Digital Higher Education and Copyright Law in the Age of Pandemic - The Hungarian Experience

by **Péter Mezei** *

Abstract: Digital technologies have triggered significant methodological, business and behavioural changes in higher education. The increasing gap in the needs and possibilities of digital learning and education was partially due to the rigid and outdated copyright norms, which were designed for an analogue environment. The legislation of the European Union has accepted Directive 2019/790 on Copyright and Related Rights in the Digital Single Market (CDSM Directive) in 2019. As a part of this reform, the EU has amended (broadened) the scope of educational limitations and exceptions. Life has abruptly changed with the global outbreak of the SARS-CoV-2 (COVID-19) pandemic. It has led to the closure of the premises of educational institutions and libraries. The online access, use and sharing of copyright protected materials turned out to be the only way to continue education in the early lockdown period and continues to be a significant way of learning in the "new normal". Hungary had to face the same challenges of the pandemic. Importantly enough, this country was the first to implement Article 5 of the CDSM Directive in April 2020. The empirical analysis of the new copyright regime and the effects of pandemic on higher education (and educational limitations and exceptions) is nevertheless still missing. This paper intends to fill in this gap. First, the paper shortly introduces the novelties of the CDSM reform related to educational limitations and exceptions in general and in Hungary, and discusses how the COVID-19 pandemic has affected higher education throughout 2020-2022. Second, it includes the empirical analysis of the awareness, perceptions and use practises of students, educators and librarians of the University of Szeged with respect to digital (distance and online) learning and teaching in the pandemic.

A. Introduction

1 The use of copyrighted materials for the purposes of education has become more important than ever. For a long time, digital technologies have triggered significant changes in the methodology of higher education; they prompted the academic publishers to rethink their strategies; and affected the behaviour of students, educators and organisations on the creation, access, use and dissemination of educational materials.[1]

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2 Viewed from a global perspective, the changes of this field were far from uniform. Wealthier universities of wealthier countries could finance shifting towards online/distance education or accessing expensive databases quicker and more efficiently. American universities are pathfinders in offering massive open online courses,[2] and many of them are global leaders in finding the most optimal solutions for education in the pandemic as well.[3] Other nations struggled to keep this pace, which has reaffirmed the existence of an academic digital gap.[4] For many, distance and online education remained an exception rather than the default. The digital divide in and among countries is more than visible regarding education and the use of information and communications technologies.[5]

3 The increasing gap in the needs and possibilities of digital learning and education was partially due to the rigid and outdated copyright norms,[6] which were designed primarily for an analogue environment. This has necessitated the recalibration of the copyright system in order to guarantee broader end-user educational rights, most generally within the frames of copyright limitations and exceptions.

4 As a notable example, the European Union ("EU") has accepted Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC in 2019 (with an implementation deadline of June 7, 2021) ("CDSM Directive").[7] The CDSM Directive has updated and expanded the scope of user rights of individuals and privileged institutions alike. As Séverine Dusollier aptly noted, "[e]xceptions – at least some of them – have mutated from mere limitations of exclusive rights to proper enabling devices sustaining socially-benefiting uses of works and creations".[8] Cultural heritage

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1   Jack M. Balkin and Julia Sonnevend, 'The Digital Transformation of Education'. In: Christine Greenhow, Julia Sonnevend and Colin Agur (Ed.), 'Education and Social Media', The MIT Press, Cambridge-London, (2016) 9-24. All online sources of this paper were last accessed on 10 August 2022.

2   On the MOOC "revolution" see especially: Paul Kim (Ed.), 'Massive Open Online Courses – The MOOC Revolution', Routledge, New York (2015); Minhtuyen Mai, Adam Poppe and Christine Greenhow, 'Social Media and Education on a Massive Scale: The Case of MOOCs'. In: Greenhow et al. (2016) 209-214. On the intersections of MOOC and copyright law see e.g. Samantha Bernstein, 'MOOCs, Copyright, and the Many Meanings of "Open"'. In: Kim (2015) 116-126; Ratnaria Wahid, Azizuddin Mohd Sani, Bakri Mat, Muhammad Subhan and Khaliza Saidin, 'Sharing Works and Copyright Issues in Massive Open Online Courseware (MOOC)' (2015) 2 International Journal for Research in Emerging Science and Technology 10, 24-29.

3   Certain American and Brazilian universities offer personalized, AI-assisted, skills-based and adaptive learning tools. See Felipe Child, Marcus Frank, Mariana Lef, and Jimmy Sarakatsannis, 'Setting a new bar for online higher education' McKinsey & Company, 18 October 2021 <https://www.mckinsey.com/industries/education/our-insights/setting-a-new-bar-for-online-higher-education>.

4   Melissa Bond, Victoria I. Marín, Carina Dolch, Svenja Bedenlier and Olaf Zawacki-Richter, 'Digital transformation in German higher education: student and teacher perceptions and usage of digital media' (2018) 15 International Journal of Educational Technology in Higher Education 48, 1-20.

5   Compare to Colin Agur, 'ICTs and Education in Developing Countries: The Case of India'. In: Greenhow et al. (2016) 61-65. The types of responses of higher educational institutions on the COVID-19 pandemic also showed a significant divergence depending upon the level of development of the countries. Compare to Joseph Crawford, Kerryn Butler-Henderson, Jürgen Rudolph, Bashar Malkawi, Matt Glowatz, Rob Burton, Paola A. Magni and Sophia Lam, 'COVID-19: 20 countries' higher education intra-period digital pedagogy responses' (2020) 3 Journal of Applied Learning & Teaching 1, 9-28.; Giorgio Marinoni, Hilligje van't Land and Trine Jensen, 'The Impact of COVID-19 on Higher Education Around the World' (2020) IAU Global Survey Report, International Association of Universities <https://www.unibasq.eus/wp-content/uploads/2020/06/iau_covid19_and_he_survey_report_final_may_2020.pdf>.

6   Compare to Nicholas Bramble, 'Copyright Reform and Educational Progress'. In: Greenhow et al. (2016) 153.

7   Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (Text with EEA relevance).

8   Séverine Dusollier, 'The 2019 Directive on Copyright in the

organisations shall also change their internal policies related to the preservation and dissemination of cultural goods for the benefit of students, educators and researchers.[9]

5 Life has abruptly changed in the early months of 2020. No one could foresee the challenges that the global outbreak of the SARS-CoV-2 (COVID-19) pandemic will cause for life in general and education in specific. Indeed, the educational sector was among those hit the hardest by the pandemic;[10] or, as Rof et al. put it, "[t]he COVID-19 pandemic is an example of an exogeneous shock".[11] Due to the closure of the premises of educational institutions and libraries the online access, use and sharing of materials – including copyright protected ones – turned out to be the necessary and only way to continue education in the early lockdown period (and continues to be a significant way of learning in the "new normal").

6 In Hungary, the legislation has always been keen to implement EU copyright directives relatively quickly and almost verbatim (with the necessary alignment to the domestic legal terminological traditions). The educational limitations and exceptions covered by the InfoSoc Directive[12] were introduced as early as the country joined the EU in 2004.[13] Indeed, the Hungarian Copyright Act ("HCA")[14] has even offered slightly more than the EU norms, including an exception for the adaptation of audio-visual contents for on-the-spot educational purposes; and interlibrary loan. At the same time, industry-level innovations (license-based services of authors/publishers) were almost completely missing in Hungary, leading to a rather "dry" environment for creative education. Nevertheless, Hungary was the first EU Member State to implement Article 5 of the CDSM Directive in April 2020.[15] This legislative move

was certainly hailed by the educational community. It is far from settled whether the full potential of the new law is applied by higher educational institutions. Importantly, the empirical analysis whether the newly introduced copyright norms effectively support distance and online education is completely missing in Hungary. This paper intends to fill in this gap by checking whether educators, students and librarians are aware of the EU's copyright reform and its novel possibilities, and whether they rely on these norms to make distance and online education effective enough. In order to do so, the paper shortly introduces how, how broadly and how flexibly are educational limitations and exceptions regulated and applied in Hungary. As a part of that, the paper empirically tests the level of perception and awareness of university students, educators and librarians about the existing copyright rules; and it analyses how the existing limitations and exceptions support individuals to exercise their educational rights. As Bartolomeo Meletti put it, "[c]opyright exceptions enable lawful copying of whole or substantial parts of protected works without the need for the copyright owner's permission. They are intended to allow uses that the legislator considers to be socially, culturally, politically or economically beneficial, such as education, the preservation of cultural heritage, or research, among many others".[16] Indeed, the empirical analysis of educational exceptions is of utmost importance, and can ultimately support the consideration whether legislative changes have led to the intended goals. Throughout the research, special attention was paid to the COVID-19 pandemic's effects on individuals in exercising their educational rights.[17]

7 The paper starts with the short introduction of the various issues at stake. It is necessary to compare the substance and functioning of the educational copyright limitations and exceptions preceding

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Digital Single Market: Some Progress, A Few Bad Choices, And an Overall Failed Ambition' (2020) 57 Common Market Law Review 4, 982.

9   While this paper is not discussing Article 6 of the CDSM Directive, its benefits can certainly have indirect relevance for education as well.

10   Child et al. (2021).

11   Albert Rof, Andrea Bikfalvi and Pilar Marques, 'Pandemic-accelerated Digital Transformation of a Born Digital Higher Education Institution: Towards a Customized Multimode Learning Strategy' (2022) 25 Educational Technology & Society 1, 125.

12   Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society.

13   The paper focuses on Hungary's copyright law after the country's accession to the European Union on May 1, 2004.

14   Act LXXVI of 1999 on Copyright Law <https://net.jogtar.hu/jogszabaly?docid=99900076.tv>.

15   On the legislation via government decrees in the early

period of the special legal order see Rudi Alexandra and Ujhelyi Dávid, 'A szellemi tulajdonjog területén megvalósult különleges jogrendi jogalkotás – háttér és eredmények' (2020) 6 Fontes Iuris 2, 53-58.

16   Bartolomeo Meletti, 'A review of the empirical evidence on copyright exceptions' (2021) CREATe Working Paper no. 2021/9, 2. <https://zenodo.org/record/5705970#.Yo4ITFRBxPY>.

17   Although the research is mainly triggered by and intends to introduce the normative and practical challenges of the COVID-19 pandemic, and is mainly a research paper, the experiences gathered might be relevant for the post-pandemic operation of copyright limitations and exceptions benefiting distant and online education. Hence, the research intends to provide policy recommendations both for the University of Szeged (how to broaden the scope of legitimate online uses) and for the Hungarian legislation (whether the normative basis of distance and online education is capable of benefiting society as a whole).

and following the CDSM reform in Europe and in Hungary. Likewise, special attention shall be paid to the COVID-19 pandemic's challenges on education throughout 2020-2022.

8 Second, the paper empirically tests, whether and to what extent the relevant copyright rules support distance and online education in Hungary. For that purpose, an online questionnaire has been developed to analyse the perception and the level of awareness of students, lecturers and librarians of the University of Szeged related to copyright law and the use of lawful and "grey" resources in education. The questionnaire has paid close attention to the pandemic (or hybrid educational) period of 2020-2022.

9 Our findings will indicate that against the early implementation of the new digital educational exception, there is a sensible lack of awareness on and interest in copyright law and its flexibilities. In other, quite straight words: we believe that the analysed period is a missed opportunity to enhance digital education and make university practices "lockdown-proof".

B. Crossroads

I. Education and Copyright Law in the EU and Hungary preceding the CDSM reform

10 The copyright aspects of higher education, with a special view on the digital perspectives of it, has been discussed by academia ever since the InfoSoc Directive was introduced in 2001. Article 5(3)(a) of the InfoSoc Directive – as well as Article 5(2)(c) for connected libraries[18] – has already offered a flexible environment for higher educational institutions.[19] Although both the directive and the Berne Convention are drafted in a technologically neutral way with respect to the educational limitations and exceptions,[20] Member States remained "short-

sighted" to extend the scope of the new limitations and exceptions to distance and online education.[21] This is even more problematic in light of the InfoSoc Directive's express reference to the inclusion of "distance learning" into the frames of Article 5(3) (a).[22]

11 In sum, the national transpositions of Article 5(3) (a) have led to a great disharmony among the EU countries.[23] This has been evidenced by various studies[24] and empirical analysis.[25]

12 Hungary's pre-CDSM logic of the teaching exception could be similarly characterized as a primarily "brick-and-mortar" exception. The use of protected works and subject matter for teaching purposes was either limited to the premises of the educational institution (including, of course, the use of digital means to present materials on-the-spot); or to the sharing of tangible copies of materials (reproduced strictly in line with the number of involved students) among the participants of the educational event or examinations.[26] Article 38(1)(b) of the HCA was

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All the Traps Set by Article 5 of the CDSM Directive' (2022) 17 Journal of Intellectual Property Law & Practice 5, 408.

21 Silke Ernst and Daniel M. Häusermann, 'Teaching Exceptions in European Copyright Law – Important Policy Questions Remain' (2006) Berkman Center for Internet & Society Research Publication Nr. 2006-10 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=925950>.

22 Compare to recital (42) of the InfoSoc Directive.

23 Raquel Xalabarder, 'On-line teaching and copyright: any hopes for an EU harmonized playground?' In: Paul Torremans (Ed.): 'Copyright Law. A Handbook of Contemporary Research' (2007) Edward Elgar, Cheltenham, 390-395.; Giulia Priora, Bernd Justin Jütte and Péter Mezei, 'Copyright and Digital Teaching Uses in the EU: Recent Legislative Developments and Implementation Models of Article 5 CDSM Directive' (2002) 53 IIC – International Review of Intellectual Property and Competition Law 4, 545-546.; Lazarova (2022) 408.

24 Andrew Gowers, 'Gowers Review of Intellectual Property' (2006) 47-48.; Lucie Guibault, Guido Westkamp, Thomas Rieber-Mohn, Bernt Hugenholtz, Mireille van Eechoud, Natali Helberger, Lennert Steijger, Mara Rossini, Nicole Dufft and Philipp Bohn, 'Study on the Implementation and Effect in Member States' Laws of Directive 2001/29/EC on the Harmonisation of Certain Aspects of Copyright and Related Rights in the Information Society – Final Report' (2007) Institute for Information Law, University of Amsterdam, 49-51.

25 Teresa Nobre, 'Copyright and Education in Europe: 15 everyday cases in 15 countries' (2017) RIGHT COPYRIGHT Final Report <https://www.communia-association.org/2017/05/08/copyright-and-education-in-europe-15-everyday-cases-in-15-countries/>.

26 Péter Mezei, 'Hungary'. In: Reto M. Hilty - Sylvie Nérisson (Eds.), 'Balancing Copyright - A Survey of National Approaches' (2012) Max Planck Institute Studies on

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18 Maria Daphne Papadopoulou, 'Copyright Limitations and Exceptions in an E-Education Environment' (2010) 1 European Journal of Law and Technology 2, 22.

19 Michel Walter and Silke von Lewinski, 'European Copyright Law - A Commentary' (2010) Oxford University Press, Oxford, 733-735.

20 Raquel Xalabarder, 'Study on Copyright Limitations and Exceptions for Educational Activities in North America, Europe, Caucasus, Central Asia and Israel' (2009) WIPO Standing Committee on Copyright and Related Rights Nineteenth Session Proceedings (SCCR/19/8), Geneva, 14-18 December 2009, 135.; Ana Lazarova, 'Bulgaria Falls into

limited with respect to the number of copies; the venue of use; or the technology involved. Indeed, the lending right wasn't extended to cover the lending of e-books,[27] not even after the decision of the Court of Justice of the European Union ("CJEU") in the *Vereniging Openbare Bibliotheken v Stichting Leenrecht* case.[28] Similarly, the *TUD v Ulmer* decision[29] of the CJEU on digital services of libraries remained completely unreflect in Hungarian law. At the same time, multiple other norms of the HCA have been capable to be used – and are practically applied – for educational purposes, including citation,[30] "borrowing",[31] adaptation for educational purposes,[32] or interlibrary loan.[33] The limited nature of the normative framework, the complete lack of national case law on this field and the shrinking role of libraries in the digital age in supporting modern educational activities was spotted and led to deep concerns among Hungarian librarians.[34] This, coupled with budgetary limitations or the dominance of English language over small languages[35] have led to a decrease in the impact of local/regional (including university) libraries in the field of higher education,[36] and Hungary was not an exception to this trend.

II. The CDSM Reform and Article 5

13 Article 5 of the CDSM Directive was introduced in order to reflect on the social and technological changes of the last two decades related to education. These provisions of the CDSM Directive were analysed by academia in great details.[37] Most recently, the European Copyright Society has published its comment on the new limitations and exceptions. The drafters of the comment noted that the harmonisation achieved by Article 5 is "relatively minimal".[38] Giulia Priora, Bernd Justin Jütte and Péter Mezei, based on the analysis of the partially overlapping and partially divergent national implementations of Article 5 in Italy, Germany and Hungary,[39] concluded that the new European legislator has only partially reached its goal to further harmonize educational exceptions by the introduction of a new mandatory exception (or limitation). They argued that it is especially the voluntary use of the licensing carve-out of Article 5 that expressly limits the harmonization effects of the CDSM Directive.[40] Ana Lazarova, based on the implementation flexibilities granted to the Member States by the CDSM Directive (related to the beneficiaries, types of covered works, volume

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Intellectual Property and Competition Law, Volume 18, Springer Verlag, München, 475-505.

27   Mezei Péter, 'A könyvtárak és a változó szerzői jog' (2015) 17 Könyv és nevelés 2, 15-17.

28   Case C-174/15 - Vereniging Openbare Bibliotheken v Stichting Leenrecht, Judgment of the Court (Third Chamber), 10 November 2016, ECLI:EU:C:2016:856.

29   Case C-117/13 - Technische Universität Darmstadt v Eugen Ulmer KG, Judgment of the Court (Fourth Chamber), 11 September 2014, ECLI:EU:C:2014:2196.

30   Article 34(1) HCA.

31   Article 34(2)-(3b) HCA. 'Grand citation' is a form of citation that allows for the use of greater excerpts for research purposes (including completing thesis, home assignments etc. by students).

32   Article 34(4) HCA.

33   Article 40 HCA.

34   Kokas Károly, 'Mi dolga lesz a könyvtáraknak az internet korában? A felsőoktatási könyvtárak új feladatairól és a régiek megújításáról'. In: 'Hagyomány és újítás a 21. századi könyvtárban, Erdélyi Évszázadok – A Kolozsvári Magyar Történeti Intézet Évkönyve III' (2018) Egyetemi Műhely Kiadó, Bolyai Társaság, Kolozsvár, 87-119.

35   Balkin and Sonnevend (2016) 14.

36   On the global nature of this phenomenon see e.g. Hafijull Mondal, 'The Library: Changing Role and Services in 21st Century's Information Societies'. In: 'Conference: ICT and Library in Higher Education: An Indian Perspective' (2020) Volume 1, Chandidas Mahavidyalaya, Birbhum <https://www.researchgate.net/publication/339711839_The_Library_Changing_Role_and_services_in_21st_century%27s_information_societies>.

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37   See especially Bernd Justin Jütte, 'Uneducating copyright: Member States can choose between "full legal certainty" and patchworked licensing schemes for digital and cross-border teaching' (2019) 41 European Intellectual Property Review 11, 669-671.; Anna Despotidou, 'The New Mandatory Teaching Exception or Limitation (Article 5 of the CDSM Directive): Ensuring Its Application in the Digital and Cross-Border Environment(s) While Losing the Way to Harmonization?' In: Tatiana-Eleni Synodinou, Philippe Jougleux, Christiana Markou and Thalia Prastitou-Merdi (Eds.), 'EU Internet Law in the Digital Single Market' (2021) Springer, Cham, 99-139.; Irini Stamatoudi and Paul Torremans, 'The Digital Single Market Directive'. In: Irini Stamatoudi and Paul Torremans (Eds.), 'EU Copyright Law - A Commentary' (2021) Second Edition, Edward Elgar, Cheltenham, 691-695.; Eleonora Rosati, 'Copyright in the Digital Single Market - Article-by-Article Commentary to the Provisions of Directive 2019/790' (2021) Oxford University Press, Oxford, 93-127.; Ana Lazarova, 'The EU Copyright Reform's great disservice to free use for educational purposes' EuropeanaPro, 7 July 2021 <https://pro.europeana.eu/post/the-eu-copyright-reform-s-great-disservice-to-free-use-for-educational-purposes>.

38   Jonathan Griffith, Tatiana-Eleni Synodinou and Raquel Xalabarder, 'Comment of the European Copyright Society Addressing Selected Aspects of the Implementation of Articles 3 to 7 of the Directive (EU) 2019/790 on Copyright in the Digital Single Market' 13 April 2022, 6. <https://europeancopyrightsociety.org/2022/05/03/https-europeancopyrightsocietydotorg-files-wordpress-com-2022-05-ecs_exceptions_final-1-pdf/>.

39   Priora, Jütte and Mezei (2022) 552-557.

40   Ibid. at 563-564.

of permitted use, types of uses), even questioned "why the exception is [...] labelled as mandatory".[41] Concerns regarding the effectiveness of the new norms are widely shared by commentators. As Eduardo Santos rightly pointed out, "[w]hen the mandatory component of an exception refers solely to the mere existence of the provision, while allowing its substance to be susceptible of significant derogation, legal approximation and certainty can hardly be achieved".[42]

14 Hungary was the first EU Member State to implement Article 5.[43] The Ministry of Justice of Hungary ("Ministry"), in close collaboration with the Hungarian Intellectual Property Office ("HIPO"), prepared the first, publicly unavailable version of the implementation draft by the end of the summer of 2019. In line with this draft, the Ministry and HIPO organized six preparatory public consultation meetings on key areas of the CDSM Directive.[44] Shortly after the COVID-19 pandemic reached Hungary, the Parliament declared a state of danger. Based on this, the Government was granted the right to temporarily legislate via government decrees from as early as 30 March 2020.

15 Education in Hungary switched from in-person to remote from 16 March 2020. In the lack of a safe copyright exception for the benefit of teachers and educational institutions to enable them to share third-party contents with students, a pressing need emerged to introduce the new digital teaching exception via a governmental decree. Such a decree was published on 16 April 2020.[45] The implementation of Article 5 CDSM Directive took its final form by the acceptance of Act LVIII of 2020 on 16 June 2020 on the cessation of the state of danger.[46] This law has transposed the rules of the government decree into the domestic Copyright Act.

16 The preparations for the implementation of the rest of the CDSM Directive did not stop during the pandemic. Following almost a full year of drafting and consultations, the Parliament passed Act XXXVII of 2021 on April 28.[47] The transposition of Article 5 CDSM Directive thus occurred in two main phases. Act LVIII of 2020 amended several existing articles of the HCA and introduced several other articles. In the second, more formal phase, Act XXXVII of 2021 renumbered and amended a few of the relevant articles.

17 The key novelties of the reform are as follows. Article 33/A introduced the definition of secure electronic systems. Article 34(3a) codified the country-of-origin approach by declaring that the relevant use is deemed to occur on the soil of the country where the educational institution is domiciled. The new exception allowed for the on-the-spot digital and online educational use of works that "borrow" from third parties' works or other protected subject matter ("grand citation");[48] the making and presenting of derivative works (adaptations) in

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41 Lazarova (2022) 409.

42 See Alina Trapova, The exceptional mismatch of copyright teaching exceptions in the post-pandemic university – insights from Germany, Bulgaria, and Ireland, JIPITEC 14 (2023) 305 para 1; Eduardo Santos, 'A concerned look on the new copyright teaching exceptions' Kluwer Copyright Blog, 19 July 2022 <http://copyrightblog.kluweriplaw.com/2022/07/19/a-concerned-look-on-the-new-copyright-teaching-exceptions/>.

43 The Hungarian "fast track" process has gained considerable attention in the blogosphere, too. See Péter Mezei, 'An update on the Hungarian implementation process of the CDSM Directive' Kluwer Copyright Blog, 22 June 2020 <http://copyrightblog.kluweriplaw.com/2020/06/22/an-update-on-the-hungarian-implementation-process-of-the-cdsm-directive/>; Paul Keller, 'Hungary's fast tracked implementation of Article 5 CDSM directive in response to the pandemic' Kluwer Copyright Blog, 23 June 2020 <http://copyrightblog.kluweriplaw.com/2020/06/23/hungarys-fast-tracked-implementation-of-article-5-cdsm-directive-in-response-to-the-pandemic/>; Dávid Ujhelyi, 'A third take on the Hungarian implementation of Art 5 of the CDSM Directive' Kluwer Copyright Blog, 31 August 2020 <http://copyrightblog.kluweriplaw.com/2020/08/31/a-third-take-on-the-hungarian-implementation-of-art-5-of-the-cdsm-directive/>.

44 No records of the meetings are available online. The call for participating on the preparatory consultation meetings is, however, available yet. See Az Igazságügyi Minisztérium és a Szellemi Tulajdon Nemzeti Hivatala közös felhívása a szerzői jogi irányelvek átültetését érintő konzultációban való részvételre, 2019. augusztus 1. <https://2015-2019.kormany.hu/download/7/2a/a1000/Általános tájékoztató_DSM_SatCab.pdf>.

45 Hungarian Government Decree No. 125/2020 (IV.16.) <https://wipolex.wipo.int/en/text/577884>.

46 The law entered into force on June 18, 2020.

47 The first (full) draft bill was published on 7 May 2020 and a public consultation took place between May and June 2020. The MoJ and the HIPO, based on more than 100 responses, published an amended draft bill at the end of July 2020. This version was offered for a targeted (semi-public) consultation in August 2020. Taking into consideration the recommendations at this stage, a third version was submitted for a final semi-public consultation in February 2021. The bill was finally submitted to the Hungarian Parliament on 31 March 2021. The Parliament passed the bill with 136 yeas, 29 nays, and 1 abstain. Act XXXVII of 2021 was published on 6 May 2021 and entered into force on 1 June 2021, a few days before the official transposition day. See Magyar Közlöny, 2021, Issue 81, p. 3184-3197.

48 Article 34(3)(b) HCA. In Hungarian copyright law, "[a]ny use of a work in another work to a degree that exceeds quotation or citation constitutes borrowing". At the same time, the scope of borrowing is limited to certain types of subject matter. See Article 34(2) HCA.

the course of (in-person, synchronous) digital and distance education;[49] as well as the distributing and making available to the public via secure electronic systems parts of books or (full) journal or newspaper articles for purposes of education or examination, in line with the number of involved students.[50] These provisions represent a continuity in the logic of the Hungarian copyright system. All provisions are either verbatim implementations of the CDSM Directive's provisions, or "digital updates" to the formerly existing educational exceptions. This is not to say that the new rules are meaningless. Indeed, they effectively clarify the extended scope of lecturers' and students' possibilities in the digital educational environment by classifying the new rules are exceptions (not subject to authorization and payment) and they clarify the exclusion of the possibility of licensing carve-out.

III. The challenges of COVID-19 on education and copyright law

18 The pandemic necessitated (and certainly curbed) some recalibration of the copyright system to meet the changing social needs and technological innovation. Carys Craig and Bob Tarantino have argued that "[w]e need to actively *recalibrate* the copyright system to restore its equilibrium in the digital environment, recognizing that there is nothing perfect about perfect control, and counterbalancing technical measures by building leaks and limits back into the system by design".[51] Emily Hudson and Paul Wragg have also analysed the licensing and exceptions framework in the United Kingdom copyright law in great details, and provided various suggestions for universities to encourage teaching during the pandemic.[52]

19 The Hungarian literature is silent on the COVID-19 pandemic's effects on distance and online education and copyright law yet. An important article from the educational scientist István Polónyi has noted that the Hungarian education was completely unprepared for the education in lockdown against all investments into the relevant infrastructure. Indeed, as all investments were provided to the schools directly, they could not reflect the individual needs of, e.g., poorer elementary and secondary

students in disadvantaged regions of the country.[53] Higher education was affected less negatively by the pandemic, especially since college students are better equipped with the necessary technology.[54] The Hungarian experiences showed that "higher education involved heterogeneous platforms, extremely heterogeneous educational materials, educators lacking digital literacy, where [students] were examined with immature methods almost incapable to exclude cheating".[55] To speak of some positive signs as well, Hungarian libraries did their best to continue providing their services during the early lockdown period.[56]

C. Empirical analysis of distance and online education and copyright law

20 Based on the above discussion, it seems inevitable to test whether Article 5 CDSM Directive could contribute to the better functioning of digital education.

21 There is a sensible amount of academic literature with respect to various aspects of distance and online education and copyright law. Some authors have surveyed the awareness and perceptions of students on copyright law and education;[57] others have researched the community of educators[58]

49   Article 34(4) HCA.

50   Article 35(5) HCA.

51   Carys J. Craig and Bob Tarantino, 'An Hundred Stories in Ten Days: Covid-19 Lessons for Culture, Learning, and Copyright Law' (2021) 57 Osgoode Hall Law Journal 3, 601. (italics in original)

52   Emily Hudson and Paul Wragg, 'Proposals for Copyright Law and Education During the Covid-19 Pandemic' (2020) 71 Northern Ireland Legal Quarterly 4, 571-594.

53   Polónyi István, 'Pandémiás oktatás' (2021) 30 Educatio 1, 13.

54   Ibid. at 19. Even if Polónyi's statement could not reflect on deeper social realities, e.g. the lack of enough computers for a complete family (that is splitting the time of use among children – maybe at various levels of education – and family members for both work/study and leisure purposes).

55   Ibid. [Translation by the present author.]

56   Bódog András, 'Könyvtárak a koronavírus-járvány idején – Pandémia és infodémia' (2020) 66 Könyvtári Figyelő 3, 423-425.

57   Enrique Muriel-Torrado and Juan-Carlos Fernández-Molina, 'Creation and Use of Intellectual Works in the Academic Environment: Students Knowledge About Copyright and Copyleft' (2015) 41 The Journal of Academic Librarianship 4, 441-448.; Adexinka Tella and Francis Oyeyemi. 'Undergraduate Students' Knowledge of Copyright Infringement' (2017) 11 Brazilian Journal of Information Studies: Research Trends 2, 38-53.; Amanda Wakaruk, Céline Gareau-Brennan, and Matthew Pietrosanu, 'Introducing the Copyright Anxiety Scale' (2021) 5 Journal of Copyright in Education and Librarianship 1, 1-38.; Sara Rachel Benson, Kelli Trei, and Merinda Kaye Hensley, 'A Qualitative Study of Undergraduate STEM Majors' Copyright Knowledge and Educational Experiences' (2021) 82 College & Research Libraries 6, 845-862.

58   Magdalena Biernat, Agnieszka Urbańska, Teresa Nobre, Alek Tarkowski, and Maja Bogataj, 'Remote education during the

or librarians.[59] Some of these papers precede the pandemic period, but some are expressly drafted to gain knowledge on COVID-19's possible consequences on higher education.

22 The Hungarian empirical resources are quite limited in this field. Koltay et al. have surveyed librarians in line with the Todorova et al. report and similarly found a significant lack of awareness in the nuances of copyright law among Hungarian librarians.[60] Hargitai et al. tested the existing studying habits of university students preceding the March 2020 lockdown. The authors tried to locate the needs and practises of students that could contribute to the decision-making on the smooth continuation of education after the closure of university premises.[61]

23 These research papers—as well as Patricia Aufderheide's paper on the chilling effects of copyright licensing on academic research[62] and John Willinsky and Catherine Baron's empirical analysis of the amount of readings requested by lecturers of Canadian universities as part of their classes[63]— were used as a starting point to draft an online questionnaire to test the awareness, perceptions and use practises of the academic community of the University of Szeged (students, lecturers and librarians) related to digital education and copyright law.

pandemic - Teacher's Perspective' (2021) Centrum Cyfrowe and Communia <https://centrumcyfrowe.pl/en/remote-education-during-the-pandemic/>.

59 Tania Todorova, Tereza Trencheva, Serap Kurbanoğlu, Güleda Doğan, Aleksandra Horvat, and Joumana Boustany, 'A Multinational Study on Copyright Literacy Competencies of LIS Professionals'. In: Serap Kurbanoğlu, Sonja Špiranec, Esther Grassian, Diane Mizrachi, and Ralph Catts (Eds.), 'Information Literacy: Lifelong learning and digital citizenship in the 21st century' (2014) Springer, Cham, 138-148.; Chris Morrison and Jane Secker, 'UK copyright literacy survey: summary report' (2015) University of Kent - London School of Economics and Political Science <http://openaccess.city.ac.uk/17508/>.

60 Koltay Tibor, Murányi Péter, Jávorszky Ferenc, and Amberg Eszter, 'Szerzői jogi műveltség a magyar könyvtárosok körében' (2017) 63 Könyvtári Figyelő 4, 507-518.

61 Hargitai Dávid Máté, Sasné Grósz Annamária and Veres Zoltán, 'Hagyományos és online tanulási preferenciái a felsőoktatásban – A COVID-járvány kihívásai' (2020) 98 Statisztikai Szemle 7, 839-857.

62 Patricia Aufderheide, 'The Chilling Effect of Copyright Permissions on Academic Research' (2020) Joint PIJIP/TLS Research Paper Series 49, 1-8.

63 John Willinsky and Catherine Baron, 'What Should Students Pay for University Course Readings? An Empirical, Economic, and Legal Analysis' (2021) 51 Canadian Journal of Higher Education | Revue canadienne d'enseignement supérieur 4, 40-53.

I. Methodology

24 The paper has already introduced the basic copyright law background of higher educational uses of protected subject matter in Section B. In the followings, we introduce the key findings of the empirical research based on an anonym online questionnaire.

25 There are multiple reasons why in-person interviews were omitted, including the ever-changing pandemic situation, the expected high number of respondents, and the fact that a significant amount of answers were given on a five-level Likert scale.[64] The number of questions allowing the free explanation of individual experiences and opinions were limited.

26 A group of undergraduate students from the University of Szeged were involved in the drafting of the questionnaire during February 2022. This group was separated into two subgroups. Subgroup A contributed to the drafting of the questionnaire, and subgroup B worked as a control group to test the validity, relevance,s and clarity of the questions. The final list of questions was further tested by the leading legal sociologist of the Faculty of Law and Political Sciences of the University of Szeged, who has over 20 years of experience in conducting empirical research and is involved in research on higher education. The research was carried out with the permission of the University's vice-rectors for educational affairs and for research.

27 The questionnaire was communicated via email (sent out by the central administration of the University) to the students and lecturers. This email was directly sent to all librarians by the director of the Klebelsberg Library (the central library of the University of Szeged). The target persons were contacted twice. The first email was sent out on March 7, 2022; and a repeat email was sent on March 23, 2022. Google Forms was used to draft and fill out the questionnaire. The questionnaire was open throughout March 7-28, 2022.

28 Three distinct questionnaires[65] were set up in order to allow students, lecturers and librarians to answer only questions relevant for them. A significant

64 Likert scale is a psychometric scale commonly involved in research that employs questionnaires. It is the most widely used approach to scaling responses in survey research, such that the term is often used interchangeably with rating scale, although there are other types of rating scales.

65 Only the questionnaire for students and lecturers were translated to English, as the Klebelsberg Library does not employ foreign language librarians (even if it provides its services in English language).

number of questions were identical in the three questionnaires. All questionnaires started with a short introduction of the research itself and were followed by basic demographics questions. The second part of the questionnaires were identical for all target groups and focused on the copyright awareness/literacy of the respondents. The third part of the questionnaires were distinct for the three groups. They were purposefully designed to include questions that address the certain target group's experience the most effectively. This part of the questionnaires, however, included certain identical questions so that some correlations can be spotted and—more importantly—some answers and their validity could be tested in light of another target group's answers. Finally, the questionnaires ended with identical questions related to the overall opinion of the target groups on digital education and copyright law.

29 The University of Szeged consists of 12 faculties dedicated to almost all significant disciplines of sciences and hosting over 20,000 Hungarian and international students.[66] The initial plan was to gather at least 400 student responses (approximately 2% of the university students), including as much diversity of students of different disciplines as possible. The university employs over 4600 lecturers (including adjuncts).[67] The initial plan was to reach approximately 10% of them. There are "big" and "small" faculties at the University of Szeged. We expected to have significantly more student and lecturer responses from big faculties; hence, we also

expected that there will be some bias towards the understanding of the research question by students and lecturers of the faculties of natural sciences, arts, medicine, and law. According to the director of the Klebelsberg Library, the number of people working for the library in a position that made them capable to fill out the questionnaire was approximately 60; we planned to reach a quarter of them.

II. Findings

1. General remarks

The questionnaires were filled by a total of *1001 persons*. They were split as follows:

Students (Hungarian language)	Students (English language)	Lecturers (Hungarian language)	Lecturers (English language)	Librarians
594	173	199	17	18
Total: 767		Total: 216		Total: 18

30 We received response from approximately 3.78% of the total student population, which is almost the double of the expected student responses. The 216 responses from lecturers was—sadly—far from the expected 10% response rate of lecturers (it is approximately 4.61%). The 983 responses from the approximately 24,940 people meant an approximate 3.94% response rate among students and lecturers. Although these numbers—coupled with the 18 librarians (which is 30% of the librarian sample), and hence reaching an ultimate 1001 responses—are not small for such a special, dedicated research, they—also read in conjunction with the demographics of respondents (especially the big versus small faculties imbalance)—might put the questionnaires' representativeness into question. At the same time, the high overall number of responses allows us to locate meaningful trends among the university community.

2. Demographics

a.) Students

The current level of training of the student respondents split as follows, including their share from the language groups in (brackets) and from the overall student target group in [brackets]:

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66 The exact number of active students of the University of Szeged is liquid. Students can leave the university at any time, and others might join the training several weeks after the semester's start. Their active status depends upon the payment of their tuition fees. As such – also bearing in mind the dates of the emails – it could happen that some students were not among the active students at the time when the first email was sent out, but they were active at the time when the second email was sent out. And vica versa, some might have deactivated their studies for any reasons. The first email was sent to 20.964 students; and the second email was sent to 19.558 students. (These numbers show a 6,7% decline in the number of students with active status just in 16 days.) In order to find a compromise sample for the students' target group, the two numbers were averaged. As such, the sample of the students' target group was declared to be 20.261.

67 The first email was sent to 4.364 lecturers of Hungarian language modules and 1.648 lecturers of foreign language modules. The latter group, however, included also those who also teach in Hungarian besides the foreign language modules. The second email was sent jointly to all Hungarian and foreign-language lecturers with active status at the moment, a total of 4679 people. The latter number represents a more valid number, and therefore it was used as the sample of the lecturers' target group.

	BA	MA	Undivided[68]	Postgraduate specialisation	PhD
Hungarian students	338 (56,9) [44,4]	65 (10,9) [8,5]	145 (24,4) [19]	27 (4,5) [3,5]	19 (3,2) [2,5]
International students[69]	43 (25,6) [5,6]	27 (16,1) [3,5]	10 (6) [1,3]	3 (1,8) [0,4]	85 (50,6) [11,1]
Total	381 [50]	92 [12,1]	155 [20,3]	30 [3,9]	104 [13,6]

31 The split of students among the various levels of trainings is, on the one hand, mainly due to the programs of the University. More students are enrolled in bachelor-level programs than in master-level trainings. The relatively high number of respondents from undivided trainings (in Hungary, these are medical and legal trainings) also reflects the greater enrolment of students to those trainings. There are significantly fewer postgraduate programs offered for international students than for Hungarian nationals, which can clarify the low response rate among this group of international students. There is, however, one hardly explainable imbalance among the number of respondents. Hungarian PhD students showed significantly less interest in filling out the questionnaire, unlike international PhD students, who completed the survey in much greater proportion.

32 Half of the 12 faculties were represented by at least 50 students (varying between 65 and 162);[70] but significantly less responses (varying between 4 and 42) were submitted by students of the other six faculties. Four of the six faculties with over 50 respondents are oriented towards social sciences; and five of the six "underrepresented" faculties focus on natural sciences or engineering. At the same time, the high or low number of students from the various faculties is generally in line with the size of the respective faculty. The "overrepresented" faculties have the most enrolled students among the twelve faculties of the university.

33 From the 762 students who answered the question on gender, females outnumbered other gender groups.

Overall 487 females filled out the questionnaire (405 Hungarian and 82 international students; 63.9% of the respondents), while males counted for 258 (177 Hungarian and 81 international students; 33.8% of the respondents).[71] There was a small number of students who identified themselves as non-binary (4 Hungarian and 2 international students; 0.8% of the respondents); and 11 students wished not to answer this question (8 Hungarian and 3 international students; 1.4% of the respondents). All these numbers do reveal at least two interesting things. First, the gender split of respondents is generally in line with the enrolment averages (slightly over 60% of the enrolled students at the University are female). Second, there was a clearly low willingness among *Hungarian males* to fill out the questionnaire (international male students' responses supported a slight increase in males' contribution to the research).[72]

34 Finally, from the 767 respondents, 318 (41.4%) studied during the spring of 2020; 466 (60.7%) studied during the fall of 2020; 489 (63.7%) studied during the spring of 2021; and, finally, 725 (94.5%) studied during the fall of 2021. These numbers indicate that there was a greater willingness among freshmen (first year students) to respond to the questionnaire versus those who enrolled (at least) one year earlier and were studying at the university already during the first "pandemic semester" (spring 2020). Without any qualitative analysis of students' reasons, we can assume that, on the one hand, this lack of willingness of senior students is related to their "fatigue" of digital education (including anything related to the topic, also research on it), and/or their broader use of shadow libraries versus lawful sources (including materials made available via the library, lawfully accessible databases etc.). It is also plausible to assume that freshmen, in the lack of relevant knowledge on digital education at the university level, are keen to get more information on this field.

35 Based on the comparison of various selected variables[73] and compared with the overall averages

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68 In Hungary, the BA/MA split (or Bologna) system is not introduced on a general level. Certain trainings – e.g. medical or legal programs – are offered only as undivided (5-6 years long) trainings.

69 Five international students skipped answering this question, and therefore the sample for these question is 168 international and 762 overall students.

70 50 as a threshold is mentioned in line with Muriel-Torrado & Fernández-Molina's research who have selected 50 students from 8 dedicated faculties of their university to guarantee the representativeness of their research. See Muriel-Torrado & Fernández-Molina (2015) 443.

71 Approximately 54,5% of all enrolled higher educational students are females. See: Oktatási adatok, 2021/2022 (előzetes adatok), Központi Statisztikai Hivatal <https://www.ksh.hu/docs/hun/xftp/idoszaki/oktat/oktatas2122e/index.html>. Although the University of Szeged has no publicly available statistics about its students' gender-split, it is plausible that the local numbers are generally in line with the national statistics. If so, female students filled out the questionnaire at a much higher proportion than their overall presence in higher education.

72 Another Hungarian empirical research reported similar numbers. Compare to Hargitai et al. (2020) 848.

73 These variables were the following: did respondents have any formal copyright education or any training on digital educational; did they properly know the term of protection

of students' answers, we found that the over-representation of Hungarian BA students, females and big faculties had no sensible bias on the results.[74] To the contrary, international PhD students claimed to be more familiar with recent copyright matters, but their answers were significantly less correct regarding the term of protection, registration requirement, and they relied much less on the ETA and much more on shadow libraries.[75]

b.) Lecturers and librarians

36 The great majority of the lecturer respondents had at least 10 years of experience (overall 169 persons, 78.2%). Lecturers with 5 to 10 years of experience (overall 26 persons, 12%) and with less than 5 years of experience (overall 21 persons, 9.7%) showed significantly less interest in filling out the questionnaire.[76] This lack of willingness of junior and intermediate-level lecturers had no significant bias on the research findings.[77] Senior librarians (with

more than 10 years of experience) dominated among the librarians, too (10 out of 18); versus librarians with 5 to 10 years of experience (3) or less than 5 years of experience (5).

37 Lecturers were also asked to indicate at which faculties they are teaching. Here, they could select more faculties (as they are generally allowed to deliver guest lectures at different faculties). The overall 216 respondents ticked an overall 251 faculties; that is, respondents teach at an average of 1.16 faculties. Five faculties were dominant (with representation of at least 9% each, varying between 9.2 and 21.1%, combining for an overall 74.9%).[78] An overall 25.1% of the respondents teach at "small" faculties (faculty representation varied between 2 and 4.8%).[79]

38 Lecturers were completely balanced regarding their gender: 105 males and 105 females responded (48.6% each), while 1 person identified themself as non-binary (0.5%) and 5 wished not to answer this question (2%). 10 out of 18 librarians identified themselves as female (55.6%) and 8 as male (44.4%).

39 From the 216 lecturers, 201 (93.1%) worked during the spring of 2020; 189 (87.5%) worked during the fall of 2020; 187 (86.6%) worked during the spring of 2021; and, finally, 184 (85.2%) worked during the fall of 2021. These numbers show a much smaller diversity among the responses, and, indeed, it seems to be impossible to figure out whether the reported numbers are mainly due to any "COVID fatigue" or the hiring of new colleagues for the fall semester of 2021. Finally, among the librarians, the 18 respondents almost unanimously reported that they have worked for the whole period subject to the research. From the 18 persons, only 1 reported not to be occupied by the Klebelsberg Library during the first pandemic semester.

3. Copyright awareness

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and that registration is not a prerequisite of copyright protection in Hungary; were they up-to-date in copyright law in general and the 2020 changes to the HCA in specific; did they use ETA and shadow libraries during the pandemic more frequently; and whether they are interested in gaining more copyright training in the future.

74 Hungarian BA students claimed to be undereducated in copyright law, however, they responses to the other questions show insignificant distinction from the overall averages of students. The average scores of International and Hungarian female students as well as students of big faculties were almost identical with the overall averages of all students.

75 These students showed, however, a significantly greater interest (by a +0,46 margin on a five-point Likert scale) in future education on copyright law.

76 There is no publicly available data on the age pyramid of the lecturers of the University of Szeged, but it is certain that far more than 21,8% of the lecturers of the University of Szeged have less than 10 years of teaching experience.

77 Based on the comparison of various selected variables and compared with the overall averages of lecturers' answers, we found that 1% and 3,6% less seniors had formal copyright education or any training on digital educational, respectively; 1,9% less of them answered correctly on the term of protection question; and they showed an average of 0,17 less interest (on a 1-5 Likert scale) in gaining more copyright training in the future. On the other hand, 1,8% more seniors claimed to be up-to-date with copyright changes, but only 0,1% of them claimed to be familiar with the 2020 changes to the HCA; 2,5% more seniors answered the question on the lack of need for registration correctly; 0,1% and 1,4% more seniors used ETA and shadow libraries, respectively, more frequently during the pandemic period. These margins are minimal and support our opinion that senior lecturers' answers did not disproportionately affect

the final results of the complete cohort of lecturers.

78 Faculty of Science and Informatics: 53 persons (21,1%); Faculty of Humanities and Social Sciences: 52 persons (20,7%); Albert Szent-Györgyi Medical School: 36 persons (14,3%); Juhász Gyula Faculty of Education: 24 persons (9,5%) and Faculty of Law and Political Sciences: 23 persons (9,2%). These are the greatest faculties in terms of the number of lecturers.

79 Faculty of Health Sciences and Social Studies: 12 persons (4,8%); Faculty of Pharmacy: 10 persons (4%); Faculty of Engineering: 9 persons (3,6%); Faculty of Agriculture: 8 persons (3,2%); Faculty of Dentistry: 7 persons (2,8%); Faculty of Economics and Business Administration: 7 persons (2,8%); Bartók Béla Faculty of Arts: 5 persons (2%) and Foreign Language Centre: 5 persons (2%).

40 The second main part of the questionnaire was identical for all respondents. This cohort of questions focused on the general awareness of respondents on the substance as well as on education-related issues of copyright law.

41 The first three closed questions addressed whether the respondent (1) has ever studied copyright law in a formal way; (2) follows the changes to copyright law; and (3) has heard about the CDSM-Directive's changes to copyright law with respect to online education. Students' (especially those of Hungarians') and lecturers' (especially those who teach in foreign language) answers show a significant lack of information in this field; while librarians show a much higher degree of literacy with copyright legislation.[80]

	Students (Hungarian language) (n = 594)	Students (English language) (n = 173)	Students (overall) (n = 767)	Lecturers (Hungarian language) (n = 199)	Lecturers (English language) (n = 17)	Lecturers (overall) (n = 216)	Librarians (n = 18)
Have you ever taken a copyright education course?	Yes: 16,8 No: 83,2	Yes: 17,3 No: 82,7	*Yes: 16,9 No: 83,1*	Yes: 18,6 No: 81,4	Yes: 11,2 No: 88,8	*Yes: 18,1 No: 81,9*	*Yes: 44,4 No: 55,6*
Do you keep up to date with changes in copyright law?	Yes: 7,7 No: 92,3	Yes: 19,7 No: 80,3	*Yes: 10,4 No: 89,6*	Yes: 24,6 No: 75,4	Yes: 11,2 No: 88,8	*Yes: 23,6 No: 76,4*	*Yes: 66,7 No: 33,3*
Are you aware of the changes to the Copyright Act in 2020 in relation to digital education?	Yes: 4,4 No: 95,6	Yes: 15 No: 85	*Yes: 6,8 No: 93,2*	Yes: 4,5 No: 95,5	Yes: 5,9 No: 94,1	*Yes: 4,6 No: 95,4*	*Yes: 44,4 No: 55,6*

42 Our findings show that students, especially Hungarian ones, are extremely unaware of the copyright rules, and rarely follow news related to copyright law, especially Article 5 on digital education. Even more surprisingly, lecturers have only slightly greater awareness in this field. Indeed, they reported a minimally greater lack of knowledge on the CDSM Directive than students. This lack of awareness correlates with the lack of formal education on copyright law at the majority of the faculties.[81] Based on the data request to the administers of the University of Szeged's Unified Education System (Neptun), other than the numerous copyright classes of the present author delivered at the Faculty of Law and Political Sciences, we could only identify four individual modules focusing partially or completely on copyright law at the whole university. These modules were offered in various trainings of two

faculties.[82] Librarians reported a relatively high level of knowledge in copyright law, which is due to their systematic training on copyright matters. As the director of the Klebelsberg Library confirmed in an interview, they invite external speakers to educate the librarians; they circulate emails on noteworthy copyright-related events and trainings; and develop their own internal procedural rules related to copyright-relevant services that librarians are required to learn and apply.[83]

The second cohort of questions related to the knowledge of the respondent on various (basic) copyright issues;[84] namely (1) whether certain expressions are protected by copyright law; (2) the copyright term; (3) registration of copyright; and (4) open access contents. In the first question, we listed four protected subject matters (poetry, software, music, and film); and four unprotected "expressions" (idea, Braille, recipe, and code of law). In the second question, we offered five options to choose from: copyright lasts (a) from the birth of the work until the death of the author; (b) during the life of the author and for thirty years from the date of his death; (c) during the life of the author and for seventy years from the date of his death; (d) as long as there is a market demand for the work; (e) I do not know. The third question was a closed one. Finally, in the fourth question, we offered five options to choose from: open access content (a) can be used at any time and in any way without attribution; (b) can be used at any time and in any way for a fee; (c) may not be used at any time without prior permission of the author; (d) may only be freely used with attribution and without modification; (e) I do not know.

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80 As such, our findings indicate a much deeper copyright knowledge on the librarians' side than what the works of Todorova et al. (2014) and Koltay et al. (2017) have suggested.

81 Students other than the ones of the Faculty of Law and Political Sciences attended copyright related courses 1,5% less than the overall average of students.

82 The Juhász Gyula Faculty of Education offered one BA-level and two vocational training-level modules; and the Bartók Béla Faculty of Arts offered an MA-level course.

83 Where the latter element seems to comply with the need of librarians as Todorova et al. found, according to whom "the majority of respondents (84%) declared the need for an institutional copyright policy for libraries, archives and other cultural institutions". See Todorova et al. (2014) 145.

84 It shall be noted that these questions tested the knowledge related to the legality of certain uses under Hungarian copyright law. It might be possible that the correct answer is different in jurisdictions other than Hungary.

	Students (Hungarian language) (n = 594)	Students (English language) (n = 173)	Students (overall) (n = 767)	Lecturers (Hungarian language) (n = 199)	Lecturers (English language) (n = 17)	Lecturers (overall) (n = 216)	Librarians (n = 18)
Do you think that copyright protection should be given to a...	Correct: 88,7-93,4 Not correct: 26,3-41,4	Correct: 65,3-76,9 Not correct: 27,2-57,8	*Correct: 83,4-87,4 Not correct: 26,5-37,8*	Correct: 90,5-95,5 Not correct: 19,6-28,6	Correct: 70,6-88,2 Not correct: 23,5-70,6	*Correct: 90,3-94,4 Not correct: 20,4-31,9*	*Correct: 94,4-100 Not correct: 5,6-27,8*
Please continue with the sentence: Copyright lasts...	Correct: 34,2 (Do not know: 17,3)	Correct: 16,2 (Do not know: 32,9)	*Correct: 30,1 (Do not know: 20,9)*	Correct: 53,3 (Do not know: 19,1)	Correct: 47,1 (Do not know: 17,6)	*Correct: 52,8 (Do not know: 19,0)*	*Correct: 88,9 (Do not know: 0)*
Do you think that copyright protection requires the registration ("protection") of a work of authorship?	Yes: 76,1 No: 23,9	Yes: 84,4 No: 15,6	*Yes: 78 No: 22*	Yes: 40,2 No: 59,8	Yes: 47,1 No: 52,9	*Yes: 40,7 No: 59,3*	*Yes: 27,8 No: 72,2*
Please continue with the sentence: Open access content ...	Correct: 57,1 (Do not know: 17,3)	Correct: 23,7 (Do not know: 16,2)	*Correct: 49,5 (Do not know: 17,1)*	Correct: 88,9 (Do not know: 5)	Correct: 41,2 (Do not know: 17,6)	*Correct: 85,2 (Do not know: 6)*	*Correct: 94,4 (Do not know: 0)*

43 When we dug into deeper layers of copyright awareness, we once again spotted a significant difference regarding the rate of knowledge of students, lecturers, and librarians. As earlier, librarians responded with the greatest level of correctness. They selected the protected subject matters with the highest average score, and the unprotected subject matters with the lowest average score. They are properly aware of the term of protection and the copyright status of open access contents. Finally, they know very well that copyright protection does not depend upon the registration of the work. Lecturers showed a medium level knowledge on all fields (with a slightly surprising 52% correctness related to the term of protection); but students performed poorly. While they spotted protected subject matters at a relatively high rate, they also gave false negative answers at a relatively high rate.[85] Only a third of the students selected the correct term of protection, and almost 4 out of 5 students falsely claimed that registration of works is a prerequisite of protection. Only half of them answered correctly on the open access question.[86]

44 In sum, students' (especially those of Hungarians') and lecturers' (and especially those who teach in foreign language) answers show a significant lack

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85 Students declared code of law to be protected with the highest rate of incorrectness.

86 These results are show similarity with some other international empirical researches (especially related to questions on the copyright term of the registration requirement). Compare to Muriel-Torrado & Fernández-Molina (2015) 443-445.

of information in this field. These numbers reassure that students' low level of copyright awareness is in correlation with their limited copyright education. Their scores on the substantive questions indicate, though, that there is a certain kind of "natural awareness" on the substance of copyright law.

45 Two more questions were raised to get acquainted with the awareness and use practices of the target groups on copyright-related aspects of (online) education. First, respondents had to determine whether they think certain copyright-relevant uses are lawful or not. Second, respondents were asked to evaluate on a 1-5 Likert scale how much certain online educational practices are relevant for them or how true they find the given statement for themselves.

The following table summarizes the *ratio of correct answers* on the lawfulness of certain uses.

Do you think it is legal, without the permission of the copyright holder, to...	Students (Hungarian language) (n = 594)	Students (English language) (n = 173)	Students (overall) (n = 767)	Lecturers (Hungarian language) (n = 199)	Lecturers (English language) (n = 17)	Lecturers (overall) (n = 216)	Librarians (n = 18)
photocopy a textbook bought in a shop for your own use?	56,6	43,4	*53,7*	80,4	58,8	*67,4*	*72,2*
upload a digital copy of a textbook purchased in a shop to a cloud storage for your own use?	50,8	37,6	*47,8*	57,5	64,7	*58,1*	*44,4*
parodize a work for humorous, critical purposes?	72,9	43,4	*66,3*	79,3	58,8	*77,7*	*83,3*
quote an extract from a work?	86,3	68,2	*82,2*	89,4	76,5	*88,4*	*94,4*
quote an entire work?	60,6	75,1	*67,7*	75,3	82,4	*75,8*	*88,9*
adapt a work for educational purposes (e.g. translation)?	67,2	69,9	*67,8*	55,5	41,2	*54,4*	*55,6*
digitise a work by a library?	59,2	53,2	*57,9*	52,7	35,3	*51,4*	*55,6*
make a digitised work available online by a library for educational purposes?	56,9	57,6	*57,1*	54,7	52,9	*54,6*	*61,1*
reproduce copyrighted works for text and data mining (analysis) purposes?	23,2	48	*28,7*	31,3	47,1	*32,6*	*55,6*
record by a student of the audio of an online university lecture?	75,6	51,4	*70,2*	74,9	47,1	*72,7*	*77,8*

46 The answers of the respondents were generally correct, although there is a sensible difference among Hungarian and international students. Once again, librarians answered with the highest correctness rate, which is in line with their broad knowledge on copyright law. Importantly, however, the low rate of correctness related to library uses as well as the complete lack of understanding the lawfulness of text- and data-mining indicate that there is a significant lack of knowledge on uses that are indirectly relevant for higher digital education.[87]

Finally, the following table summarizes the *average score of relevance/truth* of every sub-question for the respondents.

How true are the following statements about you?	Students (Hungarian language) (n = 594)	Students (English language) (n = 173)	Students (overall) (n = 767)	Lecturers (Hungarian language) (n = 199)	Lecturers (English language) (n = 17)	Lecturers (overall) (n = 216)	Librarians (n = 18)
I check the legality of the source when using a work	2,9	3,4	*3,01*	3,3	3,71	*3,33*	*3,78*
I indicate exactly the source from which I have worked	4,3	4,12	*4,26*	4,61	4,53	*4,61*	*4,56*
Compared to the previous period, during the COVID-19 pandemic [= "Compared to…"] I made digital copies of several works for private use	2,51	3,02	*2,63*	2,27	3,35	*2,35*	*2,11*
Compared to (…) I made paper copies of several works for private use	2,13	2,68	*2,25*	1,55	2,12	*1,59*	*2,0*
Compared to (…) I made more copies of library content	1,71	2,43	*1,84*	1,34	2,18	*1,4*	*1,78*
Compared to (…) I used more open access content	2,97	3,57	*3,1*	3,08	3,53	*3,12*	*3,22*
Compared to (…) I spent more time studying the resources available in the library building	1,64	2,89	*1,93*	1,4	2,0	*1,45*	*3,0*
Compared to (…) I used more works in my work (studies)	2,62	3,33	*2,78*	2,11	3,24	*2,19*	*2,44*
Compared to (…) I upload more copyrighted works to online content sharing (e.g. social media, streaming, hosting) sites for	1,57	2,65	*1,82*	1,82	2,88	*1,91*	*1,39*

47 These numbers are somewhat devastating. Other than the broadly known citation requirement (question 2 above), respondents uniformly scored less or at best slightly more than 3 on a five-point Likert scale. These averages indicate a clear lack of interest in digital education related issues, e.g., open access contents, online resources, library uses. One piece of these numbers is especially telling. Biernat et al.'s empirical analysis of digital educational practices during the pandemic has shown that "Open Educational Resources were regularly used by 54% of surveyed teachers, on average. The data shows immense spread and rise in recognition of OER in the last decade".[88] Although we used different methodology and terminology to address the same question, our numbers are quite telling. Only 99 out of the 216 lecturers, that is, only 45.8% claimed to use open access materials during the pandemic period.[89] This more than 8% difference sadly indicates that the Hungarian lecturers missed the opportunity to work more digitally during the pandemic.[90]

4. Digital education

48 The third main group of questions focussed on digital education separate of and during the COVID-19 pandemic. Some of these questions were raised to check correlations among students and lecturers (with certain outlook at librarians' experience); while some other questions were raised for only a certain target group to check their practices related to and opinion on certain matters.

a.) Common questions

49 First, students and lecturers were asked to report on a 1 to 5 Likert scale on the frequency of use of various digital educational materials/resources in online education. These materials were grouped in lecturers' own materials and external resources.

50 Based on the Hungarian lecturers' responses, the three most often used "own" materials (developed by the lecturers themselves) were new digital learning materials (3.69); revised old teaching

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87　See Janis Wong, Lea Racine, Tristan Henderson, and Kirstie Ball, Online Learning as a Commons: Supporting students' data protection preferences through a collaborative digital environment, 14 (2023) JIPITEC 251 para 1.

88　Biernat et al. (2021) 17.

89　From these 99 respondents, 79 (approximately 80%) were seniors. Lecturers with 10+ years of experience represented 78,2% of the overall respondents. As such, there seems to be no statistically relevant correlation the above results and the respondents' teaching experience.

90　See Rossana Ducato and Giulia Priora, Editorial, 14 (2023) JIPITEC 231 para 1.

A.

materials (3.22); and control questions (3.20).[91] Among Hungarian lecturers, the least often used own materials were digitised textbooks available for a fee (1.57).[92] Hungarian lecturers also reported on the rather limited use of external resources.[93] The most often used external materials were digitised textbooks available free of charge (3.03); and the least often used external study materials were digital contents (other than textbooks) available for a fee (1.47); digitized textbooks available for a fee (1.57); and blogposts (1.58).

51 Lecturers of international modules reported a more frequent use of digital educational materials.[94] The top three "own" materials that this target group reported using were: scientific papers (3.76); new digital learning materials (3.71); and digitised textbooks available free of charge as well as revised old teaching materials (3.59 alike). The least frequently used "own" materials were digitised textbooks available for a fee (2.47). Lecturers of international modules also reported a more frequent use of external digital educational materials.[95] The most often used such resources were digitised textbooks available free of charge 3.71; and the least often used external study materials were blog posts (2.12); educational material produced by other lecturers (e.g., video lessons) (2.12); and digitised textbooks available for a fee (2.18).

52 Hungarian students reported a more frequent use of lecturers' and external materials than what Hungarian lecturers' averages showed.[96] Hungarian

students reported that video lessons (3.92), reading lessons (3.64) and new digital learning materials (3.53) were the most frequently used study materials of the lecturers. The least often used materials were lecturers' digitised textbooks available for a fee (2.08). Among the external educational study materials, digitised textbooks available free of charge (3.21) were ranked number one.[97] Blog posts (1.99); digital contents (other than textbooks) available for a fee (2.03); and digitised textbooks available for a fee (2.10) were reportedly least used.

53 International students reported on an even more frequent use of digital educational study materials.[98] The top-ranked study materials of the lecturers were video lessons (3.74); scientific papers (3.62); and reading lessons (3.59). The least often applied "internal" educational study materials were—just as for almost all other target groups—digitised textbooks available for a fee (2.66). International students relied most often on external contents available from search engines (3.53). Educational materials produced by other lecturers (e.g., video lessons) (2.61); blog posts (2.70); and digitised textbooks available for a fee (2.75) were reportedly least used by international students.

54 In sum, these numbers seem to reconfirm that lecturers have primarily followed a "defensive strategy" by using either existing, updated, or novel study materials, to which they were already accustomed to during the pre-pandemic, mainly offline educational environment.

Second, lecturers and students were asked to answer on the use of certain repositories and online sources of educational materials. The following table summarizes the ratio of the *answers in the affirmative (%)* on every repository.

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91 From the remaining six listed categories, only video lessons (3,04) and digitised textbooks available free of charge (3,01) were used more frequently (rather than less frequently). Three further categories were rather less used by Hungarian lecturers [scientific papers (2,83); reading lessons (2,42); audio materials (2,27)].

92 This is in line with the findings of Centrum Cyfrowe and Communia's empirical research, which also found that "only 2 of 10 teachers on average claim to have used paid digital versions of commercial textbooks on a regular basis" and "96% of the teachers have used, on a regular basis, copyrighted works that are freely available only without payment". See Biernat et al. (2021) 10 and 13, respectively. The University of Szeged does not automatic cover the fees of materials prescribed by the lecturer, but leaves the costs of purchase/access of the sources to be covered either the lecturers or students. As such, it is understandable that both lecturers and students omit using paid contents.

93 Six from the nine listed categories were used by Hungarian lecturers below an average of 2,00.

94 The nine types of digital educational materials were used between the averages of 2,47 and 3,76.

95 The nine types of digital educational materials were used between the averages of 2,12 and 3,71.

96 The nine types of digital educational materials were used between the averages of 2,08 and 3,92. These differences

do not necessarily show inconsistency. It is impossible to check whether the students are the actual ones that the respondent lecturers taught.

97 Just as international publishers, Hungarian publishing houses have offered free access to educational materials in the early period of the COVID-19 pandemic. See e.g. Sujtó Attila, 'Ingyenesen elérhető online tartalmak (nemcsak) történelemtanároknak' Ujkor.hu, 20 March 2020 <https://ujkor.hu/content/ingyenesen-elerheto-online-tartalmak-nemcsak-tortenelemtanaroknak>; No author, 'Néhány a járványhelyzet alatt (is) elérhető online forrás' Könyvtártudományi Szakkönyvtár, 8 April 2020 <https://ki.oszk.hu/hir/konyvtartudomanyi-szakkonyvtar/nehany-jarvanyhelyzet-alatt-elerheto-online-forras>.

98 The nine types of digital educational materials were used between the averages of 2,66 and 3,74.

Did you use in your online education...	Students (Hungarian language) (n = 594)	Students (English language) (n = 173)	Students (overall) (n = 767)	Lecturers (Hungarian language) (n = 199)	Lecturers (English language) (n = 17)	Lecturers (overall) (n = 216)
ETA[99]	41,7	22,0	*37,3*	21,6	23,5	*21,8*
Other repositories of the Klebelsberg Library[100]	26,4	50,9	*31,9*	28,1	35,3	*28,7*
Other digitized items of the Klebelsberg Library	23,7	45,7	*28,7*	25,1	35,3	*25,9*
External author repositories (e.g. Academia, ResearchGate)	37,2	76,9	*46,2*	48,2	47,1	*48,1*
Shadow libraries (e.g. zlibrary.com)	48,5	57,8	*50,6*	28,6	23,5	*28,2*
Websites containing other students' notes (e.g. Diákoldal.hu)	38,4	30,0	*35,2*	-	-	-

In your opinion, during the pandemic period, ...	Students (Hungarian language) (n = 594)	Students (English language) (n = 173)	Students (overall) (n = 767)	Lecturers (Hungarian language) (n = 199)	Lecturers (English language) (n = 17)	Lecturers (overall) (n = 216)
the amount of material to be processed in digital education has increased	3,45	3,89	*3,55*	3,13	3,76	*3,18*
the library responded quickly and effectively to changing needs	3,31	3,52	*3,36*	3,36	3,35	*3,36*
the information provided by the library was of good quality	3,33	3,57	*3,38*	3,53	3,53	*3,53*
the library supported digital learning with high-quality services	3,43	3,55	*3,45*	3,49	3,53	*3,50*

55 These numbers are also quite telling. For example, both students and lecturers relied on shadow libraries far more than on the University's own internal platform that hosts digital education materials. Indeed, the reliance on external resources generally outweighed the use of internal collections of the University.[99] The reliance on free, external author repositories can also be classified as robust. Lawsuits, however, like the one against ResearchGate,[100] one of the leading repositories for authors in Europe, or against digital libraries, e.g., Google Books or Internet Archive, can put this free and digital access to contents by lecturers and students into jeopardy.[101]

56 Third, all target groups were asked to evaluate on a 1 to 5 Likert scale the effect of various aspects of the COVID-19 pandemic on online education and the target groups' performance during the pandemic. Some of the sub-questions were raised to all target groups, and other sub-questions were only addressed to one or two target groups. The following table summarizes the *average score of respondents' opinion* on every sub-question.

99 Indeed, senior lecturers and international PhD students used shadow library more often than other members of their cohort. 81,9% of the lecturers and 55% of the international students who used shadow libraries were senior lecturers and PhD students. These are 3,7% and 4,4% more than their overall presence in their cohort, respectively.

100 Diana Kwon, 'ResearchGate Dealt a Blow in Copyright Lawsuit' (2022) 603 Nature, 17 March 2022, 375-376.

101 Argyri Panezi, 'A Public Service Role for Digital Libraries: A Code of Emergency Electronic Access to Library Material and the Unequal Battle Against Misinformation Through Copyright Law Reform' (2022) 31 Cornell Journal of Law & Public Policy, 74-96.

57 These numbers indicate, first, a clear disagreement among lecturers and students regarding the number of materials to be processed in digital education during the pandemic. While both results confirm that people had to consult more materials in this period, there was a significant, 0.37-point difference on a five-point scale (which equals to 7.4%) between the opinion of students and lecturers regarding the growth of the amount of materials to be processed during digital education. Second, respondents reported on a modest satisfaction with the University Library's services during the pandemic period. These numbers, especially the last ones related to the high-quality services provided by the library, seem to be inconsistent with the extremely low interests of students and lecturers alike regarding questions analysed above (e.g., copying library content; spending time studying the resources available in the library building; or using the library repositories).

58 Fourth, we asked lecturers whether they imparted and students whether they received information on copyright related matters of online education. Only a minority of Hungarian lecturers (84 out of 199; an average of 42.2%), and close to a two-third majority (11 out of 17; an average of 64.7%) of lecturers of international modules (44% of all lecturers) reported that they advised students on copyright matters. The numbers were even lower for students' receipt of information: 204 out of 594 (an average of 34.3% of) Hungarian students, and 66 out of 173 (an average of 38.1% of) international students (35.2% of all students) reported on lecturer's advice on copyright law. Students were also asked whether they received information from librarians. The responses—71 out of 594 (an average of 12% of) Hungarian students, and 41 out of 173 (an average of 23.7% of) international students (14.6% of all students)—indicate an even

more limited involvement of librarians in the teaching of students on copyright matters. It seemed unreasonable to ask librarians whether they advised students or lecturers on copyright matters, since a significant number of them work in a position that is not directly connected to students' or lecturers' educational activities. They were, however, asked to evaluate how properly they could answer copyright related questions of students or lecturers. The responses, submitted on a 1 to 5 Likert scale, showed a medium confidence (a 3.33 average; 4 as the median) with their own abilities to answer such questions.

b.) Unique questions to students

59 Students were asked to respond a few further questions on their online educational practices. First, in order to understand whether and to what degree did students use platforms that can be classified as secure electronic systems,[102] we asked them to name all services that they applied in online education. From the 8 predetermined services (Coospace;[103] Big Blue Button;[104] Skype; Zoom; Google Meet; Google Classroom; Cisco Webex; and Microsoft Teams) the top three services were:

- Coospace [727 students (573 Hungarian and 154 international students; overall 94.8%)];

- Zoom [647 students (497 Hungarian and 150 international students; overall 84.4%)];

- Big Blue Button [531 students (457 Hungarian and 74 international students; overall 69.2%)].[105]

60 A more limited number of students relied on Skype (overall 44.7%); Microsoft Teams (overall 43.4%);

and Google Meet (overall 40.3%). Finally, a very low percentage of students applied Google Classroom (overall 18.9%); and an insignificant number of students used Webex (overall 4.6%). As students were allowed to tick multiple services used as well as name other platforms they relied on,[106] we also measured how much is the average number of platforms used by students. The 594 Hungarian students indicated the use of a total of 2509 applications (4.22 on average); and the 173 international students indicated the use of a total of 622 applications (3.59 on average). This means that all student respondents (n = 767) applied an average of 4,08 services for online educational purposes.

61 We further inquired students to indicate what resources did they rely on during the preparation for their own course obligations (e.g., submitting assignments, preparing presentations, coursework, etc.). Students could select from 9 predetermined study resources,[107] and from these, the top-three resources were:

- digitised, freely available textbooks, reference works, scientific papers [667 students (535 Hungarian and 132 international students; overall 86.9%)];

- digital teaching materials [599 students (487 Hungarian and 112 international students; overall 78,1%)];

- content available from online search engines [578 students (473 Hungarian and 105 international students; overall 75,3%)].

62 A significant number of students relied on paper-based textbooks, course guides, academic works as well (overall 67%). A moderate number of students used online encyclopaedia entries (overall 42.5%); and student-generated material (overall 37.3%). Finally, a low percentage of students accessed contents available from social media sites (overall 21.9%); blog posts (overall 18.2%); and the least number of students voted for digitised textbooks, reference works, scientific works available for a fee (overall 17.6%).

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102 In line with the CDSM Directive, "[s]ecure electronic environments should be understood as digital teaching and learning environments access to which is limited to an educational establishment's teaching staff and to pupils or students enrolled in a study programme, in particular through appropriate authentication procedures including password-based authentication". See Recital 22 CDSM Directive.

103 Coospace is the University of Szeged's official platform to share static materials with students (e.g. syllabus, slides, questions).

104 Big Blue Button is the officially licensed live streaming service of the University of Szeged.

105 See Edoardo Celeste and Giovanni De Gregorio, Towards a Right to Digital Education? Constitutional Challenges of Edtech, 14 (2023) JIPITEC 234 para 1; Roberto Caso and Maria Chiara Pievatolo, A liberal infrastructure in a neoliberal world: the Italian case of GARR, 14 (2023) JIPITEC 349 para 1.

106 Students mentioned 17 further other services, including Moodle, Discord, Jitsi, YouTube, social media platforms, etc.

107 Namely, paper-based textbooks, course guides, academic works (e.g. journal articles); digitised, freely available textbooks, reference works, scientific papers; digitised textbooks, reference works, scientific works available for a fee; digital teaching materials (e.g. video lessons, lecture notes, etc.); blog posts; online encyclopaedia entries; content available from online search engines; content available from social media sites; student-generated material (e.g. submissions).

c.) Unique questions to lecturers

63 Lecturers also received questions on their practices of online education and access to digital educational materials. First, 175 lecturers (164 Hungarian and 11 lecturers of international modules; overall 81%) reported that they received no prior education related to digital education. Similarly, 175 lecturers (160 Hungarian and 15 lecturers of international modules; overall 81%) confirmed that they were well equipped with adequate equipment (e.g., desktop computer, laptop, notebook, phone, tablet, webcam, microphone, broadband internet access, etc.) to facilitate the effective participation in online education. From the 42 lecturers who answered negatively on the presence of adequate equipment, the vast majority (33 Hungarian and 2 lecturers of international modules; overall 83%) claimed that they had to purchase the necessary tools on their own.[108]

64 Lecturers were asked to name all platforms they used in online education. From the 8 predetermined services (Coospace; Big Blue Button; Skype; Zoom; Google Meet; Google Classroom; Cisco Webex; and Microsoft Teams) the top three services were:

- Coospace [188 lecturers (178 Hungarian and 10 lecturers of international modules; overall 87%)];

- Zoom [166 lecturers (152 Hungarian and 14 lecturers of international modules; overall 76.9%)];

- Big Blue Button [112 lecturers (108 Hungarian and 4 lecturers of international modules; overall 51.9%)].

65 A more limited number of lecturers relied on Microsoft Teams (overall 35.2%); Google Meet (overall 31.9%); and Skype (overall 29.6%). Finally, an insignificant number of lecturers used Google Classroom (overall 10.2%); and Webex (overall 5.6%). As lecturers were allowed to tick multiple services used as well as name the platform they relied on, we also measured how what was the average number of platforms used by lecturers.[109] The 199 Hungarian lecturers indicated the use of a total of 701 applications (3.52 on average); and the 17 lecturers of international modules indicated the use of a total of 48 applications (2.82 on average). This means that lecturers (n=216) applied an average of 3.47 services for online educational purposes.[110]

66 Lecturers were also asked whether they used business (subscription-based) versions of the services applied for online education. Overall, 134 lecturers (126 Hungarian and 8 lecturers of international modules; overall 62%) responded negatively and 82 (72 Hungarian and 10 lecturers of international modules; overall 38%) answered positively. From those, who did not use business models, 131 also named the reason for their decision. 88 argued that they were not interested or did not need such services; 20 claimed that they had no budget for a subscription; and 18 noted that they did not receive support from their workplace to subscribe. Five further arguments were added by respondents, which generally overlapped with the previous three main reasons. From those, who subscribed to business models, 85 also named the source(s) they used to subscribe from. (Respondents could mention more financial resources as well.) 47 respondents claimed they relied on their own resources; 27 named they department to fund the subscription. Only a handful of people referred to their faculties (6), the whole university (9) or any project grant (2).[111]

d.) Unique questions to librarians

Librarians were asked to evaluate the Klebelsberg Library's performance during the pandemic.

In your opinion, during the pandemic period, ...	Librarians (n = 18)
the library provided adequate information to lecturers and students about the services available	4,44 (Do not know: 0)
the use of the ETA has increased	4,5 (Do not know: 4)
the use of other repositories of the library has increased	4,54 (Do not know: 5)
the demand increased for other content held digitally by the library	4,29 (Do not know: 4)
the library was able to fully meet the demand for electronic content during the pandemic	3,81 (Do not know: 2)
more requests arrived from students regarding digital education issues	3,93 (Do not know: 4)
more requests arrived from instructors regarding digital education issues	4,07 (Do not know: 4)

67 This self-confidence seems to be at odds with—or, more politely, it is significantly higher than—the answers of students and lecturers on similar questions.

68 We also asked librarians to name the three most important digital education-related services of the Klebelsberg Library. Here, based on the many inputs given by the 18 respondents, the three

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108 Four Hungarian respondents stated that its department had purchased the equipment, and two Hungarian lecturers claimed to have project funding for this purpose.

109 We filtered out those services that are not generally designed for classroom education, e.g. e-mails.

110 This number is practically one exact service less than what Centrum Cyfrowe and Communia's empirical paper found in 2021. According to their report, "teachers used 4.5 tools

and platforms while teaching online and the longer the period of online education, the more methods and tools were used by teachers". See Biernat et al. (2021) 16.

111 The 85 respondents identified 91 sources of funding, on average 1,07.

main groups of services were: (1) repositories;[112] (2) online accessible resources (study materials, database, e-books etc.); and (3) proxy access of the library's services. In an interview with the then-director of the Klebelsberg Library, she similarly identified the repositories as the most important service element of the library during the pandemic period. She also named two communication-related items as significant services: the library's general communication services (receiving and answering questions on all available technological channels) as well as an e-learning material on the use of library services.

69 The library's statistics on the use of the e-learning materials uploaded to and hosted at the ETA repository are shown on the following image.
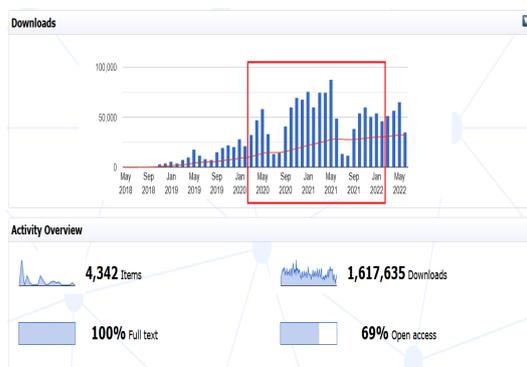
Source: SZTE Repository of Educational Resources[113]

70 These statistics indicate that ETA's use almost doubled for the March and May 2020 period (the first pandemic semester) and was at the peak during the complete 2020 to 2021 academic year (with only modest decrease during the summer from June to August 2021). It was used less during the fall semester of the 2021 and 2022 academic year, when university education was carried out in a hybrid form (with a growing number of in-person classes). The librarians' responses and the actual statistics seem to properly reflect the high demand and the success of the use of the repositories during the COVID period, even if students and lecturers reported only a modest use of ETA.[114]

71 In close connection to this topic, librarians were also asked to estimate the amount of the repertoire of the Klebelsberg Library accessible online. Only 5

respondents (27,8%) selected the proper 0 to 20% range.[115] Indeed, as the head of the Klebelsberg Library estimated, the library has so far digitized only 1 to 2% of its complete repertoire, focusing mainly on internal documents (e.g., theses, minutes of the meetings of the University boards) and sources with regional relevance (e.g., local newspapers), while international publications and even Hungarian books and scientific journals are expressly omitted from the digitization strategy of the library.

72 We further inquired whether the respondents are aware of any internal regulations on copyright law or any person responsible for copyright issues. 17 out of 18 respondents properly answered that the Klebelsberg Library has its own regulation on copyright law. Respondents showed greater diversity with respect to the second question. Only half (9 persons) of them answered correctly that there are persons among themselves who are responsible to licensing the use of works for educational purposes; five claimed there is no copyright staff; and four answered that they do not know the answer to this question.

73 Finally, we asked for the opinion of the librarians, whether they think copyright law should be taught better among (a) students of library and information science studies; (b) any student of the university. The respondents almost uniformly confirmed the need for such training (17 and 16 supporters, respectively).

5. Overall impressions on online education and copyright law

74 We requested all participants to answer three final questions on their overall impression on online education and copyright law. The first question focused on the satisfaction with digital education; the second question was related to the target groups' opinion on the other groups' digital skills development; and, finally, the third question inquired whether the respondents would be interested in deepening their knowledge on copyright law.

a.) The satisfaction with online education

75 The overall satisfaction of students, lecturers and librarians are more positive than negative, but in all cases, satisfaction is closer to the mean of 3.

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112 These are especially the ETA and Contenta series of the Klebelsberg Library.

113 See <https://eta.bibl.u-szeged.hu/cgi/stats/report> data retrieved on 21 June 2022.

114 As introduced in section C.II.4.(a) supra, 37,3% of the students and 21,8% of the lecturers confirmed the use of this repository.

115 Other 3 librarians (16,7%) voted for the 21-40% range; 6 (33,3%) estimated that 41-60% of materials are digitized; and 4 (22,2%) selected the 61-80%. None of the respondents believed that over 80% of the library's repertoire is available online.

Overall, how effective do you find online education?
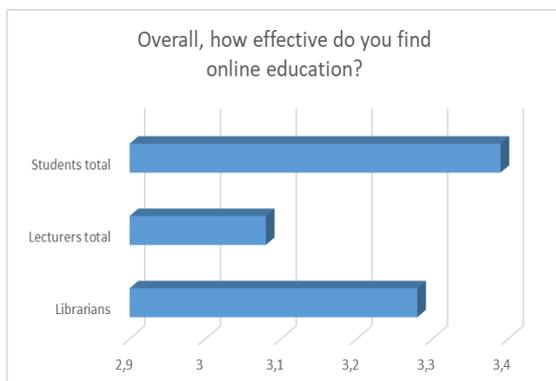
Students were the most satisfied with digital education (3.39; with a median of 4); who were followed by the librarians (3.28; with a median of 3); and lecturers formed the least satisfied group (3.08; with a median of 3).[116]

b.) The development of digital skills

76 We requested the three target groups to evaluate how much they think the digital skills of the other target groups have changed during the pandemic period. The overall impression of students, lecturers, and librarians are more positive than negative.

How much do you think the digital skills have changed during the pandemic period of the target groups?
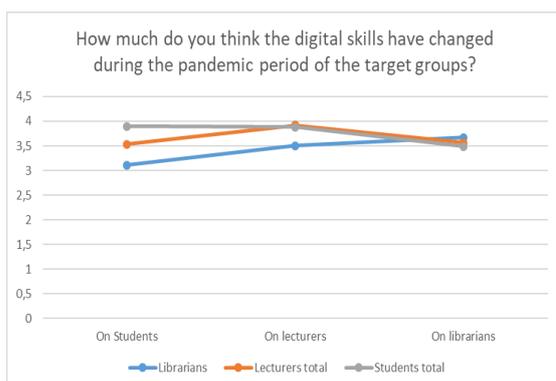
77 Here, we tested the subjective impression of respondents on the digital skills development of

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116 If we break down the numbers of lecturers and students, we might also notice that international students (3,60; with a median of 4) and lecturers of foreign language modules (3,29; with a median of 3) were more satisfied with digital education than the Hungarian students (3,33; with a median of 4) and lecturers of Hungarian modules (3,07; with a median of 3)

the other target groups as a whole group rather than individual changes of students, lecturers, or librarians. We did not ask respondents to evaluate their own personal digital skills developments.

78 There are at least three interesting findings to report here. First, members of all target groups evaluated their own target groups' development the best. This also means that such "self-appreciation" is not confirmed by any of the other target groups.

79 Second, the evaluation of students showed the greatest dispersion. The score of students' self-evaluation was almost the highest score (3,9 remained only 0,02 below lecturers' self-evaluation), but lecturers and librarians showed greater dissatisfaction with students' development. On the other hand, there was an almost complete agreement among the three target groups on librarians' development, with a maximum +/-0.1 difference from the mathematical average (3.57) of librarians' evaluation by the three target groups. The difference was maximum +/-0.4 in case of students' and maximum +/-0.26 in case of lecturers' average evaluation. The numbers also show that lecturers evaluated the three target groups in the most balanced way: their opinion on the others differed from the target groups' average evaluation between -0.01 and +0.16 (an overall 0.17 span); while students' opinion differed from the averages between -0,08 and +0.39 (an overall 047 span), and librarians' opinion differed from the averages between -0.4 and +0.1 (an overall 05 span).

80 Finally, librarians' digital skills development was ranked the lowest. This number shall no way devaluate librarians' and the Klebelsberg Library's overall efforts to support the University community. These numbers shall mainly be connected to the mere fact that librarians were most "far" from the actual participants of online education, and, for some time, they were simply banned from their own premises, the library building, where they have their ideal equipment to serve students' and lecturers' needs.

c.) Expanding the copyright knowledge

81 Finally, we requested respondents to answer whether they would be interested in expanding their knowledge on copyright law. The overall interest of students, lecturers and librarians towards copyright law is more convincing (with an average of three target groups' scores of 3.89).

Would you like to expand your copyright knowledge in the future?
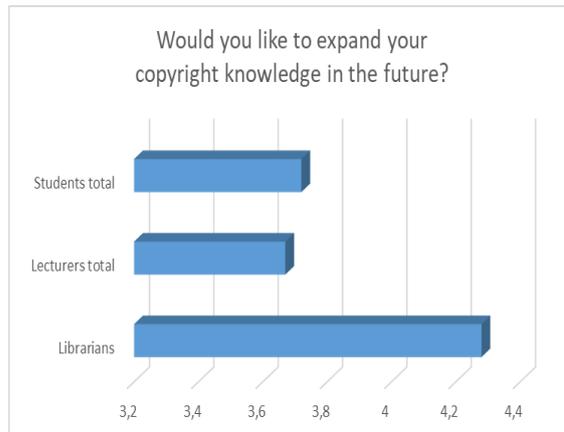
82 From the three target groups, librarians showed the greatest interests in further copyright education and training (4.28; with a median of 5). They were followed by the students (3.72; with a median of 4); and, finally, lecturers showed the less interest in expanding their knowledge in the field of copyright law (3.67; with a median of 4).[117] These numbers look counter-intuitive at first sight. Librarians, who performed the best in the analysis of their substantive copyright knowledge, show the greatest interest in deepening their awareness; and, vice versa, students and lecturers, who performed low (or modest at best) shy away from learning on the details of copyright law. There is no way to figure it out without any further qualitative analysis, whether these results are due to students' and lecturers' lack of interest in copyright law, or to a self-perpetuating act, where people best educated in the field understand the importance of copyright law, and hence they are willing to develop their knowledge further.

D. Conclusion

83 Guido Noto la Diega et al. have pointed out that "the pandemic has consolidated a double move. On the one hand, universities are becoming increasingly aware of the strategic value of copyright. On the other hand, the necessity to embrace distance education is making universities realise that there is a wealth of issues that go beyond ownership of research outputs and reprography rights".[118] While

this double move might be true for many universities (especially for those that the authors of the cited paper speak about), it might be far from the reality in other cases. Our empirical findings indicate—at least for the University of Szeged, but probably for other higher educational institutions, too—that digital education during the pandemic was heavily dominated by the interest to "survive" the pandemic rather than taking the next step towards more effective digital education. Consequently, the pandemic has also out shadowed the possible legal flexibilities of the new CDSM system—also leading to a missed opportunity to make lawful uses more common. This was clearly evidenced by the much broader use of shadow libraries and external repositories versus the lawful, internal repositories of the University during the pandemic; or the reliance on new or updated PPTs instead of relying on external and/or more interactive materials, e.g. Coursera MOOCs.

84 The lack of awareness on copyright and/or digital educational possibilities, as well as the actual use of certain platforms or contents has a direct and great importance on how lecturers structure their classes; what information and in what manner do they pass to their students; and, put simply, how do they educate them on the "use of materials" (e.g., paid versus free; external versus internal sources). And the actual decisions of lecturers and students on accessing and using certain resources and platforms can also have direct consequences for the functioning of fundamental rights like freedom of education and academic freedom.

85 As we conducted only a quantitative analysis, we were unable to locate certain reasons and motivations among our target groups. We therefore recommend qualitative interviews—most ideally on a national level—to complement our findings in order to provide university leaderships, national policy-makers and maybe even the legislation a clear view on the future steps to enhance digital education and how to make it "lockdown-proof".

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117 If we break down the numbers of lecturers and students, we might also notice that international students (4,14; with a median of 5) and lecturers of foreign language modules (3,88; with a median of 5) were more interested in any copyright training than the Hungarian students (3,59; with a median of 4) and lecturers of Hungarian modules (3,65; with a median of 4).

118 Guido Noto la Diega, Giulia Priora, Bernd Justin Jütte and

Léo Pascault, 'Capturing the Uncapturable: The Relationship between Universities and Copyright through the Lens of the Audio-Visual Lecture Capture Policies'. In: Cristiana Sappa and Enrico Bonadio (eds), 'Art and Literature in Copyright Law: Protecting the Rights of Creators and Managers of Artistic and Literary Works' (2022) Edward Elgar, Cheltenham, 207.