

**Judgment of the Court (Third Chamber) of 10 November 2016 (request for a preliminary ruling from the Rechtbank Den Haag — Netherlands) — Vereniging Openbare Bibliotheken v Stichting Leenrecht (Case C-174/15) <sup>(1)</sup>**

**(Reference for a preliminary ruling — Copyright and related rights — Rental right and lending right in respect of copyright works — Directive 2006/115/EC — Article 1(1) — Lending of copies of works — Article 2(1) — Lending of objects — Lending of a digital copy of a book — Public libraries)**

(2017/C 014/07)

Language of the case: Dutch

**Referring court**

Rechtbank Den Haag

**Parties to the main proceedings**

*Applicant:* Vereniging Openbare Bibliotheken

*Defendant:* Stichting Leenrecht

*Intervening parties:* Vereniging Nederlands Uitgeversverbond, Stichting LIRA, Stichting Pictoright

**Operative part of the judgment**

1. Article 1(1), Article 2(1)(b) and Article 6(1) of Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property must be interpreted as meaning that the concept of 'lending', within the meaning of those provisions, covers the lending of a digital copy of a book, where that lending is carried out by placing that copy on the server of a public library and allowing a user to reproduce that copy by downloading it onto his own computer, bearing in mind that only one copy may be downloaded during the lending period and that, after that period has expired, the downloaded copy can no longer be used by that user.
2. EU law, and in particular Article 6 of Directive 2006/115, must be interpreted as not precluding a Member State from making the application of Article 6(1) of Directive 2006/115 subject to the condition that the digital copy of a book made available by the public library must have been put into circulation by a first sale or other transfer of ownership of that copy in the European Union by the holder of the right of distribution to the public or with his consent, for the purpose of Article 4(2) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society.
3. Article 6(1) of Directive 2006/115 must be interpreted as meaning that it precludes the public lending exception laid down therein from applying to the making available by a public library of a digital copy of a book in the case where that copy was obtained from an illegal source.

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<sup>(1)</sup> OJ C 213, 29.6.2015.