



## Is it legal?

# Education and Copyright in the Digital Age

## A Summary

---

**Access to knowledge is an important aspect of the right to education.** In order to respond to the needs in the classroom, teachers often complement traditional teaching resources (e.g., textbooks) with a wide spectrum of materials from a variety of sources (e.g., short videos and newspaper articles). These are often protected by copyright and related rights<sup>1</sup>.

Recognising the essential public mission of education as well as the right of teachers to choose and adapt teaching materials without having to ask permission from the copyright owner, governments are putting in place so-called copyright exceptions and limitations for education.

**Unfortunately, copyright exceptions and limitations for education are often overly restrictive and force teachers to either refrain from using materials or to work in legal grey zones.** The COVID-19 pandemic and the massive shift to remote education during school closures has highlighted, more than ever before, that copyright exceptions and limitations for education are not fit for the digital age.

Is it Legal? Education and Copyright in the Digital Age analyses 10 digital and remote teaching and learning scenarios that involve the use of copyrighted materials and other protected materials under the copyright laws of 40 countries in Africa, Asia-Pacific, Europe and North America, and Latin America and the Caribbean. The teaching and learning scenarios range from **remote educational activities** (e.g. live-streamed online or radio-broadcasted classes) to **on-demand digitally-supported education** (e.g., emailing or storing reading materials on a school's platform).

---

<sup>1</sup> "Copyright" refers to exclusive rights granted to the author of a work. "Related rights" refer to exclusive rights granted to certain categories of people (e.g., performers, film producers, broadcast organisations) in respect of the materials they produce.

# Findings and Emerging Themes

## I.

### **Flexible and technologically neutral exceptions are better equipped to facilitate remote and digitally-supported education.**

Countries with general and flexible educational exceptions are mostly located in Europe and North America. Educators and students from Africa and from Latin America and the Caribbean and, to a lesser extent, Asia-Pacific, are particularly disadvantaged, as their copyright laws are not as fit for the digital age.

## II.

### **Binding instruments and model laws play an important role.**

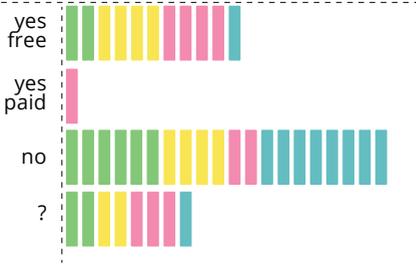
The study's findings indicate that the mandatory quotation exception in the Berne Convention, the model education exception in the Tunis Model Law on Copyright for Developing Countries (1976), as well as the mandatory digital and cross-border education exception in the new EU Copyright Directive have played an important role in reforming national copyright exceptions.

## III.

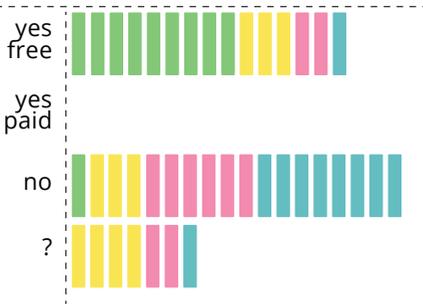
### **Teaching collaborations, online courses and other activities that involve the use of protected materials between students and teachers located in different countries remain a challenge.**

Educational cross-border activities are only regulated within the EU and exchanges of protected materials beyond EU borders are not possible.

**A teacher wants to show a short YouTube video in a live online class. Is it legal?**



**A teacher wants to read a story in a radio-broadcasted class. Is it legal?**



- Africa
- Asia - Pacific
- Europe And North America
- Latin America and the Caribbean

This scenario illustrates the digital copyright divide well. **In contrast to countries in the Global North, countries in Latin America and Africa in particular do not perform well in this scenario.** They do not permit distance communication/sharing of protected materials.

In **Africa**, in contrast to other regions, most legal frameworks are supportive of uses of protected materials made during radio-broadcasted classes. This is because most have been influenced by the educational exception model contained in the Tunis Model Law, which specifically exempts “the utilization of a work by way of illustration in ... broadcasts”.

# Recommendations

As the world is dramatically “off track” in terms of achieving the Education 2030 Sustainable Development Agenda, it will be essential for governments to **TAKE ACTION NOW**.

**Governments should substantially reform their national copyright laws**, to ensure that they have flexible and broad educational exceptions in place that stay relevant as innovation advances and regardless of the means of teaching and learning.

**Copyright reform should be undertaken in consultation with teachers and their representatives** to ensure that it supports teaching and learning.

**Research on digital and remote educational practices** that investigates how teachers are working with materials and what challenges they are facing can provide important insights for copyright policy makers.

**International soft laws and models are an important vehicle in the process of reaching an international consensus** on binding instruments and in assisting countries in reforming their copyright laws to adapt their educational exceptions to digital and remote settings.

**Policy makers should make an effort to agree on an international binding instrument** to ensure that the education community can enjoy a minimum set of rights to use copyrighted and other protected materials for educational purposes everywhere. This will substantially reduce the legal uncertainty and risks posed to educators, learners, and other participants of educational activities, including in a cross-border environment.

**Legal solutions for cross-border educational uses should be explored**, at bilateral and multilateral levels, to deal specifically with certain cross-border uses of protected materials for educational purposes that are essential for education communities.



The full research paper by Nobre, T. (2022) can be found here:

<https://eiie.io/3PdfYEW>



Education Internationale  
Internationale de l'Éducation  
Internacional de la Educación  
Bildungsinternationale

