

# EU4IP

Strengthening Intellectual Property  
Rights in Moldova and Ukraine



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## Public lending right and other issues regarding the Directive 2006/115/EC

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## Why current Moldovan regulation of the public lending right does not meet the EU law standard ?

Exclusion of all public libraries in light of the CJEU jurisprudence and decisions of the EU Commission

C-175/05 („EU Commission vs Ireland”);  
C-198/05 („EU Commission vs Italy”);  
C-53/05 („EU Commission vs Portugal”)  
and C-36/05 („EU Commission vs Spain”).

What is the **public lending** in light of the Directive ?



## Legal form of PLR systems

### Public Lending Rights.

- **Copyright Law Systems prevail** (28 countries)
- PLR specific regulations in place in 9 countries.
- 7 systems work under a broader Arts and Culture Policy.

Austria, Cyprus, Finland, Hungary, Lithuania, Poland, Sweden, Belgium, Czech Republic, France, Ireland, Luxembourg, Slovakia, Bulgaria, Denmark, Germany, Italy, Malta, Slovenia, Croatia, Estonia, Greece, Latvia, Netherlands and Spain

As an **exclusive right** or the right to lend is deemed to be exhausted and PLR is paid as a **remuneration/compensation** for the use of the works

**cultural support to the literary sector** where PLR is only paid to authors writing in the respective national languages (e.g., Denmark, Sweden, Poland, Norway).

## Establishments whose activity should be subject to the compensation

All of the PLR systems cover public libraries, the meaning of this term not being consistently defined, 19 cover scientific and research libraries, 16 cover school libraries.

Other types of libraries (e.g., for visually impaired persons, prisons and hospital libraries)



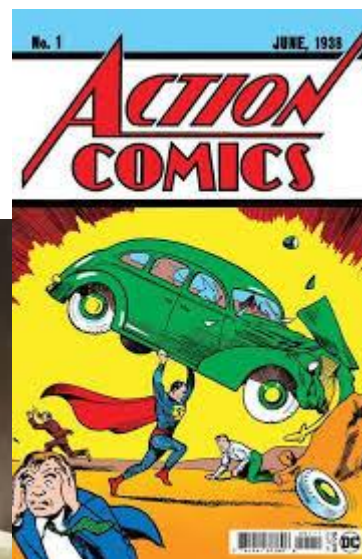
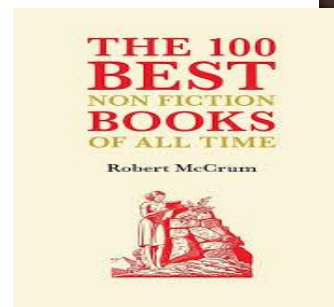


## Types of eligible works

In the most minimalistic version, the lending of printed books which have an International Standard Book Number (**ISBN**).

Literary works, non-fiction works, comics and graphic novels as well as children's books, whether literary or non-fiction are typically included in PLR systems.

ISBN 978-83-944828-0-0



More rare objects:

- periodicals (including in digital format);
- non-books (such as CDs with music, DVDs with audiovisual content);
- e-books.

## Eligible recipients

All existing PLR systems serve the **authors** of the text, which means authors of the original books and **translations** into national language; more rarely, also **editors**.



Other recipients (link with the eligible works):

- journalists;
- illustrators and photographers/ fine artists;
- publishers;
- other entities (when list of eligible works is extended).

## Funding of the PLR system

PLR systems are funded directly by the **state**/ by the **state** and **municipalities**/ through the **special system of funding** (e.g., Poland is funding the PLR system out of gambling tax, in France booksellers contribute a substantial part of PLR).

The budget may be determined as **fixed sum** financing or **with the use of objective, more flexible criteria** (e.g., in Latvia, 10% of the libraries' acquisition spendings is reserved for PLR payments, in Poland the budget is also connected with such spendings, but also takes into account the inflation rate).

Other criteria may be for example: number of library card holders, number of loans, stock count.



## Distribution of revenues

### loan-based system

the **number of loans** of a particular author plays the most decisive role

Disadvantage: that popular authors might benefit disproportionately

Advantages: better combines with the actual use of the copyrighted content.

### stock count system

the **number of published works** of the particular author in libraries is the predominant factor



### Additional corective solutions:

**thresholds**, whether defined by a minimum count of loans or a minimum sum payable to an individual (allow avoiding the dilution of payments).

**cups**, which may be applied in both basic systems, is a maximum limit on the amount an author can receive



## Governance of the PLR system



This approach often proves efficient in countries where CMOs are well-established and experienced in managing diverse authors' rights.

## Public Lending Rights.

The administration by the non-governmental organization (e.g., writers guilds or societies) may be tasked with collecting and distributing revenues which emphasizes the role of the author's community in managing their own right.



In countries with PLR legislation or those operating under a broader cultural policy base the system often is administered by a government body (e.g. within the Ministry of Culture. It may comprise authors, translators, librarians, and, if relevant in the system, publisher representatives or representatives of specific language communities.

## Scope of equitable remuneration for the fixations of performances



For the performances that have already been included to the audiovisual fixation the single equitable right of remuneration is not applied when they are broadcasted or communicated to the public.

The single equitable right of remuneration applies only in respect of the performances that were fixed in the course of broadcasting or communication to the public.

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