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The scope of copyright in materials produced and controlled by intergovernmental organisations in Africa

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Executive summary

This brief examines the copyright concerning materials produced and controlled by intergovernmental organisations (IGOs) in Africa from two perspectives. First, the materials created under the direction and control of IGOs are generally official documents of legislative, judicial and administrative nature. Although some national statutes specially confer copyright on IGOs in respect of works created under their direction and control, copyright regimes in Africa declare official documents of legislative, judicial and administrative nature ineligible for copyright. As such, they are public domain materials. IGOs cannot assert copyright in such materials.

Secondly, IGOs can gain control over materials transferred to them by third parties who created the materials independently. In such cases, the copyright over the materials may be transferred exclusively to the IGOs (assignments and exclusive licenses) or non-exclusively (non-exclusive license) with the third-party retaining part of the copyright. In this situation, the IGOs can assert copyright to the extent of the transfer, subject to the copyright exceptions and limitations defined in the relevant copyright statute.

Nonetheless, the current digital reality offers African IGOs an opportunity to build a strong legal and digital infrastructure that will support open access initiatives to tackle the access to information and justice challenges in Africa and contribute to the actualisation of the Agenda 2063 aspirations on the continent. Instead of asserting copyright, where it does exist, African IGOs should work towards developing and operating open access programs. The approach adopted by WIPO and the EU for the preservation and maintenance of their materials is highly recommended for African IGOs. This can be achieved through partnership with non-governmental organisations (NGOs) and other independent entities that are involved in the creation and provision of open access programs geared towards promoting access to justice and information.

1. Background

Intergovernmental organisations (IGOs) in Africa, including the African Union (AU), its agencies and judicial bodies, as well as sub-regional bodies and their agencies, produce and control a lot of materials, which are generally official documents that are legislative, judicial or administrative in nature. The materials include legal instruments such as treaties, protocols, resolutions, declarations, decisions, general comments, judicial opinions, and recommendations, guidelines, model laws, special rapporteur reports, opinions of experts, studies; and multi-media materials such as video and audio recordings. The materials, which can be in print or digital format (as single resource or part of a databases) are usually produced by persons acting under the direction and control of the IGOs (direct employees or external commissioned experts), or by persons acting independently but who transferred the materials to the IGOs.

The materials may be potentially eligible for copyright protection depending on their nature. Copyright is a bundle of intangible rights granted by law to creators of literary works (books, articles, compilations, databases, photographs, etc), sound recordings, videos, musical and artistic works, computer programs, among others. The rights enable the creators to control the marketing of the materials by ensuring that only authorised third parties can access and use the materials.¹ However, such rights do not extend to the control of materials that form part of the public domain information, which can be freely used by third parties. Public domain materials include works that: (a) are statutorily declared non-eligible for copyright protection; (b) were once eligible for protection but their legal duration has lapsed; and (c) are protected but can be used without the permission of the copyright owner to the extent covered by copyright exceptions (such as fair use) or that the owners have made them available subject to open access licences, or the owners choose not to assert copyright.² Are IGOs' materials part of the public domain?

Given the quality, integrity, accuracy and the vastness of the information they contain, the materials produced and controlled by IGOs are important resources that can be harnessed and deployed to promote the public interest in ensuring access to justice and information; and the attainment of the overall aspirations articulated in the AU Agenda 2063,³ and the UN

¹ WIPO Intellectual Property Handbook (2004) 40-46, https://www.wipo.int/edocs/pubdocs/en/intproperty/489/wipo_pub_489.pdf

² K Erickson, M Kretschmer and D Mendis 'An empirical approach to the public domain' in J Drexl and AK Sanders (eds.) *The Innovation Society and Intellectual Property* (Cheltenham: Edward Elgar, 2019) 87-117.

³ AU Agenda 2063: The Africa we Want (2015), <https://www.africanlii.org/akn/aa/doc/statement/2015-09-01/agenda-2063-the-africa-we-want/eng@2015-09-01>

SDGs⁴ in Africa. The right of access to information is guaranteed under article 9 of the African Charter on Human and Peoples' Rights (ACHPR). In a recent Declaration,⁵ the African Commission on Human and Peoples' Rights underscored the importance of the right of access to information to the actualisation of other rights,⁶ such as the right of education and access to justice. In addition, promotion of the right to access information by states and IGOs in Africa is an important strategy for ensuring support for open data initiatives towards operationalising some key recommendations on open data standards and data sharing systems contained in the AU Data Policy Framework.⁷

Indeed, the materials produced and controlled by IGOs are important data for non-governmental organisations (NGOs) and other independent bodies involved in the development of innovative solutions, such as non-commercial publicly accessible digital repositories of important official materials, that are geared towards achieving the aforementioned public interest objectives.⁸ However, some IGOs in Africa continue to claim copyright and make licensing demands for third party uses of their materials;⁹ thus, creating access barriers and undermining the harnessing and deployment of the materials for innovation in pursuit of the same public interest objectives that the IGOs are established to achieve. This is so, notwithstanding that the IGOs are run largely by contributions from member states which are derived from domestic taxes. Donor funds, and import levies, etc, constitute other sources of funding for IGOs in Africa.¹⁰

The foregoing makes it imperative to determine the scope of copyright in the materials produced and controlled by IGOs in Africa. This has not been judicially addressed or examined in the literature. However, institutional practices exist outside Africa from which useful insights can be drawn. In this regard, questions such as whether IGOs' materials are eligible for copyright protection or whether they constitute public domain resources will be addressed in

⁴ UN Sustainable Development Goals, <https://sdgs.un.org/goals>

⁵ Declaration of Principles on Freedom of Expression and Access to Information in Africa, 2019, <https://africanlii.org/akn/aa/doc/declaration/2019-11-10/declaration-of-principles-on-freedom-of-expression-and-access-to-information-in-africa/eng@2019-11-10>

⁶ Ibid, Principle 1.

⁷ AU Data Policy Framework 2022, <https://africanlii.org/akn/aa/doc/policy/2022-02-03/au-data-policy-framework/eng@2022-02-03>

⁸ An example of such digital repositories is AfricanLII run by the Democratic Governance and Rights Units, Department of Public Law, University of Cape Town: <https://africanlii.org/>

⁹ For instance, see the copyright notice on p4 of the ARIPO Model Law on Copyright and Related Rights, 2019, <https://www.aripo.org/wp-content/uploads/2019/10/ARIPO-Model-Law-on-Copyright-and-Related-Rights.pdf>.

¹⁰ For instance, see 'African Union Sustainable Funding Gains Momentum', <https://au.int/en/articles/african-union-sustainable-funding-strategy-gains-momentum>; AU 'Financing the Union: Towards the Financial Autonomy of the African Union', https://au.int/sites/default/files/pages/35739-file-financing_the_union_6.pdf.

this brief. If the materials are subject to copyright protection, are claims to copyright by IGOs in Africa justifiable especially given the public interest objectives articulated in Agenda2063? What strategies should the IGOs adopt to manage their materials in the public interest? To resolve these issues, the materials produced and controlled by IGOs in Africa will be viewed from two perspectives: works created under their direction and control; and those created independently by third parties but transferred to them. Part two addresses the copyright eligibility of African IGOs' materials and whether claim to copyright, if at all, for such materials is justifiable. Part three examines strategies that African IGOs can adopt to manage their materials in the public interest. Part four contains the conclusion and recommendation.

There is no international legal instrument that confers copyright on IGOs in Africa. Indeed, copyright is granted by national laws. Therefore, reliance will be placed on national copyright regimes in this brief. It is not possible to examine the copyright legislation of all 55 AU member states here. Research data exists that have highlighted the relevant provisions from the copyright laws of the member states.¹¹ Of the 55 AU member states, only Equatorial Guinea and Guinea do not have specific provisions declaring official documents to be public domain materials. Sahrawi Republic and Somalia do not have legislation protecting copyright. As such, it can be said that IGO materials are public domain resources in those countries. The remaining 52 countries have different forms of provisions that appear similar in effect. This brief draws from that data, but focuses on and samples the copyright laws of Nigeria,¹² Uganda¹³ and Kenya,¹⁴ South Africa,¹⁵ Morocco,¹⁶ and the copyright regime of the Organisation Africaine de la Propriété Intellectuelle (OAPI).¹⁷

Kenya, Uganda and South Africa have judicially construed aspects of their provisions, as will be discussed later in this brief. Nigeria's copyright law is the latest most recently enacted copyright legislation in Africa.¹⁸ Morocco represents North Africa. OAPI is a sub-regional intellectual property (IP) organisation composed mainly of Francophone African states.¹⁹ The African Regional IP Organisation (ARIPO) is the other sub-regional IP institution.²⁰ OAPI strives

¹¹ Open.Law.Africa, <https://www.openlawafrica.org/copyright-in-legal-information-africa>

¹² Copyright Act, 2022 (NCA)

¹³ Copyright and Neighbouring Rights Act, 2006 (CNRA)

¹⁴ Copyright Act No 12 of 2001 (KCA)

¹⁵ Copyright Act 98 of 1978 (SACA)

¹⁶ Law No.2-00 on Copyright and Related Rights (MCA)

¹⁷ Bangui Agreement Instituting an African Intellectual Property Organization Act, 2015, Annex VII.

¹⁸ D Oriakhogba 'Nigeria's new Copyright Act 2022: how libraries can benefit', <https://ipkitten.blogspot.com/2023/04/guest-post-nigerians-new-copyright-act.html>.

¹⁹ Y Mupangavanhu 'African Union rising to the need for a continental IP protection? The establishment of Pan-African Intellectual Property Organization (2015) 59 JAL 1-24

²⁰ Ibid

towards unification of the IP laws of its member states.²¹ Thus, its member states copyright laws are similar as they are framed after Annex VII of the Bangui Agreement that established OAPI.

2. Materials produced and controlled by IGOs

As stated above, materials produced and controlled by IGOs in Africa can be viewed from two perspectives: the materials created under the IGOs' direction and control, and those created independently by third parties.

2.1 Materials produced under IGOs' direction and control

IGOs produce materials through the natural persons running their organs, agencies, and third parties commissioned to undertake works under terms of reference. As noted above, works created under IGO's direction and control are generally official texts or documents that are legislative, judicial and administrative in nature. Within the context of this brief, legislative and judicial documents of IGOs are not difficult to decipher. Administrative documents may need further explanation. Copyright treaties and legislation do not specifically define administrative texts or documents. However, the Angolan Law on Access to Documents held by Public Authorities²² provides some insights. Article 4 of the law defines administrative documents broadly to include any:

information media, be it print, audio, visual or digital, or any records of another nature, produced or held directly, indirectly or autonomously by public bodies, to wit, case files, reports, studies, opinion pieces, minutes, official records, circulars, ministerial memoranda, internal orders, internal normative decisions, instructions and guidelines for the interpretation of the law or setting the framework for an activity, as well as other pieces of information.

Generally, there is nothing like international protection of copyright. International copyright treaties set minimum standards for, and enable territorial reciprocity in, the national protection of copyright. Apart from the specific grant of copyright vested in respect of materials

²¹ Ibid

²² Law 11/02 of 16 August 2002.

produced by the UN, its agencies and the Organisation of American States (OAS) in article 1 Protocol 2 to the Universal Copyright Convention,²³ there is generally no special protection for IGO materials under the international copyright treaties. The Berne Convention (the premier copyright treaty),²⁴ for instance, neither provides any minimum standard nor grants any special protection for IGOs' materials. Instead, in article 2(4), the Berne Convention leaves it to member countries to "determine the protection to be granted to official texts of a legislative, administrative and legal nature, and to official translations of such texts." Other international treaties, such as the World Trade Organisation's (WTO) Agreement on Trade Related Aspects of Intellectual Property Rights 1994 (TRIPs Agreement) and the World Intellectual Property Organisation's (WIPO) Copyright Treaty 1996 (WCT), incorporated the provision of the Berne Convention. There is also no such protection for IGOs' materials under the AU system. The two IP treaties²⁵ adopted at the continental level, and ARIPO's Protocol on Voluntary Registration of Copyright,²⁶ do not provide protection for IGOs' materials.

The effect of the foregoing is absence of a regional or international legal framework which regulates copyright in materials produced under the direction and control of IGOs. In Africa, the approach adopted nationally is informed by the historical and colonial lineage of the countries. For instance, former UK colonies, such as Nigeria, South Africa, Uganda and Kenya, grant special copyright to IGOs (like state governments) based on the 'crown copyright'²⁷ concept that originated from English common law. On the other hand, former French colonies (OAPI members and Morocco, for instance) with civil law tradition do not make such special provision. IGOs' materials are treated like other eligible works in those countries.

The copyright statutes of Nigeria, South Africa, Uganda and Kenya grants special copyright to IGOs in respect of the materials created under their direction and control. In Nigeria and Uganda, this provision applies in the absence of an agreement between the original author and IGO to the contrary.²⁸ Ugandan and South African Courts²⁹ have interpreted the phrase – created under the "direction and control" – to mean that:

²³ Protocol 2 Annexed to the Universal Copyright Convention as Revised at Paris on 24 July 1971 concerning the Application of that Convention to the Works of Certain International Organizations.

²⁴ Berne Convention for the Protection of Literary and Artistic Works, 1886, 1161 UNTS 3.

²⁵ Protocol on Intellectual Property Rights to the Agreement Establishing the African Continental Free Trade Area 2022; Statute of the Pan African Intellectual Property Organization 2016.

²⁶ Kampala Protocol on Voluntary Registration of Copyright and Related Rights 2021.

²⁷ RL Okediji 'Government as Owner of Intellectual Property? Considerations for Public Welfare in the Era of Big Data' (2020) 18(2) *VJETL* 331-362

²⁸ ss7 and 28(1) NCA; ss5 and 21(2) SACA; ss25 and 31(2) KCA; ss8(2) and (3) CRNA.

²⁹ *Kakoma v Attorney General*, Court of Appeal (Kampala), decision of 15 July 2019 – 50 of 2011; *Biotech Lab. v Beecham Group & Ors.* (494/2000) [2002] ZASCA 11 (25 March 2002)

the production of the work needs to be the principal object of State direction and control and not merely an incidental or peripheral consequence of some generalised governmental licensing or monitoring power; the direction and control should be directly and specifically expressed with respect to the work in question, and should not be inferred from the fact of some residual or ultimate government veto.³⁰

Although the cases related to state copyright, the interpretation of the court is relevant in this brief since the provisions deal also with IGOs and it supports the conception adopted in this brief of materials produced under the direction and control of IGOs.

Annex VII to the Banjul Agreement establishing OAPI, and the Moroccan Copyright Act do not contain similar provisions as the above-mentioned countries. Instead, like any other entity, IGOs may claim ownership of copyright under the rule in respect of works made in the course of employment or under a commission. In such circumstances, art.35 Annex VII to the Banjul Agreement, for instance, vests first ownership of copyright on the author in respect of such works. However, the economic right is deemed transferred to the employer or commissioner of the work so long as the work was created in the cause of the employee's duties or according to the commission.

Whatever the approach, despite the recognition of IGO's copyright in the national laws under reference, materials created under their direction and control can be regarded to be public domain resources to the extent that they are legislative, judicial and administrative in nature. The copyright statutes considered in this brief exclude official documents that are legislative, judicial, and administrative in nature from copyright protection. The exclusion extends to the translated versions.³¹ The provision under section 2 of the Kenyan Copyright Act has been given judicial imprimatur.³² Thus, it can be said that the recognition of copyright in IGOs in materials created under their direction and control is to enable them to manage and preserve the materials in the public interest given the quality, integrity, accuracy and vastness of the

³⁰*Biotech Lab. ibid*, para 22.

³¹ See ss3 and 108(1) NCA; s12(8) SACA; section 7 CRNA; s2 KCA; art.8 MCA; art.6(1) Annex VII Bangui Agreement. Note that compilations of legislative and administrative documents, law reports, are eligible for protection in Nigeria. See ss3 and 108(1) NCA

³² *Tumaz and Tumaz Enterprises Limited & 2 others v National Council for Law Reporting* [2022] KEHC 14747 (KLR) (1 November 2022), para 123. See also C Okorie 'Round-up of intellectual property decisions and other developments in Africa 2022' (2023) 18(3) *JIPLP* 235-250

information the materials contain; and not to assert copyright in them since they are public domain resources.

2.2 *Independently created works transferred to IGOs*

IGOs can, and often do, obtain copyright in respect of eligible works made independently by third parties through assignments and licenses (exclusive and non-exclusive). Such copyright-protected works will form the materials that are controlled by the IGOs. National copyright regimes, such as those of Nigeria, South Africa, Kenya, Uganda, Morocco, and OAPI member states create mechanisms that enable the transfer of copyright from one person to another through assignments and licenses, among others. The rights obtained by IGOs through such transfers will, however, be subject to copyright exceptions and limitations, in certain special circumstances, which can be explored by NGOs seeking to harness and deploy the materials to provide innovative solutions to promote access to justice and information challenges in Africa.

Examples of very useful copyright exceptions include the fair dealing (or fair use) exception contained in section 20(1) of the Nigerian Copyright Act, which permits the use of works for purposes such as non-commercial research and private study, review of current events, provided the use satisfies the fairness tests as expressly provided for in the Act: that is, the use must be non-commercial, transformative (purpose and character of usage), must not restrict the profit reasonably expected by the rights owner, and not substantially impair the value of the work. The provision also allows the use of works for reporting judicial and legislative proceedings, provision of accessible formats for persons with disabilities, by non-commercial documentation centres, the reproduction of a work for purpose of research and private study by libraries and archives, among others.

In circumstances where proposed uses of IGOs' materials eligible for copyright are not covered by exceptions and limitations, is it justifiable for the IGOs to claim copyright protection and make licensing demands?

3. Strategies to manage IGOs' materials in the public interest

IGOs' copyright, like that of states, is mainly justified on the ground that it is necessary to enable them to provide, preserve and maintain the integrity, quality, and accuracy of the materials

over which the rights subsist.³³ However, like states, IGOs can deploy their copyright as a censorship tool, to negatively impact public opinion, chill public discourse, and prevent or delay access to information;³⁴ and ultimately violate the right of access to information guaranteed in article 9 of the ACHPR. Thus, in situations where copyright subsists (see discussion in 2.2 above), IGOs' copyright should be exercised to ensure full and free access to their materials.³⁵ Indeed, the assertion of copyright and licensing demands by IGOs would amount to double taxation of Africans since their activities are largely funded by taxes paid in their member states.³⁶

IGOs' copyright can have negative implications on innovation. The setting up of valuable open databases to promote access to information is generally costly, especially for non-commercial ventures. As such, it is not unexpected for innovators to seek to rely on those maintained by national governments and IGOs. Undue restriction of access to such databases, through copyright, can impact negatively on the public interest objectives articulated in Agenda2063. Thus, the public interest objectives articulated in Agenda2063, which African IGOs are obligated to pursue, easily thwart the preservation and maintenance justification for IGOs' copyright. Agenda2063 has since formed the basis and focus of developmental strategies on the continent. It has been incorporated into, and continues to shape, the policy articulation of the AU, its organs, agencies and subregional IGOs in Africa.³⁷

Agenda2063 contains seven key aspirations anchored on 20 developmental goals. Through Agenda2063, Africans aspire, among other, to a "prosperous Africa based on inclusive growth and development" by ensuring a well-educated citizenry and a "skills revolution underpinned by science, technology and innovation for a knowledge society".³⁸ Also, Africans aspire to a continent with "a universal culture of good governance, democratic values, gender equality, respect for human rights, justice and the rule of law" by ensuring that Africans enjoy

³³ AM Fitzgerald 'Crown Copyright' in BF Fitzgerald and BA Atkinson (eds) *Copyright Future Copyright Freedom: Marking the 40th Anniversary of the Commencement of Australia's Copyright Act 1968* (2011) 162-179.

³⁴ H Richter 'Copyright Protection of Government-Related Material Before the Courts of the United States and Canada: Considerations for Future Reforms' (2021) 52 *ILC* 6-33

³⁵ B Atkinson 'The True History of Copyright: The Australian Experience 1905-2005' (2007) 277; B Fitzgerald, et al *Internet and E-Commerce Law: Technology, Law, and Policy* (2007) 267-268.

³⁶ D Nicholson and D Kawooya 'The impact of copyright on access to public information in African countries: a perspective from Uganda and South Africa', https://archive.ifla.org/IV/ifla74/papers/087-Nicholson_Kawooya-en.pdf.

³⁷ AUDA-NEPAD *Second Continental Report on the Implementation of Agenda 2063* (2022), <https://au.int/sites/default/files/documents/41480-doc-2nd-Continental-Progress-Report-on-Agenda-2063-English.pdf>.

³⁸ AU Agenda 2063: The Africa we Want (2015) 2, <https://africanlii.org/akn/aa/doc/statement/2015-09-01/agenda-2063-the-africa-we-want/eng@2015-09-01>.

“affordable and timely access to independent courts and judiciary that deliver justice without fear or favour”,³⁹ among others. These aspirations can only be achieved through the promotion of equal, equitable and easy access to information for all, especially the information contained in IGOs' materials. Reliance and assertion of copyright by IGOs' will undermine their ability to execute their commitment to achieve the Agenda2063 aspirations.

Today's digital reality easily dispels the preservation and maintenance justification of IGOs' copyright because the accuracy of information contained in IGOs' materials can be easily verified online. Also, the integrity and quality of the resources can be preserved through digital technology, and other legal means rather than by copyright.⁴⁰ Furthermore, IGOs' can utilise digital technology to preserve and maintain their materials, while contributing to achieving the public interest aspirations in Agenda2063. To this end, IGOs in Africa can partner with NGOs and other public interest organisations to provide digital infrastructure for the maintenance and preservation of their materials in the public interest. Such infrastructure will not only preserve and maintain the materials effectively, it will also ensure easy and quick access for the promotion of the public interest. Moreover, it will support the development and deployment of innovative tools that will ensure access to information for education and promote access to justice in Africa. The digital infrastructure can incorporate open access initiatives. Open access initiatives ensure the free use, re-use and distribution of resources online by anyone, subject mostly to the attribution rights of those who invested in putting the data together.⁴¹

WIPO offers an example of open access strategy that IGOs in Africa can adopt to preserve and maintain their materials, while promoting the public interest objectives in Agenda2063. WIPO operates a database, WIPO Lex, that contains legislative, judicial and administrative materials, including resources that were transferred to it by third parties. The materials in WIPO Lex are open access and can be used and reused free-of-charge. They can be reproduced, distributed and publicly performed for academic research and non-commercial purposes, subject to attribution of WIPO Lex as the source. However, the permission of third parties is required where the use relate to materials of which copyright resides in third parties.⁴²

The European Union (EU) offers another example. It operates a database, EUR-Lex, that contains its legislative, judicial and administrative materials. It contains terms of use that go

³⁹ Ibid, 5.

⁴⁰ Richter (n30).

⁴¹ D Ruther 'Government data and copyright protection in South Africa' (2015) 3 SAJPLJ 55-74.

⁴² WIPO Lex Database: Terms of Use, <https://www.wipo.int/wipolex/en/info/terms-of-use.html>

beyond that allowed by WIPO Lex.⁴³ EUR-Lex terms of use allow the re-use of its materials for commercial and non-commercial purposes. The terms of use are based on the legal infrastructure provided by the EU's Directive on open data and re-use of public sector information.⁴⁴ Among other things, the Directive is hinged on the human right of access to information; the instrumental role of public sector information to the realisation of this right through the development of new applications for consumers; and the capacity of public sector information to transform the economy by intelligent data usage, including the processing of data through artificial intelligence applications.⁴⁵ Essentially, the standards set by the Directive for the re-use of public sector documents are geared towards promoting "the use of open data and stimulate innovation in products and services."⁴⁶

4. Recommendations

As demonstrated so far, materials produced and controlled by African IGOs can be viewed from two perspectives within the copyright context. First, the materials created under the direction and control of IGOs are generally official documents of legislative, judicial and administrative nature. Although some national statutes specially confer copyright on IGOs in respect of works created under their direction and control, all copyright regimes in Africa declare official documents of legislative, judicial and administrative nature ineligible for copyright. As such, they are public domain materials. IGOs cannot assert copyright in them.

Secondly, IGOs can gain control over materials transferred to them by third parties who created the materials independently. In such cases, the copyright over the materials may be transferred exclusively to the IGOs (assignments and exclusive licenses) or non-exclusively (non-exclusive license) with the third-party retaining part of the copyright. In this situation, the IGOs can assert copyright subject to the copyright exceptions and limitations defined in the relevant copyright statute.

The recognition of IGOs' copyright, whatever may be the case, is based on the thinking that it will enable them preserve and maintain the integrity, accuracy and vastness of the information contained in the materials. However, this reasoning is easily displaced by the potential for IGOs

⁴³ EUROPA: Legal Notice, <https://eur-lex.europa.eu/content/legal-notice/legal-notice.html#2.%20droits>

⁴⁴ Directive 2019/1024 of the European Parliament and of the Council of 20 June 2019 on Open Data and the Re-use of Public Sector Information, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L1024>

⁴⁵ Ibid, preambles 5 and 9.

⁴⁶ Ibid, article 1.

to exercise copyright as censorship tool and an instrument to restrain access to knowledge and justice. Also, IGOs' claims to copyright will result in double taxation of Africans and negatively impact innovation. Furthermore, the exercise of copyright by IGO's will be antithetical to their Agenda2063 commitments. Importantly, the contemporary reality implies that the accuracy, integrity, and quality of IGOs' materials can be easily preserved and maintained through digital technology rather than claims to copyright.

The current digital milieu offers African IGOs an opportunity to build a strong legal and digital infrastructure that will support open access initiatives to tackle the access to information and justice challenges in Africa and contribute to the actualisation of the Agenda2063 aspirations on the continent. Instead of asserting copyright, where it does exist, African IGOs should work towards developing and operating open access programs. The approach adopted by WIPO and the EU for the preservation and maintenance of their materials is highly recommended for African IGOs. This can be achieved through partnership with NGOs and other independent entities that are involved in the creation and provision of open access programs geared towards promoting access to justice and information.



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