

REPORT

Navigating Uncertainty: Legal Risk Awareness and Management in European Museums

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¹ This report was prepared by Maria Drabczyk.

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Executive Summary

The digital transformation of the cultural heritage sector has opened unprecedented opportunities for access, reuse, and participation. At the same time, it has exposed museums to complex legal uncertainties, particularly in relation to copyright, data protection, and governance of collections in digital form. The *Navigating Uncertainty* study examines how European museums perceive, experience, and manage legal risks in their day-to-day operations, with a particular focus on copyright. The findings are based on eight in-depth interviews with museum professionals involved in a wide range of activities related to collection reuse for research, education, creative partnerships, or simply onsite and online access to the public.

This analysis explores how museums perceive and manage exposure to legal risks, with a particular focus on copyright and intellectual property in the context of cultural heritage. These legal fears arise from a potential improper or unauthorized use of collection materials, often involving issues like copyright infringement when fulfilling their public interest mission (when organising onsite collections, creating educational materials or publications, building an online repository, providing data for external research or applying generative AI tools to improve searchability and discoverability of their works, etc.). Copyright issues permeate daily museum operations, from handling contemporary artworks and digital collections to dealing with older acquisitions where contractual rights were not regulated. While outright litigation is rare, the fear of infringement shapes institutional behaviour, fostering a climate of caution that often limits access and reuse initiatives. High-profile cases of rights violations, even if isolated, can generate long-lasting institutional anxiety, reinforcing the preference for certainty over innovation.

Organisational culture and leadership emerge as decisive factors in how museums navigate risk. Many institutions adopt a risk-averse approach, aligning strict compliance with their mission to protect creators and uphold their public role. Others, however, interpret their public mission as a mandate for openness and accessibility, carefully pushing boundaries to make collections more widely available. Larger institutions, often equipped with legal departments or copyright experts, are more likely to balance risk management with proactive strategies, such as leveraging exceptions and limitations in copyright law. Ultimately, institutional mindset and cross-department collaboration shape decision-making, determining whether museums prioritise caution or innovation.

Museums employ a range of risk management strategies, from withdrawing questionable materials to proactively consulting legal experts or engaging rights holders. However, resources are unevenly distributed: while a few institutions benefit from dedicated legal teams, most rely on external advisors or informal practices. The absence of structured copyright policies or staff training compounds uncertainty, leaving many institutions reliant on habit and precedent rather than clear internal guidelines. Respondents emphasise the need for sector-wide support mechanisms,

including copyright training, written policies, and legal safeguards that acknowledge mistakes without disproportionate penalties.

The study highlights a lack of external protection frameworks that could shield cultural heritage institutions from excessive liability while still demanding diligence. Museums call for clearer, harmonised copyright rules and greater collaboration among institutions to develop a shared understanding of acceptable risk. Networking and joint advocacy are seen as potential ways to reduce fragmentation and provide collective protection.

Finally, generative AI introduces new dimensions of legal and ethical uncertainty. Museums are increasingly aware that their data and digital collections may be reused for AI training without sufficient safeguards, raising concerns about control, attribution, and compliance with emerging regulations such as the AI Act. Some institutions are already drafting AI-specific guidelines, recognising both the opportunities and risks this technology brings.

In conclusion, the study shows that museums operate within a paradox of mission and risk: committed to making culture accessible but constrained by legal uncertainty and limited resources. Stronger institutional policies, sector-wide collaboration, and more adaptive legal frameworks will be critical for enabling museums to pursue their mission without being paralysed by fear of legal repercussions.

By addressing both the structural and cultural dimensions of legal uncertainty, European museums can navigate the complexities of the digital age more effectively, ensuring that access, reuse, and participation remain central to their mission.

1. Introduction

European museums are embracing digital transformation, but legal uncertainty — especially around copyright — continues to impact their ability to provide access, reuse collections, and innovate². This study, based on interviews with museum professionals and copyright experts, reveals how legal risk awareness and management practices shape organisational choices, sometimes reinforcing risk aversion over public access to culture. It explores how European museums perceive and manage legal risk in their institutional operations, particularly in relation to digital transformation, intellectual property, and data governance. Furthermore, it investigates the organizational mindset, risk mitigation strategies, and institutional and regulatory constraints that shape an institution's legal decision-making.

Understanding legal risk awareness and management is essential for fostering both innovation and participation in culture. Cultural heritage institutions in Europe (as well as artists and creative professionals) increasingly operate in a complex regulatory environment shaped by copyright, data protection, AI governance, and data access requirements on national and EU levels. Without sufficient legal certainty, organisations may hesitate to experiment with new technologies, adopt innovative practices, or engage in meaningful collaborations out of fear of liability.

The goal of this exploration was to understand the interplay between legal awareness, institutional culture, and existing regulations in shaping museums' approaches to compliance and innovation, especially with regards to the reuse of museum collections.

² Anna Pluszyńska, Maria Drabczyk, Konrad Gliściński and Anna Kościelna (2025). [Human factor in European museums' intellectual property management through sociocultural, legal, political and economic determinants](#). *Museum Management and Curatorship*, 1–18.

2. Methodology

The research was designed as a qualitative study based on eight semi-structured, in-depth interviews (IDIs). The respondents were selected according to pre-defined criteria, pointing to European museum professionals in senior managerial positions, engaged in various ways in collection reuse or directly handling copyright issues. The combination of professional profiles and expertise was introduced to provide diverse yet complementary perspectives on the matter. Eight European museum professionals - senior management: museum directors or heads of museum departments or units, and copyright experts from Belgium, Czechia, Germany, the Netherlands, Norway, and Poland took part in the study. The museums they represented were of different sizes and organisational and governance structure (national, municipal, a combination of both) and collection profiles (contemporary art vs artefacts in the public domain).

The interviews were conducted remotely. The data collection process included full transcription of interviews, translation to English when required, systematic coding, and thematic analysis to identify key patterns and insights. The thematic analysis method³ was chosen for its flexibility in identifying patterns and themes within qualitative data, allowing for exploration of how institutional structures and policies, professional habitus, and ethical concerns shape the institutional approach towards risk. The interviews have been anonymised.

While the study offers valuable findings, its scope is limited by the relatively small sample size and the specific geographic context in which it was conducted. It serves to share specific insights from the museum professionals and, as such, the results should be interpreted as exploratory rather than fully representative of the wider population of museum professionals across Europe.

In the study, the term “legal risks in cultural heritage collection reuse” is understood as the potential for legal disputes, contractual penalties, restricted access, loss of reputation, or damage to the institution's relationship, arising from improper or unauthorized use of collection materials. These risks are often related with activities that fall outside of the scope of permitted uses under copyright law, failure to secure proper licenses or to act in accordance to the licensing terms, or violating data usage conditions.

³ Braun, V. and Clarke, V. (2021) *Thematic Analysis: A Practical Guide*. Sage, London.

3. Methodology

3.1 Exposure to legal risks

Copyright issues are critical in the museum's daily operations and are often discussed, especially concerning contemporary art and digital resources. Legal challenges also arise when handling older acquisitions, as acquisition contracts often did not regulate copyright-relevant uses by the institution. Most interviewed museum professionals acknowledge that legal risks are an inherent part of their daily operations, and a relevant obstacle, particularly when providing online access to collections or engaging in access and reuse initiatives.

These legal fears arise mostly from a potential improper or unauthorized use of collection materials when fulfilling their public interest mission. For museums, this challenge manifests in multiple ways, for example:

- when producing catalogues or educational materials that reproduce artworks,
- when digitising and publishing collections in online repositories,
- when providing access to images for research and teaching purposes,
- when applying generative AI applications on their collections to improve their searchability and discoverability.

Even seemingly routine activities such as including an image in a social media post, providing digital access to archival materials, or responding to requests from external researchers can create uncertainty if rights are not clearly secured. The complexity grows with older acquisitions where contracts may lack explicit copyright clauses, or in cases involving orphan works, where rights holders cannot be identified. As a result, museums often perceive the risk of copyright infringement not as an abstract legal concern but as a daily operational threat—one that could damage their reputation, undermine trust with artists and rights holders, or lead to financial liabilities.

Yes, risk is discussed very often. Everyone is aware of it—from curators, to people in promotion, to those in the exhibitions department. Of course, in the photography department and the inventories department these risks are dealt with constantly as well. And naturally, with the final result—the final products derived from the resources we hold—we make every effort to ensure that they do not contain any copyright-related risks. (IDI 6)

We try our best through partnerships and collaboration to clear as much legal troubles out of the way. However, there will always be that leftover bit of risk. (IDI 3)

In a nutshell, there is a saying in the museum that a good artist is a dead artist. This has nothing to do with creating exhibitions, works of art or developing

them in consultation with the author. It's brutal, but it shows the nature of the business. (IDI 7)

While outright copyright litigation remains rare in museums' practice, the fear of potential legal action creates a climate of caution. One past experience where rights were violated, generates an institutional fear of risk for years, leading to a preference for certainty over potential infringement. This is linked to protection of the institution's public image and credibility - core values in the mission-driven institutional cultural sector.

There have been cases where a regional archive published material online, and as a result, because of not all the neighbouring rights being cleared, they needed to put it back offline. And being sued in our heritage sector is big news, and it makes everybody super uncomfortable. Also because people don't have money in the bank to say it is just waiting for possible law cases. (IDI 8)

The museum once used a photograph that turned out to be of a living artist, even though it had been in our collection for many years. It had not been identified, but it was used nonetheless, even though we had it in our possession. It turned out that the rights belonged to someone else and the museum was obliged to pay some kind of remuneration or compensation for using the photograph. This caused a bit of fear of taking any risks, because it's one thing when nothing happens on the street and no one has an accident, but it's quite another when something does happen. And there is a little more fear in the institution, that is such a hereditary fear. Because even those who did not participate in this situation are now perceived as being terribly afraid that such situations could happen. (IDI 7)

3.2 Organisational culture and mindset

Museums are also not willing to take legal risks, as it is important to maintain a good reputation and relationships with authors, rights holders and other institutions. Some museums strive to be a role model in fulfilling their mission and adhere to strict compliance with copyright laws. In consequence, many institutions adopt a risk-averse stance, choosing not to make materials from their collections available if legal status is uncertain.

We generally follow a policy of taking no risks. That is to say, our assumption is that we are an institution of recognised standing and importance. When it comes to fulfilling our mission, we want to be a role model, not only in matters of copyright, but in general. And it is not appropriate to take unnecessary risks. (IDI 2)

This is the area that is the most difficult and risky, and because everyone is afraid of risk, they prefer to play it safe and not make something available just in case. (IDI 7)

While some museums adopt a risk-averse stance, framing it as part of their duty to safeguard creators and uphold their public mission, others take a more progressive approach, equally justifying it through their societal role.

I think, as a principle, a publicly funded museum should consider its collection as a public resource. As long as we don't harm third-rights parties, we think our collection should be free, available for every use and reuse. (IDI 4)

I would say open is part of the DNA. Our mandate is to make [collections] available and share. (IDI 5)

The moderate appetite for risk in order to fulfill their public mission seems to be more represented in bigger, well-structured institutions, supported by a legal department or external copyright experts, focused on collaborating with rights holders and searching for alternative solutions (e.g. building on existing exceptions and limitations) to make the collections available.

We're not risk-seekers, but we are also not super [reluctant towards risk]... We have a legal department with the aim, a mission to make our collection as available as possible to everybody. (IDI 8)

In rare cases, a calculated openness to risk is introduced, where the museum may proceed with certain actions while acknowledging potential uncertainties. Such behaviour is, however, rather limited to education activities of the museum or its physical exhibitions - two areas often defined as closest to its public interest mission.

Sometimes, in our museum catalogues, when the museum is the sole producer, without any cooperation with another publisher, we publish works for which we have never been able to obtain a contract... And here, the museum does indeed take such a risk, with an appropriate note in the catalogue. (IDI 1)

Decision-making processes around digital access and reuse are shaped by institutional culture. Leadership attitudes and cross-department collaboration strongly influence how legal risk is managed in practice. The priorities and risk tolerance of museum directors or senior managers set the overall tone for how copyright and legal uncertainties are approached—whether conservatively, by avoiding potentially problematic activities, or progressively, by carefully testing new models. At the same time, effective collaboration between departments (such as curatorial, digital, and publishing and education teams) ensures that decisions are not made in isolation but reflect a balanced understanding of both creative ambitions and compliance requirements.

Ultimately, it is the institutional mindset and the internal interpretation of the museum's responsibility to society that prove decisive.

3.3 Strategies for risk management

The study revealed that museums employ a spectrum of strategies to address legal uncertainty, ranging from cautious withdrawal (opting not to publish or reuse material that raises copyright concerns) to proactive engagement with legal experts in search for solutions supporting openness. In the context of collaborative activities with, if there is any doubt or risk involved, museums prefer to delegate the responsibility of obtaining rights to the other party involved. This approach is often justified as one reflecting the institution's commitment to protecting the interests of artists and maintaining the integrity of their mission without compromising on legal standards.

Very often when we have doubts (regarding risk), that is why we have a law firm specialising in copyright issues, to discuss it further. And if there is even a shadow of doubt, we sometimes prefer to withdraw and not do something rather than take the risk. (IDI 2)

Bigger organisations, with vast collections in their vaults, avoid risk of using questionable oeuvres by replacing them with another, “safe” artwork:

Risk arises when we are not the owner of all the rights. For example, when we received works as a gift from an artist, but they did not state that all rights were transferred to us, we then have to approach the family. In such cases, of course, there are risks, and we have to consider whether we can use the work for a particular purpose under the intellectual property we hold—or not. That said, we try to manage. We have a very large collection, especially of prints, which we can use endlessly. So, in a way, we deal with this through volume, bypassing the rights that are embedded in some of the digital resources. We simply manage. We talk about the risks, we analyse them—whether we can or cannot—but we don't go to va banque. (IDI 6)

Appreciation of having an in-house copyright expert is noticeable, too.

We don't own the rights to the collection. Only for a very small part. We work with copyright all the time because we also have a legal department since, I think, four years. Before that, it was like one individual. So it's now much more prominent.

and

Relationships with rights holders are crucial to all museums, but having a legal expert on board allows for collaborations that balance the organization's public mission with the financial realities of licensing. (IDI 8)

If there is someone who tells us, of course, you can use, I don't know, Hollywood classics excerpts without clear copyright in your exhibition because it's a non-commercial use and because it's educational... and because it's just in the building, we would say: wow! That would save us a lot of money. (IDI 3)

However, despite the internal acknowledgement of relevance of copyright issues, a dedicated legal team specialising in copyright questions seems to be still an extremely rare case in the heritage sector. Having a single copyright expert (not always a trained lawyer) is already perceived as a rare luxury. Some institutions rely on external individual experts or law firms, to great extent providing general legal service to the museum.

The law firm tells us the pros and cons, shows us various alternatives, presents us with possible outcomes and consequences. The levels of risk in a given situation. And I admit that it is always the case that the decision is ours, the management's. However, this usually coincides with the law firm's recommendations. (IDI 2)

In general, most respondents stress a lack of resources —legal, financial, and human—which hinders their ability to adopt structured approaches, including those towards risk. Some respondents flag that because of the museum's public funding, they are not legally allowed to take on any risk in the first place.

We don't have the right to take the risk. (IDI 7)

There is a shared notion of absence of a comprehensive, institution-wide written policy on copyright and intellectual property management across the sector. Museums tend to rather rely on informal guidelines and grounded practice and, in the end, integrate a low-risk approach to sharing collections, but lack a formal and structured copyright policy.

We mostly rely upon things, how we always did it in a way, like usage, and what we learn on the go. I would say half-informed. (IDI 3)

The museum staff finds the lack of a structured approach to intellectual property as a big downside, an obstacle undermining their daily performance, and recognises the need for internal guidelines or a policy to help navigate copyright issues more effectively.

I really miss having such a document. Greater awareness among all employees of the museum and on the processes. Yes, that's definitely something I feel is missing. And it would make working within the organisation much easier. (IDI 1)

The level of awareness of copyright regulations among museum staff varies. The legislation is described as a complex one, with many crossovers and dependencies to other disciplines of the law, and with cross-border inconsistencies that make international collaborations challenging. For this reason, copyright provisions are often underused or simply poorly understood.

In my opinion, let's say the principles are clear, more or less, but the devil is always in the details. If you look for a very specific thing, it's complicated. The

point is also we are, let's say, also on a seizure between IPR and design rights, and where exactly are we, and what's implied for us and what's not implied. Sometimes you get very different responses from different people. (IDI 4)

Also copyright training and knowledge distribution on the complex theme remain inconsistent across the sector, reinforcing reliance on risk avoidance as a default practice. The lack of specialised copyright knowledge makes institutions insecure and unable to diligently address IP-related questions. Because of this, they tend to turn to a safer scenario - and take no risk.

Not completely confident. We think we more or less understand the main principles, but it's not always clear. For example, if a brand released a design in the 1930s, you can be almost certain that the person who created it is no longer alive—though there's a very slim chance they might be. But the brand itself may still exist. The 70-year rule doesn't always help either, because it's not always possible to identify the individual who actually made the design. The brand also holds some intellectual property. Take Christian Dior as an example: a piece could just as easily have been designed by Dior himself or by one of his assistants—you can't know for sure. So who owns the IP in fashion design? Is it the individual designer, or is it the brand? And if the brand still exists, does copyright ever really expire? Honestly, I don't know. (IDI 4)

Moreover, AI-related questions were mentioned as making museums require new knowledge and raise questions on copyright and risk management with regard to new technologies. Museums tend to be more actively exploring how to navigate AI-related legal and ethical risks and are beginning or already in the process of developing AI guidelines and frameworks to address data sharing and the ethical implications of using AI in various aspects of museum operations. Many recognise the need to carefully consider the implications of these actions in the context of rapidly evolving technologies and legal frameworks, especially in a commercial context.

Up until now, I would have said yes [on clarity of existing copyright rules], but not anymore. Not with AI and not with the usage and how the data repository is being used to train models. That is a completely different ball game - how it's going to be used by whom. (IDI 5)

Some also stress the value of collaboration and networking in jointly addressing copyright-related issues and framing coherent guidelines on how to approach these complex issues

I would rather get an option that there would be closer cooperation among the heritage institutions, at least on a national level and shape a common understanding how far we can go to take risks and to protect each other. (IDI 3)

3.4 Mechanisms to reduce exposure to legal risks

The study found significant variation in the presence of institutional copyright policies and strategies to limit the exposure to legal risks. Some museums benefit from internal legal teams or access to expert advisors, while others rely on informal practices and staff experience. Respondents highlighted the absence of clear, sector-wide mechanisms in the law to protect institutions and their staff from being exposed to damage claims, or to reduce their liability, when performing their public mission in a prudent way.

Effectiveness of external safeguards - like national frameworks or sector-wide initiatives - is described as nonexistent. Museums call for clearer legal frameworks that would provide comfort without compromising the diligence required in rights management. They advocate for rules that would protect institutions from excessive legal repercussions while ensuring due diligence.

It would be good to be protected from the fact that even if we do make a mistake, because it can happen in the future, it would be treated as a mistake and not as some kind of intentional action. (IDI 3)

It would be great to have, like rules [safeguards] that add a layer of comfort, let's say. But that shouldn't keep heritage organisations from being very diligent in doing their work in terms of working with rights holders and making sure that collections are made available under conditions that both parties are happy with. (IDI 8)

Absolutely, it would be beneficial [to have safeguards]. We're managing within the current framework of our particular collection. But if there were a situation where we could have some kind of help in managing and making available the things that the taxpayer is already paying for. Because what are we talking about? We are talking about certain financial resources that are being used. This is public money that is going into a black hole, which means that the people are no longer benefiting from it, or are benefiting from it to a very minimal extent. Therefore, we cannot fulfil our mission in this regard, and at the same time, I do not know if the artist would also want this to happen, to have their work end up somewhere in a black hole and not see the light of day, because artists do not do that. Generally speaking, the idea of art is to share your way of seeing the world. This is also the main goal in the visual arts. It is simply suicide, as if searching all the time, not sharing, as if moving within some safe boundaries is not constructive. (IDI 6)

4. Recommendations

The study identified complexity of copyright law, limited internal capacity, institutional culture and mindset, organisational limitations and inconsistent regulations across Europe as key barriers to a more risk-oriented approach in cultural heritage institutions.

Yet the study also identified opportunities: the potential for shared sectoral guidance, the value of peer-to-peer knowledge exchange, and the role of cultural heritage institutions as trusted actors capable of shaping progressive practices.

These opportunities can be translated into a set of recommendations targeting specific stakeholders:

For museums:

- Adopt clear internal copyright and legal risk policies.
- Invest in staff training and cross-departmental awareness.

For sectoral networks:

- Share best practices and tools.
- Facilitate peer-to-peer knowledge exchange.
- Strengthen collective advocacy on legal certainty for museums.

For policy-makers:

- Simplify and harmonise the copyright framework for cultural heritage institutions across the EU.
- Introduce safe harbours for cultural heritage institutions, allowing them to fully fulfil their public interest role.
- Support the cultural heritage sector in responsibly embracing AI by offering guidance and space for exchange of best practices
- Support capacity building and training initiatives in the cultural heritage sector.

Legal uncertainty is as much a cultural challenge as a legal one. Without stronger safeguards and greater institutional confidence, risk aversion will continue to curtail access and reuse, limiting museums' public mission in the digital age. However, by balancing legal responsibility with cultural ambition, supported by regulations acknowledging the unique role of the cultural sector, museums can turn uncertainty into an opportunity — fostering wider access, innovation, and trust in the digital age.

List of in-depth interviews

IDI1	Museum professional from Poland
IDI2	Museum professional from Poland
IDI3	Museum professional from Germany
IDI4	Museum professional from Belgium
IDI5	Museum professional from Norway
IDI6	Museum professional from Czechia
IDI7	Museum professional from Poland
IDI8	Museum professional from the Netherlands

About Centrum Cyfrowe

The Centrum Cyfrowe foundation is a Polish think-and-do tank that cares about the social dimension of technology. The foundation's area of interest is the digital dimension of public life in Poland. It acts to make the world more inclusive, more cooperative and more open by changing the way people learn, participate in culture, use the internet and exercise their rights as internet users.

For more information on Centrum Cyfrowe visit our website:

<https://centrumcyfrowe.pl/en>; or contact us at:

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About COMMUNIA

The COMMUNIA association advocates for policies that expand the Public Domain and increase access to and reuse of culture and knowledge. It acts as a network of like-minded activists, researchers and practitioners based in Europe and the United States who seek to limit the scope of exclusive copyright to sensible proportions that do not place unnecessary restrictions on access and use.

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For more information on COMMUNIA visit our website:

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Thanks

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Tools

We used a range of analytical approaches and tools to analyse the research data: from traditional content analysis methodologies to using existing LLMs (HappyScribe, ChatGPT).

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