

INTELLECTUAL PROPERTY
REGULATIONS
OF THE UNIVERSITY OF GIRONA

Approved by the Governing Council
3/2024 of April 25, 2024

AGREEMENT REGARDING THE APPROVAL OF THE INTELLECTUAL PROPERTY REGULATIONS OF THE UNIVERSITY OF GIRONA

Statement of reasons

One of the aims of the University of Girona is to “participate in the progress and development of society through the creation, transmission, dissemination and criticism of science, technology, the humanities and social sciences and the arts” (Article 6 of the Statutes of the University of Girona). The transfer of research results has always been one of its priorities, which is why in 1998 it was one of the first university institutions to approve regulations in this regard. Since then, in order to move towards the open science paradigm, following the recommendations made by the European Union since 2014, it has approved other regulations and mandates, including the recent UdG Institutional Mandate for Open Access.

Furthermore, the University needs to consider the changes and evolution experienced by our society and our system of research, innovation and technology, as recently reflected in the Law on Science, Technology and Innovation, reformed in 2022, and the new Organic Law of the University System.

It is now necessary to deal with issues regarding creation and transmission mentioned in the Statutes in a single set of regulations. It is important to establish common guidelines on the management of works, materials and resources created by the University. These guidelines should be aimed at promoting and reconciling the interests of society, of the members of the university community and of the University itself, as well as contributing to the improvement of the procedures for the protection and valorisation of intellectual property.

One of the objectives of this regulation is to establish a legal framework that provides security to the University, its community members and third parties with whom the institution collaborates in the development of its administrative, academic and research activities. It establishes the guidelines for the management of intellectual property rights and the use of works and creations in a rights-respecting manner, in line with the other regulations of a more specific nature on this same subject: Regulations on the protection and transfer of research results obtained by members of the university community, Institutional mandate for open access of the University of Girona, Open educational resources policy of the University of Girona and Research data management policy of the University of Girona.

With the favourable agreement of the Delegated Commission for Research, Transfer and Doctorate of the Governing Council, taken at its session 3/2024, of March 15.

And pursuant to article 66.a, on the powers of the Governing Council, of the Statutes of the University of Girona,

IT IS AGREED:

Solely. To approve the intellectual property regulations of the University of Girona within the framework of its Statutes and according to the attached document.

INTELLECTUAL PROPERTY REGULATIONS OF THE UNIVERSITAT OF GIRONA

Preamble

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Preamble

One of the aims of the University of Girona is to “participate in the progress and development of society through the creation, transmission, dissemination and criticism of science, technology, the humanities and social sciences and the arts” (Article 6 of the Statutes of the University of Girona). The transfer of research results has always been one of its priorities, which is why in 1998 it was one of the first university institutions to approve regulations in this regard. Since then, in order to move towards the open science paradigm, following the recommendations made by the European Union since 2014, the University has approved other regulations and mandates, including the recent UdG Institutional Open Access Mandate.

Furthermore, the University needs to consider the changes and evolution experienced by our society and our system of research, innovation and technology, as recently reflected in the Law on Science, Technology and Innovation, reformed in 2022, and the new Organic Law of the University System.

Taking into account these precedents and regulations, it is now necessary to address in a single set of regulations the issues relating to creation and transmission referred to in the Statutes. It is important to establish common guidelines on the management of works, materials and resources created by the University. These guidelines should be aimed at promoting and reconciling the interests of society, of the members of the university community and of the University itself, contributing to improving the procedures for the protection and valorisation of intellectual property.

One of the objectives of these Regulations is to establish a legal framework that provides security to the University, its community members and third parties with whom the institution collaborates in the development of its administrative, academic and research activities. It establishes the guidelines for the management of intellectual property rights and their use, respectful of rights, of works and creations, in line with the rest of the regulations of a more specific nature on this same subject: Regulation on the protection and transfer of research results obtained by members of the university community, Institutional mandate for open access of the University of Girona, Open educational resources policy of the University of Girona and Research data management policy of the University of Girona.

1. Purpose of the Regulations and whom they concern

1.1. This Regulation concerns:

- a) Intellectual property rights on works and other materials generated by work carried out at the University.
- b) Students' rights over their work.
- c) The rights over works and other materials resulting from the relationship with collaborators and suppliers.

1.2. These regulations apply to staff who carry out teaching or research activities and to technical, management, administration and service staff, in both cases regardless of

their contractual, employment or statutory relationship with the University. They also apply to students within the framework of their relationship with the University.

- 1.3. Unless they have their own internal regulations, entities created by the University, or which depend on it, will follow the principles and guidelines of these Regulations, with the necessary adaptations and in accordance with the respective statutes, nature and functions.

2. Definitions

For the purposes of this Regulation, the following definitions apply:

- a) **Assignment of rights:** authorization by the owner of the rights to a work or other material protected by copyright to allow another person to use this work or material in the modalities and for the duration specified.
- b) **Collaborator:** a person who collaborates occasionally or permanently with the UdG, on a selfless basis, by carrying out research activities and without having an employment relationship with the UdG.
- c) **University community:** students, teaching and research staff (PDI) and technical, management, administration and services staff (PTGAS).
- d) **PhD student:** any person who, after having met the requirements established in Royal Decree 99/2911, of January 28, which regulates official doctoral studies, has been admitted to a doctoral program and has enrolled in it.
- e) **Exploitation rights:** economic rights over a work or other protected materials, which include the right to authorize or prohibit its reproduction or copying, the distribution of physical copies, public communication (without physical copies) and transformation to create a new work (derivative work).
- f) **Moral rights:** set of rights, inalienable and non-waivable, including the right of the author of a work to be recognized as such and the right to not have his or her work modified without his or her authorization.
- g) **Students:** any person who takes official courses in one of the three cycles at the University of Girona, continuing education courses or other studies offered by the University of Girona (1).
- h) **Work:** original literary, artistic or scientific creation expressed by any means or format.
- i) **Teaching and research staff (PDI):** members of the university teaching staff and teaching staff in the categories and classes regulated by university regulations.
- j) **Technical, management, administration and services staff (PTGAS):** civil servants or employees who carry out the services and functions of the University of Girona (2).

- k) FAIR principles: set of precise and measurable qualities that a data publication should follow in order for the data to be findable, accessible, interoperable, and reusable.
- l) Open educational resources (OER) (3): teaching, learning and research materials in any format, digital or otherwise, that are in the public domain or that have been distributed under an open license that allows free access to them, as well as their use, adaptation and distribution by others without any restrictions or with limited restrictions.
- m) Institutional repository (IR): a reliable digital repository, created and managed by an institution, which collects the digital objects that are the result of the activity of its teaching and research staff and students, and which allows the preservation, access and distribution of the materials generated by this institution.
- n) Rights retention: policy aimed at achieving the widest possible access to the results of research activities. It allows publishing in a subscription journal, including hybrid journals, and allows the author's manuscript to be made available in open access through self-archiving.
- o) Knowledge transfer (4): process by which knowledge derived from research is transmitted to other areas of society, with the aim of making it available for future uses.

3. General principles

- 3.1. The University will promote open science through institutional policies that favour the transfer and exchange of knowledge and innovation (5), making its own the objectives of the free circulation of scientific knowledge and technologies.
- 3.2. The University shall assume the obligation to respect and enforce copyright. It shall promote the training of the university community in this matter and compliance with the principles and content of these Regulations.
- 3.3. Members of the university community must act in full compliance with intellectual property regulations at all times. They must avoid causing any prejudice to copyright holders, claiming authorship of other people's creations or using works or other creations in a manner not authorized by law. Failure to comply with these obligations may constitute an offence and lead to a sanction, in accordance with current regulations.

4. Moral rights and ownership of exploitation rights

- 4.1. The University shall own the rights to use the works and other materials created by its staff by virtue of their employment or statutory relationship with the institution. The University shall use and allocate them to the development of its activities and the fulfilment of its mission.

- 4.2. In the use of works and other materials resulting from the work of its staff, the University will respect and ensure respect for the moral rights of the authors and their right to use of them.
- 4.3. In the administration of the intellectual property rights of its ownership, the University will not assign exclusive rights. Exceptionally, in the publication of works in scientific journals, rights may be assigned to the editor temporarily, while complying with the provisions of article 6 of these Regulations. Likewise, in the event that a publishing contract is signed, exclusive rights may be assigned to the editor, with the limits and under the terms that appear in the regulation of the publishing contract established in the consolidated text of the Intellectual Property Law.
- 4.4. In the dissemination of a work or other creation by University staff, regardless of the context, channel or purpose, as a general criterion, information will be provided on the terms of use through the licensing system referred to in article 13 of these Regulations. It will be mandatory to mention the staff member's connection with the institution.

5. Teaching materials

- 5.1. When using teaching materials, the name of the author must be included, as well as mention of his or her connection with the University. The University may use the materials in teaching activities for purposes other than those for which they were originally.
- 5.2. The authors may use their own teaching materials in teaching activities outside the University, in accordance with the institutional policy of open educational resources (OER) (6) of the University, provided that:
 - a) This use does not harm the interests and rights of the University.
 - b) No rights are transferred to third parties, and only the use of the said materials is authorized.
 - c) The materials are presented under the license indicated in the previous article.
 - d) The author's connection with the University of Girona must be stated.
- 5.3. When the materials appear in institutional repositories owned by the University (or in which the University participates), the author may request that they be replaced by a new version, and the replaced version will be archived.

6. Research work

- 6.1. The author shall have the moral rights over his or her research work and, consequently, shall decide when it may be disseminated. The University shall ensure that the rights of each of the authors are respected when the works have been produced in

collaboration with other parties. In any use, the name of the author shall be stated and he or she shall be recognised as such, mentioning his or her connection with the University. The University shall also respect and ensure respect for the integrity of the content created by the author.

- 6.2. The University will adopt copyright retention policies to promote the widest possible access to research-derived works, preventing them from having restricted access. Where there are no specific prior guidelines on the dissemination of research results, the author may determine the manner in which they will be disseminated. In any case, a copy of the final version accepted for publication and the data associated with this publication must be deposited in an open access repository owned by the University (or in one in which the University participates), simultaneously with the date of publication. To ensure compliance with open access policies, researchers must use copyright retention in all works funded by funding agents (7).
- 6.3. When the materials are the result of projects, contracts or agreements, with or without specific funding, their dissemination will be carried out in accordance with the terms of the call for proposals or the clauses that regulate it. In the absence of any indications, the principles and guidelines of these Regulations will be followed.

7. Databases and data

- 7.1. The University shall be the owner of the rights to the databases created for administrative, teaching or research purposes. University staff may use their contents freely and without limitation. Without prejudice to what is indicated in the following section of this article, the extraction or reuse of all or a substantial part of the content by third parties shall require prior authorization from the University, since it may contain information that may affect the rights or interests of other persons.
- 7.2. Data resulting from research projects will be published openly in compliance with the FAIR principles and in accordance with the University's research data management policy (8). This criterion will not be followed when it is necessary to restrict access due to confidentiality, security, data protection or third-party agreements.

8. Student work

- 8.1. Students will have exclusive rights to their works and other original materials produced, signed and presented within the framework of an academic activity (9). In accordance with the University's own regulations, the preservation and dissemination of student work will be facilitated by incorporating it into institutional or participatory repositories. Each student will be able to determine its publication and under which information license of the conditions of use he or she wishes to disseminate it.
- 8.2. In works resulting from a project, contract or agreement in which students participate together with staff from the University or other public institutions or private entities, in accordance with the Regulations on the valorisation and transfer of research results

(10), the conditions relating to the confidentiality and disclosure of the results obtained will be included in the contract or agreement.

8.3. In accordance with the regulations governing official doctoral studies (11), the University will publish doctoral theses in open electronic format and will guarantee their preservation (12). The doctoral candidate will have the rights over his or her thesis and, consequently, will determine under which license it should be published. In exceptional circumstances, such as the existence of confidentiality agreements or the possibility of generating patents or other forms of protection of the results based on the content of the thesis, the academic committee of the doctoral program may determine that the publication be deferred.

8.4. Students and research project supervisors must, where applicable, include the confidentiality conditions for these projects in a document signed at the start of the project.

9. Results obtained from projects in which the University participated

The development of a teaching, research or management project in collaboration with another public institution or a private entity must be preceded by the signing of an agreement, contract or arrangement which must state the ownership of the rights to the resulting materials and the way in which they will be disseminated. The principles that inspire these Regulations will be incorporated into the preparation of the project as far as possible.

10. Collaborators' materials

In cases of work from persons who collaborate with the University on an ad hoc basis, the transfer of rights over the texts or other materials used will generally be requested, in order to promote their dissemination. When formalizing the transfer of rights, it will be stated that they are obtained on a non-exclusive basis, but without a time limit and respecting at all times the moral rights of the authors.

11. Service contracts and obtaining rights

11.1. In accordance with public sector contract regulations, when work is contracted to persons outside the University and the result of the contract may be protected by intellectual property rights, the documents through which the relationship is formalized must include clauses on the transfer of rights to ensure that the University can use the works or materials to fulfil its functions.

11.2. The contractual documents must establish that the University obtains the rights of reproduction, distribution, public communication and transformation on a non-exclusive basis and without time or territorial limits. They must also indicate the

license under which the works or materials will be distributed and the obligation to use them while respecting the moral rights of the authors.

- 11.3. Where the subject matter of the contract is software development, the contractual documents will indicate that the University obtains exclusive rights and that, in the event that the supplier reuses previously existing assets, the University must receive a product that it can offer for subsequent reuse to other public administrations. If the supplier works from open-source products, it must be possible to declare the resulting software as open source.

12. Software necessary for internal UdG operation

- 12.1. The University will have exclusive rights to the software created by its staff and the software resulting from orders to suppliers.

- 12.2. In order to promote its reuse and transfer of technology to society and the use and reuse of public resources, the University may make its software available to other public administrations and private persons (13), transferring its use without compensation or formalization through an agreement, in accordance with the following conditions:

- a) Exclusive appropriation, in whole or in part, by third parties will not be authorized.
- b) No obligation will be assumed to provide assistance or maintenance.
- c) No liability will be accepted for errors, malfunctions or misuse.
- d) The assignee may develop the software as long as the result is offered under these same terms and conditions.

- 12.3. To inform of the conditions indicated in the previous point, the public license of the European Union (14) will be used as a general criterion, without prejudice to the possible use of other licenses that guarantee compliance with the same purposes and preserve the same rights.

13. Content dissemination

- 13.1. When disseminating content by any medium, channel or format, the University will inform of the conditions of use of the works or other protected materials, stating, where applicable, the existence of rights that may condition their use. To this end, informative texts and graphic elements will be included on the University's websites, corporate intranets and in the material it publishes.

- 13.2. Unless otherwise expressly indicated, works and other materials will be distributed under the open information use license - Catalunya (15), with the wording adapted to

the University. In the presentation of materials that do not allow information on the application of this license, it will be indicated that they are distributed under the Creative Commons Attribution-ShareAlike 4.0 International license or later versions.

- 13.3. For works or other materials that are in the public domain, the University will indicate this circumstance with the Creative Commons public domain mark.
- 13.4. Where materials are not protected under intellectual property regulations, the University will avoid using indications or references that may suggest the existence of rights that may condition their reuse.
- 13.5. In the case of materials resulting from the use of generative artificial intelligence tools, the University will report on how they have been prepared and will make them available without conditions or limitations on use.

14. Information on Intellectual Property Regulations

The University will make its Intellectual Property Regulations known to members of the university community, its suppliers and collaborators and other persons who have relations with the University, in order to guarantee compliance with its principles and to promote their application. To this end, it will publish these Regulations and prepare explanatory documents and guides to facilitate their understanding.

Sole final provision

This regulation will come into force on the day following its publication in the Official Gazette of the University of Girona (BOUdG).

REFERENCES AND NOTES FOR THE TEXT

- (1) Definition according to Royal Decree 1791/2010, of December 30, which approves the University Student Statute.
- (2) Definition of the University System according to Organic Law 2/2023, of March 22.
- (3) Unesco (2012). General Conference, 36th, 2011. p. 24.
https://unesdoc.unesco.org/ark:/48223/pf0000216192_spa
- (4) Definition according to Termcat.
- (5) Universitat de Girona (2021). Mandato institucional de acceso abierto de la Universitat de Girona (Open Access Mandate of the University of Girona).
<http://hdl.handle.net/10256/19578>
- (6) Open educational resources (OER) policy of the University of Girona (in process of approval).
- (7) The use of the copyright retention text means that you as the author have applied a CC-BY license to the accepted manuscript: “This research has been funded in whole or in part by [Funder][Granted Project Number]. In order to comply with open access policy, the author has applied a CC-BY license to any version of the accepted author manuscript (AAM) that arises from this submission.
- (8) Universitat de Girona (2022). Política de gestión de datos de investigación de la Universitat de Girona (Research Data Management Policy).
<http://hdl.handle.net/10256/20837>
- (9) In accordance with articles 8.h and 9.h, on specific rights of students, of Royal Decree 1791/2010, of December 30, which approves the University Student Statute.
- (10) In accordance with art. 3.2 of the Regulation on the valorisation and transfer of research results.
- (11) According to Royal Decree 99/2011, of January 28, regulating official doctoral studies (art. 14.5 and art. 14.6). https://www.boe.es/boe_catalan/dias/2011/02/10/pdfs/BOE-A-2011-2541-C.pdf
- (12) Revised text of the Academic Regulations for Doctoral Studies at the University of Girona. <https://www.udg.edu/en/estudia/Tramits-normatives-i-preus/Normatives/Normativa-dels-estudis-de-doctorat> and document “Deposit of the doctoral thesis in the digital repository of the UdG DUGi and repository of doctoral theses TDX”.
https://www.udg.edu/ca/Portals/1/Impresos/Declaracio_autoria_tesi_DUGi_TDX.pdf
- (13) In accordance with art. 16 of Royal Decree 4/2010, of January 8, regulating the national interoperability scheme in the field of Electronic Administration.
<https://www.boe.es/buscar/act.php?id =BOE-A-2010-1331&p=20210331&tn=1#a16>

- (14) European Commission, Directorate-General for Digital Services, Schmitz, P. (2021). European Union Public Licence (EUPL): guidelines July 2021, Publications Office. <https://data.europa.eu/doi/10.2799/77160>
- (15) In accordance with article 75 of Decree 8/2021, of February 9, on transparency and the right of access to public information. <https://portaljuridic.gencat.cat/eli/es-ct/d/2021/02/09/8>

Universitat
de Girona