

HERMES

18 April, 2023

Avoiding ILL fees across the EU border

Matt Voigts, PhD

Copyright & OA Policy Officer



International
Federation of
Library
Associations and Institutions

IFLA.org

What I do

- Anthropology
- Copyright & Legal Matters (CLM)
- International advocacy (WIPO SCCR)

**I am not a lawyer and this presentation is not legal advice*



Photo copyright: WIPO. Photo: Emmanuel Berrod. This work is licensed under a Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International License.



International
Federation of
Library
Associations and Institutions

IFLA.org

What EU fees aren't you liable for Inter Library Loan?

Customs, duty, import or related fees.

What *might* you be liable for?

Delivery or processing fees.



Why aren't ILL materials liable for EU customs fees?

1. Media, cultural materials, and scientific instruments

Media

Chapter 49 – EU Tariff

Books and recorded media, such as discs or tapes are free of customs duties

Cultural materials and scientific instruments

Chapter XI ('Educational, scientific and cultural materials; scientific instruments and apparatus') of Council Regulation (EC) No 1186/2009 of 16 November 2009 (EUR-Lex - 32009R1186), Article 42:

“The educational, scientific and cultural materials listed in Annex I shall be admitted free of import duties whoever the consignee and whatever the intended use of such materials may be.”



2. Article 227: Pedagogic material and scientific equipment

(Article 250(2)(d) of the Code) /

Articles 219 to 235 of Regulation (EU) 2015/2446 (Union Customs Code Delegated Act or UCC-DA)

“Total relief from import duty shall be granted for pedagogic material and scientific equipment [if]

- (a) they are owned by a person established outside the customs territory of the Union;
- (b) they are imported by not-for-profit public or private scientific, teaching or vocational training establishments, and are exclusively used in teaching, vocational training or scientific research under the responsibility of the importing establishment;
- (c) they are imported in reasonable numbers, having regard to the purpose of the import;
- (d) they are not used for purely commercial purposes.



Why aren't ILL materials liable for EU customs fees?

3. Temporary Admission

Article 236 UCC-DA

“Total relief from import duty may be granted for goods... imported occasionally for a period not exceeding three months... [or] imported in particular situations having no economic effect in the Union.”



Returning goods to EU

When materials are brought back to the EU, they can be declared for release for free circulation as returned goods if they fulfil the conditions established in Article 203 UCC, namely:

1. The books must return to the EU within 3 years,
2. The declarant must apply for the relief,
3. The books must return in the same state in which they were exported, and
4. The declaration must attach the documents showing that these conditions are fulfilled.



“Customs practices differ across Member States in three main ways: (1) customs declarations are submitted and processed in differing national IT systems; (2) implementation of customs legislation is not harmonised particularly as regards prohibitions, restrictions, and risk interpretations; (3) sanctions and infringements regimes vary significantly, with some Member States applying both administrative and criminal sanctions and others applying only the latter.”

From the executive summary of Hausemer, P.; Bosch, I.; Patroclou, N.; 2022, *A Comparative Analysis of Member States' Customs Authorisation Procedures for the Entry of Products into the European Union*, Publication for the committee on Internal Market and Consumer Protection, Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament, Luxembourg.

Available at:

[https://www.europarl.europa.eu/RegData/etudes/STUD/2022/734002/IPOL_STU\(2022\)734002_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2022/734002/IPOL_STU(2022)734002_EN.pdf).



Clearly indicate (as applicable) that the item is

- Media
- Pedagogical (and you are a library)
- Temporary



Thank you!

Matt Voigts

IFLA Copyright & OA Policy Officer

matt.voigts@ifla.org



**International
Federation of
Library
Associations and Institutions**

IFLA.org