

Legislative Developments in support of Open Science - Slovenia

Dr. Maja Bogataj Jančič, LL.M., LL.M.
29. January 2024



Latest beneficial copyright developments

Copyright reform in 2022 (Implementation of the DSM Directive)

- new TDM exception for TDM in scientific research
- new general research exception

- first time organization of the stakeholders for science, research, CHI and education during the copyright reform

Combination of: top bottom measures + bottom up actions

Top bottom

Scientific Research and Innovation Activities Act (ZZrID) (2021)

Resolution on the Slovenian Scientific Research and Innovation Strategy 2030 (**ReZrIS30**) (2022)

Scientific Research and Innovation Activities Act (2023)

Decree on the Implementation of Scientific Research Work in Accordance with the Principles of Open Science (2023)

Action Plan for Open Science (for the implementation of Objective 6.2.) (2023)

Combination of: top bottom measures + bottom up actions

Bottom up

- Slovenian universities (in 2013 Slovenian Universities launched a national Open Science Portal)
- Slovenian Open Science Community
- The Slovenian Library Association (SLA, name in Slovenian: Zveza bibliotekarskih društev Slovenije – ZBDS)
- KOsRIS is a coordination of independent non-profit research and infrastructure institutes
- Project SPOZNAJ

Legislative+ strategic framework

- Resolution on the Slovenian Scientific Research and Innovation Strategy 2030 (June 2022)
- Scientific Research and Innovation Activities Act (18.11.2021)
- Decree on the Implementation of Scientific Research Work in Accordance with the Principles of Open Science (25.5.2023)
- Action Plan for Open Science (31.5.2023)

Scientific Research and Innovation Activities Act

Article 41

(Open access to scientific publications and research data)

(1) For research co-financed in the amount of **at least 50% public funding, the funding provider shall request and the researcher shall provide** open access to all peer-reviewed scientific publications and research data and other research results. A provider of scientific research activities or researchers shall also comply with this obligation in the individual management of intellectual property rights, by reserving the appropriate level of rights necessary to comply with the obligations set out in this paragraph.

(2) The results of research co-financed from public funds shall be open and accessible, subject to any restrictions imposed by the protection of intellectual property, the protection of personal data, the security of persons or the security of the state. Open research data shall be published or otherwise made accessible in a manner that makes it discoverable, accessible, interoperable and reusable.

Scientific Research and Innovation Activities Act

Article 42

(Scientific journals and monographs of Slovenian publishers)

(1) Scientific journals of publishers established in Slovenia and abroad which contain peer-reviewed articles and whose publication is fully financed from state funds shall ensure open access to their content.

(2) The funding of scientific monographs by state funds shall be carried out under conditions that allow open access to the full content of the digital editions of the scientific monographs at the time of publication, taking into account intellectual property rights and the management of copyrights through free licenses

Decree on the Implementation of Scientific Research Work in Accordance with the Principles of Open Science

Article 1

(Content of the Decree and definition of research results)

(1) This Decree lays down the implementation of scientific research activities in accordance with the principles of open science with regard to:

- open access to the results of research in the context of research co-funded by public
- resources to a level of at least 50%;
- involvement of the interested public in scientific research work;
- evaluation and assessment of researchers, research organisations, research programmes and projects in accordance with the principles of open science;
- open science infrastructure.

•(2) Scientific publications (e.g. scientific articles published in scientific journals and on scientific publishing platforms), scientific monographs and other types of peer-reviewed publications, research data, software produced as a result of research, and other types of research results in digital form shall be considered research results referred to in the first indent of the preceding paragraph.

Decree on the Implementation of Scientific Research Work in Accordance with the Principles of Open Science

Article 2

(Requirements)

The Slovenian Research and Innovation Agency (hereinafter: ARIS) and other funders of scientific research activities from public sources referred to in paragraphs four and five of Article 6 of the Scientific Research and Innovation Activities Act (Official Gazette of the Republic of Slovenia, Nos 186/21 and 40/23) (hereinafter: funders) shall require, as part of the conditions for co-funding, where co-funding is at a level of at least 50%, that providers of scientific research activities (hereinafter: research providers) provide open access to digital versions of scientific publications and other research results discussed in these publications that are necessary for the replication of the research or for the reuse of the research results in other research.

Decree on the Implementation of Scientific Research Work in Accordance with the Principles of Open Science

Article 4

(3) Exceptions to fully open access to research data and other research results shall be permitted in justified cases where fully open access is prevented by the protection of intellectual property, protection of personal data, security of persons or of the state or other legal constraints. The justification for the exception shall be explained in the DMP.

Decree on the Implementation of Scientific Research Work in Accordance with the Principles of Open Science

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).
- (3) Funders shall include the requirements referred to in paragraphs one and two of this Article in calls and contracts for the co-funding of scientific research activities.
- (4) Monographs and scientific publications of comparable length, if peer-reviewed or if third parties hold any rights in them, may be published under a licence that restricts further commercial use or adaptation of the work (e.g. the Creative Commons Attribution-NonCommercial (CC BY-NC) licence, which restricts further commercial use, and the Creative Commons Attribution NoDerivatives (CC BY-ND) licence, which prohibits derivatives, or their equivalents).
- (5) Metadata on research publications shall be made public. If copyright, rights related to copyright or other rights of the author arise in the metadata of research publications under the law governing copyright and related rights, the metadata shall be made available under a licence whereby the authors waive their copyright, related rights and other rights as authors to the fullest extent permitted by law (e.g. the Creative Commons Public Domain Dedication (CC0) licence, or, where this is not possible, under the Creative Commons Attribution (CC BY) licence).

Decree on the Implementation of Scientific Research Work in Accordance with the Principles of Open Science

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

- (1) Research data and other research results shall be made publicly accessible and openly accessible in accordance with the requirements set out in Article 4 of this Decree.
- (2) Where copyright arises in research data and other research results, the authors or their employers, if the copyright has been assigned to them, may sub-delegate it to third parties only on a non-exclusive basis.
- (3) Where copyright, related rights or other rights of the author arise in research data and other research results (e.g. research software or research methods), the authors or their employers shall, if the copyright is vested in them by law, publish it under an open licence that allows anyone to freely use, modify and share the research data and other research results in accordance with the principles of scientific research ethics (for example, the Creative Commons Attribution (CC BY) and Creative Commons Attribution-ShareAlike (CC BY-SA) licences, or their equivalents).
- (4) Funders shall include the requirements referred to in paragraphs one and two of this Article in calls and contracts for the co-funding of scientific research activities.
- (5) Metadata of research data and other research results shall be made publicly available in accordance with the requirements set out in Article 4 of this Decree. If the metadata of research data and other research results give rise to copyright, related rights or other rights of the author under the law governing copyright and related rights, the metadata shall be made available under a licence whereby the authors waive their copyright, related rights and other rights as authors to the fullest extent permitted by law (e.g. the Creative Commons Public Domain Dedication (CC0) licence, or, where this is not possible, under the Creative Commons Attribution (CC BY) licence).

What's next?

1. SPR

The initiative of the Rector's Conference of the Republic of Slovenia (presidents of the public universities) about the inclusion of the right to secondary publication (SPR) without temporary inaccessibility/embargo in the Copyright Act or Scientific Research and Innovation Activities Act.

What's next?

2. Link the activation and energy of the open science community to copyright reform for open science and science and research

- community representatives were very active during the last copyright reform (last amendment of the law October 2022)
- but then the community focused on activities related to open science
- it is necessary to build a bridge between open science and much-needed copyright reform
- KR21 Study on barriers and incentives for open science in copyright law

Thank you!

maja.bogataj@ipi.si