

The OER Paradox in Ukraine

*Legal Comfort and Its Impact on
Open Educational Practices*

Yevheniia Andriichenko

FH Campus 02, Austria

Martin Ebner • Sandra Schön • Benedikt Brünner

Graz University of Technology, Austria

Context & Motivation

War Impact on Education

~3,600

educational institutions damaged or destroyed

~1.6 million

children's right to education affected

Rapid shift to distance and blended learning as a strategic necessity

Legal Reform

New Law No. 2811-IX

"On Copyright and Related Rights"

In force since January 1, 2023

Key features:

- Harmonization with EU norms and Digital Single Market Directives
- Broad educational exceptions (Art. 22, 24)
- New public license provisions (Art. 51)

Research Purpose & Hypothesis

Objectives

- Comparative analysis of Ukraine's Law 2811-IX with legislation of 15 European countries on educational exceptions
- Analysis of legal mechanisms for using copyright-protected online courses in Ukraine's transition to online/hybrid models

Hypothesis

The liberality of Ukrainian educational exceptions (especially Art. 22.2.4 on distance learning) creates "legal comfort" that paradoxically reduces motivation to create Open Educational Resources, while generating risks of dependence on proprietary content.

Methodology

Stage 1: Legal Benchmarking

Based on Nobre (2017) methodology:

"15 Everyday Cases in 15 Countries"

5 categories of scenarios:

- Materials for educational use
- Traditional practices
- Modern/digital practices
- Creation of teaching materials
- Non-formal education

Stage 2: Qualitative Interviews

5 in-depth interviews

with Ukrainian academics

Focus areas:

- Legal literacy regarding copyright
- Practice of MOOC integration (Prometheus, Coursera, EdEra)
- Perception of licensing status
- Impact of Creative Commons on resource choices

Legal Benchmarking Results: Overview

Ukraine vs. 15 EU Countries — Status of Educational Exceptions

Scenario	Ukraine	EU Majority
Quote full artwork in presentation	Yes, free	11/15 Yes
Scan textbook pages for class	Yes, free	10/15 Yes
Record TV for class	Yes, free	10/15 No
Show online video in class	Yes, free	7/15 Yes
Share article via closed LMS	Yes, free	Most Yes
Translate book parts for class	Yes, free	8/15 Yes
Quote full poem in resource	Yes, free	10/15 Yes
Museum scan for education	No	6/15 Yes

"Legal Comfort" — Key Mechanism

Article 22.2.4 — the cornerstone of digital education exceptions

Broad Scope

Free electronic reproduction and interactive access to published works as "illustrations for teaching" — no strict percentage limits on volume

Digital Focus

Explicitly covers distance and blended learning environments, legitimizing LMS-based sharing (Moodle, Google Classroom, MS Teams)

Minimal Conditions

Only requires: non-commercial use, source attribution, and technical protection measures (e.g. passwords, closed networks)

Interview Findings

100%

of teachers confirmed using
TV recordings & MOOCs

88.8%

of Ukrainian university
teachers use MOOCs

36.5%

awareness of Creative
Commons licenses

~0%

impact of open licenses on
resource choice

Key Qualitative Insights

- Teachers perceive educational use of copyrighted content as standard, unquestionable practice
- Email and LMS sharing considered "basic digital comfort" — rarely check for open licenses
- Teachers are familiar with the term OER, but admit they do not use them in practice
- Open license has little to no effect on teacher's resource decisions

The OER Paradox



The Paradox Explained

When teachers can legally use proprietary content in closed LMS without restriction, there is no incentive to invest time in creating or seeking OER under Creative Commons licenses.

Result: 80% of educators support "openness" in principle — but actual OER creation and CC license usage remain highly fragmented.

MOOC Integration in Wartime Education

Platform Adoption

Prometheus

Most popular among Ukrainian educators (54.8%)

Coursera

Leading foreign platform (31.3%); provided free access to Ukrainian universities after 2022

EdEra, VUM, Udemy, edX

Supplementary platforms used for self-development and curriculum enrichment

Policy & Institutional Support

- Ministry of Education recommends MOOC use as a strategic tool for wartime education flexibility
- Universities enter direct agreements with MOOC providers
- ECTS credit transfer recognized for external online courses (Law on Education, Art. 34)
- All institutions report having official policies for online course use

Challenges & Risks

Low CC Awareness

Only 36.5% of educators are aware of Creative Commons. Popular platforms often lack clear license indications.

Translated Content

When foreign courses are translated, the original copyright holder is obscured. The line between "translation for teaching" and "derivative work" is blurred.

Jurisdictional Conflicts

Teachers displaced by war face stricter host-country copyright laws. A teacher in Germany teaching Ukrainian students cannot rely on Ukraine's liberal exceptions.

Global Isolation Risk

Dependence on proprietary content within "legal safe" of Art. 22 risks isolating Ukrainian content from global open networks where legal purity is mandatory.

Discussion & Future Research

Recommendations

- Institutional incentives are needed to overcome dependence on closed content
- Integration of Ukraine into the global open education movement requires active policy support
- Teacher training programs should include OER literacy and Creative Commons licensing

Open Questions for Future Research

- 1** How does OER use affect student outcomes vs. proprietary materials under current "educational exceptions"?
- 2** What institutional incentives can increase motivation to create and distribute CC-licensed materials?
- 3** How to resolve jurisdictional copyright conflicts for Ukrainian educators and students abroad?

Thank You

Yevheniia Andriichenko

yevheniia.andriichenko@campus02.at

Co-authors: M. Ebner, S. Schön, [B. Brünner](#)