

President

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To the students
of the University of Passau

by internal mail

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The University of Passau will not enter into the new framework contract with VG Wort in accordance with §52a of the German Copyright Act

Dear students and members of the University,

In its meeting earlier today, the University Executive resolved not to enter into the new framework contract, which had been previously negotiated between federal and state representatives and the VG Wort collecting agency. Under this contract, the use of individual excerpts from copyright-protected works would have to be recorded and notified to VG Wort by the person making them available, and paid for by the University, starting 1 January 2017.

As a result, the members of the University will be faced with significant changes as of 1 January 2017. Since the new framework contract has direct implications for your day-to-day work, I should like to give you an indication of the main changes that lie ahead, in this circular.

Thus far, the Copyright Act (*Urheberrechtsgesetz; UrhG*) has permitted the use of small parts of published works, or the entire content of small works, in electronic reserve collections and virtual learning environments such as Stud.IP and Moodle as well as on password-protected websites to facilitate teaching and research (cf. §52a UrhG). Until now, the federal states have made flat-rate payments to VG Wort for the remuneration of authors.

Following a judgment of the German Federal Court of Justice (*Bundesgerichtshof*) in a case brought by VG Wort, the Standing Conference of the Ministers of Education (*Kultusministerkonferenz*) negotiated a new framework contract in September of this year, set to take effect on 1 January 2017. One change under this contract is that each use of protected works under §52a UrhG must be recorded and paid for separately: university teachers and researchers would have to record the use of individual texts they use and notify VG Wort of each use. Based on this notification, payment for each use would then have to be made to the collecting agency. Moreover, universities would have to enter

into the framework contract individually, thereby becoming direct contract partners with VG Wort. Consequently, the responsibility for ensuring that their lecturers and researchers make the proper notifications pursuant to §52a UrhG would lie with the universities.

Clearly, the additional workload incurred for registering each individual use of a work in accordance with §52a UrhG would constitute a disproportionate burden for the members of the University; it is for this reason that the University Executive took the decision not to enter into the framework contract with the VG Wort collecting agency.

What will change for you as a result of this decision?

Until 31 December 2016, you will still be able to make your teaching, learning and research materials available on our virtual learning environments as before. From 1 January 2017 onwards, all content on the virtual learning environments will be affected by the new arrangements.

Texts still available after 1 January 2017:

As of 1 January 2017, you may only upload texts which you have authored or for which the rights holders have granted permission to upload them to the systems for the purposes of research and teaching. These are:

- Presentation slides (with images, quotations etc.)
- Lecture notes (with images, quotations etc.)
- Seminar curricula
- Reading lists
- Exercises and solutions
- Summaries, synopses or abstracts
- Case descriptions
- Minutes

You may not upload the following:

As of 1 January 2017, you may not upload copyright-protected, published texts:

- Articles from newspapers or periodicals (e.g. magazines or journals)
- Book excerpts
- Texts published on websites

Unless you have been given permission by the rights holder, you should always assume that the rights of use belong exclusively to the relevant publishers and that you do not have permission to disseminate their content via Stud.IP and other platforms.

I should point out that the uploader is liable for any claims arising from copyright infringement.

As of 1 January 2017, copyright-protected texts may not be made available in virtual learning environments and reserve collections. Any content that has already been uploaded must be removed by 31 December 2016. Image, video and audio content is not affected by the new framework contract. For details, please visit the University Library website: <http://www.ub.uni-passau.de/en/52a-urhg>.

Important:

You cannot circumvent the stipulations of the new framework contract by providing paper-based copies or similar approaches, as the law, §52a UrhG, does not differentiate between digital or paper-based distribution of copyright-protected material.

The University Executive are aware that the decision not to enter into the new framework contract will lead to a significant increase in the time and work required to obtain and distribute literature for teaching and research purposes; nevertheless, we ask for your understanding and support.

The University Executive of the University of Passau are in unanimity with universities across the nation in their rejection of this framework contract. All states' university rectors' conferences have advised against entering into this framework contract. There had been indications from VG Wort that there may be a transitional arrangement; sadly, these hopes have now been dashed, so that all German universities are forced to implement the regulations at extremely short notice. In order to rectify this deplorable situation, we will – together with Universität Bayern e.V. and the German Rectors' Conference (HRK) – immediately strive to restart negotiations with the VG Wort collecting agency.

Yours faithfully,



Professor Carola Jungwirth
President of the University of Passau