measures necessary to promote open access to the results of research funded at least by 50% of public funds, when documented in articles published in scientific journals that have at least two issues per year. The aforementioned articles must include a project abstract in which all the participating subjects are mentioned.</p> <p>Open access is achieved:</p> <p>a) through publication by the publisher at the time of the first publication, so that the article is accessible free of charge anytime;</p> <p>b) through republication with non commercial purposes in digital institutional or disciplinary repositories, according to the same modality, within eighteen months from the first publication for publications of scientific-technical-medical subject areas twenty-four months for the humanities and social Sciences.”</p> <p>2bis. The provisions of paragraph 2 are not applied when the the rights are results of activities of research, development and innovation granted protection in the sense of of the law in the Legislative Decree of 10 February 2005, no. 30 [which concerns industrial property]</p> <p>—</p> <p>ORIGINAL</p> <p>2. I soggetti pubblici preposti all'erogazione o alla gestione dei finanziamenti della ricerca scientifica adottano, nella loro autonomia, le misure necessarie per la promozione dell'accesso aperto ai risultati della ricerca finanziata per una quota pari o superiore al 50 per cento con fondi pubblici, quando documentati in articoli pubblicati su periodici a carattere scientifico che abbiano almeno due uscite annue. I predetti articoli devono includere una scheda di progetto in cui siano menzionati tutti i soggetti che hanno concorso alla realizzazione degli stessi. L'accesso aperto si realizza:</p> <p>a) tramite la pubblicazione da parte dell'editore, al momento della prima pubblicazione, in modo tale che l'articolo sia accessibile a titolo gratuito dal luogo e nel momento scelti individualmente;</p> <p>b) tramite la ripubblicazione senza fini di lucro in archivi elettronici istituzionali o disciplinari, secondo le stesse modalita', entro diciotto mesi dalla prima pubblicazione per le pubblicazioni delle aree disciplinari scientifico-tecnico-mediche e ventiquattro mesi per le aree disciplinari umanistiche e delle scienze sociali.</p> <p>2-bis. Le previsioni del comma 2 non si applicano quando i diritti sui risultati delle attivita' di ricerca, sviluppo e innovazione godono di protezione ai sensi del codice di cui al <u>decreto legislativo 10 febbraio 2005, n. 30</u>)).</p> <p>—</p> <p>Proposed article 42bis (“Legge Gallo”), Copyright Act, L. 633/1941 (Disposizioni relative al deposito delle opere protette, ai sensi della legge 22</p>	<p><a href="https://www.normativa.it/uris/res/N2Ls?urn:nir:stat:creto.legge:2013-08-08:91">https://www.normativa.it/uris/res/N2Ls?urn:nir:stat:creto.legge:2013-08-08:91</a></p>
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	<p>aprile 1941, n. 633), to be introduced via amendment to Art. 4 of Decree-Law 91/2013 on urgent provisions for the protection, enhancement and revitalization of cultural heritage and activities and tourism (Disposizioni urgenti per la tutela, la valorizzazione e il rilancio dei beni e delle attività culturali e del turismo).</p> <p>1. The author of a scientific work published in a periodical, which is the result of research financed to the extent of 50 per cent or more by public funds, shall have the right, provided that it is not for commercial purposes, to make it available free of charge to the public on the Internet, in institutional or disciplinary electronic archives, with open access, after it has been made available free of charge to the public by the publisher or in any case after no more than six months from the first publication in the case of works in the scientific, technical and medical subject areas, and after no more than one year in the case of works in the humanities and social sciences. In exercising this right, the author shall indicate the references of the first edition, specifying the name of the publisher.</p> <p>2. The author shall remain the owner of the right referred to in paragraph 1 even if he/she has assigned exclusively the rights of exploitation of his/her work to the publisher or editor. Contract terms agreed in breach of the provisions of paragraph 1 shall be null and void.” (8)</p> <p>—</p> <p>ORIGINAL</p> <p>1. L'autore di un'opera scientifica pubblicata in un periodico, che sia il risultato di una ricerca finanziata per una quota pari o superiore al 50 per cento con fondi pubblici, ha il diritto, purché senza fini commerciali, di renderla disponibile gratuitamente al pubblico nella rete internet, in archivi elettronici istituzionali o disciplinari, con accesso aperto, dopo che essa è stata messa a disposizione gratuita del pubblico dall'editore o comunque dopo non più di sei mesi dalla prima pubblicazione, quando si tratta di opere nelle aree disciplinari scientifiche, tecniche e mediche, e dopo non più di un anno, quando si tratta di opere nelle aree disciplinari umanistiche e delle scienze sociali. Nell'esercizio del predetto diritto l'autore indica gli estremi della prima edizione, specificando il nome dell'editore.</p> <p>L'autore rimane titolare del diritto di cui al comma 1 anche nel caso in cui abbia ceduto in via esclusiva i diritti di utilizzazione economica della propria opera all'editore o al curatore. Le clausole contrattuali pattuite in violazione di quanto disposto dal comma 1 sono nulle.</p>	
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<p><b>Netherlands</b></p>	<p><b>Dutch Copyright Act Article 25 fa (Open Access)</b></p> <p>The maker of a short academic work for which the research has been wholly or partly funded by Dutch public funds has the right, after a reasonable period of time after its first publication, to make that work available to the public free of charge, provided that the place of the first publication is clearly stated.</p> <p>—</p> <p>ORIGINAL</p> <p>De maker van een kort werk van wetenschap waarvoor het onderzoek geheel of gedeeltelijk met Nederlandse publieke middelen is bekostigd, heeft het recht om dat werk na verloop van een redelijke termijn na de eerste openbaarmaking ervan, om niet beschikbaar te stellen voor het publiek, mits de bron van de eerste openbaarmaking daarbij op duidelijke wijze wordt vermeld.</p>	<p><a href="https://zoek.officielebekendmakingen.nl/stb-2015-257.html">https://zoek.officielebekendmakingen.nl/stb-2015-257.html</a></p>
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<p><b>Spain</b></p>	<p><b>Act 14/2011, 1 June 2011 (as amended), on Science, Technology and Innovation (LCTI) article 37, Dissemination in open access</b></p> <p>Article 37. Open Science.</p> <ol style="list-style-type: none"> <li>1. The public agents of the Spanish Science, Technology and Innovation System shall encourage the dissemination of the results of scientific, technological and innovation activity, and the results of research, including scientific publications, data, codes and methodologies, to be made available in open access. Free and open access to results will be promoted through the development of own or shared institutional or thematic open access repositories.</li> <li>2. Research personnel in the public sector or whose research activity is mainly financed with public funds and who choose to disseminate their research results in scientific publications, must deposit a copy of the final version accepted for publication and the data associated with them in institutional or thematic open access repositories, simultaneously with the date of publication.</li> <li>3. The beneficiaries of research, development or innovation projects financed mainly with public funds shall comply at all times with the open access obligations set out in the terms and conditions or grant agreements of the corresponding calls for proposals. Beneficiaries of public support and grants shall ensure that they retain the intellectual property rights necessary to comply with open access requirements.</li> <li>4. Research results available in open access may be used by Public Administrations in their evaluation processes, including the evaluation of research merit.</li> <li>5. The Ministry of Science and Innovation shall facilitate access to open access repositories and their interconnection with similar national and international initiatives, promoting the development of systems that facilitate this, and shall promote open science in the Spanish Science, Technology and Innovation Strategy, recognising the value of science as a common good and following European recommendations on open science.</li> </ol> <p>In addition to open access, and always with the aim of making science more open, accessible, efficient, transparent and beneficial to society, the Ministries of Science and Innovation and Universities, each in their respective areas of action, as well as the Autonomous Communities within the framework of their competences, will also promote other initiatives aimed at facilitating free access to and management of data generated by research (open data), in accordance with the international FAIR principles (easy to find, accessible, interoperable and reusable), to develop open infrastructures and platforms, to promote the publication of scientific results in open access, and the open participation of civil society in scientific processes, as developed in article 38.</p> <ol style="list-style-type: none"> <li>6. The above shall be compatible with the possibility of taking appropriate measures to protect, prior to scientific publication, the rights to the results of research, development and innovation activity, in accordance</li> </ol>	<p><a href="https://www.boe.es/eli/es/l/2011/06/01/14/con#a37">https://www.boe.es/eli/es/l/2011/06/01/14/con#a37</a></p>
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	<p>with national and European regulations on intellectual and industrial property, plant varieties or business secrets.</p> <p>—</p> <p>ORIGINAL</p> <p>Artículo 37.</p> <p>Artículo 37. Ciencia abierta.</p> <p>1. Los agentes públicos del Sistema Español de Ciencia, Tecnología e Innovación impulsarán que se haga difusión de los resultados de la actividad científica, tecnológica y de innovación, y que los resultados de la investigación, incluidas las publicaciones científicas, datos, códigos y metodologías, estén disponibles en acceso abierto. El acceso gratuito y libre a los resultados se fomentará mediante el desarrollo de repositorios institucionales o temáticos de acceso abierto, propios o compartidos.</p> <p>2. El personal de investigación del sector público o cuya actividad investigadora esté financiada mayoritariamente con fondos públicos y que opte por diseminar sus resultados de investigación en publicaciones científicas, deberá depositar una copia de la versión final aceptada para publicación y los datos asociados a las mismas en repositorios institucionales o temáticos de acceso abierto, de forma simultánea a la fecha de publicación.</p> <p>3. Los beneficiarios de proyectos de investigación, desarrollo o innovación financiados mayoritariamente con fondos públicos deberán cumplir en todo momento con las obligaciones de acceso abierto dispuestas en las bases o los acuerdos de subvención de las convocatorias correspondientes. Los beneficiarios de ayudas y subvenciones públicas se asegurarán de que conservan los derechos de propiedad intelectual necesarios para dar cumplimiento a los requisitos de acceso abierto.</p> <p>4. Los resultados de la investigación disponibles en acceso abierto podrán ser empleados por las Administraciones Públicas en sus procesos de evaluación, incluyendo la evaluación del mérito investigador.</p> <p>5. El Ministerio de Ciencia e Innovación facilitará el acceso a los repositorios de acceso abierto y su interconexión con iniciativas similares nacionales e internacionales, promoviendo el desarrollo de sistemas que lo faciliten, e impulsará la ciencia abierta en la Estrategia Española de Ciencia, Tecnología e Innovación, reconociendo el valor de la ciencia como bien común y siguiendo las recomendaciones europeas en materia de ciencia abierta.</p> <p>Además del acceso abierto, y siempre con el objetivo de hacer la ciencia más abierta, accesible, eficiente, transparente y beneficiosa para la sociedad, los Ministerios de Ciencia e Innovación y de Universidades, cada uno en su ámbito de actuación, así como las Comunidades Autónomas en el marco de sus competencias, promoverán también otras iniciativas orientadas a facilitar el libre acceso y gestión de los datos generados por la investigación (datos abiertos), de acuerdo a los principios internacionales FAIR (sencillos de encontrar, accesibles, interoperables y</p>	
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reutilizables), a desarrollar infraestructuras y plataformas abiertas, a fomentar la publicación de los resultados científicos en acceso abierto, y la participación abierta de la sociedad civil en los procesos científicos, tal como se desarrolla en el artículo 38.

6. Lo anterior será compatible con la posibilidad de tomar las medidas oportunas para proteger, con carácter previo a la publicación científica, los derechos sobre los resultados de la actividad de investigación, desarrollo e innovación, de acuerdo con las normativas nacionales y europeas en materia de propiedad intelectual e industrial, obtenciones vegetales o secreto empresarial.

