

# We'll start soon!

Consultation Workshop with  
the Cultural Heritage Sector

*Understanding Our Digital Futures*



# Agenda

14:00	Brief introduction of the two days sessions by Frederik Truyen
14:05	Introduction of the inDICEs project by Sara Di Giorgio
14:15	Introduction of the WP2 goals by Prof.Marie-Christine Janssens
14:30	Introduction of the ReCreating Europe Project
14:45	Main comments from the 'Mapping of the relevant European IP legal framework'
15:05	Surveys promotion- Recreating Europe & inDICEs
15:15	<b><i>Coffee Break</i></b>
15:30	Mentimeter session
15:45	Breakout sessions with participants
16:30	Conclusions and wrap up of the session by Fred Truyen
17:00	End of the session



# inDICEs

## Measuring the impact of digital culture

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Presented by Sara Di Giorgio (ICCU)



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# Digitisation, DSM and European culture

Horizon 2020 call on ‘Digitisation, DSM and European culture: new challenges for creativity, intellectual property rights and copyright’ (RIA)

- inDICEs: Measuring the impact of Digital CultureE
- reCreating Europe; Rethinking digital copyright law for a culturally diverse, accessible, creative Europe



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# Twins projects

inDICES	reCreating Europe
<p>Cultural heritage sector Creative industries</p> <ul style="list-style-type: none"><li>• Co-creation Platform</li><li>• Self assessment tool to measure DSM readiness</li><li>• Tool for data visualization</li></ul>	<p>Cultural heritage sector Creative industries Author and performance sector Intermediaries</p> <ul style="list-style-type: none"><li>• Advices and recommendations</li><li>• Business models</li></ul>



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# Synergies between the twins projects

Memorandum of understanding to coordinate and collaborate in:

- communication and dissemination actions
- efforts in mapping and analysing IPR in the respective countries of the two consortia
- testing phase of the results obtained by the two projects, in their respective communities
- possible integration of the results obtained by reCreating Europe into the inDICEs platform
- jointly organize the project's reviews in Brussels



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# The consortium



CENTRUM CYFROWE



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## KEY QUESTIONS

**What is the social and economic impact of digitization in cultural and creative sectors?**

**How digitization affects our use of cultural (heritage) assets?**

A methodology to measure the economic and social impact of digitization of cultural (heritage) assets as to the access to cultural goods and services and their modes of production

Comparative analysis of the effects of digitization and IPR regulation

Solutions and business models to solve bottlenecks

An observatory for policies and trends

An assessment of the readiness of CHIs to face the digital single market and the digital transformation



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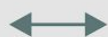
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**Participatory  
Space**

Faciliate Community  
Engagement



**Visual Analytics  
Dashboard**

Explore, Visualize  
and Understand Data



**CHI Self  
Assessment Tool**

Gather Insights and  
Devise Strategies



**Communities**

**Knowledge Extraction and Visualization Services**

**Knowledge Graph**

RDF Triple Store



**Content Repository**

Text, Audio, Video, Metadata



**inDICEs Open Observatory**

## CHI Consultation Workshops

Exploring CHIs



PHASE 3 OF 5

**Workshop: IPR framework for the  
Digital Transformation of the CHI  
sector**

2020-09-01 - 2020-09-16

[VIEW PHASES](#)

THE PROCESS

HERITAGE REUSE SURVEY

IP EVALUATION SURVEY

In a series of 3 workshops embedded in an online consultation process, we try to understand the needs, concerns and wishes of CHI professionals regarding IPR and crowdsourcing, future research competencies and ICT and change management. This will give us valuable inputs to develop our CHI self-assessment tool.

[inate.indices-culture.eu/pages](https://inate.indices-culture.eu/pages)

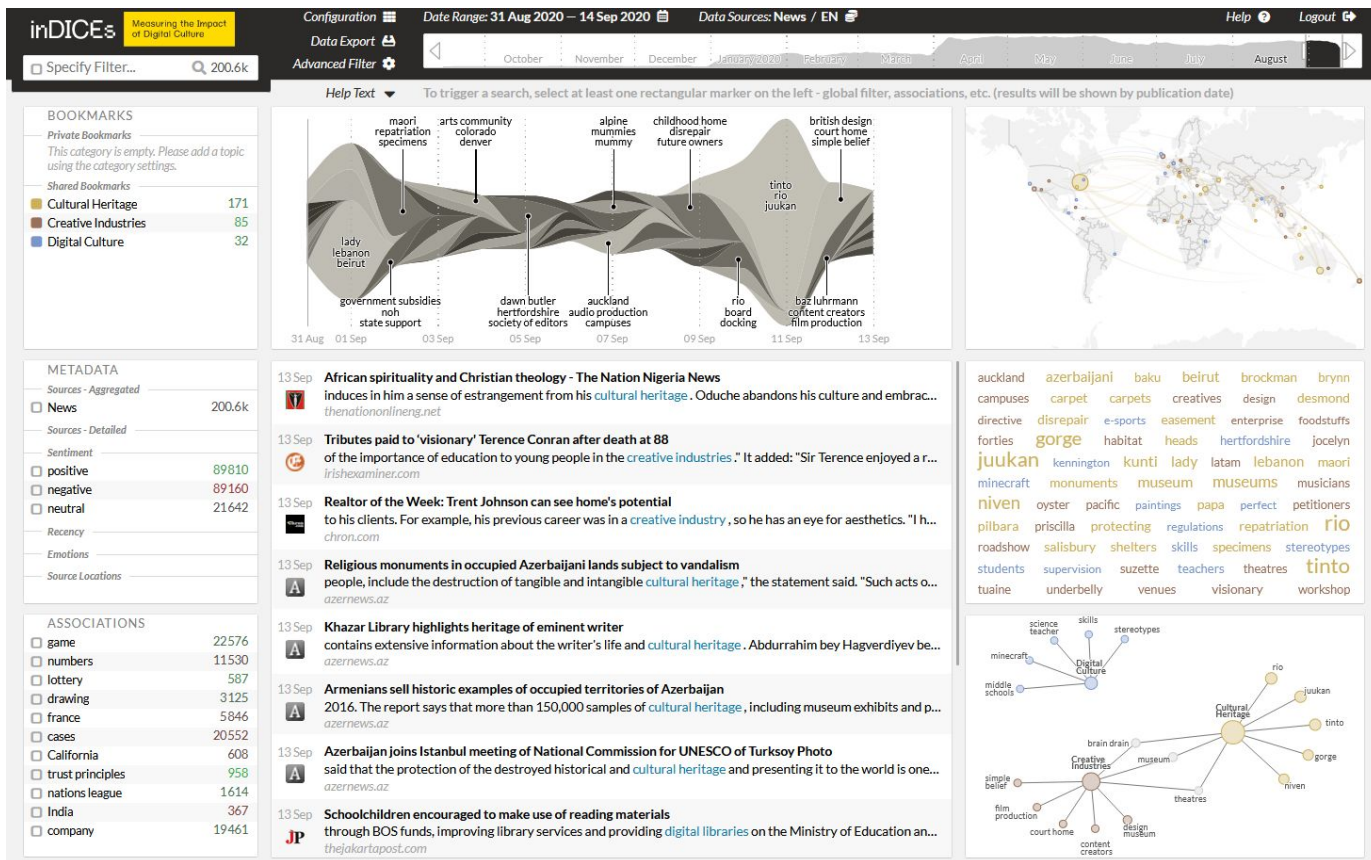
14

Follow

START DATE

September 01, 2020

## Participatory Platform



# inDICES Visual Analytics Dashboard

# Consultation Workshops

- **IPR Framework for Digital Transformation in the CHI sector**  
15 September 2020, online
- **Value Chains and Impact in the Cultural Heritage Sector**  
16 September 2020, online
- **Developing Future Researchers**  
March 2021, Cluj-Napoca
- **Managing and Facilitating institutional Change in an era of rapid IT Change**  
June 2021, Rome



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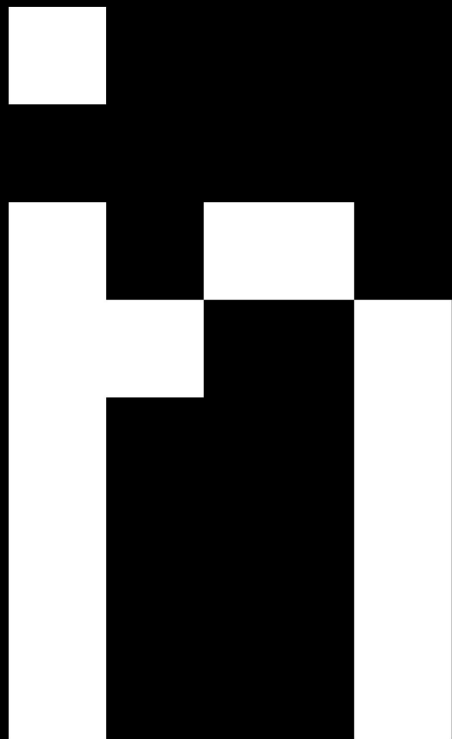


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# WP2 : KU Leuven – Centre for IT & IP law (CiTiP)

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Marie-Christine Janssens



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# KU Leuven – Centre for IT & IP law (CiTiP)

- Academic research centre at the KUL Faculty of Law
- Specialized in legal and ethical aspects of IP, IT and innovation
- Fundamental re-thinking of current legal framework, necessitated by the rapid evolution of technology
- Expert team of 60+ members, incl. 7 Professors, 8 Postdoc researchers and 51 researchers
- Currently involved in more than 50 research projects funded by EU (H2020), Belgian Research Council, FWO, other



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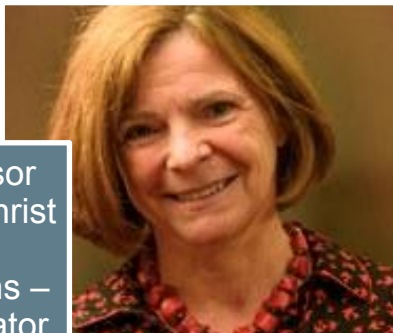
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# KU Leuven CiTiP – Indices Team

Professor  
Marie-Christine  
Janssens –  
coordinator



Dr. Arina  
Gorbatyuk -  
postdoctoral  
researcher



Sonsoles  
Pajares  
Rivas –  
researcher



# Role in the project

## KU Leuven CiTiP leading tasks:

- WP2 – Comparative cross-national legal analysis (IP-centric)

### Tasks

T2.1: Comparative analysis of the applicable European IP legal framework to CHIs in the DSM:

- T2.1.1: The relationship between CHIs and original creators, right holders or other proprietors;
- T2.1.2: The role of CHIs as entities with rights and responsibilities;
- T2.1.3: The relationship between CHIs and users.

T2.2: Evaluation to the applicable European IP Legal framework to CHIs in the DSM.

### Deliverables

D2.1a – Mapping of relevant European IP legal framework (M6);

D2.1b – Legal comparative analysis for multi-level relationship involving CHIs (M12);

D2.1c – Legal comparative analysis evaluation (M18);

D2.2a – First Legal Evaluative analysis (M24);

D2.2b – (Final) Legal Evaluative analysis (M34).

# Expectations & challenges

## Expectations

- Legally certain **IP framework** for CHIs mainly based on open access and re-use of the CHIs' content.
- In-depth **comparative analysis** of the impact of digitisation and IPR rules affecting the CHIs.
- Legal **assessment of strategies** for CHIs to take fully advantage of the opportunities provided within the Digital Single Market.
- Contribute to
  - **policy recommendations** in accordance with IPR applicable rules.
  - Useful **guidelines and self-assessment tools** for overall readiness-to-DSM of CHI's addressing the concerns of CHI's.



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# KU Leuven CS Digital - leading tasks:

- WP3 – Change management and policy recommendations

## Tasks

T3.2: CHIs DSM-readiness  
Assessment Methodology

## Deliverables

D3.2 – Guidelines for CHIs digital transformation (M19);  
D3.3 – Infochart describing the CHIs DSM readiness Assessment Methodology (M22);  
D3.4 - CHIs Self-Assessment tool specifications (M25).



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# Role in the project

## KU Leuven CS Digital leading tasks:

- WP5 – Change management and policy recommendations

### Tasks

T5.5: Capacity-building and Outreach

### Deliverables

D5.6 – Cultural Heritage Institutions and the Digital Single Market MOOC (M28).



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# Expectations & challenges

## Challenges

- Collection of relevant data considering the scope of the project.
- Territoriality principle inherent to copyright.
- Changes in EU and national legislations.
- Achievement of a cross-border legal solution.
- Diversity of CHI operating contexts in Europe.

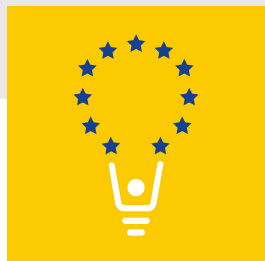


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# RECREATING EUROPE

**Rethinking digital copyright law for a culturally  
diverse, accessible, creative Europe**

Project overview

Rationale, methodology, objectives, work plan



# Our roadmap

- The consortium
- Project overview: background, concept, objectives, ambition
- Expected impacts
- Work plan



# The consortium



**Sant'Anna**  
Scuola Universitaria Superiore Pisa



UNIVERSITY OF AMSTERDAM



CREATE



University  
of Glasgow



ALEXANDER VON HUMBOLDT  
INSTITUTE FOR INTERNET  
AND SOCIETY



Ligue des Bibliothèques  
Européennes de Recherche  
Association of European  
Research Libraries



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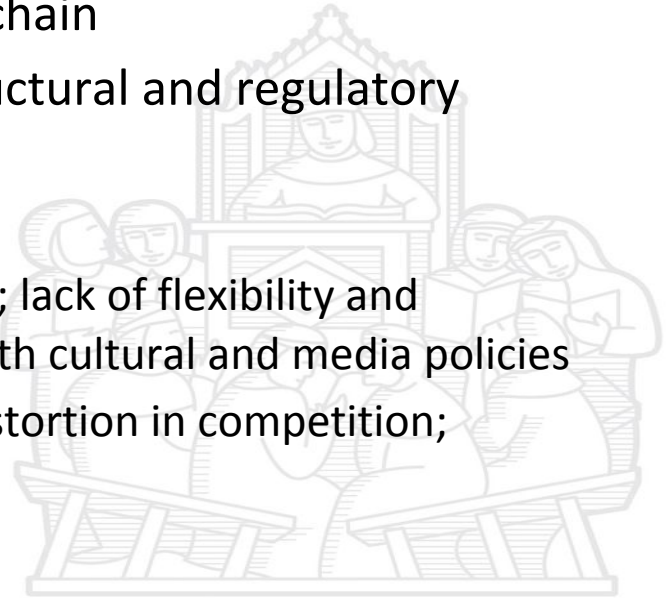
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School of Advanced Studies – Pisa



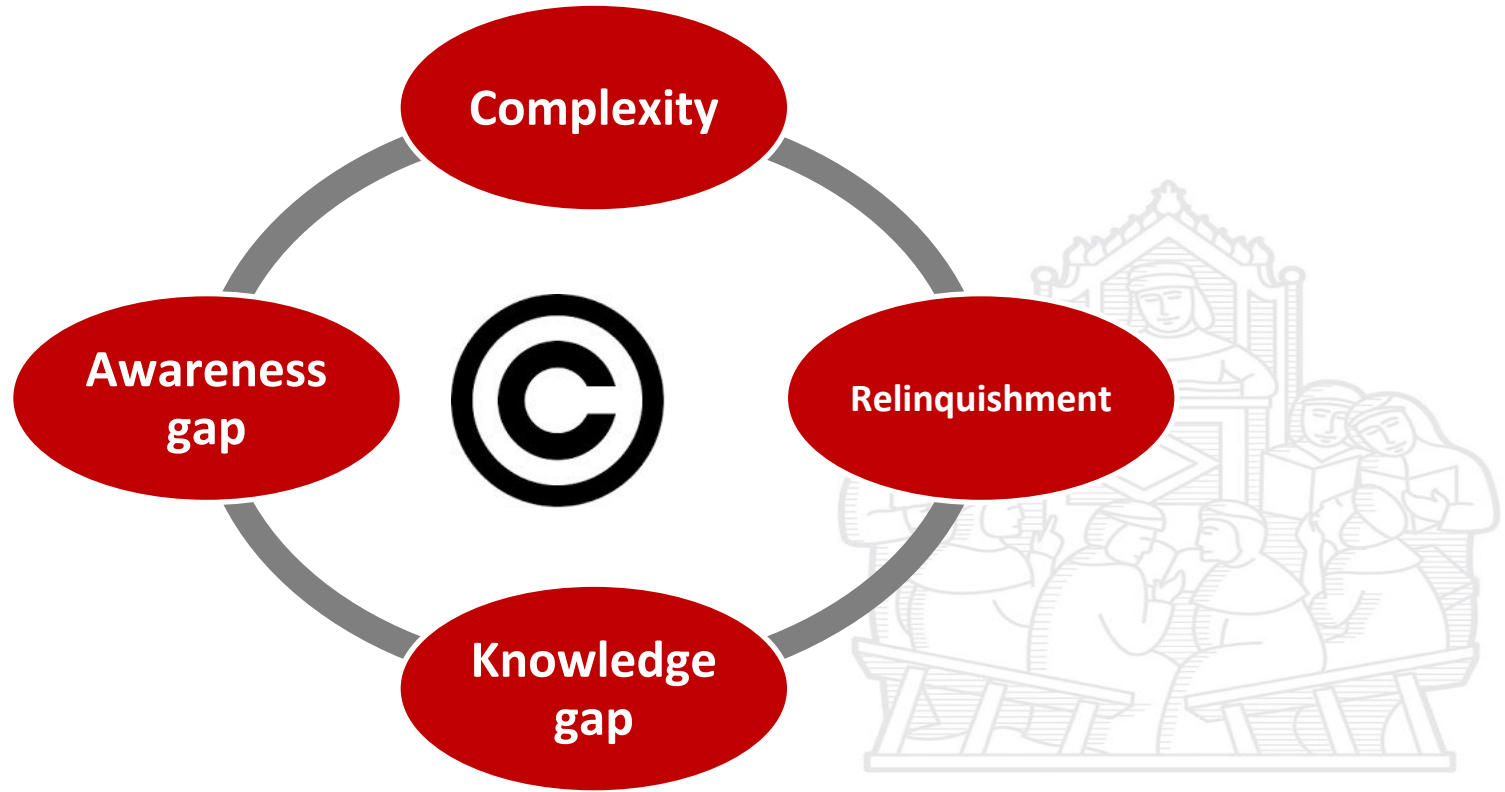
This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 870626

# Background and concept

- Crafting EU copyright in rapidly changing society
  - **New models** of creation, dissemination, consumption of cultural and creative content; **new actors** in the value chain
  - 20 years of **EU harmonization** tackling structural and regulatory constraints
  - Pitfalls
    - Regulatory □ fragmentation; uncertainties; lack of flexibility and adaptability; balancing issues; weak link with cultural and media policies
    - Market □ fragmentation; inefficiencies; distortion in competition; abuses
- Four parallel phenomena



# Background and concept (ii)

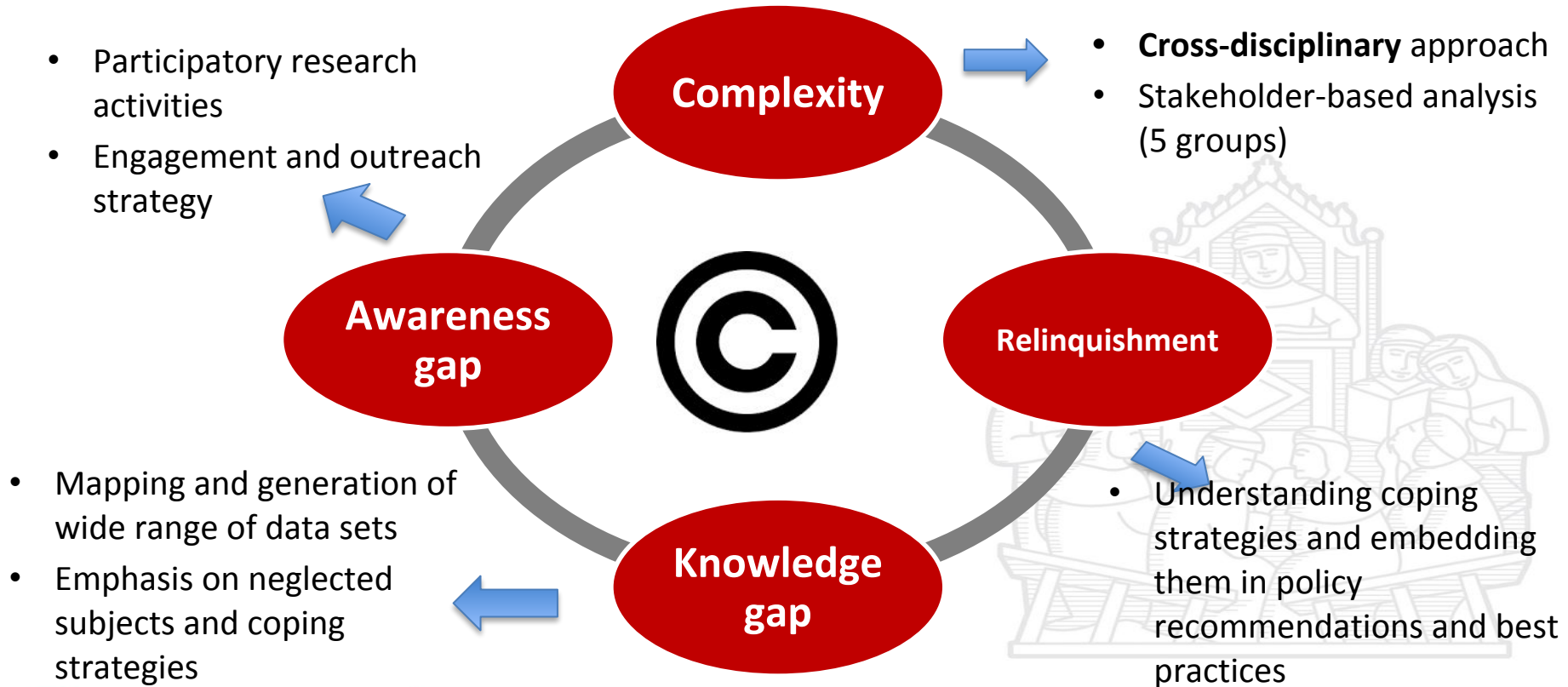


# Concept: general goals

- Ground-breaking contribution to the understanding and management of copyright in the DSM
- Advancing discussion on how IPRs can be best regulated to facilitate **access** to, **consumption** of and **generation** of **cultural and creative products**
- **Main threads**
  - Access to culture
  - Cultural and creative production
  - Cultural diversity
  - Competitiveness of creative industries
  - Democratization of culture



# Concept: general goals (ii)



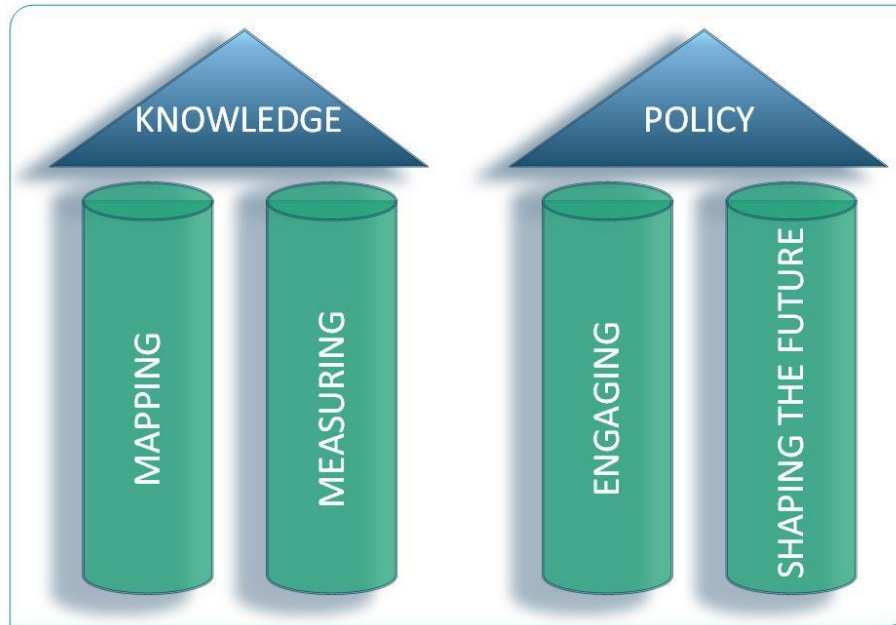
# How-to: four intertwined levels

- Unprecedented **cross-national mapping** of multi-level regulatory responses
- **Innovative methods to measure** impact of digital market on extent, forms, content of production and consumption of cultural/creative goods and services
- Legal, technological and economic **mapping and evaluation** of access-enabling and content-filtering **technologies**
- Set of **policy recommendations** and **best practices to**
  - Remove bottlenecks to digital access, accessibility, creation
  - Exploit of untapped opportunities offered by DSM
  - Embed of copyright and TMPs within EU cultural policies



# Objectives

## Two domains, four pillars



# Project overview: methodology

## Realms

- Socio-legal analysis
- Economic analysis
- Business models analysis

## Tools

- Desk research
- Participatory research
- Other forms of qualitative research
- Quantitative analysis
- Digital (computational) methods
- New narratives and vehicles
- Stakeholders' platform



# Ambition

- Ground-breaking goals
- Cutting-edge integration of approaches
- New models for inclusive policy development and implementation
- Overarching scope
- Foundational character



# Expected impacts

- **Five goals in line with call challenges**
  - **Domain of knowledge**
    - 1) providing qualitative and quantitative analysis
    - 2) contributing to a better understanding of regulation
  - **Domain of policy**
    - 3) proposing solution, business models and policy recommendations
    - 4) contributing to fairer accessibility of digitised cultural goods and services
    - 5) advise on appropriate levels of harmonisation of copyright and IPR, thereby contributing to the development and deepening of the DSM.



# Expected impacts (ii)

- Better comparative knowledge
- New assessment tools
- Evidence-based recommendations

## Policy



- Best practices
- Stakeholders' platform & training toolkit
- Increased awareness
- Increased intra- and inter-collaboration

## Stakeholders



- Raising awareness on needs of cultural/creative SHs
- Devising strategies for better balance
- Moving towards a closer Union

## Societal



# Work plan

WP 1 – Management and coordination

WP 2  
USERS



WP 3  
Authors and  
performers



WP 4  
Creative  
industries



WP 5  
GLAM



WP 6  
Intermediaries



WP 7 – Dissemination, Engagement and Outreach



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# Contact us

[www.recreating.eu](http://www.recreating.eu)



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# Mapping of the relevant European Legal Framework

Centre for IT and IP Law – KU Leuven

# D2.1a – Mapping of relevant European IP legal framework

- 
1. Relevance of IPRs for CHIs
  2. Copyright as essential IPR for CHIs
  3. Relevant IP rules in the EU acquis for CHIs: main insights
  4. Non-harmonized matters at EU level
  5. Public domain works
  6. Open Data Directive



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# 1. Relevance of IPRs for CHIs

- Rules governing **access, use and management of their collections**.
- Increased importance with development of **new technologies**: preservation, promotion of access to culture, sharing information and cultural content and generation of revenues.
- Digitization of cultural content raises IP challenges.
- Certain activities such as the digitization of works and making them available require CHIs to perform copyright relevant acts.
- Digital content may be based on **pre-existing works** or public domain works (new rights?).



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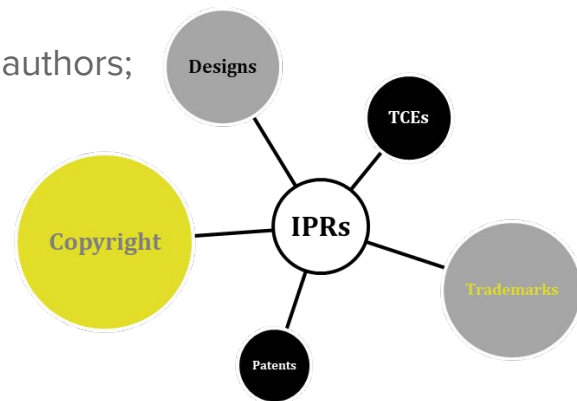
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## 2. Copyright as essential IPR for CHIs

- Nature of works in the CHIs collections;
- **Expanding scope** of copyright.
- Some **basics**:
  - For a work to be qualified for copyright protection needs to be ‘original’;
  - No formalities: unregistered IPR- difficult for CHIs to trace authors;
  - Determining and tracing ownership;
  - Principle of territoriality;



### 3. Relevant IP rules in the EU acquis for CHIs: main insights

- Difficulties for CHIs to clear rights of works in their collections to perform acts such as digitization or making the works available.
- Protection vs authors rights and freedoms
- CHIs rely on **exceptions and limitations** to perform certain acts without having authorization of the rightholder.
- Until now, partial harmonization of exceptions in Infosoc Directive:
  - The preservation exception Infosoc improved by the CDSM Directive.
- Technical protection measures vs E&L.



### 3.Relevant IP rules in the EU acquis for CHIs: main insights (2)

- CHIs need to be aware of rights protecting **databases**: copyright / sui generis rights as content included in the databases could be protected by third parties rights.
- **Orphan works**: after a diligent search, a work can be declared ‘orphan’.
  - When a work is declared orphan in one MS, it is also declared orphan in the other MSs.
  - The Directive provides that rightholders are entitled to put an end to the orphan work status;
  - Difficult application conditions (diligent search) reduce the usefulness for CHIs to use the system, e.g. mass-digitization projects.



### 3.Relevant IP rules in the EU acquis for CHIs: main insights (3)

- EU acts implementing Marrakesh Treaty: exception for VIPs.
  - Libraries are considered to play a **key role** in the success of the implementation of the Treaty through the EU instruments in **two ways**: (1) they are the guardians and creators of most accessible format works and, (2) they play an important role in cross-border exchange of those works.
- Protection of non-original photographs is not harmonized at EU level (see Term Directive).



# 3. Relevant IP rules in the EU acquis for CHIs:main insights (4)

The CDSM Directive:

- New exceptions and limitations:
  - TDM: specific for CHIs and research organizations for research purposes.
  - Preservation for CHIs: mandatory and broad exception.
- New rules for Out-of-commerce works:
  - Licensing mechanism + exception: facilitate the rights clearance for CHIs to exploit their works in their collections.
- Works of visual arts in the public domain:
  - Digital reproductions of works of visual arts.



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### 3.Relevant IP rules in the EU acquis for CHIs: main insights (5)

- Collective licensing with extended effect
- New liability rules for online content-sharing service providers
- New rules on fair remuneration in exploitation contracts for authors and performers



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# 4. Non-harmonized matters at EU level

- Derivative works: adaptation and translation rights
  - Rights clearance matters on works based on pre-existing works;
  - Use of cultural content in user-generated content.
  - Preservation or restored works could raise copyright protection;
- Moral rights:
  - Increased importance in the digital age: digital content is more vulnerable;



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## 5.Public domain works

- Works that are not protected by copyright or whose protection has lapsed due to the expiration of the duration for protection.
- Exclusive rights may be claimed through the digitized versions of these works
- Use of TPMs may limit the dissemination of these works



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# Other IPRs relevant for CHIs

- Other IPRs may be relevant for CHIs such as **trademarks** or **designs**;
  - Content in collections protected by trademarks or designs;
  - Cumulative protection of works through trademarks or designs;
  - ‘Branding’ of CHIs can generate revenues.
- **Traditional Cultural expressions**: not IPR per se, but recordings of intangible cultural heritage could be found in CHIs collections.



## 6. Non-IP legislative acts relevant for CHIs: Open Data Directive

- Introduces **minimum rules for the re-use of documents** held by public sector bodies.
- The new Directive **maintains libraries, including university libraries, museums and archives within the scope.**
- Documents held by CHIs that are protected by IPRs- including copyright, related rights or sui generis rights- and whose owner is a third party, will not fall under the scope of the Directive.
- Article 12: **works in the public domain**



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# Questions?

# Thank you for your attention



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# *IP Evaluation Survey*

How CHIs face the IP challenges?

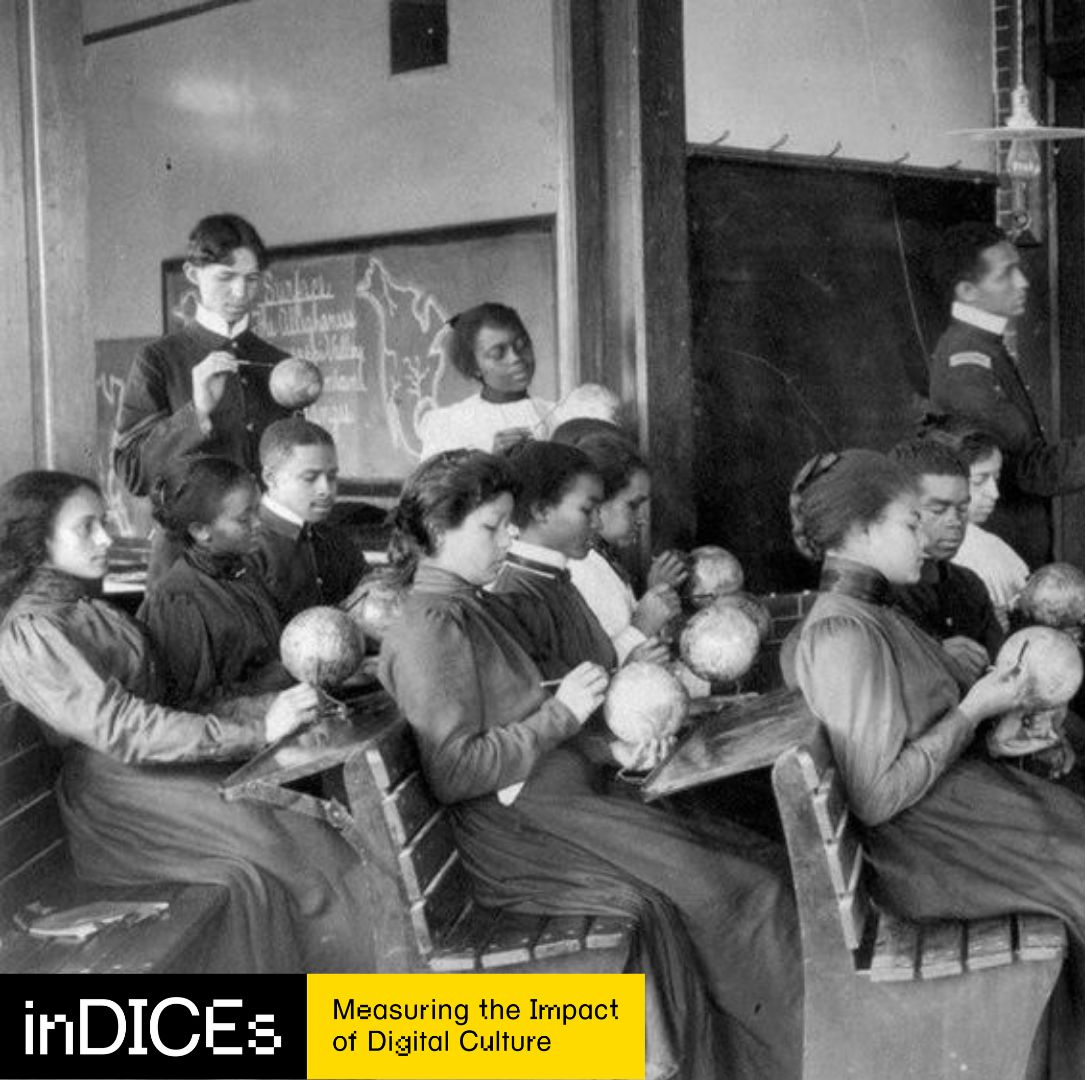
Find the survey in our participatory  
platform: <https://bit.ly/2ETwF8B>



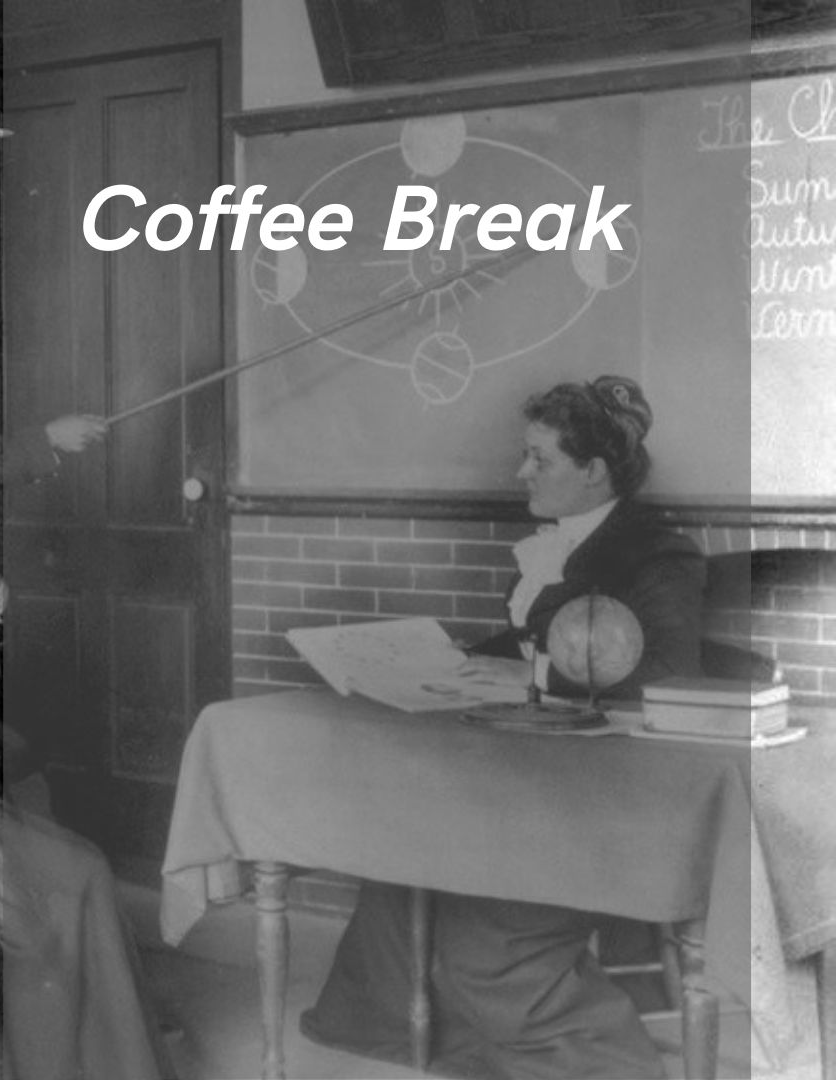
**ReCreating Europe**

## Survey

**The impact of copyright law and open policies  
in relation to digitisation in the GLAM sector**



# Coffee Break



# Breakout sessions

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# Mentimeter warmup!

IP and my organization

Go to **www.menti.com** and use the code **92 84 03 1**



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# Breakout Sessions

## Room 1: Managing IP

Moderators: Arina Gorbatyuk / Jozefien Vanherpe

## Room 2: IP and your Digital Strategy

Moderators: Sonsoles Pajares rivas / Ariadna Matas

## Room 3: Benefits of Open Access

Moderators: Sofie Taes / Julia Pagel

## Room 4: Relationship with Rights holders and licensing

Moderators: Marie-Christine Janssens / Fred Truyen



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# Wrap up

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# Notes on Relationship with rightsholders and licensing

- Difficult to obtain licenses
- Ownerships unclear
- Other rights involved (privacy, data protection, contractual stipulations)
- Copyrights used to protect against misuse
- Need for contracts - danger of contracts (EULA)
- Scalability problem

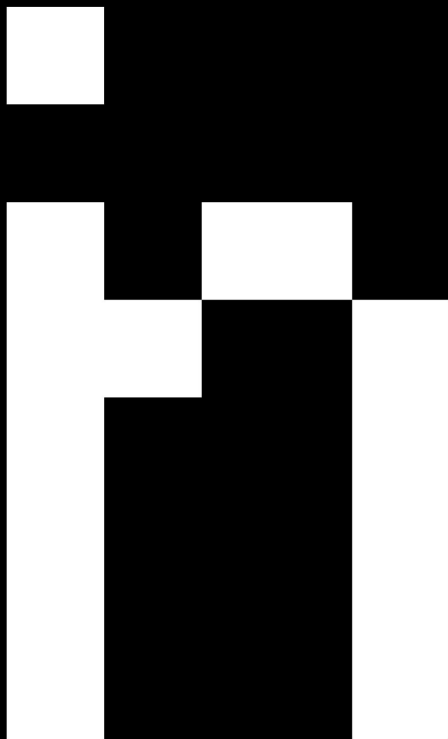


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