

IMPULSE

IMmersive digitisation: uPcycling cULtural
heritage towards new reviving StratEgies

Deliverable 4.2:

Contract agreements and operating
frameworks - report



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2 Introduction

WP4 LS focuses on providing legal assessment and frameworks for prototyped initiatives and forms of collaboration and partnerships undertaken to execute these activities. Conclusions drawn from tested cases/prototypes serve as starting points for developing further models for data sharing, enabling expanded and innovative use of digitized data through new technologies at the European level.

The adapted models resulting from the project are intended to serve as roadmaps, consisting of legal assessments, organizational frameworks with detailed reports on occurring risks, barriers, and possible solutions to overcome them.

Key words:

Online community, legal aspects, object and data, copyrights, remarks and guidelines

3 Table of Contents

1. Document Information.....	2
2. Introduction.....	5
3. Table of Contents.....	6
4. Main remarks	7
4.1. Legal frameworks of operation.....	7
4.2. Agreements regulating the use of platforms.....	7
5. Possible obstacles	10
5.1. Possible obstacles to the use of objects in the collections: general remarks.	10
5.2. Possible obstacles to the use of objects in the collections: collection-level assessment	11
5.3. Possible obstacles to the use of objects in the collections: object-level assessment	19
5.4. Possible obstacles to the use of objects in the collections: future considerations.....	19
APPENDIX 1: Platforms and their Terms and Conditions.....	21
APPENDIX 2: Collection-level questionnaire.....	46
APPENDIX 3: Object-level questionnaire.....	66

4 Main remarks

This summary was prepared as part of WP4 actions, within the task concerning the identification of requirements for the legal framework of operation, agreements regulating the intended collaborations, and recommendations for specific cases of partnerships. Due to the nature of WP4 within the IMPULSE project, it is not meant to supplant any legal advice that can be provided by internal legal advisory teams of the Partners participating in the IMPULSE project. Instead, it is inspired by a growing body of legal research that analyzes standard terms and conditions of various players in the digital market. The primary goal is to identify the issues that are likely to be relevant for a heritage institution based in the EU that is willing to design an immersive experience with the use of an already available service. As a result, the analysis focuses primarily on the perspective of heritage institutions from EU member states.

The second element of the report concerns the verification of legal aspects of individual objects (ownership, copyrights, etc.) introduced into project prototypes, and their subsequent broad application by institutions. The comprehensive questionnaire was developed based on the assumptions originally prepared by WP4 for project participants and collection custodians. Due to the multitude of undertaken activities and the merging of fields of exploitation, individual cases should be subjected to more than one legal analysis. This is especially true when we talk about the cooperation of various institutions from different legal systems.

4.1. Legal frameworks of operation

At this stage of the project, the identification of legal requirements focuses on two key aspects. First, it concerns the legal terms governing access to platforms that facilitate the design of immersive experiences, ensuring compliance with licensing agreements, data protection regulations, and intellectual property rights. Second, it examines potential legal obstacles related to the use of objects from various collections, including copyright restrictions, ownership rights, and ethical considerations.

4.2. Agreements regulating the use of platforms

The analysis below complements the analyses conducted by WP2, summarized in Deliverable D11. Discussing the technical and functional considerations connected

with the potential use of existing, state-of-the-art solutions for immersive experiences, WP2 concluded that it was advisable to rely on in-house development¹. In cooperation with WP2, WP4 conducted additional analysis of the terms of service (ToS) of three existing platforms that were taken into consideration.

Due to the nature of WP4 within the IMPULSE project, it is not meant to supplant any legal advice that can be provided by internal legal advisory teams of the Partners participating in the IMPULSE project. Instead, it is inspired by a growing body of legal research that analyses standard terms and conditions of various players in the digital market². The primary goal is to identify the issues that are likely to be relevant for a heritage institution based in the EU that is willing to design an immersive experience with the use of an already available service. As a result, the analysis of the terms of service (ToS) focuses primarily on the perspective of heritage institutions. Selected issues relevant to end-users (consumers) are also covered.

The main question posed was as follows: are any of the ToS of the analyzed platforms fit to be accepted by a heritage institution without significant risks that would have to be mitigated, at least by negotiating a custom agreement? The ToS analyzed here all contain choice-of-law clauses that select laws of the USA (more precisely – California, New York and Pennsylvania) as applicable to the contract. Although the author of this document has limited experience with US law, he is not a qualified lawyer in any of these jurisdictions. As a result, the remarks about contractual issues were prepared without taking into account the specific rules concerning, for example, the validity or the interpretation of contracts in any of those jurisdictions.

The ToS analyzed here were published by the providers of three platforms initially selected by WP2. These are:

- Spatial:
 - Terms of Use — License to Spatial Software; Version Effective: August 8, 2024³ **[ToS]**
 - Spatial Systems Privacy Policy; Version Effective: August 8, 2024⁴ **[PP]**
- VRChat
 - Terms of Service; Effective Date: November 22, 2023⁵ **[ToS]**
 - Privacy Policy; Effective Date: August 20, 2024⁶ **[PP]**

¹ Deliverable D11, pp. 118-124.

² E.g., Mezei, P., & Harkai, I. (2022). *End-user flexibilities in digital copyright law – an empirical analysis of end-user license agreements*. Interactive Entertainment Law Review, 5(1), 2-21. <https://doi.org/10.4337/ielr.2022.0003>

³ <https://www.spatial.io/terms>

⁴ <https://www.spatial.io/privacy>

⁵ <https://hello.vrchat.com/legal>

⁶ <https://hello.vrchat.com/privacy>

- VRChat Materials License Agreement; Effective date: November 05, 2021⁷ [SDK]
- Sansar
 - Terms of Service; Effective: September 1, 2022⁸ [ToS]
 - Sansar Privacy Policy; Effective: September 1, 2022⁹ [PP]

The documents analyzed here were standard, “boilerplate” terms presented by the service providers. It is conceivable that individual terms negotiated with a given provider would allow to avoid at least some of the issues described below. However, such negotiations are also likely to be a time-consuming and potentially costly process. The initial analysis revealed the following four issues that, according to the author, are pressing enough to warrant far-reaching caution on the side of a cultural heritage institution before entering into an agreement with Spatial, VRChat or Sansar. The list is by no means exclusive but reflects the opinion of the authors of this analysis.

1. **Applicable law and jurisdiction.** Each of the analyzed ToS chooses US law as applicable. This not only hindered the ability of the author to analyze the ToS fully but also poses a problem in the future. Entering into an agreement that chooses law applicable on the territory of the other party increases the legal uncertainty, imposes additional costs to obtain legal advice related to the contract, as well as during a potential dispute, and generally diminishes the odds of success in a hypothetical dispute due to the necessity to operate on “foreign legal turf”. The same applies to jurisdiction, i.e. the court venue or to an arbitration court – which is also chosen conveniently for the provider in each of the analyzed documents.
2. **Data protection.** Cultural heritage institutions are very likely to be data controllers with respect to certain personal data that will be processed within the platforms. Each of the analyzed platforms process data outside of the European Economic Area, and highly likely in the USA. This has been a contentious issue for years. Unfortunately, none of the platforms engages in the simplest legal mechanism that facilitates data transfers from the EU to the USA (the Data Privacy Framework). The analyzed ToS do not address this matter in an unambiguous way either. As a result, it appears that in each case, an individually set up legal instrument would be necessary to avoid regulatory risks. Moreover, the fact that the ToS are not entirely aligned with the EU data protection laws results in potentially weaker protection of the personal data of the end-users who would like to engage in an immersive environment.

⁷ <https://hello.vrchat.com/legal/sdk>

⁸ <https://www.sansar.com/terms-of-service>

⁹ <https://www.sansar.com/privacy>

3. **Intellectual property.** Each of the analyzed ToS contains clauses under which the user (including a cultural heritage institution, which is especially relevant here) grants the platform a far-reaching license to use the content uploaded to the platform. Firstly, the institution may not always be capable of granting the license within this scope. In particular, it may not be a rightholder or may be a licensee unable to sublicense. Secondly, the scope of the license appears broader than what is necessary to operate the platform, which poses a question about the fate of the uploaded content in the future. Moreover, under each of the analyzed ToS, the user indemnifies the platform against claims against it, including those concerning intellectual property. The scope of these clauses includes covering not only damages, but also at least some of the legal expenses of the platform. Particularly for US platforms, like those analyzed here, this may be a significant cost in the case of a dispute.
4. **Stability of the relationship.** Each of the analyzed ToS contains clauses that, to a various but generally strong degree, allow the provider to discontinue the relationship with the user. This includes the agreement with the institution. This lack of stability should be taken into account as a risk factor, i.e. an institution may spend resources to build the experience on a platform and lose access to the results of such endeavors.

Appendix 1 contains references to the relevant provisions in the ToS and summarizes the issues.

5. Possible obstacles

5.1. Possible obstacles to the use of objects in the collections: general remarks

As explained in Deliverable D24¹⁰, we have worked with the assumption that the baseline for the “existing legal regulations” is the broadly understood mainstream status quo approach. Based on this approach, we identified the following areas which are likely to cause legal issues for the Project: intellectual property, ownership and provenance,

¹⁰ D24, p. 4

personal data protection, other personal rights, administrative restrictions¹¹. We preliminarily assessed the probability of legal issues arising in connection with the collections¹², and formulated a list of questions to guide the process of selection and categorization¹³.

The key practical problem for any initiative like the Project is that the legal assessment, at the end, must be done on the level of single objects and their digital representations. In other words, there is method of assessing legal issues that would allow a batch verification without increasing legal risks caused by modalities between objects in the collections. This is particularly problematic for issues caused by the intellectual property rights, because infringement is, in most cases, not dependent on fault or bad faith of the alleged infringer. At the same time, the complex web of overlapping rights makes such individual assessment time-consuming and resource-consuming (as discussed in more detailed below, sometimes not practicable at all).

For this reason, we suggest a two-staged approach to the verification process. The **first stage** involves a collection-level assessment. Its purpose is to provide an initial set of information that will highlight the collections which appear to be the most problematic. The **second stage** is an object-level assessment, which is substantially more time-consuming and would therefore not be practicable at the current stage of the project.

5.2. Possible obstacles to the use of objects in the collections: collection-level assessment

In cooperation with WP3, a questionnaire with questions concerning the legal status of the collections of the IMPULSE partners was prepared by WP4 for the purposes of data collection for Deliverable D18. The questions deal with the following topics: the general characteristics of the collection, including the types of objects and their digital representations; the existence of institutional policies regarding intellectual property rights; the legal status of original objects, including their copyright protection, rightsholder identification, and availability for public access; the legal status of digitized representations, including their copyright protection, provenance, and use permissions; related rights concerning performances, audio and video recordings, broadcasts, critical editions, and press publications; potential restrictions on usage due to contractual,

¹¹ D24, p. 15-31.

¹² D24, p. 38-34.

¹³ D24, p. 44-45.

administrative, or ethical concerns; the presence of sensitive or potentially problematic content; consultations with legal experts regarding intellectual property matters; and the acquisition of rights necessary for making objects or their digital representations available online.

The entire questionnaire, including comments concerning the context and purpose of the questions, as well as the interpretation guidelines, is in appendix 2. We anticipated that some questions may be difficult to answer for various reason, including time and resource constraints. However, we assumed that the possibility to identify the gaps in the knowledge and the possible reasons of such gaps has independent value for the purposes of WP4's tasks.

The partners responded between December 2024-January 2025. The project received completed questionnaires concerning 37 collections, which form part of Deliverable D18¹⁴. The table below summarizes the conclusions from the analysis of the data.

Collection	Comments and preliminary conclusions
Film Museum Potsdam: Costume Design & Scenography Collection	High likelihood of legal obstacles Numerous uncertainties marked in the questionnaire caused either by lack of information or lack of resources to gather the information. In particular, the collection is 'uncertain' whether it is allowed to make available to others, but with availability limited to the IMPULSE consortium, the donors and entities cooperating with IMPULSE.
Film Museum Potsdam: Film & Cinema Technology Collection	High likelihood of legal obstacles Numerous uncertainties marked in the questionnaire caused either by lack of information or lack of resources to gather the information. In particular, the collection is 'uncertain' whether it is allowed to make available to others, but with availability limited to the IMPULSE consortium, the donors and entities cooperating with IMPULSE.
Film Museum Potsdam: Props Collection	High likelihood of legal obstacles Numerous uncertainties marked in the questionnaire caused either by lack of information or lack of resources to gather the information. In particular, the collection is 'uncertain' whether it is allowed to make available to others, but with availability limited to

¹⁴ D18

	the IMPULSE consortium, the donors and entities cooperating with IMPULSE.
Film University Babelsberg: Volumetric Contemporary Testimony of Holocaust Survivors Collection	<p>High likelihood of legal obstacles</p> <p>Numerous uncertainties marked in the questionnaire caused either by lack of information or lack of resources to gather the information. In particular, the collection is ‘uncertain’ whether it is allowed to make available to others, but with availability limited to the IMPULSE consortium, the donors and entities cooperating with IMPULSE.</p> <p>Although only copyright protection was marked in the questionnaire, protection of at least fixations of films is also likely to apply. Additionally, the content is, by definition, legally sensitive.</p>
Heritage Malta: Dockyard Collection	<p>Low likelihood of legal obstacles</p> <p>The collection-level questionnaire was diligently completed and strongly suggests good orientation about the status of the objects in the collection, as well as the lawfulness of their use within IMPULSE. There may be issues connected with personal data protection, especially associated with interviews and certain artworks.</p>
Heritage Malta: Maritime Collection	<p>Low likelihood of legal obstacles</p> <p>The collection-level questionnaire was diligently completed and strongly suggests good orientation about the status of the objects in the collection, as well as the lawfulness of their use within IMPULSE. There may be issues connected with personal data protection, especially associated with certain artworks.</p>
Jagiellonian University: Collections of Art and Scientific Objects	<p>Low likelihood of legal obstacles</p> <p>The collection-level questionnaire was diligently completed and strongly suggests good orientation about the status of the objects in the collection, as well as the lawfulness of their use within IMPULSE. There may be issues connected with particular objects due to missing data, including information about authorship.</p>
Jagiellonian University: Humboldt	<p>Mid likelihood of legal obstacles</p> <p>The assessment is solely based by the fact that the existence of “sensitive” and “problematic” objects was confirmed, but without any substantive comment about the nature of potential issues.</p>
Jagiellonian University: Natural Collections	Low to mid likelihood of legal obstacles

	The collection-level questionnaire was diligently completed and strongly suggests good orientation about the status of the objects in the collection, as well as the lawfulness of their use within IMPULSE. It appears that for numerous object, the lack of data may pose problems – the collection notes that they performed due diligence, however for some objects “the vendors or publishers do not exist anymore” which leaves the identity of the rightholders uncertain.
Jagiellonian University: Virtual Museums	Low likelihood of legal obstacles The collection-level questionnaire was diligently completed and strongly suggests good orientation about the status of the objects in the collection, as well as the lawfulness of their use within IMPULSE. There may be issues connected with particular objects due to missing data, including information about authorship.
Jagiellonian University: Patrimonium	Low likelihood of legal obstacles Practically no issues were identified based on the provided data.
Jagiellonian University: SLUB Dresden	Low likelihood of legal obstacles Practically no issues were identified based on the provided data.
KU Leuven: Collectio Academia Antiquo	Low likelihood of legal obstacles The collection-level questionnaire was diligently completed and strongly suggests good orientation about the status of the objects in the collection, as well as the lawfulness of their use within IMPULSE.
KU Leuven: Corble	Low to mid likelihood of legal obstacles The collection-level questionnaire was diligently completed and strongly suggests good orientation about the status of the objects in the collection, as well as the lawfulness of their use within IMPULSE. It appears that for certain newer objects, in particular 20 th century publications, complications may arise.
KU Leuven: Glass Slides	Low to mid likelihood of legal obstacles The collection-level questionnaire was diligently completed and strongly suggests good orientation about the status of the objects in the collection, as well as the lawfulness of their use within IMPULSE. There may be issues connected with particular objects due to missing data, including information about authorship.
KU Leuven: Incunabula	Low likelihood of legal obstacles

	The collection-level questionnaire was diligently completed and strongly suggests good orientation about the status of the objects in the collection, as well as the lawfulness of their use within IMPULSE.
KU Leuven: Jesuitica	<p>Low likelihood of legal obstacles</p> <p>The collection-level questionnaire was diligently completed and strongly suggests good orientation about the status of the objects in the collection, as well as the lawfulness of their use within IMPULSE.</p>
KU Leuven: Magister Dixit	<p>Low to mid likelihood of legal obstacles</p> <p>The collection-level questionnaire was diligently completed and strongly suggests good orientation about the status of the objects in the collection, as well as the lawfulness of their use within IMPULSE. It appears that for certain objects from other institutions, there may be contractual restrictions applicable.</p>
KU Leuven: Manuscripts	<p>Low likelihood of legal obstacles</p> <p>The collection-level questionnaire was diligently completed and strongly suggests good orientation about the status of the objects in the collection, as well as the lawfulness of their use within IMPULSE.</p>
KU Leuven: Picture Postcards	<p>Mid likelihood of legal obstacles</p> <p>The collection-level questionnaire was diligently completed. The collection is diverse and most of it remains under copyright protection, which forces closer, case-by-case assessment.</p>
KU Leuven: Theses	<p>Low likelihood of legal obstacles</p> <p>The collection-level questionnaire was diligently completed and strongly suggests good orientation about the status of the objects in the collection, as well as the lawfulness of their use within IMPULSE.</p>
Magna Zmien: Archives	<p>Mid likelihood of legal obstacles</p> <p>The collection-level questionnaire was diligently completed and strongly suggests good orientation about the status of the objects in the collection, as well as the lawfulness of their use within IMPULSE. At the same time, it reveals the diverse character of objects in the collection, which forces closer, case-by-case assessment. The large number of sources from which objects were obtained may complicate the verification. In concrete cases.</p>

Magna Zmien: Temples	<p>Mid likelihood of legal obstacles</p> <p>The collection-level questionnaire was diligently completed and strongly suggests good orientation about the status of the objects in the collection, as well as the lawfulness of their use within IMPULSE. At the same time, it reveals the diverse character of objects in the collection, which forces closer, case-by-case assessment. The large number of sources from which objects were obtained may complicate the verification. In concrete cases.</p>
NKUA Museum: 3D Scans of Scientific Instruments	<p>Mid to high likelihood of legal obstacles</p> <p>The questionnaire does not contain answers to all relevant questions, possibly due to lack of resources to gather all information. However, it suggests at least uncertainties when it comes to making digital representations available. The exact reason for the uncertainty was not stated.</p>
NKUA Museum: Interviews	<p>Mid to high likelihood of legal obstacles</p> <p>The questionnaire does not contain answers to all relevant questions, possibly due to lack of resources to gather all information. However, it suggests at least obstacles to making audio recordings available.</p>
NKUA Museum: Mascagni Atlas	<p>Mid to high likelihood of legal obstacles</p> <p>The questionnaire does not contain answers to all relevant questions, possibly due to lack of resources to gather all information. However, it suggests at least uncertainties when it comes to making digital representations available. The exact reason for the uncertainty was not stated.</p>
NKUA Museum: Portraits	<p>Mid to high likelihood of legal obstacles</p> <p>The questionnaire does not contain answers to all relevant questions, possibly due to lack of resources to gather all information. However, it suggests at least uncertainties when it comes to making digital representations available. The exact reason for the uncertainty was not stated.</p>
Thessaloniki Festival: Astir Archival	<p>High likelihood of legal obstacles</p> <p>Numerous uncertainties marked in the questionnaire caused either by lack of information or lack of resources to gather the information. In particular, the collection is ‘uncertain’ whether it is allowed to make available to others, but with availability limited to the IMPULSE consortium, the donors and entities cooperating with</p>

	IMPULSE. At the same time, the nature of the object suggests that it is very unlikely that they are in the public domain.
Thessaloniki Festival: Books	<p>High likelihood of legal obstacles</p> <p>Numerous uncertainties marked in the questionnaire caused either by lack of information or lack of resources to gather the information. In particular, the collection is ‘uncertain’ whether it is allowed to make available to others, but with availability limited to the IMPULSE consortium, the donors and entities cooperating with IMPULSE. At the same time, the nature of the object suggests that it is very unlikely that they are in the public domain.</p>
Thessaloniki Festival: Brochures	<p>High likelihood of legal obstacles</p> <p>Numerous uncertainties marked in the questionnaire caused either by lack of information or lack of resources to gather the information. In particular, the collection is ‘uncertain’ whether it is allowed to make available to others, but with availability limited to the IMPULSE consortium, the donors and entities cooperating with IMPULSE. At the same time, the nature of the object suggests that it is very unlikely that they are in the public domain.</p>
Thessaloniki Festival: Festival Catalogues	<p>High likelihood of legal obstacles</p> <p>Numerous uncertainties marked in the questionnaire caused either by lack of information or lack of resources to gather the information. In particular, the collection is ‘uncertain’ whether it is allowed to make available to others, but with availability limited to the IMPULSE consortium, the donors and entities cooperating with IMPULSE. At the same time, the nature of the object suggests that it is very unlikely that they are in the public domain.</p>
Thessaloniki Festival: Festival Magazine	<p>High likelihood of legal obstacles</p> <p>Numerous uncertainties marked in the questionnaire caused either by lack of information or lack of resources to gather the information. In particular, the collection is ‘uncertain’ whether it is allowed to make available to others, but with availability limited to the IMPULSE consortium, the donors and entities cooperating with IMPULSE. At the same time, the nature of the object suggests that it is very unlikely that they are in the public domain.</p>
Thessaloniki Festival: Hellafi Megaposters	<p>High likelihood of legal obstacles</p> <p>Numerous uncertainties marked in the questionnaire caused either by lack of information or lack of resources to gather the information. In particular, the collection is ‘uncertain’ whether it is allowed to make available to others, but with availability limited to</p>

	the IMPULSE consortium, the donors and entities cooperating with IMPULSE. At the same time, the nature of the object suggests that it is very unlikely that they are in the public domain.
Thessaloniki Festival: Magazines	<p>High likelihood of legal obstacles</p> <p>Numerous uncertainties marked in the questionnaire caused either by lack of information or lack of resources to gather the information. In particular, the collection is ‘uncertain’ whether it is allowed to make available to others, but with availability limited to the IMPULSE consortium, the donors and entities cooperating with IMPULSE. At the same time, the nature of the object suggests that it is very unlikely that they are in the public domain.</p>
Thessaloniki Festival: Photos	<p>High likelihood of legal obstacles</p> <p>Numerous uncertainties marked in the questionnaire caused either by lack of information or lack of resources to gather the information. In particular, the collection is ‘uncertain’ whether it is allowed to make available to others, but with availability limited to the IMPULSE consortium, the donors and entities cooperating with IMPULSE. At the same time, the nature of the object suggests that it is very unlikely that they are in the public domain.</p>
Thessaloniki Festival: Posters	<p>High likelihood of legal obstacles</p> <p>Numerous uncertainties marked in the questionnaire caused either by lack of information or lack of resources to gather the information. In particular, the collection is ‘uncertain’ whether it is allowed to make available to others, but with availability limited to the IMPULSE consortium, the donors and entities cooperating with IMPULSE. At the same time, the nature of the object suggests that it is very unlikely that they are in the public domain.</p>
Thessaloniki Festival: Publications	<p>High likelihood of legal obstacles</p> <p>Numerous uncertainties marked in the questionnaire caused either by lack of information or lack of resources to gather the information. In particular, the collection is ‘uncertain’ whether it is allowed to make available to others, but with availability limited to the IMPULSE consortium, the donors and entities cooperating with IMPULSE. At the same time, the nature of the object suggests that it is very unlikely that they are in the public domain.</p>

5.3. Possible obstacles to the use of objects in the collections: object-level assessment

The ability to use a heritage object, along with its digital representation, cannot be reliably determined at the collection level; instead, each object requires individual verification. We recognize that this process is likely burdensome for heritage institutions, and part of our aim is to assess whether our intuitions about these challenges are accurate. Essentially, we seek to answer two questions: what steps should an institution take to determine what they can legally do with a given object and how burdensome would it be to diligently follow those steps?

We operate under the assumption that an institution interested in using the objects in its collections to develop immersive online experiences will not resort to “strategic thinking”, i.e. accept certain risks of its actions being deemed unlawful, but instead employ a strict approach to ensure no infringements. This approach has two main bases. Firstly, particularly from the point of view of a public institution, any approach that assumes a realistic risk of unlawful action would be difficult, if not outright impossible to justify. Secondly, one of the purposes of WP4 is to identify, where possible, areas and ways that were “dead ends” within the existing legal framework¹⁵.

With this assumption in mind, we developed a more detailed object-level questionnaire, which is included in Appendix 3. It is designed to assess key potential restrictions. We aim to identify the practical and legal challenges institutions encounter when determining what they can do with a given object. The questionnaire covers a range of legal considerations, such as authorship, public availability, ownership of rights, and specific protections for different types of works, including photographs, performances, audio recordings, and broadcasts. It also deals with issues unrelated to intellectual property.

5.4. Possible obstacles to the use of objects in the collections: future considerations

At this stage, the project remains in preparatory phases, with prototyping yet to take place. The legal analysis of each prototype will be contingent on the specific content, which in turn depends on the selection of heritage objects. This means that legal assessments can only be conducted once concrete use cases emerge.

¹⁵ See e.g. task 4.4.1.2. described in the IMPULSE proposal.

The selection process will provide WP4 with an opportunity to evaluate whether it is reasonable to expect heritage institutions to comprehensively gather all necessary data to determine whether an object may be used in an implementation of an immersive experience.

Given WP4's role in the broader project structure, our approach should remain observational. One key concern is the legal treatment of objects that are not in the public domain. We hypothesize that relying on exceptions and limitations would be at least highly problematic due to significant legal fragmentation across EU jurisdictions, caused by the lack of complete harmonization in EU copyright directives¹⁶. This, in turn, underscores the need for efficient determination of whether an object is in the public domain, which would enable heritage institutions to avoid problems caused by the disharmonization of exceptions and limitations, as well as transaction costs connected with obtaining necessary authorization from the rightholders, in any case without prejudice to the administrative restriction at national level (i.e. cultural heritage law or code)¹⁷.

¹⁶ Deliverable 24, pp. 20-24.

¹⁷ D24, p. 30-31.

APPENDIX 1: Platforms and their Terms and Conditions

Choice of law			
Spatial	VRChat	Sansar	Issue and comment
[22 ToS] This Agreement shall be governed exclusively by the laws applicable in the State of New York, USA, excluding the application of its conflicts of laws principles.	[25 ToS] These Terms are governed by the laws of the State of California without regard to conflict of law principles that would result in the application of the laws of another jurisdiction.	[13.5 ToS] You agree that this Agreement and the relationship between you and Sansar shall be governed by the laws of the State of Pennsylvania without regard to conflict of law principles or the United Nations Convention on the International Sale of Goods.	<p>(Choice of law)</p> <p>Each of the analyzed ToS chooses US law as applicable. For agreements concluded between the CHIs and the respective platform this clause is permissible, as per Article 3(1) of the Rome I Regulation¹⁸. From the perspective of a CHI based in the EU, this has significant drawbacks, including:</p> <ul style="list-style-type: none"> • The legal uncertainty about the foreign provisions applicable to the contract. • Additional costs necessary to obtain legal advice related to the contract, as well as during a potential dispute. • The necessity to operate on “foreign legal turf” which, in case of a dispute, tends to diminish the odds of success. <p>All these aspects suggest that EU-based CHI should exercise caution before entering into an agreement which chooses US law as governing law.</p> <p>In the case of end-users who are EU citizens and are consumers, i.e. natural persons acting for purposes which are outside their trade, business or profession, these</p>

¹⁸ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I)

			clauses should not override the protection granted by EU law (Article 6(2) Unfair Terms Directive ¹⁹). The exact scope of this protection varies between EU member states ²⁰ .
Jurisdiction and arbitration			
Spatial	VRChat	Sansar	Issue and comment
[23a ToS] Any dispute arising under or with respect to this Agreement, including with respect to the enforcement of any rights, provisions, or remedies hereunder, shall be solely and exclusively resolved as follows: First through Informal Dispute Resolution as stated below, and only if such requirements are satisfied, then for US residents only, by binding arbitration as indicated below, not by litigation.	[27 ToS] This agreement to arbitrate disputes includes all claims arising out of or relating to any aspect of these Terms, the Platform, and communications from us, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of whether a claim arises during or after the termination of these Terms. YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND VRCHAT ARE EACH	[12.1 ToS] ANY DISPUTE OR CLAIM BETWEEN YOU AND US (COLLECTIVELY HEREIN KNOWN AS THE "PARTIES") ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL BE FULLY AND FINALLY RESOLVED BY BINDING ARBITRATION. The arbitration shall be commenced and conducted through JAMS (www.jamsadr.org) under the Streamlined Rules.	(Jurisdiction and arbitration) Each of the analyzed ToS contains an arbitration clause. In practice, it means that any disputes between a CHI and the jurisdiction of state courts would be excluded. The details would depend on the validity of the arbitration agreement in a jurisdiction. In other words, if a party brings its case into a state court, such court would have to decide whether the arbitration agreement is valid, which would prevent it from resolving the dispute. One analyzed ToS (Spatial) contains ambiguous phrases that make it unclear to what extent the arbitration agreement covers also non-US residents. However, in general, the likely result for disputes between EU-based CHIs and the platforms appears to be that the arbitration agreement would be considered valid. At the very least, this adds an additional factor of unfamiliarity and potential costs in the case of a dispute. VRChat allows opting out from arbitration. However, in such a case, there is a clause that submits disputes to the courts in San Francisco; with similar drawbacks.

¹⁹ Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts

²⁰ For example, in Poland similar choice-of-law were held unenforceable. See judgment of the Polish Supreme Court of 17 September 2014, Case I CSK 555/13.

	<p>WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.</p> <p>(...)</p> <p>27.3. <u>Opt-Out</u>. If you do not wish to resolve disputes by binding arbitration, you may opt out of the provisions of this Section 27 within 30 days after the date that you agree to this by sending a letter to VRChat Inc., Attention: Legal Department – Arbitration Opt-Out, 548 Market St., #93053 San Francisco, CA, 94104-5401, that specifies: your full legal name, the email address associated with your Account on the Platform, and a statement that you wish to opt out of arbitration (“Opt-Out Notice”).</p>		<p>For disputes between end-users who are EU citizens and are consumers, i.e. natural persons acting for purposes which are outside their trade, business or profession, the enforceability of such mandatory arbitration is questionable at best. As a result, an EU court might still have jurisdiction. However, a user would likely find it difficult to enforce a court judgment against the platform from the USA.</p>
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GDPR and data protection			
Spatial	VRChat	Sansar	Issue and comment
<p>[PP] INTERNATIONAL DATA TRANSFERS</p> <p>You agree that all personal information processed by us may be transferred, processed, and stored anywhere in the world, including, but not limited to, the United States and other countries which may have data protection laws that are different from the laws where you live. We endeavor to safeguard your information consistent with the requirements of applicable laws. If you are a resident of the European Economic Area (EEA), Switzerland or the United Kingdom and provide personal data to us, we will either seek your express consent to such transfer if</p>	<p>[PP] If you are located in Europe, we will comply with applicable data protection laws when transferring your Personal Information outside of your country.</p> <p>If you are from Europe, we may transfer your Personal Information to countries which have been found to provide adequate protection by the EU Commission or the UK government, to recipients who use contractual protections for the transfer of Personal Information, or to recipients who have adopted Binding Corporate Rules. We may also rely on an</p>		<p>(GDPR and data protection)</p> <p>All platforms gather and process personal data of the users, including – for example – data about the usage of the sites, location, and in some cases (Sansar) also telemetry from AR/VR devices. In some cases, the CHI may be a controller for such data, i.e. the entity that determines the purposes and means of the processing. Examples include data of workers and contractors of CHIs involved in the creation of immersive experiences. Two issues become significant here.</p> <p>1. The status of both parties</p> <p>If the CHI is a controller, the platform can operate either as a data processor (processes personal data on behalf of the controller) or a joint controller. The former option requires basing the processing on a contract or another legal act (Article 28(3) of the GDPR). However, the privacy policies are not drafted in a way that reflects the “checklist” set forth in Article 28(3) of the GDPR. The latter options requires that the joint controllers regulate their duties via an arrangement, which in practice can be a separate agreement (Article 26 of the GDPR). Following the 2018-2019 judgments of the CJEU²¹, the latter option appears at</p>

²¹ Case C-210/16 Wirtschaftsakademie and case C-40/17 Fashion ID.

you are an individual data subject in accordance with applicable law, or we will rely on mechanisms such as the applicable Standard Contractual Clauses.

appropriate legal derogation. For more information about how we transfer outside of Europe, or to obtain a copy of the contractual safeguards we use for such transfers, you may contact us using the contact details as indicated in the “How to Contact Us” section below.

least conceivable, if not likely for the analyzed services. However, the privacy policies do not reflect this either.

2. Data transferred outside the EEA

In all cases, the data is transferred to the USA, i.e. outside of the European Economic Area. Such transfers are restricted under Chapter V (Articles 44-50) of the GDPR. While not impossible, they have proven contentious over the past years, as evidenced by a series of high-profile court cases concerning various legal instruments of data transfers (Schrems I²², Schrems II²³). At the time, transfers to the USA are possible on the following bases²⁴:

- the data recipient is included in the Data Privacy Framework List (DPF) covered by a so-called adequacy decision²⁵
- the data recipient is not included in the DPF, but appropriate safeguards are implemented through the use of standard data protection clauses adopted by the Commission
- the data recipient is not included in the DPF, but appropriate safeguards are implemented through the use of binding corporate rules

²² Case C-362/14, Schrems I.

²³ Case C-311/18 Schrems II.

²⁴ See e.g. EDPB, *EU-U.S. Data Privacy Framework. FAQ for European Businesses*, https://www.edpb.europa.eu/system/files/2024-07/edpb_dpf_faq-for-businesses_en.pdf

²⁵ Commission Implementing Decision of 10.7.2023 pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council on the adequate level of protection of personal data under the EU-US Data Privacy Framework, C(2023) 4745 final.

			<ul style="list-style-type: none"> the data recipient is not included in the DPF or in the absence of appropriate safeguards, but other grounds listed in Article 49 of the GDPR apply (in practice – a rare situation with respect to online platforms). <p>As of October 29, 2024, none of the providers of the analyzed platforms (Spatial Systems Inc., Sansar Inc., VRChat Inc.) participates in the Data Privacy Framework, which excludes the simplest and – as of now – most reliable basis for data transfer.</p> <p>Spatial and VRChat recognize the issue of data transfers, but do not provide clear information about the proper basis. Sansar does not mention the issue in the privacy policy.</p>
Identification of the parties and their representation			
Spatial	VRChat	Sansar	Issue and comment
<p>[ToS]</p> <p>Organizational Use. (i) If You are employed by, an agent or independent contractor (under written agreement) for or otherwise represent or have been authorized by a company or other legal entity or organization, including an academic organization or government agency</p>	<p>[ToS]</p> <p>If you are using the Platform on behalf of an entity, organization, or company, you represent and warrant that you have the authority to bind that organization to these Terms and you agree to be bound by these Terms on</p>	<p>[ToS]</p> <p>If you are using the Service on behalf of a company, organization, or other legal entity (each, a "User Organization"), you represent and warrant that you are an employee of that User Organization or other person authorized to do so.</p>	<p>(Identification of the parties and their representation)</p> <p>In each of the analyzed ToS, the person that sets up the account on the platform represents that they are authorized to do so on behalf of the organization (CHI). While the clause as such is not problematic, it must be noted that internal regulations of a CHI, as well as applicable public procurement laws, may restrict the employee of a CHI.</p>

<p>[collectively, Organization] to access or use the Service and Software, (ii) if You are using it on any device or computer supplied to You or paid for by such Organization, (iii) if Your use of the Service has been paid for by Your Organization or You have been reimbursed by Your Organization, (iv) if You signed up for the Service using Your Organization's email domain or address, (v) if You have used the Service on its behalf (i.e., other than using it personally on Your own behalf from an email address that is not the Organization's on Your own device or computer and fully paid for by You as an individual), or (vi) if You invite other users in the Organization to use the Service or enter a virtual Space with You, then in all of these cases the term "You"</p>	<p>behalf of that organization.</p>		
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also includes such Organization and You are acting on its behalf (each of the forgoing (i) – (vi) an **[Organizational Use]** of the Service). If you are making an Organizational Use of the Service, You hereby represent and warrant to Spatial that You are authorized to act on such Organization's behalf in accepting the terms of this Agreement, and You have made sure that You have the necessary authority to enter into this Agreement on its behalf.

Intellectual property / License granted to the platform

Spatial	VRChat	Sansar	Issue and comment
2. Content License to Spatial. With respect to any Customer Content that You create and/or post/upload in a Space/on the Service, You or Your licensor retains ownership in such Content, excluding any Spatial	8.2. Limited License Grant to VRChat. By Posting any User Content, you grant VRChat a worldwide, non-exclusive, irrevocable, royalty-free, perpetual, fully-paid right and license (with the right to	Except as otherwise described in any Additional Terms (such as a contest's official rules) which will govern the submission of your User Content, you hereby grant to Sansar, and you agree	(Intellectual property / License granted to the platform) Each of the analyzed ToS contains clauses under which the user (including a CHI) grants to the platform a far-reaching license to use the content uploaded on the platform. Here, the following issues must be recognized: <ul style="list-style-type: none"> The CHI may not always be capable of granting the license within this scope. In particular, the CHI may

Software or Materials, but You grant Spatial a perpetual, worldwide, non-exclusive royalty-free right and license, with the right to sublicense to any other person, whether or not a User, to host, store, transfer, translate, localize, publicly display, publicly perform, reproduce, synchronize, modify, enhance, distribute and use the Customer Content in whole or in part, including any trademarks owned or controlled by You in relation to such Customer Content that You make available on the Service, which we can do in relation to the Service and otherwise as permitted by this Agreement. Spatial's right to use Customer Content shall include the right to market and advertise, and to display or publicly perform, the Spatial Service which may	sublicense through multiple tiers) to host, store, transfer, publicly display, publicly perform (including by means of digital audio transmission), communicate to the public, reproduce, modify for the purpose of formatting for display, create derivative works as authorized in these Terms, and distribute that User Content, in whole or in part, in any media formats and through any media channels, in each instance whether now known or hereafter developed. All of the rights you grant in these Terms are provided on a through-to-the audience basis, meaning the owners or operators of external services will not have any	to grant to Sansar, the non-exclusive, unrestricted, unconditional, unlimited, worldwide, irrevocable, perpetual, and cost-free right and license to use, copy, record, distribute, reproduce, disclose, modify, display, publicly perform, transmit, publish, broadcast, translate, make derivative works of, and sell, re-sell or sublicense (through multiple levels)(with respect to each Product or otherwise on the Service as permitted by you through your interactions with the Service), and otherwise exploit in any manner whatsoever, all or any portion of your User Content (and derivative works thereof), for any purpose whatsoever in all	<p>not be a rightholder, or may be a licensee unable to sublicense.</p> <ul style="list-style-type: none"> The scope of the license appears broader than what is necessary to operate the platform.
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<p>show Your Customer Content and/or Space without Your approval, but we will not directly reference Your Customer Content without Your approval.</p>	<p>separate liability to you or any other third party for User Content that is Posted or otherwise used on external services via the Platform. You agree to pay all monies owing to any person or entity resulting from Posting your User Content and from VRChat's exercise of the license set forth in this Section 8.2. You agree that the license granted to VRChat under this Section 8.2 applies to any User Content you directly Post, indirectly Post, or previously Posted.</p>	<p>formats, on or through any media, software, formula, or medium now known or hereafter developed, and with any technology or devices now known or hereafter developed, and to advertise, market, and promote the same. You agree that the license includes the right to copy, analyze and use any of your Content as Sansar may deem necessary or desirable for purposes of debugging, testing, or providing support or development services in connection with the Service and future improvements to the Service. The license granted in this Section is referred to as the "Service Content License."</p>
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Intellectual property / Indemnity			
Spatial	VRChat	Sansar	Issue and comment
<p>B. Customer Indemnification of Spatial. You (Customer) will defend Spatial and its officers, directors, personnel and affiliates [Spatial Indemnitees] against any Claims that arise from: (i) Customer's or any of its Users violation of this Agreement, or (ii) infringement or misappropriation by the Customer Content of the Intellectual Property Rights of a third party, or (iii) Customer's or its Users' use or processing of PII in violation of the rights of a data subject, and You will indemnify the Spatial Indemnitees for reasonable attorney's fees incurred and damages finally awarded against a Spatial Indemnatee pursuant to such Claim, and for any amounts owed or paid</p>	<p>21. Indemnity To the fullest extent permitted by law, you are responsible for your use of the Platform, and you will defend and indemnify VRChat and its officers, directors, managers, members, employees, consultants, affiliates, subsidiaries, and agents and any licensors or suppliers that provide Materials (together, the "VRChat Entities") from and against every claim brought by a third party, and any related liability, damage, loss, and expense, including reasonable attorneys' fees and costs, arising out of or in any way connected with: (a) your access to, use of, or alleged use of,</p>	<p>11.4. You agree to indemnify Sansar from claims relating to your use of the Service. At Sansar's request, you agree to defend, indemnify and hold harmless Sansar, its officers, directors, shareholders, employees, subsidiaries, and agents from all damages, liabilities, claims and expenses, including without limitation attorneys' fees and costs, arising from: (i) your User Content; (ii) your acts, omissions, or use of the Service, including without limitation your negligent, willful or illegal conduct; (iii) your breach or alleged breach by you of this Agreement, including</p>	<p>(Intellectual property / Indemnity) Each of the analyzed ToS contains clauses under which the user indemnifies the platform against claims against it, including those concerning intellectual property. The scope of these clauses, in the case of a dispute pertaining to the use of the platform by the CHI, is standard, but broad – and includes covering not only damages, but also at least some of the legal expenses of the platform. For platforms based in the USA, this may be a significant cost.</p>

<p>by a Spatial Indemnitee under a settlement of such Claim. However, in the event that You fail to timely take over the defense of a Claim under this paragraph, Spatial reserves the right to assume the defense of such Claim through its own counsel in which event You must pay all such attorney's fees and costs incurred by Spatial. In any settlement, Spatial's prior written consent shall be required if a Spatial Indemnitee is adversely affected thereby, not to be unreasonably withheld. This paragraph is Spatial's sole remedy and Your only obligation with respect to a Claim against a Spatial Indemnitee.</p>	<p>the Platform; (b) your use of the VRC Creator Economy; (c) your purchase or exchange of Credits; (s) your violation of any portion of these Terms, any representation, warranty, or agreement referenced in these Terms, or any applicable law or regulation; (e) your violation of any third-party right, including any intellectual property right or publicity, confidentiality, other property, or privacy right; or (f) any dispute or issue between you and any third party. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (without limiting your</p>	<p>without limitation your representations and warranties relating to your Content; (iv) your violation or anticipatory violation of any applicable law, rule or order in connection with your use of or activities in the Service; (v) information or material transmitted through your Internet Device that infringes or misappropriates any Intellectual Property Right; vi) any misrepresentation made by you; (vii) Sansar's use of the information that you submit to us; (viii) your purported "ownership" of any Usage Subscriptions or virtual items; or (ix) the increase or decrease in "value" or loss of Usage Subscriptions or virtual items if Sansar deletes, terminates, or modifies them (all of the foregoing,</p>
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	indemnification obligations with respect to that matter), and in that case, you agree to cooperate with our defense of that claim.	"Claims and Losses"). We reserve the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, and in such case, you agree to cooperate with our defense of such claim. You will not settle any Claims and Losses without, in each instance, the prior, written consent of an officer of Sansar.	
Intellectual property / Exceptions and limitations			
Spatial	VRChat	Sansar	Issue and comment
With respect to Your rights in Customer Content (which term is defined in Section 8 above), You represent and warrant that You either own, or have all necessary rights to submit to Spatial/the Service and post, Customer Content, including any PII. As mentioned, Spatial is under no obligation to vet or		Each time you submit any User Content, you represent and warrant that you are at least the age of majority in the state in which you reside and that, as to that User Content: (a) you are the sole author and owner of the intellectual property and other rights to the	(Intellectual property / Exceptions and limitations) The platforms are based in the USA. Therefore, if the ToS contain references to uploading content to which the user is not a rightholder, such references mention the US doctrine of fair use, which is distinct from the exceptions & limitations applicable in EU law. The platforms' actions towards such content, for example when it comes to moderation, may, therefore, differ from what would be expected under EU law. The problem of law applicable to the use of works under copyright is complex (in general, the <i>lex loci protectionis</i> principle applies). To simplify,

approve Customer Content; or to host or serve such Customer Content. It is Your obligation to ensure that You have obtained all rights necessary to publicly display and perform all Customer Content that You post using the Service. If You are using third-party or branded items as part of Your Customer Content, You must observe any trademark brand guidelines that apply to branded Customer Content, and if You are using portions of any text, graphics, audiovisual content, videos, films, images, or sounds/music not owned by You, You must obtain appropriate license rights to post and display such content as part of Your Customer Content, which rights are sufficiently extensive to permit other Users of the

User Content, or you have a lawful right to submit the User Content and grant Sansar the rights to it that you are granting by this Agreement and any Additional Terms, all without any obligation for us to obtain consent of any third party and without creating any other obligation or liability for us; (b) the User Content is accurate; (c) the User Content does not and, as to our permitted uses and exploitation set forth in these Terms, will not infringe any intellectual property or other right of any third party; and (d) the User Content will not violate these Terms or any Additional Terms, does not violate any applicable law, rule or regulation, and

although EU law may be applicable *de iure* to some uses by EU-based CHIs, *de facto* the platforms are likely to behave as though US law applied (including the take-down procedure from the US Digital Millenium Copyright Act). Although in some cases US doctrines are friendlier towards creative re-use, this also contributes to heightened legal uncertainty.

Service to view and engage with Your Spaces.		will not cause injury or harm to any person.	
Stability of the contractual relationship			
Spatial	VRChat	Sansar	Issue and comment
<p>[ToS] Spatial may discontinue development of the Software at any time, which will not affect Your subscription license during the Term</p> <p>[SDK] Termination. All licenses granted above, to the Creator Toolkit and other Creator tools, to Spatial Content and to Spatial trademarks, can be terminated at any time by Spatial in its sole discretion upon notice to You by any means. The Copyright Policy and DMCA Takedown provisions are found in Section 19 of the Terms of Service, which apply to this Addendum.</p>	<p>[ToS] We also reserve the right to terminate these Terms or modify or discontinue all or any portion of the Platform at any time (including by limiting or discontinuing certain features of the Platform), temporarily or permanently, without notice to you. We will have no liability whatsoever on account of any change to the Platform, including any paid-for functionalities of the Platform, or any suspension or termination of your access to or use of the Platform. You should retain copies of any User</p>	<p>[ToS] Subject to the terms of this Agreement, we reserve the right to limit the availability of, restrict access to, or discontinue the Service and/or any content, program, product, service or other feature described or available on the Service to any person, entity, geographic area, or jurisdiction, at any time and in our sole discretion, and to limit the quantities of any content, program, product, service, or other feature that we provide.</p>	<p>(Stability of the contractual relationship) Each of the analyzed ToS contains clauses that, to a various but generally strong degree, allows the provider to discontinue the relationship with the user.</p>

	Content you Post so that you have permanent copies if the Platform is modified in such a way that you lose access to User Content you Posted.		
Liability			
Spatial	VRChat	Sansar	Issue and comment
17. LIMITATION OF LIABILITY AND EXCLUSION OF REMEDIES SPATIAL SHALL NOT BE LIABLE FOR ANY LOSS OR INTERRUPTION OF BUSINESS, LOSS OF USE OR LOST REVENUES, PROFITS OR DATA, OR HARM TO ANY COMPUTER OR SYSTEM EVEN IF SPATIAL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS. SPATIAL HAS USED COMMERCIALY AVAILABLE ANTIVIRUS AND ANTI-MALWARE TECHNOLOGY INTENDED TO PREVENT ANY VIRUS, WORM, TROJAN HORSE, UNINTENDED	22. Disclaimers; No Warranties ALL PARTS OF THE PLATFORM AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE PLATFORM (INCLUDING ANY USER CONTENT AND SELLER CONTENT) ARE PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS, WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE	11.2. Sansar provides the Service on an "as is" basis, without express or implied warranties, and all Content, including Virtual Tender and other Virtual Goods and Services, have no guarantee or warranty of any compensable value. SANSAR PROVIDES THE SERVICE, INCLUDING WITHOUT LIMITATION THE SOFTWARE, THE WEBSITES, THE SERVERS, THE CONTENT (INCLUDING THE VIRTUAL GOODS AND SERVICES), AND YOUR ACCOUNT, STRICTLY ON AN "AS IS"	(Liability) Each of the analyzed ToS contains clauses that severely limits the liability of the platform vis-à-vis the customer. Although such clauses may be held unenforceable by EU courts for users who are consumers, they are likely to apply with regard to the relationship between the respective platforms and CHIs.

<p>DISABLING CODE OR OTHER MALWARE IN THE SERVICE OR SOFTWARE, BUT MAKES NO WARRANTY OF ANY SORT THAT IT IS FREE FROM SAME. IN NO EVENT SHALL SPATIAL OR ITS LICENSORS BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL OR EXEMPLARY DAMAGES ARISING OUT OF OR CONNECTED IN ANY WAY WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREUNDER. IN NO EVENT SHALL SPATIAL'S LIABILITY FROM ANY CAUSE OR MATTER ARISING UNDER OR IN CONNECTION WITH THE SERVICE OR THIS AGREEMENT OR ITS BREACH EXCEED IN THE AGGREGATE THE SUM OF US \$100 (ONE HUNDRED U.S. DOLLARS), REGARDLESS OF THE FORM OF ACTION AND HOWEVER ARISING,</p>	<p>VRCHAT ENTITIES DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE PLATFORM AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE PLATFORM (INCLUDING ANY USER CONTENT AND SELLER CONTENT), INCLUDING: (a) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT AND (b) ANY WARRANTY ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE. THE VRCHAT ENTITIES DO NOT WARRANT THAT THE PLATFORM OR ANY PORTION OF THE</p>	<p>BASIS, AND HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES OR CONDITIONS OF ANY KIND, WRITTEN OR ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF TITLE, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO VALUE, EITHER EXPRESS OR IMPLIED, IS GUARANTEED OR WARRANTED WITH RESPECT TO ANY CONTENT, INCLUDING VIRTUAL TENDER OR ANY OTHER VIRTUAL GOODS AND SERVICES. NOTWITHSTANDING ANY INTELLECTUAL PROPERTY RIGHTS YOU MAY HAVE IN YOUR CONTENT OR ANY</p>
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<p>PROVIDED THAT THIS LIMIT SHALL NOT APPLY TO SPATIAL'S INDEMNIFICATION OBLIGATIONS IN PARAGRAPH 16.A ABOVE WHICH SHALL BE LIMITED TO THE AMOUNT PAID BY YOU FOR THE SERVICE DURING THE 12 MONTHS PRECEDING THE CLAIM HAVING FIRST ARISEN.</p>	<p>PLATFORM, OR ANY MATERIALS OR CONTENT OFFERED THROUGH THE PLATFORM (INCLUDING ANY USER CONTENT AND SELLER CONTENT), WILL BE UNINTERRUPTED, SECURE, OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS, AND DO NOT WARRANT THAT ANY OF THOSE ISSUES WILL BE CORRECTED. VRCHAT EXPRESSLY DISCLAIMS ANY WARRANTIES OF ANY KIND WITH RESPECT TO THE ACCURACY OR FUNCTIONALITY OF LOCATION-BASED SERVICES, AND WITH RESPECT TO THE ACCURACY, VALIDITY, OR COMPLETENESS OF ANY INFORMATION OR FEATURES AVAILABLE THROUGH THE</p>	<p>EXPENDITURE ON YOUR PART, SANSAR AND YOU EXPRESSLY DISCLAIM ANY COMPENSABLE VALUE RELATING TO OR ATTRIBUTABLE TO ANY DATA RELATING TO YOUR ACCOUNT RESIDING ON SANSAR'S SERVERS. YOU ASSUME ALL RISK OF LOSS FROM USING THE SERVICE ON THIS BASIS.</p> <p>Sansar does not ensure continuous, error-free, secure or virus-free operation of the Service, the Software, the Websites, the Servers, or your Account, and you understand that you shall not be entitled to refunds or other compensation based on Sansar's failure to provide any of the foregoing other than as explicitly provided in this Agreement. Some</p>
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<p>PLATFORM, OR THE QUALITY OR CONSISTENCY OF THE PLATFORM. VRCHAT FURTHER DISCLAIMS ANY WARRANTY OR LIABILITY RELATED TO YOUR CARRIER'S NETWORK OR SERVICE.</p> <p>NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE PLATFORM OR ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE PLATFORM WILL CREATE ANY WARRANTY REGARDING ANY OF THE VRCHAT ENTITIES OR THE PLATFORM THAT IS NOT EXPRESSLY STATED IN THESE TERMS. YOU ASSUME ALL RISK FOR ANY DAMAGE THAT MAY RESULT FROM YOUR USE OF OR ACCESS TO THE</p>	<p>jurisdictions do not allow the disclaimer of implied warranties and, to that extent, the foregoing disclaimers may not apply to you.</p> <p>11.3. Sansar's liability to you is expressly limited, to the extent allowable under applicable law.</p> <p>IN NO EVENT SHALL SANSAR OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, SHAREHOLDERS, SUBSIDIARIES, AGENTS OR LICENSORS BE RESPONSIBLE OR LIABLE TO YOU OR TO ANY THIRD PARTY FOR ANY LOSS OR DAMAGES OF ANY KIND, INCLUDING FOR ANY DIRECT, INDIRECT, ECONOMIC, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL, RELIANCE, SPECIAL, OR</p>
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PLATFORM, YOUR DEALING WITH ANY OTHER USER, AND ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE PLATFORM. YOU UNDERSTAND AND AGREE THAT YOU USE ANY PORTION OF THE PLATFORM, AND USE, ACCESS, DOWNLOAD, OR OTHERWISE OBTAIN MATERIALS OR CONTENT THROUGH THE PLATFORM AND ANY ASSOCIATED SITES OR PLATFORMS, AT YOUR OWN DISCRETION AND RISK. YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM OR MOBILE DEVICE USED IN CONNECTION WITH THE PLATFORM), OR THE LOSS OF DATA THAT RESULTS FROM THE USE	PUNITIVE LOSSES OR DAMAGES OR DISGORGEMENT OR COMPARABLE EQUITABLE REMEDY, FOR LOST DATA OR LOST PROFITS, ARISING (WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE) OUT OF OR IN CONNECTION WITH THE SERVICE INCLUDING ITS MODIFICATION OR TERMINATION), THE SOFTWARE, THE WEBSITES, THE SERVERS, YOUR ACCOUNT (INCLUDING ITS TERMINATION OR SUSPENSION) OR THIS AGREEMENT, WHETHER OR NOT SANSAR MAY HAVE BEEN ADVISED THAT ANY SUCH DAMAGES MIGHT OR COULD OCCUR AND NOTWITHSTANDING THE FAILURE OF
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<p>OF THE PLATFORM OR THE DOWNLOAD OR USE OF THAT MATERIAL OR CONTENT. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS IN THIS SECTION 22 APPLY TO THE FULLEST EXTENT PERMITTED BY LAW. VRCHAT DOES NOT DISCLAIM ANY WARRANTY OR OTHER RIGHT THAT VRCHAT IS PROHIBITED FROM DISCLAIMING UNDER APPLICABLE LAW. SOME JURISDICTIONS MAY PROHIBIT A DISCLAIMER OF WARRANTIES AND YOU MAY HAVE OTHER RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.</p> <p>23. Limitation of Liability TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO</p>	<p>ESSENTIAL PURPOSE OF ANY REMEDY. EXCEPT AS MAY BE PROVIDED IN ANY ADDITIONAL TERMS, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL SANSAR PROJECTS, INC'S CUMULATIVE LIABILITY TO YOU EXCEED THE GREATER OF (I) ONE HUNDRED DOLLARS (U.S. \$100.00); OR (II) THE FEES, IF ANY, PAID BY YOU FOR USE OF THE SERVICE; PROVIDED, HOWEVER, THIS PROVISION WILL NOT APPLY IF A TRIBUNAL WITH APPLICABLE JURISDICTION FINDS SUCH TO BE UNCONSCIONABLE. Some jurisdictions do not allow the foregoing limitations of liability, so to the extent that any such</p>
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APPENDIX 2: Collection-level questionnaire

Questionnaire questions	Context, purpose and other comments
General characteristic of the collection. Please mark if the collection contains:	
<ul style="list-style-type: none"> • 2D objects digitized in 2D • 2D objects digitized in 3D • 3D objects digitized in 2D • 3D objects digitized in 3D • digitized complex object (e.g. book, manuscript) • digitized textual works (e.g. OCR or transcripts, subtitles, captions) • translations into a new language • audio recordings • audiovisual works • other video recordings (e.g. recorded interviews) • performances (e.g. people singing, acting, reciting) • 3D reconstructions • other 	The purpose of this question was twofold. Apart from gathering additional data about the collection, its aim was to inform WP4's further works concerning the detailed questionnaire dealing with individual objects. Information about the characteristics of the objects in the collections were useful in particular for validating whether our detailed questionnaire covered the relevant categories of exclusive rights.
Does your institution:	
have a policy concerning the management of intellectual property rights	The question was intended to gather additional information about the practices of the members of the consortium. Information gathered here were also useful for qualitative evaluation of the responses (we assume that institutions implementing policies and consulting issues with legal advisers are more likely to give well-informed replies).
consult the issues concerning the permissibility of use of objects in the collection with a lawyer qualified in your country	

The following questions concern the legal status of the "original" objects, such as material copies, and not the digitized representations. According to your best knowledge, does the collection contain:	We distinguish the status of the "original" objects and the status of their digitized representations. The classical example, partially resolved by article 14 of the CDSM Directive, involves reproductions of works of visual arts, where reproductions may be protected, while the underlying works are in the public domain.
Objects that are under copyright protection in your country:	Across the EU, the standard for copyright protection is largely harmonized due to the influence of the jurisprudence of the CJEU. Under this standard, the object is protected if it is original in the sense that it is the author's own intellectual creation ²⁶ .
If you selected any answer other than "no" in the previous question, please answer the following additional questions:	
objects about which you do not know if they are protected by copyright, but you are certain that they were created before 1850, regardless of if/when they were published?	<p>This question assumes a heuristic – works created before 1850 are extremely likely to have fallen into the public domain.</p> <p>YES: strongly suggests that the objects in question are not protected anymore</p> <p>NO/UNCERTAIN: no negative indication about the status</p>
objects about which you do not know who the original author(s) is/are?	<p>EU copyright law dictates different starting points for the calculation of the copyright term depending on whether the author is known or the work is anonymous/pseudonymous.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status.</p>

²⁶ See Deliverable 24, pp. 18-19.

objects about which you do not know when the author or the last living co-author died, but it may have happened in 1954 or later?	<p>Normally, EU copyright law uses the year of the author's death as the starting point for the calculation of copyright term. There are also instances where the date of death is unknown because the author is unknown, but arguably the work is neither anonymous nor pseudonymous.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects NO: no negative indication about the status.</p>
objects about which you do not know when the author or the last living co-author died, but you are certain that was before 1954?	<p>If the author is known, but the date of death is now known, the 70-year period calculated <i>post mortem auctoris</i> applies.</p> <p>YES: suggests that the objects in question are not protected anymore NO/UNCERTAIN: no negative indication about the status.</p>
objects about which you do not know who the rightholder (the author or someone who acquired the rights, e.g. by contract or inheritance) is?	<p>The lack of knowledge about the rightholder is relevant in connection with works that are not in the public domain. It could lead to classifying a work as the so-called orphan work, but does not presuppose it. Also, the lack of knowledge indicates higher risk of being unable to obtain necessary licenses.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects NO: no negative indication about the status.</p>
objects about which you do not know whether they were previously made available to the public (e.g. objects that were stored only in archives or by private persons)?	<p>In some cases (e.g. anonymous works), information about publication is necessary to calculate the expiry of copyright. Also, in many EU countries moral rights include the right to decide on the first publication of the work.</p>

	<p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status.</p>
objects that, according to your knowledge, you are allowed to make available to others, but with availability limited to the IMPULSE consortium, the donors and entities cooperating with IMPULSE?	<p>The response relies on self-assessment performed by the institution. It is focused on the planned prototypes which, as such, are not expected to be made available to the general public.</p> <p>YES: no negative indication about the status.</p> <p>NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project</p>
objects that, according to your knowledge, you are allowed to make available to the public online, to the general public?	<p>The response relies on self-assessment performed by the institution.</p> <p>YES: no negative indication about the status.</p> <p>NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project, in the context of activities that go beyond the internal communication (e.g., dissemination of results)</p>
Objects that depict performances (e.g. people singing, acting, reciting):	<p>Performances are protected under the related rights regime separately from works. The same object may incorporate a work and a performance at the same time.</p>
If you selected any answer other than "no" in the previous question, please answer the following additional questions:	
objects about which you are certain that they were available to the public before 1950?	<p>This question assumes a heuristic – performances made available more than 70 years ago are highly likely not to be protected anymore.</p> <p>YES: strongly suggests that the objects in question are not protected anymore</p>

	NO/UNCERTAIN: no negative indication about the status
objects about which you do not know who the performer(s) is/are?	<p>The lack of knowledge about the performer may indicate trouble with ascertaining the expiry of the related rights.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status.</p>
objects about which you do not know who the rightholder is (the performer or someone who acquired the rights, e.g. by contract or inheritance)?	<p>The lack of knowledge about the rightholder is relevant in connection with performances that are not in the public domain. Also, the lack of knowledge indicates higher risk of being unable to obtain necessary licenses.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status.</p>
objects about which you do not know whether they were previously made available to the public (e.g. objects that were stored only in archives or by private persons)?	<p>Information about publication is usually necessary to calculate the expiry of related rights to performances because of different starting moments of the protection period. Also, in some EU countries moral rights include the right to decide on the first publication of the performance.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status.</p>
objects that, according to your knowledge, you are allowed to make available to others but with availability limited to the IMPULSE consortium, the donors and entities cooperating with IMPULSE?	<p>The response relies on self-assessment performed by the institution. It is focused on the planned prototypes which, as such, are not expected to be made available to the general public.</p>

	<p>YES: no negative indication about the status.</p> <p>NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project</p>
objects that, according to your knowledge, you are allowed to make available to the public online, to the general public?	<p>The response relies on self-assessment performed by the institution.</p> <p>YES: no negative indication about the status.</p> <p>NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project, in the context of activities that go beyond the internal communication (e.g., dissemination of results)</p>
Objects that are audio recordings:	<p>Phonograms are protected under the related rights regime separately from works. The same object may incorporate a work and a phonogram at the same time.</p>
If you selected any answer other than "no" in the previous question, please answer the following additional questions:	
objects about which you are certain that they were made available to the public before 1950?	<p>This question assumes a heuristic – phonograms made available more than 70 years ago are highly likely not to be protected anymore.</p> <p>YES: strongly suggests that the objects in question are not protected anymore</p> <p>NO/UNCERTAIN: no negative indication about the status</p>
objects about which you do not know who the rightsholder is (the person who made the recording or someone who acquired the rights, e.g. by contract or inheritance)?	<p>The lack of knowledge about the rightsholder is relevant in connection with phonograms that are not in the public domain. Also, the lack of knowledge indicates a higher risk of being unable to obtain necessary licenses.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status.</p>

objects about which you do not know whether they were previously made available to the public (e.g. objects that were stored only in archives or by private persons)?	<p>Information about publication is usually necessary to calculate the expiry of related rights to phonograms because of different starting moments of the protection period.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status.</p>
objects that, according to your knowledge, you are allowed to make available to others, but with availability limited to the IMPULSE consortium, the donors and entities cooperating with IMPULSE?	<p>The response relies on self-assessment performed by the institution. It is focused on the planned prototypes which, as such, are not expected to be made available to the general public.</p> <p>YES: no negative indication about the status.</p> <p>NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project</p>
objects that, according to your knowledge, you are allowed to make available to the public online, to the general public?	<p>The response relies on self-assessment performed by the institution.</p> <p>YES: no negative indication about the status.</p> <p>NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project, in the context of activities that go beyond the internal communication (e.g., dissemination of results)</p>
objects that are video recordings:	<p>Fixations of films (videograms) are protected under the related rights regime separately from works. The same object may incorporate a work and a film fixation at the same time.</p>
If you selected any answer other than "no" in the previous question, please answer the following additional questions:	
objects about which you are certain that they were made available to the public before 1950?	<p>This question assumes a heuristic – fixations made available more than 70 years ago are highly likely not to be protected anymore.</p>

	<p>YES: strongly suggests that the objects in question are not protected anymore</p> <p>NO/UNCERTAIN: no negative indication about the status</p>
objects about which you do not know who the rightsholder is (the person who made the recording or someone who acquired the rights, e.g. by contract or inheritance)?	<p>The lack of knowledge about the rightsholder is relevant in connection with fixations that are not in the public domain. Also, the lack of knowledge indicates a higher risk of being unable to obtain necessary licenses.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status.</p>
objects about which you do not know whether they were previously made available to the public (e.g. objects that were stored only in archives or by private persons)?	<p>Information about publication is usually necessary to calculate the expiry of related rights to fixations because of different starting moments of the protection period.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status.</p>
objects that, according to your knowledge, you are allowed to make available to others but with availability limited to the IMPULSE consortium, the donors and entities cooperating with IMPULSE?	<p>The response relies on self-assessment performed by the institution. It is focused on the planned prototypes which, as such, are not expected to be made available to the general public.</p> <p>YES: no negative indication about the status.</p> <p>NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project</p>

objects that, according to your knowledge, you are allowed to make available to the public online, to the general public?	<p>The response relies on self-assessment performed by the institution.</p> <p>YES: no negative indication about the status.</p> <p>NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project, in the context of activities that go beyond the internal communication (e.g., dissemination of results)</p>
objects that are recordings of TV or radio broadcasts?	<p>Broadcasts are protected under the related rights regime separately from works. The same object may incorporate a work and a broadcast at the same time.</p>
If you selected any answer other than "no" in the previous question, please answer the following additional questions:	
broadcasts about which are certain that they were made before 1970?	<p>This question assumes a heuristic – broadcasts made available more than 70 years ago are highly likely not to be protected anymore.</p> <p>YES: strongly suggests that the objects in question are not protected anymore</p> <p>NO/UNCERTAIN: no negative indication about the status</p>
broadcasts that you are not certain what the broadcasting institution is?	<p>The lack of knowledge about the rightholder is relevant in connection with broadcasts that are not in the public domain. Also, the lack of knowledge indicates a higher risk of being unable to obtain necessary licenses.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status</p>

broadcasts that you are not a certain when the broadcast took place?	<p>Information about publication is usually necessary to calculate the expiry of related rights to broadcasts because of different starting moments of the protection period.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status.</p>
broadcasts that, according to your knowledge, you are allowed to make available to the public online, within the IMPULSE consortium?	<p>The response relies on self-assessment performed by the institution. It is focused on the planned prototypes which, as such, are not expected to be made available to the general public; WP4 did not review the applicable agreements and other bases for usage.</p> <p>YES: no negative indication about the status.</p> <p>NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project</p>
broadcasts that, according to your knowledge, you are allowed to make available to the public online, to the general public?	<p>The response relies on self-assessment performed by the institution; WP4 did not review the applicable agreements and other bases for usage.</p> <p>YES: no negative indication about the status.</p> <p>NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project, in the context of activities that go beyond the internal communication (e.g., dissemination of results)</p>
objects that you are only allowed to use within a limited scope even if unrelated to intellectual property (e.g. due to contractual or administrative issues)?	<p>The response relies on self-assessment performed by the institution; WP4 did not review the applicable agreements and other bases for usage.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p>

	<p>NO: no negative indication about the status</p>
material objects (e.g. sculptures, scientific equipment, similar artefacts) that are not owned by your institution?	<p>The problems of ownership and provenance are connected with possible disputes with entities claiming to be owners of the object held in the collection, and possible reputational risks connected with using objects with uncertain ownership status.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status</p>
material objects whose provenance you are not certain about?	<p>The problems of ownership and provenance are connected with possible disputes with entities claiming to be owners of the object held in the collection, and possible reputational risks connected with using objects with uncertain ownership status.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status</p>
material objects whose provenance is associated with troublesome issues (war, colonial and similar)?	<p>The problems of ownership and provenance are connected with possible disputes with entities claiming to be owners of the object held in the collection, and possible reputational risks connected with using objects with uncertain ownership status.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status</p>

objects that contain information (names, image, voice) about living people that can be identified?	<p>Such information may be personal data according to the General Data Protection Regulation, or – concurrently – fall under one of numerous national regimes for protection of personal interests, privacy etc.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects NO: no negative indication about the status</p>
objects that contain sensitive, potentially defamatory information about someone (e.g., WW2 collaboration)?	<p>Making such information available to the public may fall under one of numerous national regimes for protection of personal interests, privacy etc.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects NO: no negative indication about the status</p>
objects that contain something that could be associated with racist, nationalist, or totalitarian ideologies?	<p>Making such information available to the public may fall under one of numerous national regimes for protection of personal interests and may also come into conflict with laws concerning hate speech and laws preventing totalitarian ideologies from spreading.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects NO: no negative indication about the status</p>
objects that contain content discriminatory or derogatory towards a person, group, or ethnicity?	<p>Making such information available to the public may fall under one of numerous national regimes for protection of personal interest and may also come into conflict with laws concerning hate speech.</p>

	<p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status</p>
objects that contain content that, in your opinion, is otherwise sensitive?	<p>This catch-all question aims to allow the institution to include issues not foreseen by WP4.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status</p>
objects that, for reasons not covered above, in your opinion would be problematic to use in IMPULSE?	<p>This catch-all question aims to allow the institution to include issues not foreseen by WP4.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status</p>
The following questions concern the legal status of the digitized representation. According to your best knowledge, does the collection contain:	<p>We distinguish the status of the “original” objects and the status of their digitized representations. The classical example, partially resolved by article 14 of the CDSM Directive, involves reproductions of works of visual arts, where reproductions may be protected, while the underlying works are in the public domain.</p>
digital representations that, according to your knowledge, are under copyright protection in your country (regardless of the protection of the represented object):	<p>Across the EU, the standard for copyright protection is largely harmonized due to the influence of the jurisprudence of the CJEU. Under this standard, the object is protected if it is original in the sense that it is the author's own intellectual creation²⁷.</p>

²⁷ See Deliverable 24, pp. 18-19.

If you selected any answer other than "no" in the previous question, please answer the following additional questions:	
digital representations that were prepared internally by your institution?	<p>When the digital representations are not prepared internally, there are additional risk factors, including the possible lack of sufficient rights obtained by the institution.</p> <p>YES: no negative indication about the status. NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project</p>
digital representations that were prepared by a contractor for your institution?	<p>When the digital representations are prepared by a contractor, the risk stems from the possible omissions in the contract resulting in a failure to obtain sufficient rights to use.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects NO: no negative indication about the status</p>
digital representations that you obtained from another source (e.g. Internet, donor)?	<p>When the digital representations are obtained from another source, the risk stems from the possible omissions in the contract, or a lack of any contract whatsoever, resulting in a failure to obtain sufficient rights to use.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects NO: no negative indication about the status</p>
digital representations in which your institution does not hold IP rights?	<p>When the institution does not hold IP rights, it may only use the representations under a license agreement or according to IP exceptions or limitations.</p>

	<p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status</p>
digital representations to which your institution does not hold IP rights and is not a licensee either?	<p>When the institution does not hold IP rights and is not a licensee, it may only use the representations according to IP exceptions or limitations, which – as discussed in deliverable D24 – are not well suited for the purposes of the project²⁸.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status</p>
digital representations about which you do not know who the rightsholder (the author or someone who acquired the rights, e.g. by contract or inheritance) is:	<p>The lack of knowledge indicates a higher risk of being unable to obtain necessary licenses.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status.</p>
digital representations that you are only allowed to use within a limited scope even if unrelated to intellectual property (e.g. due to contractual or administrative issues)?	<p>The response relies on self-assessment performed by the institution; WP4 did not review the applicable agreements and other bases for usage.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status</p>

²⁸ See Deliverable 24, p. 20ff.

digital representations that, according to your knowledge, you are allowed to make available to the public online, within the IMPULSE consortium:	<p>The response relies on self-assessment performed by the institution. It is focused on the planned prototypes which, as such, are not expected to be made available to the general public.</p> <p>YES: no negative indication about the status. NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project</p>
digital representations that, according to your knowledge, you are allowed to make available to the public online, to the general public:	<p>The response relies on self-assessment performed by the institution.</p> <p>YES: no negative indication about the status. NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project, in the context of activities that go beyond the internal communication (e.g., dissemination of results)</p>
digital representations that are audio recordings:	
If you selected any answer other than "no" in the previous question, please answer the following additional questions:	
recordings about which you do not know if they are protected by IP rights to phonograms, but you are certain that they were made available to the public before 1950?	<p>This question assumes a heuristic – phonograms made available more than 70 years ago are highly likely not to be protected anymore.</p> <p>YES: strongly suggests that the objects in question are not protected anymore NO/UNCERTAIN: no negative indication about the status</p>
recordings concerning which you do not know who the rightsholder is (someone who acquired the rights, e.g. by contract or inheritance)?	<p>The lack of knowledge indicates a higher risk of being unable to obtain necessary licenses.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p>

recordings concerning which you do not know whether they were previously made available to the public (e.g. objects that were stored only in archives or by private persons)?	<p>NO: no negative indication about the status.</p> <p>Information about publication is usually necessary to calculate the expiry of related rights because of different starting moments of the protection period.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status.</p>
recordings in which your institution does not hold IP rights?	<p>When the institution does not hold IP rights, it may only use the representations under a license agreement or according to IP exceptions or limitations.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status</p>
recordings in which your institution does not hold IP rights and is not a licensee either?	<p>When the institution does not hold IP rights and is not a licensee, it may only use the representations according to IP exceptions or limitations, which – as discussed in deliverable D24 – are not well suited for the purposes of the project²⁹.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status</p>

²⁹ See Deliverable 24, p. 20ff.

recordings that, according to your knowledge, you are allowed to make available to the public online, within the IMPULSE consortium?	<p>The response relies on self-assessment performed by the institution. It is focused on the planned prototypes which, as such, are not expected to be made available to the general public.</p> <p>YES: no negative indication about the status. NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project</p>
recordings that, according to your knowledge, you are allowed to make available to the public online, to the general public.	<p>The response relies on self-assessment performed by the institution.</p> <p>YES: no negative indication about the status. NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project, in the context of activities that go beyond the internal communication (e.g., dissemination of results)</p>
digital representations that are video recordings:	
If you selected any answer other than "no" in the previous question, please answer the following additional questions:	
recordings about which you do not know if they are protected by IP rights to film fixations, but you are certain that they were made available to the public before 1950?	<p>This question assumes a heuristic – fixations made available more than 70 years ago are highly likely not to be protected anymore.</p> <p>YES: strongly suggests that the objects in question are not protected anymore NO/UNCERTAIN: no negative indication about the status</p>
recordings concerning which you do not know who the rightsholder is (someone who acquired the rights, e.g. by contract or inheritance)?	<p>The lack of knowledge indicates a higher risk of being unable to obtain necessary licenses.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p>

recordings concerning which you do not know whether they were previously made available to the public (e.g. objects that were stored only in archives or by private persons)?	<p>NO: no negative indication about the status.</p> <p>Information about publication is usually necessary to calculate the expiry of related rights to fixations because of different starting moments of the protection period.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status.</p>
recordings in which your institution does not hold IP rights?	<p>When the institution does not hold IP rights, it may only use the representations under a license agreement or according to IP exceptions or limitations.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status</p>
recordings in which your institution does not hold IP rights and is not a licensee either?	<p>When the institution does not hold IP rights and is not a licensee, it may only use the representations according to IP exceptions or limitations, which – as discussed in deliverable D24 – are not well suited for the purposes of the project³⁰.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects</p> <p>NO: no negative indication about the status</p>

³⁰ See Deliverable 24, p. 20ff.

recordings that, according to your knowledge, you are allowed to make available to the public online, within the IMPULSE consortium?	<p>The response relies on self-assessment performed by the institution. It is focused on the planned prototypes which, as such, are not expected to be made available to the general public.</p> <p>YES: no negative indication about the status. NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project</p>
recordings that, according to your knowledge, you are allowed to make available to the public online, to the general public?	<p>The response relies on self-assessment performed by the institution.</p> <p>YES: no negative indication about the status. NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project, in the context of activities that go beyond the internal communication (e.g., dissemination of results)</p>
metadata that were not prepared internally by your institutions?	<p>When the metadata are not prepared internally, there are additional risk factors, including the possible lack of sufficient rights obtained by the institution.</p> <p>YES: no negative indication about the status. NO/UNCERTAIN: suggests at least additional risk if the objects are used in the project</p>
metadata in which your institution does not hold IP rights (e.g. is just a licensee)?	<p>When the institution does not hold IP rights, it may only use the representations under a license agreement or according to IP exceptions or limitations.</p> <p>YES/UNCERTAIN: suggests additional uncertainty about the status of the objects NO: no negative indication about the status</p>

APPENDIX 3: Object-level questionnaire

Questionnaire questions	Context, purpose and other comments
A1. Copyright-related protection of the object	
<p>Do you consider the object to be a work within the meaning of copyright law (it was made by a human and is original, i.e. it is its author's own intellectual creation)?</p> <p>Yes We are uncertain, but probably yes We are uncertain, but probably no No</p>	<p>The fact that the object is a work does not imply it is protected. For example, a literary work can be original, but the copyright protection may have lapsed or may have never existed.</p>
<p>Was the work created in 1850 or earlier? Note that if the object in question is a transformed version of another work, such as a translation or critical edition, you should take into account the date of the creation of the transformed version.</p> <p>Yes No We do not know</p>	<p>As discussed in D24³¹, as a heuristic ("rule of thumb"), such works are practically never under copyright protection.</p>
<p>Does the work contain other works (e.g., illustrations, quoted poems, sheet music)?</p> <p>Yes No</p>	<p>If "yes" was selected, it means that in reality, the same evaluation must be done for each work included in such a compound object.</p>

³¹ See Deliverable 24, p. 20.

<p>Is the object a photography or a picture made with a similar technique? Note that this question applies also to pictures that you do not consider to be original works.</p> <p>Yes</p> <p>No</p>	<p>In some countries, non-original photographs can also receive IP protection.</p>
<p>If this is a photography or a picture made with a similar technique, according to your knowledge, were any copyright notices made on any copies of the picture?</p> <p>Yes</p> <p>No</p> <p>We do not know</p>	<p>In some countries, copyright protection used to depend on the appearance of a copyright notice on a copy. If such a notice was not made, copyright protection may not apply.</p>
<p>Do you know who the author is?</p> <p>Yes, and there is one author. Please specify: _____</p> <p>Yes, and there are co-authors. Please specify: _____</p> <p>No, we do know the identity of the author or at least one co-author.</p>	<p>Whether the author is known is crucial for determining the date of entering the public domain.</p>
<p>Do you know the nationality of the author(s)?</p> <p>Known. Please specify: _____</p> <p>No, we do know the nationality of the author or at least one co-author.</p>	<p>Whether the author's nationality is one of the countries belonging to the EEA is crucial for determining the date of entering the public domain.</p>
<p>Was the work made publicly available on a physical medium (with the rightholder's consent), e.g., book publication?</p> <p>Yes</p> <p>No</p> <p>We do not know</p>	<p>This is relevant not only for determining the date of entering the public domain, but also for protection of moral rights in certain countries.</p>
<p>Was it otherwise made available to the public with the rightholder's consent, e.g., broadcast on radio or TV?</p>	<p>This is relevant not only for determining the date of entering the public domain, but also for protection of moral rights in certain countries.</p>

<p>Yes</p> <p>No</p> <p>We do not know</p>	
<p>Do you know the date of first public availability:</p> <p>Yes, _____</p> <p>No, we do not know.</p>	This is relevant for determining the date of entering the public domain.
<p>Do you know the country of first public availability:</p> <p>Yes, _____</p> <p>No, we do not know.</p>	This is relevant for determining the date of entering the public domain.
<p>Was the work publicly available under the author's real name, anonymously, or under a pseudonym?</p> <p>Real name</p> <p>Anonymously</p> <p>Under a pseudonym</p>	This is relevant for determining the date of entering the public domain.
<p>Do we know who originally held the copyright?</p> <p>Yes, the author</p> <p>Yes, an entity other than the author (e.g., producer). Please specify: _____</p> <p>Unknown</p>	This is relevant for determining the date of entering the public domain.
<p>Do we know when the author (or last living co-author) passed away?</p> <p>Yes, in the year _____</p> <p>No, we do not know.</p>	This is relevant for determining the date of entering the public domain.

<p>Was the work made available to the public for the first time after the death of the author (or all the co-authors)?</p> <p>Yes, in the year _____</p> <p>No, we do not know.</p>	<p>This is relevant for the verification whether the work may still be protected as a so-called posthumous edition.</p>
<p>If the work was made available to the public for the first time after the death of the author (or all the co-authors), do you know the mode of the first availability to the public (e.g., was it made available on a website, or in a printed book, etc.)?</p> <p>Yes, _____</p> <p>No, we do not know.</p>	<p>This is relevant for the verification whether the work may still be protected as a so-called posthumous edition.</p>
<p>If the work was made available to the public for the first time after the death of the author (or all the co-authors), do you know who made it available to the public for the first time?</p> <p>Yes, _____</p> <p>No, we do not know.</p>	<p>This is relevant for the verification whether the work may still be protected as a so-called posthumous edition.</p>
<p>Do we know who currently holds the copyright?</p> <p>Yes, we know. Please specify: _____</p> <p>No, we do not know.</p>	<p>The lack of knowledge about the rightholder is relevant in connection with works that are not in the public domain. It could lead to classifying a work as the so-called orphan work, but does not presuppose it. Also, the lack of knowledge indicates higher risk of being unable to obtain necessary licenses.</p>
<p>A2. Related rights protection of the object: performances</p>	
<p>Does the object include a performance (e.g. people dancing, singing, acting)?</p> <p>Yes. Specify what is performed (e.g. a piece of music, a theatre play, etc.): _____</p> <p>We are uncertain, but probably yes. Specify what is performed (e.g. a piece of music, a theatre play, etc.): _____</p>	<p>Similarly to works, the fact that the object contains a performance does not imply it is protected, as the rights may have lapsed.</p>

We are uncertain, but probably no No	
Are multiple performances contained in the same object (e.g., a movie which includes acting and singing)? Yes No	If “yes” was selected, it means that in reality, the same evaluation must be done for each work included in such a compound object.
Do we know who the performer is? Yes, and there is one performer. Please specify: _____ Yes, and there are co- performer s. Please specify: _____ No, we do know the identity of the performer or at least one co-performer.	
Do you know the nationality of the performer(s)? Yes. Please specify: _____ Unknown for the sole performer or at least one co-performer	Required to identify if the performer’s nationality is one of the countries belonging to the EEA.
Was the performance made publicly available on a physical medium (with the rightholder's consent)? Yes No We do not know	This is relevant not only for determining the date of entering the public domain, but also for protection of moral rights in certain countries.
Was it otherwise made available to the public with the author's consent, e.g., broadcast on radio or TV? Yes No We do not know	This is relevant not only for determining the date of entering the public domain, but also for protection of moral rights in certain countries.
Do you know the date of first public availability: Yes, _____ No, we do not know.	This is relevant for determining the date of entering the public domain.
Do you know the country of first public availability:	This is relevant for determining the date of entering the public domain.

Yes, _____ No, we do not know.	
Do we know who currently holds the rights to the performance? Yes, we know. Please specify: _____ No, we do not know.	The lack of knowledge about the rightholder is relevant in connection with works that are not in the public domain, but also indicates higher risk of being unable to obtain necessary licenses.
A3. Related rights protection of the object: audio recordings / phonograms	
Does the object include an audio recording? Yes. Specify what was recorded (e.g., a performance of a musical work, sounds of nature etc.): _____ No	
Are multiple recordings contained in the same object? Yes No	If “yes” was selected, it means that in reality, the same evaluation must be done for each work included in such a compound object.
Do you know who the producer (i.e. the person who, or the legal entity which, first fixes the sounds) is? Yes. Please specify: _____ No	
Do you know the nationality or the country of establishment of the producer? Yes. Please specify: _____ No.	Required to identify if the producer’s nationality is one of the countries belonging to the EEA.
Was the recording made publicly available on a physical medium (with the rightholder’s consent)? Yes No We do not know	This is relevant for determining the date of entering the public domain.

Was it otherwise made available to the public with the author's consent, e.g., broadcast on radio or TV? Yes No We do not know	This is relevant for determining the date of entering the public domain.
Do you know the date of first public availability: Yes, _____ No, we do not know.	This is relevant for determining the date of entering the public domain.
Do you know the country of first public availability: Yes, _____ No, we do not know.	This is relevant for determining the date of entering the public domain.
Do we know who currently holds the rights to the recording? Yes, we know. Please specify: _____ No, we do not know.	The lack of knowledge about the rightholder is relevant in connection with works that are not in the public domain, but also indicates higher risk of being unable to obtain necessary licenses.
A4. Related rights protection of the object: film fixations	
Does the object include a video recording or another fixation of moving pictures? Yes. Specify what was recorded (e.g., a movie.): _____ No	
Are multiple videos contained in the same object? Yes No	If “yes” was selected, it means that in reality, the same evaluation must be done for each work included in such a compound object.
Do you know who the producer (i.e. the person who, or the legal entity which, first fixes the film) is? Yes. Please specify: _____ No	

<p>Do you know the nationality or the country of establishment of the producer? Yes. Please specify: _____ No.</p>	<p>Required to identify if the producer's nationality is one of the countries belonging to the EEA.</p>
<p>Was the film fixation made publicly available on a physical medium (with the rightholder's consent)? Yes No We do not know</p>	<p>This is relevant for determining the date of entering the public domain.</p>
<p>Was it otherwise made available to the public with the author's consent, e.g., broadcast on radio or TV? Yes No We do not know</p>	<p>This is relevant for determining the date of entering the public domain.</p>
<p>Do you know the date of first public availability? Yes, _____ No, we do not know.</p>	<p>This is relevant for determining the date of entering the public domain.</p>
<p>Do you know the country of first public availability? Yes, _____ No, we do not know.</p>	<p>This is relevant for determining the date of entering the public domain.</p>
<p>Do we know who currently holds the rights to the fixation? Yes, we know. Please specify: _____ No, we do not know.</p>	<p>The lack of knowledge about the rightholder is relevant in connection with works that are not in the public domain, but also indicates higher risk of being unable to obtain necessary licenses.</p>
<p>A5. Related rights protection of the object: broadcasts</p>	
<p>Does the object include a broadcast? Yes. Specify the nature of the broadcast (e.g. radio, TV, internet TV): _____</p>	

No	
Do you know the nationality or the country of establishment of the broadcaster? Yes. Please specify: _____ No.	Required to identify if the broadcaster's nationality is one of the countries belonging to the EEA.
Do you know the date of first transmission? Yes, _____ No, we do not know.	This is relevant for determining the date of entering the public domain.
Do you know the country of first transmission? Yes, _____ No, we do not know.	This is relevant for determining the date of entering the public domain.
Do we know who currently holds the rights to the broadcast? Yes, we know. Please specify: _____ No, we do not know.	The lack of knowledge about the rightholder is relevant in connection with works that are not in the public domain, but also indicates higher risk of being unable to obtain necessary licenses.
A6. Related rights protection of the object: critical editions	
Is the object a critical or scientific edition of another work? Yes, of a literary work Yes, of another work. Please specify: _____ No We do not know.	Some EU countries protect scientific or critical editions by related rights, even when such editions are not works independently from the work that they present.
What is the nationality of the person who prepared the edition? Yes. Please specify: _____ Unknown for the sole editor or at least one co-editor	Required to identify if the editor's nationality is one of the countries belonging to the EEA.
Was the edition made available to the public? Yes No We do not know	This is relevant for determining the date of entering the public domain.

Do you know the date of first public availability? Yes, _____ No, we do not know.	This is relevant for determining the date of entering the public domain.
Do you know the country of first public availability? Yes, _____ No, we do not know.	This is relevant for determining the date of entering the public domain.
Do you know who currently holds the rights to the broadcast? Yes, we know. Please specify: _____ No, we do not know.	The lack of knowledge about the rightholder is relevant in connection with works that are not in the public domain, but also indicates higher risk of being unable to obtain necessary licenses.
A7. Related rights protection of the object: press publications	
Is the object in question a press publication or part of it? ^{t32} Yes No We do not know.	
Do you know who the publisher is? Yes. Please specify: _____ No	Required to identify whether it is a publisher covered by the exclusive right.
What is the nationality or the country of establishment of the publisher? Yes. Please specify: _____ No, we do not know.	Required to identify if the editor's nationality is one of the countries belonging to the EEA.

³² A collection composed mainly of literary works of a journalistic nature, but which can also include other works or other subject matter, and which:

- (a) constitutes an individual item within a periodical or regularly updated publication under a single title, such as a newspaper or a general or special interest magazine;
- (b) has the purpose of providing the general public with information related to news or other topics; and
- (c) is published in any media under the initiative, editorial responsibility and control of a service provider.

Periodicals that are published for scientific or academic purposes, such as scientific journals, are not press publications.

Do you know the date of the publication? Yes, _____ No, we do not know.	This is relevant for determining the date of entering the public domain.
Do you know the country of the publication? Yes, _____ No, we do not know.	This is relevant for determining the date of entering the public domain.
Do you know who currently holds the rights to the publication? Yes, we know. Please specify: _____ No, we do not know.	The lack of knowledge about the rightholder is relevant in connection with works that are not in the public domain, but also indicates higher risk of being unable to obtain necessary licenses.
A8. Other issues related to intellectual property	
Are you aware whether the object as such (e.g. its shape or its look) protected by any other intellectual property right, such as a trademark or design right? Yes. Please specify: _____ No, we are not aware of any such protection.	As discussed in D24 ³³ , there may be other (rare) instances of IP protection that is relevant for the freedom of use of a heritage object.
A9. Issues not related to intellectual property	
Are there any contractual restrictions that limit the scope of use of the object (e.g. an agreement with the owner)? Yes. Please specify: _____ No, we are not aware of any such restrictions.	Although a breach of contractual obligations does not normally lead to consequences as severe as in the case of IP infringement, such obligations also limit the institution's freedom to use a heritage object.
Are there any administrative restrictions that limit the scope of use of the object? Yes. Please specify: _____ No, we are not aware of any such restrictions.	As discussed in D24, certain countries impose restrictions that apply even to objects that are in the public domain.

³³ See Deliverable 24, pp. 26-27.

<p>If it is a material object (e.g. sculptures, scientific equipment, paintings), what is the ownership status?</p> <p>We own the object.</p> <p>We do not own the object, but we have contractual arrangements with the owner that allow us to use it.</p> <p>We do not own the object, but we can rely on provisions of law to use it.</p> <p>We do not own the object and we have no clear basis for its use.</p> <p>We do not know who the owner is.</p> <p>Other. Please specify: _____</p>	<p>The problems of ownership and provenance are connected with possible disputes with entities claiming to be owners of the object held in the collection, and possible reputational risks connected with using objects with uncertain ownership status.</p>
<p>If it is a material object, is the provenance well-traced?</p> <p>Yes</p> <p>No. Please specify: _____</p>	<p>The problems of ownership and provenance are connected with possible disputes with entities claiming to be owners of the object held in the collection, and possible reputational risks connected with using objects with uncertain ownership status.</p>
<p>If it is a material objects, is its provenance associated with troublesome issues (war, colonial and similar)?</p> <p>Yes</p> <p>No. Please specify: _____</p>	<p>The problems of ownership and provenance are connected with possible disputes with entities claiming to be owners of the object held in the collection, and possible reputational risks connected with using objects with uncertain ownership status.</p>
<p>Does the object contain information (names, image, voice) about living people that can be identified?</p> <p>Yes. Please specify: _____</p> <p>No.</p> <p>We do not know.</p>	<p>Such information may be personal data according to the General Data Protection Regulation, or – concurrently – fall under one of numerous national regimes for protection of personal interests, privacy etc.</p>
<p>Does the object contain sensitive, potentially defamatory information about someone (e.g., WW2 collaboration), including people who are no longer alive?</p> <p>Yes. Please specify: _____</p> <p>No.</p>	<p>Making such information available to the public may fall under one of numerous national regimes for protection of personal interests, privacy etc.</p>

We do not know.	
Does the object contain something (e.g., content, symbolics) that could be associated with racist, nationalist, or totalitarian ideologies? Yes. Please specify: _____ No. We do not know.	Making such information available to the public may fall under one of numerous national regimes for protection of personal interests, and may also come into conflict with laws concerning hate speech and laws preventing totalitarian ideologies from spreading.
Does the object contain content discriminatory or derogatory towards a person, group, or ethnicity? Yes. Please specify: _____ No. We do not know.	Making such information available to the public may fall under one of numerous national regimes for protection of personal interests, and may also come into conflict with laws concerning hate speech.
Does the object contain content that, in your opinion, is otherwise sensitive? Yes. Please specify: _____ No. We do not know.	This catch-all question aims to allow the institution to include issues not foreseen by WP4.
Are there any reasons not covered above, that in your opinion would be problematic? Yes. Please specify: _____ No. We do not know.	This catch-all question aims to allow the institution to include issues not foreseen by WP4.
A10. Consultations about the status of the object	

<p>Have we consulted a copyright lawyer about the legal status of the object?</p> <p>Yes, with an in-house lawyer.</p> <p>Yes, with an external lawyer.</p> <p>No. We can answer these questions ourselves.</p> <p>No. We do not have the funds to hire a lawyer.</p> <p>No. Please specify another reason: _____</p>	
<p>A11. Acquisition of IP rights concerning the object</p>	
<p>Did you acquire rights that enable you to make the object available online?</p> <p>Yes. We have entered into a rights assignment agreement that included the assignment of the right to publicly communicate the object.</p> <p>Yes. We have entered into a license agreement that includes the right to publicly communicate the object.</p> <p>Yes. We acquired the rights due to the work being created by an employee.</p> <p>Yes. The object is available under an open license (e.g., Creative Commons). Please specify which one: _____.</p> <p>Yes, based on provisions of law (e.g., orphan work, out-of-commerce work, quotation, etc.). Please specify the legal basis: _____</p> <p>We do not know.</p> <p>No. Please specify why: _____</p>	
<p>B1. Digital representation of the object</p>	
<p>What is the nature of the digital representation:</p> <ul style="list-style-type: none"> • 2D objects digitized in 2D • 2D objects digitized in 3D 	<p>The purpose of this question is to allow at least a preliminary check of the response to the other questions in subsection B.</p>

<ul style="list-style-type: none"> • 3D objects digitized in 2D • 3D objects digitized in 3D • digitized complex object (e.g. scanned book, manuscript) • digitized version of a textual work (e.g. OCR or transcripts, subtitles, captions) • translation into a new language • audio recording • audiovisual work • other video recordings (e.g. recorded interviews) • 3D reconstruction 	
<p>According to your knowledge, is the digital representation covered by (select all that apply):</p> <ul style="list-style-type: none"> • copyright • related right to audio recordings (phonograms) • related right to film fixations • other, please specify: _____ 	
<p>Did you acquire the IP rights to the digital representation of the object?</p> <p>Yes. We have signed a right transfer (assignment) agreement.</p> <p>Yes. We acquired the rights as the employer of the person who made the digital representation.</p> <p>No, but the object is available under an open license (e.g., Creative Commons). Please specify which one: _____</p> <p>No. Please specify why: _____</p> <p>We do not know.</p>	
<p>Did you acquire rights that enable you to make the digital representation available online?</p>	

Yes. We have entered into a rights assignment agreement that included the assignment of the right to publicly communicate the digital representation.

Yes. We have entered into a license agreement that includes the right to publicly communicate the digital representation.

Yes. We acquired the rights due to the work being created by an employee.

Yes. The object is available under an open license (e.g., Creative Commons). Please specify which one: _____.

Yes, based on provisions of law (e.g., orphan work, out-of-commerce work, quotation, etc.). Please specify the legal basis: _____

We do not know.

No. Please specify why: _____

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