



Country Report Russia

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Information on current state of copyright in Russia. Legislative issues

Growing stream of digital information at libraries force them to intensify work with digital copies of publications, however, serious restrictions to this activities are in place, mainly related to copyright protection.

Russian libraries today await changes in copyright law but have to function in accordance with the requirements of current legislation.

According to the Russian Federation Constitution, every citizen has the right to freely search, receive, and transmit information by any lawful means. Moreover, Russian libraries, guided by the “Law on Librarianship,” are required to provide for universal accessibility of information that is acquired and stored in library collections. Since 2008 the Fourth part of the Russian Federation Civil Code has significantly limited library power to provide information service to the population, mainly in creating and use of digital copies.

Creation of a paper copy is not a problem for Russian libraries. The ban on copying or reproduction of full paper works is well known, understandable and executable. Libraries have always introduced limitations on the portion of work that was allowed to be copied at not more than 15-20% of total volume, which fully corresponds to the legislation. But the ban on the creation of any digital copies of works as well as their excerpts was a blow to many libraries.

Earlier, patrons of Russian libraries were allowed to scan fragments of works which they could further use for quoting (textual as well as graphic fragments). Today, libraries are not allowed to scan and transmit digitally to users any fragments of works; however, the law (Article 1273) permits patrons to carry out this process themselves on condition that they will not use the fragment for commercial purposes. The ban on the creation of digital copies of works with the aim of transmitting them to other regions has seriously jeopardized electronic document delivery (ILL/DD). To be able to fulfill their main information function, libraries look for ways and trade-offs, for instance, they actively use the legally permitted creation of “a temporary digital copy” that is an interim stage of the technological process during reproduction. Libraries are forced to create a whole array of instructions in order to comply with the copyright legislation and ensure the population still has access to information, especially on science and higher education.

Presently, Russian libraries await changes to the Fourth part of the Russian Federation Civil Code, namely, its section dealing with copyright protection, as a number of amendments have been suggested. Since 2008, there has been an ongoing dispute of authors, publishers and librarians concerning the possibility of servicing patrons with copies of publications while honoring the rights of authors and other right holders. Practically since 2008 groups of library specialists have introduced initiatives to make changes to the Fourth part of the Russian Federation Civil Code.

In accordance with the RF President's Decree N 1108 of July 18, 2008, "On the refinement of the Civil Code of the Russian Federation," supported by the decision of the President's Council for Codification and Improvement of Civil Legislation at the session chaired by the President, a draft of amendments and itemization to the RF Civil Code has been prepared. Among others, they pertain to section dealing with copyright protection.

In December 2010 first draft was published on the web sites of Research Center of Private Law at the President of the Russian Federation, Higher Arbitral Court of the Russian Federation; it was discussed in the Public Chamber of the Russian Federation, RF Ministry of Economic Development and at several international scientific and practical conferences with wide representations of libraries.

Comments and proposals from ministries, agencies, organizations and individuals were further discussed in details and reflected in a number of tradeoffs in the text of the draft. A new draft was subsequently submitted to the Parliament for its spring session.

By now, the document has passed first reading in the State Duma (Parliament) of the Russian Federation. However, second reading has been postponed till the fall session. This decision has been made due to a big number of proposals for changes, over 2,000, received after the first reading. Consequently, adoption of the new edition of the Civil Code of the Russian Federation will be postponed till late 2012 or even 2013.

For libraries, it is important that this draft legislation approved in its first reading shows that the libraries appeal has been heard. The amendments are to create favorable conditions for providing access to information for all citizens, especially to support education and the development of science. Articles 1273, 1275, 1276 concerning reproduction and unrestricted use of works have been significantly changed. The libraries are allowed to create single digital copies of old, falling apart and defective publications and manuscripts the use of which could lead to their loss, and of works of outstanding scientific and educational significance. Conditions have been created for delivering digital copies of certain articles and small works by user requests, for using fragments and articles in education process. Unfortunately, the question of using digital publications beyond library walls (which is most important for disabled patrons) has not yet been solved.

However, now when this draft legislation is being prepared for the second reading, publishers introduce some proposals that reverse the wording of articles to their original text. We anticipate a lot of debate going on in the fall.

It is very important today to have precise wording in the law that would permit libraries to comply with the legislation with consideration of modern information technologies and the use of gadgets. It is necessary to take into account the speed of processing requests and delivering information in accordance with the level of information technology development in the society. Delay in decisions would be very dangerous for the very existence of libraries in the modern world.

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