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Executive summary

This document discusses the use of e-CF COUNCIL current and future services/products between the project partnership and beyond, foreseeing e-CF COUNCIL growth after the life-span of the project. The IPR will follow the schemes and the practices in use for "Open Access" models and licenses according to declarations and regulations referred to contents generated in projects funded by EU. The document proposes an IPR Scheme to be adopted in the project delivery of contents.

1. Introduction: IPR Concepts.

In the scope of the law, a **license** is an arrangement between two parties (licensor and licensee) granting some kind of permissions to use the specified goods of the licensor.

In the same scope, **intellectual property rights** (IPR) are the protections given to content creators, offering privileges in relation to their creations. Some materials may have a license under the terms of intellectual property rights, such as trademarks, patents or technologies.

In the world of education, **Open Educational Resources** (OER) are all learning teaching and research materials with an open license that are accessible for free [1].

Creative Commons (commonly shortened as CC) [2] is a non-profit organization created to use and share creativity and knowledge with a set of free-of-charge legal tools. Based on the decision of the authors on how their work would be protected, we could define the four existing license types (they can be mixed):

- **Attribution** (BY). Any use of the work is allowed, but giving credit to the original author. Otherwise, permission needed from the author.
- **ShareAlike** (SA). Copy, distribution and modifications of the work on the same original terms. Permission needed in case of change terms.
- **NonCommercial** (NC). Any use of the work, but permission needed in case of commercial usage.
- **NoDerivatives** (ND). Possibility to copy and distribute work, but permission needed in case of modification.



Fig. 1. Creative Commons logo.

In words from Creative Commons, “*CC licenses are irrevocable, but this doesn’t mean creators can’t cease offering a work under the license*. When a licensor changes the license of a work [...] it simply means that whomever comes across the work in the future will be bound by the new terms and not the older ones. It does not mean, however, that the older licenses are invalidated”.

Licenses have a three-layer design: legal code layer (format for lawyers), human readable layer (user-friendly interface) and machine-readable layer (format understandable by software systems).

When a license is created, the system generates a hyperlinked image that has to be placed on the resource (Fig. 2) (Fig. 3). Clicking on the license icon redirects the user to the Creative Commons Corporation webpage, where user will find more information about the granted license.

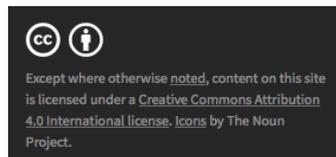


Fig. 2. Example of CC license.



Fig. 3. Example of CC license.

2. Outlook of IPR in European-founded projects

2.1. Licenses in European Projects

Following, the main licenses of resources released in European projects:

- Erasmus+ program (<https://ec.europa.eu/programmes/erasmus-plus/>) proposes Open licenses according to the recommendations of the Commission. “*The Commission will: Ensure that all educational materials supported by Erasmus+ are available to the public under open licenses and promote similar practices under EU programmes*” [3]
- Lifelong Learning Programme. The LangOER Project [4] delivered resources under Creative Commons licenses (share and adapt, attribution).
- Open Education Europa [5] (an initiative of the European Commission) compiles a huge number of resources which are found under the following licenses:
 - Unclassified (503 resources) or Not Acknowledged (436 resources).
 - Public domain (7 resources)
 - Under some type of copyright (47 resources)
 - Creative Commons licenses (196 resources):
 - Attribution, Non-Commercial, Share Alike (CC BY-NC-SA) (90 resources).
 - Attribution, Non-Commercial, No Derivatives (CC BY-NC-ND) (35 resources).
 - Attribution (CC BY) (33 resources).
 - Attribution, Non-Commercial (CC BY-NC) (19 resources)
 - Attribution, Share Alike (CC BY-SA) (17 resources).
 - Attribution, No Derivatives (CC BY-ND) (2 resources).

2.2. Recommendations from European Commission

European Commission has been promoting the opening of the education as a way to improve it, talking specifically about OER and open licenses: “*Open Educational Resources (OER) and Practices (OEP) have recently become hot topics, not only for educational researchers,*

but also for policy makers in Europe and abroad. There is a general agreement that openness has the potential to widen access to education and to improve, amongst others, cost-efficiency and quality of teaching and learning." [6].

As a consequence, indications of the Commission explicitly mention the Erasmus+ programme gives a clear idea (reasoning the underlying causes of it) of the expected status of produced educational contents: "*Opening up education means bringing the digital revolution into education. Digital technologies allow all individuals to learn, anywhere, anytime, through any device, with the support of anyone. [...] ensuring that educational materials produced with public funding, such as Erasmus+, the new EU programme for education, are freely available to all. [...] Increase transparency for users of educational resources regarding copyright. [...] What will this mean for intellectual property rights? Studies show that more than 50% of teachers do not share their teaching material, because they are concerned about the legal consequences. This prevents collaborative and personalized teaching and learning practices. Open Educational Resources are usually made available under licenses that allow free use, re-use and sharing. While these open licenses do not challenge the current intellectual property rights framework, they can still represent a challenge to the traditional business models of publishers or universities"* [7]

In 2015, the European Parliament made a research on OER and IPR. Their recommendation was, for all EU Member States, making educational resources open with a Creative Commons license (applying a *Non-Commercial* restriction) [8]: "*OER and IPR. -The Commission and Member States should adopt and recommend a standard Creative Commons license for all openly available educational and vocational training material they are involved in funding. -Member States should phase out use of the 'Non-Commercial' restriction on content. [...] The Commission and Member States should adopt and recommend a standard Creative Commons license for all openly available educational and vocational training material they are involved in funding.*"

Likewise, the ERASMUS+ Programme Guide [9] specifies that all produced resources have to be associated with an open license: "*OPEN LICENCE AND INTELLECTUAL PROPERTY RIGHTS. [...] An open licence must be associated to each resource produced. An open licence is not a transfer of copyrights or Intellectual Property Rights (IPR). Beneficiaries will remain the copyright holders of the materials they produce and are allowed to use them as they wish. The only requirement for grant beneficiaries is to make educational resources (or other documents and media produced by the project) freely accessible through open licences. To fulfil this requirement, licenses need at least to grant use and, ideally, sharing and, adaptation rights. Beneficiaries can also commercialise their project outcomes and experience shows that open access brings visibility and may encourage interested users to buy the printed version or physical material, document or media"*.

3. IPR Scheme

3.1. IPR

- At the light of the previous references, it seems that the content resources of the eCF Council project must be released with a Creative Commons license. **According to partners' opinion, the final shape of the license should be Attribution (BY) - ShareAlike (SA).**
 - To add extra information we would like to inform the partners that other European project with Sector Skills planning the development of training materials have decided that the Creative Commons License to be attached to all released materials should be BY-SA (attribution and share alike) (<https://creativecommons.org/licenses/by-sa/4.0/>)
- Third-Party resources. It will be mandatory the review of third-party resources' licenses according to an independent procedure to be devised within the activities of WP6, to avoid the use, modification or redistribution of copyrighted materials or breaking the terms of use stated in their IPR declarations.

3.2. Format, sharing and distribution of resources

- It will be necessary to determine the edition of resources, especially those third-party resources with particular situation of copyrights.
- Technical decisions: ways to share and distribute resources. It must be determined the extent to which the management of the IPR will be done.
- A disclaimer must be added to all released contents, in two ways:
 - General disclaimer, as required for all European projects. Each country should use their corresponding translation, which can be found here: http://ec.europa.eu/dgs/education_culture/publ/graphics/agencies/use-translation.pdf
 - Specific disclaimer, as required for IPR contents of this project and agreed by partners.
- In general terms, the whole project members (all partners or, at least, content creators) must agree the final terms of the IPR scheme. It is also necessary to determine who is going to appear in the authorship declaration of the contents. There are two main options: everything is going to be authored by the project representing all the partners or it is needed determining which partners (or members of the team) will appear as authors of each deliverable or content.

3.3. Clarifications on use of resources

Some reminders should be pointed to make clear how the resources could be used by partners:

- Although resources will be open and free, it should be highlighted that all related services to these resources could be released with charges, once completed the funded services included in the description of the project. As commented in [9], "beneficiaries can also commercialise their project outcomes and experience shows that open access brings visibility and may encourage interested users to buy the printed version or physical material, document or media". Commercialize experience may refer to the expertise in delivering the training service with the free and open contents.

- Translations and/or localizations (adapted contents to Member State reality, even without a translation, like Laws, etc.). It should be clarified if translations and localizations will be part of the Project, in terms of expected/promised results, in order to determine if they will follow the same IPR scheme or if they will be extraordinary results from a local partner (explicitly considered out from project funds). **The partners' opinion is that translated or localized contents are not part of the project outcomes: they are optional outcomes that partners may develop as an extra effort for their own purposes.**
- Finally, it is important to highlight the difference between all results of a project and OER. OER Commons organization [1] specifies regardless freedom and opening of resources: *“Open educational resources are and always will be free in digital form, but not all free resources are OER. Free resources may be temporarily free or may be restricted from use at some time in the future (including by the addition of fees to access those resources). Moreover, free resources which may not be modified, adapted or redistributed without express permissions from the copyright holder are not OER [...] The key distinguishing characteristic of OER is its intellectual property license and the freedoms the license grants to others to share and adapt it. If a lesson plan or activity is not clearly tagged or marked as being in the public domain or having an open license, it is not OER. It's that simple”.*

4. References

1. OER Commons (n.d.). Retrieved September 06, 2016, from <https://www.oercommons.org/>
2. Creative Commons (n.d.). Retrieved September 06, 2016, from <https://creativecommons.org>
3. COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Opening up Education: Innovative teaching and learning for all through new Technologies and Open Educational Resources (European Union: European Commission), 25 September 2013, COM(2013) 0654 final. Retrieved September 07, 2016, from <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52013DC0654>
4. LangOER (n.d.). Retrieved September 06, 2016, from <http://langoer.eun.org/oer-collection>
5. Open Education Europa (n.d.). Retrieved September 06, 2016, from <http://www.openeducationeuropa.eu>
6. Open Education 2030 (European Union). Retrieved September 06, 2016, from <http://blogs.ec.europa.eu/openeducation2030/>
7. European Commission. (2013, September 25). *MEMO “opening up education” – frequently asked questions*. Retrieved September 6, 2016, from http://europa.eu/rapid/press-release_MEMO-13-813_en.htm
8. European Parliament's Committee on Culture and Education (2015). *RESEARCH FOR CULTURE COMMITTEE - ADULT EDUCATION AND OPEN EDUCATIONAL RESOURCES*. Retrieved from [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/563397/IPOL_STU\(2015\)56339_7_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/563397/IPOL_STU(2015)56339_7_EN.pdf)
 European Commission. (2016, January 7). *ERASMUS+ Programme Guide*. Retrieved from http://ec.europa.eu/programmes/erasmus-plus/sites/erasmusplus/files/files/resources/erasmus-plus-programme-guide_en.pdf