

CROSS-BORDER EXCHANGES AND THEIR LEGAL CHALLENGES

Conference 'When Museums go online'
11 December 2020



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Europeana

Exhibitions

Explore the exhibitions



The Charter of Fundamental...

The Charter of Fundamental Rights of the European Union turns 20!



Family Matters

Explore different family concepts and discourses, looking back at the 20th century.



Uncovering Hidden Stories

Explore an introduction to European archaeology.



It was 30 years ago

Read about 3 October 1990 when German unification was achieved, effectively transforming the future of European integration.



Magical, Mystical and...

Learn about the psychoactive plants and fungi.



Solidarity: A Peaceful...

Learn about a peaceful revolution: the August 1980 shipyard strike in Poland.



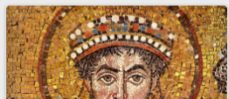
Echos of an Empire

Explore images of Byzantine instruments found in manuscripts and objects from daily life.



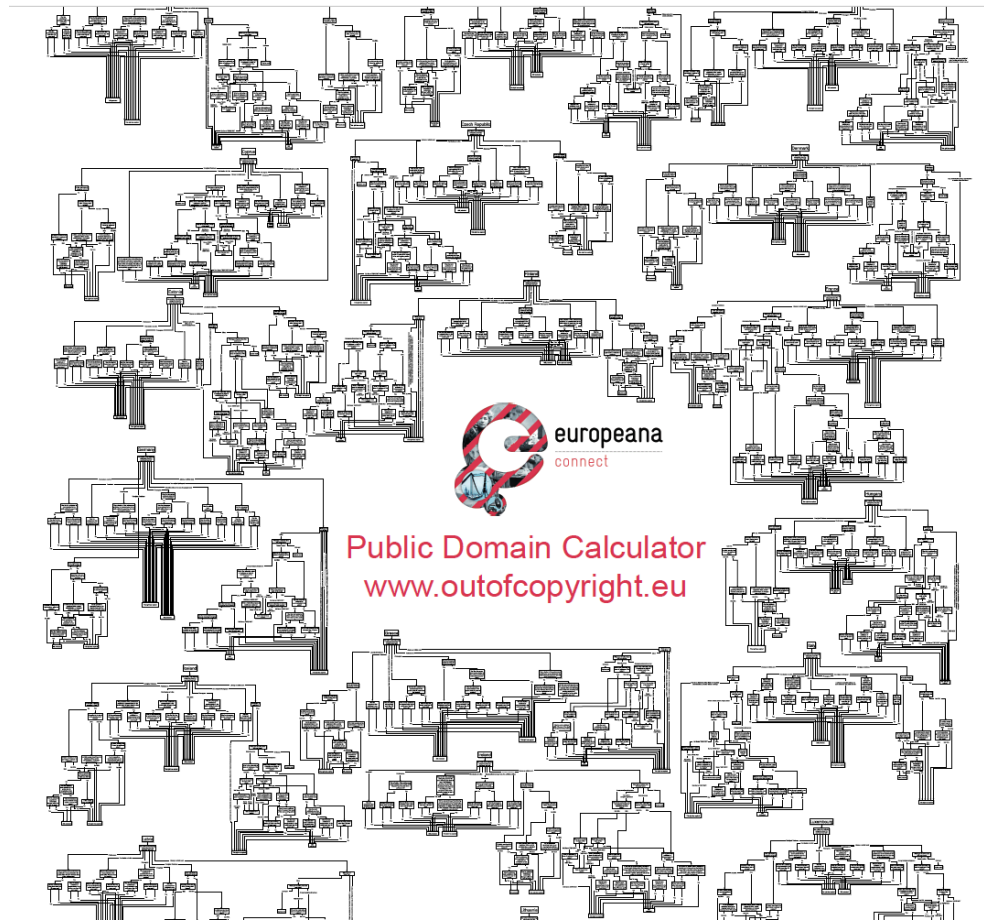
François Crépin and the...

Learn about rose specialist, François Crépin, and his studies on 'the queen of flowers'.



- Europeana is the paramount example of a cross-border cultural heritage collection
- **Cross-border access** to content originating from **multiple locations**

Public domain content



- There is not ONE **definition** of the public domain
- Calculating the term of protection is a daunting task
- What is in the public domain is not **necessarily everywhere** in the public domain
- *What is in the public domain should remain in the public domain*

COPYRIGHT EXCEPTIONS

5.1 Temporary acts of reproduction

5.2(a) Photocopying/photo-reproduction

5.2(b) Private copying

5.2(c) Reproductions by Libraries, Archives & Museums

5.2(d) Ephemeral recordings made by broadcasters

5.2(e) Reproduction of broadcasts by social institutions

5.3(a) Illustration for teaching or scientific research

5.3(b) Use for the benefit of people with a disability

5.3(c) Reporting by the press on current events

5.3(d) Quotation for criticism or review

5.3(e) Use for public security purposes

5.3(f) Use of public speeches and public lectures

5.3(g) Use during religious or official celebrations

5.3(h) Use of works of architecture or sculptures in public spaces

5.3(i) Incidental inclusion

5.3(j) Use for advertising the exhibition or sale of works of art

5.3(k) Use for the purpose of caricature, parody or pastiche

5.3(l) Use for the demonstration or repair of equipment

5.3(m) Use for the purpose of reconstructing a building

5.3(n) Use for the purpose of research or private study

5.3(o) Pre-existing exceptions of minor importance

Reproducing and making available of orphan works

■ Implemented	■ Partly Implemented
■ Not Implemented	■ Unknown



Lack of legislative harmonization

- Uncertainty regarding the extent to which museums can fulfill their mission in a cross-border online environment:
 - Preservation
 - Dissemination
 - Research support
- EU Orphan works regime unworkable, uncertain elsewhere
- New EU Directive 2019/790:
 - Text mining
 - Out-of-commerce works
 - Cross-border effect allowed – within the EU!

Individual licensing practices

Foam Magazine 57: *In Limbo*



From the series *Seremoni Disparisyon* © Widline Cadet, courtesy of the artist.

LAUNCH FOAM MAGAZINE #57: *IN LIMBO*

On Thursday 1 October, editor-in-chief Elisa Medde and art director Hamid Sallali went into conversation about the making of Foam Magazine #57: *In Limbo*. During the live stream, they discussed the theme of the issue and how it is translated into an innovative, new edition of Foam Magazine.

[Click here to watch the conversation.](#)

- Licenses range from CC0/CC-BY licenses to restrictive licenses;
- Conditions may restrict digitisation and/or public dissemination;
- Terms set at the time of acquiring the works by the museum

Collective licensing

- No complete repertoire/
worldwide coverage through CMOs
- Conservative approach to licensing
new modes of exploitation
- Turn around time for licenses can
be slow
- No cross-border application for
extended collective licenses
(except Directive 2019/790)

EXHIBITION HIGHLIGHTS



Bag and purse, by Emily Jo Gibbs, 1996, UK.
Museum no. T.531:1, 2-1996. © Victoria and
Albert Museum, London



Despatch Box owned by Winston Churchill, by
John Peck & Son, about 1921, London. ©
Victoria and Albert Museum, London



Mulberry 'Bayswater' and 'Alexa' bags from the
private collections of Kate Moss and Alexa
Chung, 2003 and 2010, England. © Victoria and
Albert Museum, London



Tracey Emin for Longchamp, International

<https://www.vam.ac.uk/exhibitions/bags>

Conclusion

- Lack of legislative harmonisation creates challenges to digitisation and dissemination of collections by museums
- Huge variations between the copyright laws in different parts of the world
- Talks at the WIPO Standing Committee on Copyright and Related Rights on copyright exceptions not progressing
- Licensing practices (either individual or collective) vary a lot as well, some that facilitate the museums' mission, others that do not.