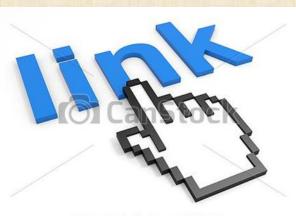
## USE OF INTERNET LINKS TO COPYRIGHT PROTECTED CONTENTS FOR COMMUNICATION IN E-SPACE

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**Hyperlink** – a highlighted word or picture in a document or Web page that you can click on with a computer mouse to go to another place in the same or a different document or Web page

> Eessential internet technology

Intrument for copyright infringement Berne Convention for the Protection of Literary and Artistic Works (1886) Article 8(1) Authors of literary and artistic works protected by this Convention shall have the exclusive right of authorizing the reproduction of these works, in any manner or form.

- Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society
- Article 3 (1) Member States shall provide authors with the exclusive right to authorise or prohibit any <u>communication to the public</u> of their works, by wire or wireless means, including the making available to the public of their works.....

Court of Justice of the European Union 13 February 2014 judgment in case C-466/12 N. Svensson, S. Sjögren, M. Sahlman vs. P. Gadd, Retriever Sverige AB

Hyperlink is an 'act of communication'

'Communication to the public' when -

- a) directed at a new public (circumvent restrictions);
- b) no longer available to the public on the site on which it was initially communicated.

Court of Justice of the European Union 8 September 2016 judgment in case GS Media v Sanoma Media Netherlands and Others (C-160/15)

Concept of hyperlink as 'communication to the public' requires an individual assessment using several criteria:

accessibility on another website with or without the consent of the copyright holder;

knowledge of the consequences of its action
profit-making or nonprofit nature of hyperlink.

Rightholders in all cases, have the possibility of informing such persons of the illegal nature of the publication of their work on the internet and of taking action against them if they refuse to remove that link

## Conclusions

- When hyperlinks to copyright-protected content are used for commercial purposes, the provider must make sure that this material is available on the Web with copyright holder's permission.
- When hyperlinks to copyright-protected content are used for nonprofit purposes, provider can not provide links only in cases when content availability is obviously illegal.
- In any case it is necessary to remove hyperlink to illegally available materiel within a reasonable time after copyright holder's request.
- The links can be legally provided if such provision is in accordance with copyright exceptions, established in article 5 of Directive 2001/29 / EC.