



FRANCE AND LITERARY AND ARTISTIC PROPERTY LAW

LEGAL GUIDE



French Ministry for Europe
and Foreign Affairs

Copyright law protects the interests of creators. Related rights protect the rights of performers (including actors, dancers and singers) and the producers of film works, databases and music.

Literary and artistic property includes both copyright and these related or “neighbouring” rights. Copyright involves giving creators moral and economic rights over their works.

Protection

To be protected under French copyright law, works only need to be created. Unlike in the United States and China, they do not need to be deposited or undergo any administrative formalities. In this way, creators of modest means enjoy the same rights and protections as creators who are internationally renowned.

Simple ideas and concepts are not protected and can be freely reinterpreted in line with the creator’s individual artistic personality. |

Private copying

Since 1985, a private copying fee has been levied on recordable media (such as CDs, DVDs, USB keys, memory cards, hard drives and mobile phones). It is collected by a dedicated institution. In 2017, this levy amounted to €230 million. |

A wide-ranging field

A work is protected by copyright if it is “original”. The originality of a work is determined on the basis of the aesthetic or intellectual decisions made by the author, regardless of genre, merit or form. Utilitarian creations such as designs, architecture, software, plans and logos may therefore be considered as original.

Pioneering law

Copyright law has adapted to technological changes (including photography, films, software and the Internet). Its strength lies in the existence of strong moral rights. Authors are free to control the conditions in which their works are used, by ensuring that their works’ authorship and integrity are respected. The French system supports cultural development and is inspiring an increasing number of countries on the American continent, which originally denied the moral rights of authors whose work was solely created to be used (literally, the right to copy or copyright).

In addition, economic rights ensure that authors can authorize or refuse the use of their works, and receive fair payment in return.

There are traditional exceptions to this rule, where protected works can be used without authorization or payment (for example, the parody and quotation exceptions), provided that the author’s moral rights are respected. This supports access to culture.

The public domain

The public domain refers to a wide range of works that can be used without authorization (for example, older works whose authors died more than 70 years ago, works not subject to monopoly due to a lack of originality, and simple ideas...). It also includes protected works that authors wish to make available to all in order to develop knowledge and culture (creative commons).

Strength in numbers: collective management

Collective management involves pooling resources to manage and authorize some of the ways in which works are used. It has several advantages for members (artists, performers, authors, producers and editors), including increased bargaining power and the ability to receive payment when works are used abroad. In France, some collective management organizations also collect royalties for foreign authors, composers and editors under reciprocal agreements with their foreign counterparts. For example, the French Society of Authors, Composers and Publishers of Music (SACEM) has 19,650 foreign members from 166 different countries.

Collective management is a legal obligation in some sectors due to legal licenses (public lending rights for libraries, private copying rights). In addition, these organizations receive sums for radio or television broadcasts of works.

Some of the money collected is set aside to support creative works. As a result of this system, more than 10,000 projects have been supported and 300 artists have received training since 2016. The advantage of this system to support creative works is that it is financed by a self-regulating system that is not dependent on the State.

These organizations are subject to oversight by the French Court of Auditors, which contributes to their financial transparency.

This system is therefore the best alternative for making cultural works both legal and attractive, in the event of uses that would be difficult to control in practice.

Resale rights: a French initiative with international success

Resale rights, which apply in more than 80 countries, are payments due to painters and sculptors upon the resale of their works by art market professionals (including auction houses and galleries). However, these rights do not exist in the United States, the world's largest art market, or in China, Switzerland or Japan.

Several States, including France, have asked for discussions to be launched on resale rights in order to establish an international agreement in the future.

The High Authority for Transmission of Creative Works and Copyright Protection on the Internet (HADOPI): education and coercion

HADOPI was created to support the development of legal ways to share content on the Internet. The Authority protects intellectual property rights with a view to educating – rather than penalizing – Internet subscribers.

Monitoring and preventing copyright infringements

A range of appropriate tools has been developed to fight copyright infringements and protect the commercial investments of companies while ensuring that consumers and the public still have access to works and products whose quality and origin are guaranteed.

Legally neglecting copyright harms the entire economy: companies lose turnover, the State loses tax revenues, and consumers risk receiving products that do not comply with compulsory health standards.

Resale rights

Resale rights allow artists to receive a share in the increased value of their works upon resale. These rights do not have a negative impact on the competitiveness of the markets in which they exist, and do not affect transactions by increasing sales prices (demand from buyers has not dropped). |

9.24 million

This is the number of items infringing copyright that were seized by customs authorities in 2016. |

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€10 billion

This is the amount of the budget for the 2018 cultural policy, which supports creativity, the French cultural diversity model, the country's economic vitality and contributions to international cultural activities. It also helps France adapt to changing uses, as well as social and technological progress. |

Under French civil, criminal and commercial law, a wide range of coercive measures can be used to fight copyright infringers (including producers, broadcasters and owners of items that infringe copyright).

The fight against copyright infringements may be supported by customs authorities, who can withhold items.

Focusing on the future

French law is undoubtedly focused on the future, and capable of adapting to social and technological changes.

French lawmakers are careful to adapt laws to practices in certain cultural sectors (book publishing, audiovisual production and musical production). The quality of inter-professional dialogue fosters dynamism, making it possible to develop sector-specific agreements that become legally binding. France is a trailblazer in this field, and the European Union's most active Member State on these topics.

French law is constantly adapting and evolving, seeking the perfect balance between the interests of creators, investors and the public. In ensuring the flexibility of legal texts and balancing the interests of all parties, France is and will continue to be a legislative reference in this field, at the European Union and international levels.

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www.fdiip.fr/prop-lit

- **JUSCOOP**

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- **SACEM**

www.sacem.fr/

The French Ministry for Europe and Foreign Affairs would like to thank the law firm Pierrat & Associés for writing this document, as well as Professor Tristan Azzi, the French Publishers Association (SNE), the Civil Society of Multimedia Authors (SCAM), the French society tasked with defending the interests of authors of the written word (SOFIA) and the French Syndicate of Authors and Composers (SNAC) for their contributions.



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Directorate-General for Global Affairs, Culture,
Education and International Development

Human Development Directorate

Democratic Governance Department

Design and production: Press and Communication Directorate

Printed by: La Courneuve Reprographic Service – MEAE/DIL