

## Annex to Chapter 2 on EEC/EU level development of copyright law

	<p><b>EEC/EU LEVEL DEVELOPMENT OF COPYRIGHT LAW</b></p> <p>Chapter 2 aims to introduce the most important milestones of the development of copyright law on the EEC/EU level.</p>	
<p><u>Dr. Péter Mezei</u></p>		<p><u>45 minutes</u></p>

### ***Reading task***

Please read the following case accessible via the attached link, and answer/discuss the questions/notes below.

**Case 78-70 - Deutsche Grammophon Gesellschaft mbH v Metro-SB-Großmärkte GmbH & Co. KG, Judgment of the Court of 8 June 1971**

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A61970CJ0078>

Please pay close attention to the fact that this preliminary ruling is a historic one, well preceding the EEC/EU legislation on the field of copyright law. Nevertheless, the ruling served as a fertile ground of harmonization in the coming decades.

### ***Questions to the reading***

1. What source of law of the EEC served as the basis for the acceptance/introduction of the doctrine of exhaustion by the ECJ?
2. What might be the limits to the doctrine as accepted by the ECJ?
3. Can “service-like” uses be subject to exhaustion as well? E.g. broadcasting of television/radio programs or rental of video tapes or CDs? What might be the key difference between the importation/exportation of CDs and their broadcasting/rental?
4. What is the rationale of a “regional exhaustion” under EEC (and currently EU) law? What are the positive and negative externalities of this concept? Would it be possible at all to switch to an “international” or a “national” exhaustion doctrine within the frames of the EU? (Please note that international exhaustion means that copies of works sold/put into circulation anywhere might be freely imported to any Member State of the EU; and national exhaustion means that copies of works sold/put into circulation within the borders of any EU Member State might be sold within that given Member State.)

## **Annex to Chapter 2 on EEC/EU level development of copyright law**

### ***Further recommended readings***

Péter Mezei: Digital First Sale Doctrine Ante Portas – Exhaustion in the Online Environment, *JIPITEC*, Issue 1/2015, p. 27-29. (<https://ssrn.com/abstract=2615552>)

### ***Further questions/tasks to the chapter's content***

1. Please recall the four (five) fundamental freedoms of the EEC/EU, and discuss which might have any relevance for copyright law.
2. What are the advantages and disadvantages of “territorial copyright law”? How can the EU handle territoriality?
3. Please recall the two main phases of the development of copyright law in the EEC/EU.
4. What are the main policy goals of the EU in the field of copyright law? Which is the most important policy goal of the EU?
5. What aspects of copyright law are not harmonized by the EU and why?
6. Please discuss which fundamental rights can have direct connection with copyright law?
7. What is the role of the ECJ/CJEU in the field of copyright law?

### ***List of relevant definitions/concepts***

Please think these definitions/concepts over again, as they are crucial in understanding copyright law in the EU.

four (five) freedoms, internal market, harmonization, territoriality, high level of protection, fair balance of interests, digital single market, directive, regulation, Charter of Fundamental Rights, CJEU, preliminary ruling

--- END OF DOCUMENT ---