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EVENTS:

- 4-6 August 2014** [International Federation of Translators \(FIT\) Open Congress - Man vs. Machine](#), Berlin, Germany
- 22-23 August 2014** [Satellite Conference IFLA's WLIC 2014: eBooks for everyone! An opportunity for more inclusive libraries](#), Paris France
- 27-30 October 2014** [IFRRO World Congress](#), Seoul, Korea
- 8-12 December 2014** [WIPO Standing Committee on Copyright and Related Rights \(29th session\)](#), Geneva, Switzerland
- 24-26 March 2015** [30th IPA Congress](#), Bangkok, Thailand

LINKS TO OTHER NEWS:

- [Copibec eNews May/June 2014](#)
- [IPA Newsletter June 2014](#)

IFRRO

IFRRO to move offices in September

As of 1 September 2014, IFRRO's premises will be located at Rue du Prince Royal 85, 1050 Brussels, Belgium.

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IFRRO makes statement at 28th WIPO SCCR

At the [28th session of the WIPO SCCR](#), IFRRO highlighted the critical role of authors, publishers and CMOs/RROs, in providing sustainable access to intellectual property in both developed and developing countries.

So-called "free access" to copyright works through exceptions and limitations, without remunerating copyright holders, cannot meet the dynamic needs of the user communities, whether served by libraries or archives, or in education. However, agreements with authors and publishers, supported by collective rights management, can.

IFRRO offered to contribute to the sharing of information, as required and appropriate, whatever form this takes, including through global, regional and national seminars.

IFRRO's statement made on 3 July 2014 at the WIPO SCCR is available [here](#).

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IFRRO welcomes new member from Romania

OperaScrisa.Ro ([OSRO](#)), the collector of the text and image levy in Romania, has been accepted by the IFRRO Board at its June meeting in Lilongwe as an Associate RRO member.

The Romanian legislation allows the establishment of RROs (and CMOs) only for authors. OperaScrisa.Ro is one of three RROs in Romania. It collaborates closely with IFRRO member CopyRo, which is one of the other approved RRO, and also with IFRRO member Visarta, the Romanian Visual Arts CMO, and the publishers associations. At the initiative of CopyRo, OperaScrisa.Ro has been appointed the collector of the text and image levies, for its further distribution to its members, the other two RROs, Visarta and the publishers' association.

IFRRO now has 143 members in 78 countries.

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IFRRO comments on draft Chinese Copyright Law

The State Council (SC) of China has published a new draft text of the long-awaited revised Copyright Law and IFRRO, in consultation with our Chinese members CWWCS and MCSC, has submitted comments to the Legislative Affairs Office of the State Council. We have also sent our comments to the European Commission (DG Trade).

The IFRRO comments are available [here](#) (in English); and [here](#) (in a Chinese convenience translation, kindly provided by Copyright Agency).

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IFRRO co-signs letter with respect to Spain's private copying scheme

Organisations representing European authors, composers, performers, publishers of books and other print media, and producers in the audio and audiovisual sectors, have written a joint letter to Commission President Barroso, drawing attention to Spain's copyright laws, and specifically to its rules on private copying introduced in 2012.

The joint letter highlights that Spain's rules on private copying constitute a major setback for copyright holders, whose revenues from private copying have plummeted since 2012. The Spanish government should ensure that these rules are in compliance with EU law and case-law. By paying out private copying compensation from the state budget, the current system makes all Spanish taxpayers contribute, therefore cutting the link between the act of private copying and the payment of fair compensation due to rightholders.

Against this background, the signatories respectfully urge the Commission to proceed with the complaints launched by the rightholders without any further delay, given the vital importance that this issue entails for the entire European cultural and creative sectors.

The joint letter, which is [available here](#), is signed by:

Idzard Van der Puyl, Secretary General, EUROCOPYA

Cécile Despringre, Executive Director of SAA (Society of Audiovisual Authors)

Véronique Desbrosses, General Manager, GESAC (European Grouping of Societies of Authors and Composers)

Xavier Blanc, Secretary General, AEPO-ARTIS (Association of European performers' organizations)

Helen Smith, Executive Chair IMPALA (Independent Music Companies Association)

Olivia Regnier, Director IFPI European Office, IFPI representing the recording industry worldwide

Olav Stokkmo, Chief Executive of IFRRO (International Federation of Reproduction Rights Organisations)

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RRO News

Ugandan anti-piracy operation nets 80,000 books



URRO CEO, Charles Batambuze (hands in pockets), looks on as pirated text books are unloaded. Photo: Robert Womai

Over half a million Euros worth of books have been seized according to the Ugandan Reproduction Rights Organisation (URRO) in anti-piracy operations.

Since October a series of raids on bookshops, publishers and private homes has been coordinated by publishers and the Uganda Registrations Services Bureau and has resulted in the seizure of around 80,000 books. URRO estimates that the publishing sector has lost nearly 3 million Euros in the last 9 months.

“This hemorrhage was affecting investment in the publishing sector in Uganda”, explained URRO CEO, Charles Batambuze. “At the urging of authors and publishers, URRO had to intervene to stop the total collapse of the industry and to grow the respect for copyright in book trade”, he added.

For full story see article in the [Ugandan Daily Monitor](#)
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Copyright Society of Malawi signs bilateral agreement with Copyright Licensing Agency



Photograph: Amos Kwadzanji

The Copyright Society of Malawi (COSOMA) and the Copyright Licensing Agency (CLA) have signed a bilateral agreement.

The development will see particular benefits for COSOMA, who add CLA's large number of titles published in the UK to their already broad repertoire of published books, magazines, journals and music titles. COSOMA becomes only the second African collective management organisation (CMO) to sign such an agreement with CLA; recognition of its commitment to pursuing compliance among its licensees.

The signing of the agreement was celebrated by a reception hosted at the Residence of His Excellency Michael Nevin, British High Commissioner to Malawi. The event was attended by guests including representatives from the Malawian Government, IFRRO directors and CEO and attendees of the IFRRO African Development Committee meeting, which also took place in Lilongwe at that time.

Kevin Fitzgerald CMG, Chief Executive of CLA, said of the agreement:

"CLA is very pleased to be signing the bilateral agreement with COSOMA. We are hopeful that this will prove to be a catalyst into developing relationships across Africa, improving the economic and educational outlook across the continent."

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Polish RRO changes name

The Association of Authors and Publishers 'Polska Książka' has announced that it has changed its name to the Association of Authors and Publishers COPYRIGHT POLSKA. The change includes a new logo, new web address and new email addresses. Details can be seen on the [Copyright Polska page](#) on the IFRRO website.

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Copydan Writing: New successful digital educational licenses in place

During the past year Copydan Writing has worked on entering new digital educational licenses covering the vast majority of Danish Educational Institutions. This work has now been completed with only Universities and Higher Education still under negotiation.

Behind the strong adherence to the license lies the thorough work of bringing the licenses up to date with the schools digital reality. At the same time there has been a focus on strengthening both the information about licensing terms and the awareness of the advantages of the licensing system. Except for digital copying of newspapers the new licenses permit all methods of copying from all text media - ie. photocopying, printing, scanning and copying from one digital medium to another.

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EU Affairs

EU Commission releases Action Plan on IPR enforcement

On 1 July 2014, the European Commission adopted a [Communication](#) on an EU Action Plan aiming at renewing the consensus on the enforcement of Intellectual Property Rights (IPR).

Rather than penalising the citizen for infringing – often unknowingly – IP rights, the actions set out in the Action Plan pave the way towards a “follow the money approach”, seeking to deprive commercial scale infringers of the revenue flows that draw them into such activities.

According to the Commission's [press release](#), the Action Plan sets out [10 actions](#) to focus the EU's IPR enforcement policy on commercial scale infringements, while the Strategy (setting out an international approach) examines recent changes and presents ways to improve the Commission's current means of action to promote enhanced IPR standards in third countries and to stem the trade in IPR infringing goods.

The above-mentioned actions will be launched and carried out in 2014 and 2015. The Commission will monitor the delivery of these initiatives, and invites the European Parliament, the Council, Member States, the European Economic and Social Committee and stakeholders (including OHIM through the European Observatory on Infringements of Intellectual Property Rights) to actively contribute to the work ahead. The Commission also highlights that it will consider at a later stage whether further, potentially legislative, measures are necessary.

The link to the Commission's respective website is [here](#).

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EU study: Collective Management weakens case for Exceptions and Limitations

The European Commission has just published the report of a study on Assessing the economic impacts of adapting certain limitations and exceptions to copyright and related rights in the EU. It reconfirms that “a collective licensing system weakens the case for exceptions as it reduces transaction costs and thus the risk of a market failure.” The study was carried out for the EC DG Markt by Charles River Associates and aims at providing policy guidance in the areas of digital preservation by cultural heritage and educational

institutions; the provision of remote access by cultural heritage and educational institutions; e-lending by public libraries, text and data mining and reproductions made by natural persons for private uses.

IFRRO is in the process of analyzing the report in detail. The full report can be found at [Internal Market website](#).

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Enforcement

New French report on combating commercial online piracy

On 12 May 2014, Mireille Imbert-Quaretta, the president of the French Rights Protection Commission, presented her report on the tools to fight commercial online piracy to the French Minister of Culture.

The Minister had tasked her in July 2013 with finding appropriate tools to effectively deal with technical and financial intermediaries in order to prevent and combat commercial online piracy. Among the report's proposals are the following:

1. The creation of a "prolonged withdrawal injunction" against pirated content. This would be issued upon a request by the rightholders by an administrative body for a maximum duration of six months.
2. As regards online advertising platforms and payment facilitators, the report advocates self-regulation, i.e., charters of good conduct.
3. The creation of a public information mission regarding sites that systematically violate copyright and the drawing up of a blacklist of such sites.
4. Reinforcing mechanisms to monitor compliance with court decisions against pirate sites.

The full report is available here (in French): [Link](#)

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Court Cases

German Federal Court of Justice decides in favour of German RRO VG WORT

On 3 July 2014, the German Federal Court of Justice (BGH) announced its decision with respect to the question whether a copyright levy for printers and computers was due under the old German copyright law (in force until the end of 2007). The proceedings were brought by the German RRO VG WORT in 2002 against manufacturers, distributors and importers of printers and computers.

According to the BGH's [press release](#), the BGH concluded that a levy was due for printers on the basis of Article 54 a of the old German copyright law, while computers were subject to a levy on the basis of Article 54 of the old German law.

In the previous proceedings, the BGH had rejected a levy on printers and computers in December 2007 and October 2008. However, following a constitutional complaint by VG WORT against these decisions, the German Constitutional Court (Bundesverfassungsgericht) rejected the decisions of the BGH and referred these issues back for its reconsideration. The BGH subsequently stayed the proceedings and referred certain questions as to the interpretation of the EU Directive 2001/29/EC to the European Court of Justice (CJEU).

[As reported earlier](#), in its judgement of 27 July 2013, the CJEU held that a copyright levy can be imposed on printers or computers for the copying of protected works, because the exception provided in the Directive 2001/29/EC for “reproductions on paper or any similar medium, effected by the use of any kind of photographic technique or by some other process having similar effects” includes copying by means of a printer or computer insofar as these devices are connected to each other. If the copying process thereby made possible results in a reproduction on paper or a similar medium, the rightholders need to receive fair compensation for this. - Following this decision of the CJEU, the BGH proceedings continued.

So far, the BGH has only published an official [press release](#) (in German); VG WORT's related press release is available [here](#).

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US Supreme Court rules on American Broadcasting et al. v. Aereo

On 25 June 2014, the US Supreme Court held, by majority, that the Aereo TV streaming service is a “public performance” within the meaning of US Copyright law and therefore amounts to an infringement of copyright in the underlying content.

Aereo is a US company which retransmits TV programs to its subscribers via the Internet without the permission of the owners of copyright in the broadcasts or their underlying content. Aereo's business model has been controversial, as the use of antennas has been clearly designed to overcome the public performance right in US copyright law. The Supreme Court's majority now concluded that by operating its service, Aereo was not merely supplying equipment, but was “performing” within the meaning of the US Copyright Act.

A copy of the decision is available [here](#).

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Swedish IFRRO member BUS files lawsuit against Wikimedia Sweden for copyright infringement

The Swedish IFRRO member BUS (Bildkonst Upphovsrätt i Sverige) has filed a lawsuit against Wikimedia Sweden at the Stockholm District Court regarding www.offentligkonst.se, a Wikimedia database which publishes images of copyrighted artwork.

The Wikimedia project aims to make Sweden's total stock of public art available to the public. BUS, which has been mandated by about 80,000 artists to sign contracts with various users, has suggested to cooperate with Wikimedia, but it has been rejected.

BUS claims that, regarding offentligkonst.se, the damage becomes especially large because all artwork that is uploaded to the database can be used by all Internet users for free, without respecting the moral rights of the artists. BUS' press release (in Swedish) is available

here:<http://bus.se/3557>.

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German CMO VG Media starts legal actions against Google, based on neighbouring right over news content

The German collective management organisation (CMO) VG Media has started legal proceedings against Google after its refusal to negotiate with the CMO, [VG Media informed](#).

In 2013, Germany introduced the "Leistungsschutzrecht" that created a neighbouring right over news content: [sections](#) 87f, 87g and 87h of the German Copyright Act provide for the exclusive right of press publishers to the commercial use of their content and parts thereof, except in the case of single words or small text snippets.

As stated in its [press release](#) (in German), VG Media has filed a request before the Copyright Arbitration Board of the German Patent and Trade Mark Office, following Google's refusal to negotiate with the CMO and to pay a "reasonable compensation" for the display of snippets.

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CJEU AG Cruz Villalón confirms that private copying levies may be imposed on memory cards for mobile phones

On 18 June 2014, Advocate General (AG) Cruz Villalón issued his [Opinion](#) in Case C-463/12, Copydan Båndkopi v. Nokia Danmark A/S, a reference for a preliminary ruling from the Danish High Court.

Copydan Båndkopi, a Danish collective management organisation (CMO), asked Nokia to pay a private copying levy for the reproduction of music and videos over the memory cards for mobile phones that it imported and marketed in Denmark between 2004 and 2009. Litigation ensued over Nokia's refusal.

The AG rephrased the referred questions as follows:

1. May private copying levies be imposed on memory cards for mobile phones?
2. Do technological protection measures affect the amount of the levy?
3. How are the levies to be paid?

In the opinion of the AG, Article 5(2)(b) of the EU Information Society Directive 2001/29/EC does not prevent national legislation that imposes a balanced levy on memory cards for mobile phones (cf. para. 39 of the Opinion). However, this precludes national legislation which imposes levies on memory cards for mobile phones, but excludes non-removable media for integrated devices or equipment specifically designed and used primarily for private purposes, when this exclusion is not objectively justified (cf. para. 53 of the Opinion).

Also, according to the AG, private copying levies under Article 5(2)(b) do not apply to uses which are explicitly authorised by the rightholders and in case some sort of payment or fair compensation has already been paid (cf. para. 68 of the Opinion).

As to the question whether the (non-) presence of technological protection measures may affect the amount of the levy, this should not be the case, according to the AG (cf. para. 80 of the Opinion).

Finally, according to the AG, Directive 2001/29/EC does not preclude national legislation which provides for the collection of private copying levies from producers and importers of media devices, provided that these can pass it on users (cf. para. 112 of the Opinion).

The AG Opinion, which is non-binding on the CJEU, can be found in several languages (but not yet in English) [here](#).

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U.S. Court of Appeals' decision regarding Authors Guild v. HathiTrust

In its decision of 10 June 2014, the United States Court of Appeals for the Second Circuit rejected the appeal in the dispute between the Authors Guild and the HathiTrust Digital Library (HDL).

While the Second Circuit largely upheld the District Court's ruling, this opinion notably narrowed the District Court's understanding of "transformativeness," and also disagreed with the District Court's holding that using digital copies to facilitate access for print-disabled patrons is a transformative use, though the Second Circuit ultimately found this was still a "valid purpose" and a fair use.

The full decision is available [here](#). See also the Authors Guild's comments under <http://www.authorsguild.org/>.

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Meltwater v NLA: CJEU issues 'temporary copying' decision

On 5 June 2014, the Court of Justice of the European Union (CJEU) announced its [decision](#) on the "temporary copying" exception, Article 5 of Directive 2001/29/EC (PRC ("Meltwater") v NLA, Case C 360/13).

In a nutshell, the CJEU ruled that "Article 5 of Directive 2001/29/EC (...) must be interpreted as meaning that the copies on the user's computer screen and the copies in the internet 'cache' of that computer's hard disk, made by an end-user in the course of viewing a website, satisfy the conditions that those copies must be temporary, that they must be transient or incidental in nature and that they must constitute an integral and essential part of a technological process, as well as the conditions laid down in Article 5(5) of that directive, and that they may therefore be made without the authorisation of the copyright holders."

In a [comment](#) on the decision, NLA states that it is confident that the result of the case has no implications for the licences NLA media access issues for the present web-monitoring services operated by Meltwater and other media monitoring agencies. End user clients who pay for their current monitoring service still require a licence for the content they receive; negotiated commercial solutions which recognise and meet the needs of all parties are the way forward.

[More from NLA Media Access website](#)

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Advocate General's Opinion on the scope of the exception under Article 5(3)(n) of Directive 2001/29/EC

Advocate General (AG) Jääskinen came to the obvious conclusion when he reconfirmed that an EU Member State may authorise libraries to digitise books they hold in their collection in

accordance with Article 5(2)(c) of the European Union Copyright Directive (EUCD), without the consent of the rightholders, so as to make them available on dedicated terminals on the library premises, in accordance with Article 5(3)(n) EUCD. More importantly, AG Jääskinen rejected the claim that exceptions may be “chained”, e.g. that the copy that may be made available on the library premises under Article 5(3)(n) may subsequently be transferred from the dedicated terminal to a user device under another exception.

In the case at hand, the German Bundesgerichtshof (Federal Court of Justice) asked the CJEU to clarify the scope of the exception under Article 5(3)(n) EUCD regarding publicly accessible libraries which, for the purpose of research or private study, make works from their collections available to users by dedicated terminals. The reference to the CJEU stems from a dispute between the Technical University of Darmstadt and a German publishing house, Eugen Ulmer KG.

Firstly, in AG Jääskinen’s view, it is only when a licensing agreement between a rightholder and the library has already been concluded that the library may no longer avail itself of the exception provided for in favour of dedicated terminals.

Secondly, the AG considers that the EUCD allows Member States to grant libraries the right to digitise works from their collections, and make those works available to the public on dedicated terminals on the library premises. However, the AG makes clear that this does not permit the digitisation of a collection in its entirety, but only the digitisation of individual works.

Lastly, AG Jääskinen takes the view that Article 5(3)(n) EUCD does not allow users of a dedicated terminal to upload and save on, for instance, a USB stick a work that has been made available to them under an exception based on Article 5(3)(n). The AG does, however, not exclude that the printing out of a hard copy of a work made available on dedicated terminals could be covered by other exceptions provided for by the EUCD, such as a private copying exception.

The [full text](#) of the Opinion (dated 5 June 2014), which is not binding for the CJEU, is published on the CURIA website.

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AG Opinion on nature and significance of "parody", Art. 5(3)(k) of Directive 2001/29/EC

On 22 May 2014, Advocate General (AG) Cruz Villalón released his [Opinion](#) in Case C-201/13 Deckmyn, a reference for a preliminary ruling from the Brussels Court of Appeal concerning the following questions around the nature and significance of parody within Article 5(3)(k) of the Information Society Directive 2001/29/EC:

1. Is the concept of 'parody' an independent concept in European Union law?
2. If so, must a parody satisfy the following conditions or conform to the following characteristics:
 - a. the display of an original character of its own (originality);
 - b. and such that the parody cannot reasonably be ascribed to the author of the original work;

- c. be designed to provoke humour or to mock, regardless of whether any criticism thereby expressed applies to the original work or to something or someone else;
 - d. mention the source of the parodied work
3. Must a work satisfy any other conditions or conform to other characteristics in order to be capable of being labelled as a parody?

The AG confirmed that, in his opinion, parody must be regarded as an autonomous concept of EU law; a parody must be original, targeting an earlier work or something/someone else, should be humorous and comply with the deepest values of EU society. In his view, it is not necessary to distinguish between parody, caricature and pastiche. However, it is left to the EU Member States to determine whether a parody is sufficiently original and not a mere reproduction with slight alterations of an earlier work.

Finally, the AG also distinguished between the subjects of a parody, its effect and content. In relation to its content, fundamental rights issues might arise, i.e. how to balance copyright and the parodists' freedom of expression. According to the AG, parodies that transmit a message which is radically contrary to the fundamental values should be prohibited.

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WIPO

Signatories of open letter to EU on Exceptions and Limitations now total 22 Rights Organisations

The Open Letter to the EU signed on 7 May by Olav Stokkmo, CEO of IFRRO, on behalf of various Rights Organisations has now attracted 22 signatories. The letter calls on European Union and its Member States to join them in requesting that WIPO's Standing Committee on Copyright and Related Rights (SCCR) clarifies its mandate before committing to any further work with regard to copyright limitations and exceptions.

These organisations are: Australian Copyright Council (ACC), CISAC (Confédération Internationale des Sociétés d'Auteurs et Compositeurs), European Magazine Media Association (EMMA), European Newspaper Publishers' Association (ENPA), European Publishers Council (EPC), European Visual Artists (EVA), European Writers Council (EWC), FIA (International Federation of Actors), Federation of European Publishers (FEP), GESAC (European Grouping of Societies of Authors and Composers), ICMP (International Confederation of Music Publishing), IFRRO (International Federation of Reproduction Rights Organisations), IFPI representing the recording industry worldwide, IMPALA (Independent Music Companies Association), International Federation of Film Producers Associations (FIAPF), International Federation of Journalists (IFJ), International Federation of Musicians (FIM), International Publishers Association (IPA), International Video Federation (IVF), Motion Picture Association (MPA), International Association of Scientific, Technical and Medical publishers (STM), UNI Global Union – Media, Entertainment and Arts (UNI MEI).

[Click here for original article.](#)

[Click here for full text of letter.](#)

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Member News

Death of Paul Nijhoff Asser - one of the pioneering founders of IFRRO

IFRRO deeply regrets to announce the death of Paul Nijhoff Asser (10 March 1928 - 9 May 2014).

Paul was a key figure in the founding of IFRRO, who worked tirelessly in the early 1980s to create the necessary consensus to establish the international organisation representing rightholders in the text and image based field that was eventually to become IFRRO. As General Secretary of the International Group of STM Publishers, he painstakingly built up the case for an independent, international non-government organisation and convinced fellow publishers to back him.

IFRRO CEO, Olav Stokkmo, salutes his efforts commenting “it is probably true to say that, without the vision of Paul Nijhoff Asser, IFRRO would not exist today. Paul himself wrote in *25 Years of IFRRO* that he sometimes felt desperate, depressed and despondent during his campaign but that history had supported him, the seeds he sowed had borne golden fruit and 'the work was not in vain'. I can only echo his words – Paul, your pioneering work was not in vain and we are immensely grateful to you. I offer the condolences of the whole of IFRRO to your family.”

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